Jola Gjuzi*

Review Scientific Paper
UDC: 336.765(496.5)
doi: https://doi.org/10.56461/SPZ_24404KJ
Received: 16. 10. 2024.
Accepted: 13. 1. 2025.

ARBITRATION LAW AND PRACTICE IN ALBANIA: FEATURES, CHALLENGES AND PERSPECTIVES

Summary

Arbitration, as an alternative dispute resolution mechanism, has gained significant traction worldwide. This is primarily due to its consensual nature, the involvement of non-governmental adjudicators, as well as its efficiency, flexibility and confidentiality. In Albania, international arbitration remains a promising avenue for resolving commercial and investor-state disputes, especially considering the country's efforts towards a consolidated market and deeper integration into the regional and global economy. However, the arbitration landscape, particularly the domestic one, is not without challenges as Albania pursues to attain an effective rule of law. This paper provides an overview of the rules of arbitration under the Albanian domestic law, as well as the applicable international law. It then explores the current state of arbitration practice in Albania, the various perceptions among the pertinent political, business and legal communities, the challenges this practice encounters, and perspectives for its progress.

Keywords: Albania, alternative dispute resolution, arbitration, judicial intervention, enforcement of foreign arbitral awards, foreign direct investment, international investment law.

* Lecturer, University of New York Tirana (UNYT), Albania.
E-mail: *jola.gjuzi@law-school.de*
ORCID: *https://orcid.org/0009-0005-6221-5378*

ZAKON O ARBITRAŽI I ARBITRAŽNA PRAKSA U ALBANIJI: KARAKTERISTIKE, IZAZOVI I PERSPEKTIVE

Sažetak

Arbitraža je, kao alternativni mehanizam rešavanja sporova, doživela značajnu ekspanziju širom sveta. Razlog za to je prvenstveno konsensualna priroda arbitraže, učešće "nevladinih" sudija, kao i efikasnost, fleksibilnost i poverljivost arbitraže kao takve. U Albaniji, međunarodna arbitraža je i dalje obećavajući put za rešavanje trgovinskih i sporova između države i investitora, posebno ako se imaju u vidu napori zemlje na konsolidovanju tržišta i postizanju dublje integracije u regionalnoj i globalnoj ekonomiji. Međutim, i u oblasti arbitražne, i to posebno domaće, postoje određeni izazovi, imajući u vidu nastojanja Albanije da osigura efikasnu vladavinu prava. U ovom radu dat je pregled pravnog okvira za arbitražu prema albanskom domaćem zakonu, kao i prema važećem međunarodnom pravu. Nakon toga biće analizirano trenutno stanje arbitražne prakse u Albaniji, različite percepcije te prakse i izazovi koji postoje u toj oblasti, kao i perspektive za unapređenje iste.

Ključne reči: Albanija, alternativno rešavanje sporova, arbitraža, sudska intervencija, izvršenje stranih arbitražnih odluka, direktne strane investicije, međunarodno investiciono pravo.

1. Introduction

Since the fall of communism in the early 1990s, Albania has adhered to a liberal political government system, and has adopted a free market economy. The promotion of cross-border trade and foreign direct investment (FDI) have since been long-standing priorities of every Albanian government. A rather broad range of policy and legal measures taken in compliance with the international commitments have ensured an attractive market to foreign investors. Simultaneously, local businesses have been increasingly developing projects and further stimulating the country's social and economic progress. Despite some domestic and global events,[1] which have affected in one way or another the Albanian economy as well, the general development trend is positive.

[1] For example, the 1997 civil unrest in Albania, as well as the Covid-19 pandemic and the Ukraine war.

All projects involve legal transactions, implying specific rights and obligations agreed upon by the parties. These reflect a balance reached between the parties' autonomy and the legal boundaries imposed by the state in each jurisdiction.

An important aspect of such parties' autonomy is their right to select arbitration as a dispute settlement mechanism (see, Ferreres Comella, 2021, pp. 9-30). This aspect becomes almost a necessity in a country where the rule of law and the judicial system are anything but flawless, either so perceived or proven (European Commission, 2024). As opposed to the option of resolving their disputes through the state courts, the parties' use of the right to submit their disputes to arbitration is deemed mutually satisfactory. This is to the extent that arbitration is praised for its flexibility and confidentiality, the specialization of the adjudicators and their neutrality *vis-à-vis* governmental decision-makers and overall, and for an efficient and effective resolution that is binding and capable of enforcement (see, Born, 2001).

Clearly this right of using arbitration as a mechanism for solving commercial disputes cannot be without limits, for the sake of the utilitarian considerations (Ferreres Comella, 2021, pp. 9-30) (e.g., 'public interest', 'public order') and functional rules that need to be as uniform as possible beyond the borders of a single state (e.g., for purposes of enforcement and execution of arbitral awards). While national laws play a significant role in delineating and imposing such limits, the corresponding international agreements often prevail, providing their addressees the necessary assurance about the application of such ideally uniform standards.

Albania's liberal approach regarding its government system and market economy is the main guarantee for the application of arbitration as a mechanism for settling commercial and investment disputes over the transaction parties' rights and interests. An adequate legal framework is key for such a right to become effective and flourish. Section 2 of this paper examines the legal framework for arbitration. Section 3 turns to the international and domestic arbitration practices focusing on the key features, challenges and the future prospects in Albania. Section 4 provides the conclusions reached.

2. Arbitration Legal Regime in Albania: Historical Overview and Current Situation

Arbitration rules in Albania can be tracked back over many decades. Still, only after 1990, one can speak of modern arbitration rules, which were not only introduced in the Albanian legislation, but also effectively used by the contracting parties in their transactions once the disputes arose, and even interpreted by arbitral tribunals and local courts.

The institute of arbitration has existed in the Albanian context even before the fall of communism in the early 1990s. As part of the Ottoman legislation applicable in the Albanian territories, it was recognized in the civil procedure legislation before the proclamation of independence in Albania (1912). This continued until the entry into force of the new arbitration rules under the Second Annex of the Civil Procedure Law in 1929, upon the Zog regime legal system reform (see: Tafaj & Çinari, 2015, pp. 92-100; Spahiu, 2015, pp. 80-88).

During the communist regime (1945-1990), the focus was more on the so-called 'state arbitration'. This was imposed by the state in certain circumstances of property-related disputes, though the rules also covered similar disputes between private parties.[2] Overall, the stipulated mechanism could not properly qualify as arbitration in its classical meaning, but rather as a special state adjudication system that was incorporated in the law in the context of a centralized economic system (Spahiu, 2015, pp. 83-88).

2.1. Early 1990s

The early years after the collapse of communism witnessed strategic and policy actions of the Albanian government to boost economic and social development by attracting foreign direct investment on top of encouraging domestic commercial exchanges. The state authorities took actions to introduce new domestic regulations and accede to key international conventions that could achieve such aims. The topic of arbitration was also part of the agenda.

2.1.1. 1993 Decree

Having repealed the 1990 Law on State Arbitration, the Decree no. 682 "On the dissolution of state arbitration", dated 4 November 1993, empowered the state courts with the exclusive role in resolving property related disputes among state enterprises and institutions. Exceptionally, it allowed voluntary arbitration for the disputes between a local and a foreign party to the extent that "the parties had so agreed in a contract or otherwise, as regulated by the Albanian legislation or the respective international conventions" (Art. 2).

It took a few more years for the Albanian state authorities to prepare and enact the Code of Civil Procedure of 1996 (Code of Civil Procedure approved by Law no. 8116, hereinafter: CCP), which would include a set of rules on domestic and international arbitration (discussed in Section 2.2. below). Meanwhile, as the following shows,

[2] The key rules on state arbitration include the Decree no. 1872; Decree no. 5009, as amended; Decree no. 4359; Law no. 7424; Council of Ministers' Decision (CMD), 1991.

the statement in Art. 2 of the 1993 Decree, "as agreed in a contract or otherwise, as regulated by the Albanian legislation or the respective international conventions," was a good indication of Albania's arbitration-friendly approach *vis-à-vis* foreign businesses.

2.1.2. International Investment and Commercial Arbitration Regulations

As a former socialist country aiming to open and strengthen its economy to foreign markets, and in line with the economic liberalism principles endorsed by the so-called Washington Consensus (see, Williamson, 2004), Albania has embraced the Euro-Atlantic integration processes and introduced several legislative initiatives to facilitate the transformation from a centrally planned economy to the market economy. This includes its membership, as early as in October 1991, in the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD), the International Finance Corporation (IFC), the International Development Association (IDA), the Multilateral Investment Guarantee Agency (MIGA) and the International Center for the Settlement of Investment Disputes (ICSID) (Law no. 7515). In this regard, Albania acceded to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention),[3] ensuring that foreign investors in Albania could use international arbitration under the ICSID Convention for investor-state dispute settlement with Albania.

By 1992, to encourage foreign investments and align with the international standards of protection for such investments, Albania had ratified numerous international investment agreements (IIAs), and most importantly bilateral investment treaties (BITs) with Türkiye, Russia, the Swiss Confederation, Belgium, China, Austria, Hungary, Croatia, Tunisia, Bulgaria, USA, Slovenia, Belgium-Luxembourg, the Organization of the Petroleum Exporting Countries (OPEC), Ukraine, (former) Yugoslavia, South Korea and Moldova, acting as home countries to potential foreign investors and investments in Albania (see, Gjuzi, 2008). Currently Albania is party to more than fifty IIAs,[4] including forty-five BITs concluded also with France, Germany, Italy, Azerbaijan, the UK, the Netherlands, South Korea, Sweden, the United Arab Emirates, Malaysia, etc. (UNCTAD, 2024a).

Concurrently, an elaborate domestic legislation regarding investment arbitration was being put in place. This comprised the 1992 Foreign Investment Law (Law no. 7594), as subsequently abrogated by the 1993 Foreign Investment Law (Law on Foreign Investments) which is still in force.[5] As in other developing countries and

[3] Signed on 18 March 1965, adhered by Albania by means of Law no. 7515, dated 1 October 1991.

[4] E.g., the Energy Charter Treaty ratified by Law no. 8261, dated 11 December 1997.

[5] The 1992 Foreign Investment Law was not considered very liberal, hence it did not meet the needs of the government to stimulate further foreign investments. For example, Art. 3

transition economies, the 1993 Foreign Investment Law was enacted as a separate law dedicated to attracting and protecting foreign investments in Albania.[6]

In line with the 1992 World Bank Guidelines on the Treatment of Foreign Direct Investment (World Bank Group, 1992, pp. 35-44), both the Albanian 1993 Foreign Investment Law and the IIAs to which Albania became a party provided more than just the substantive provisions protecting foreign investors and investments from the actions or inactions of state bodies (the standards of protection from unlawful expropriation, discrimination, and unfair treatment, but also the umbrella clauses, transfer of capital clauses, etc.) (see, Gjuzi & Nowrot, 2024). They contained specific clauses on international arbitration, making this dispute settlement mechanism available to foreign investors in case of disputes with Albanian state institutions or enterprises.[7] These clauses typically referred to the arbitral tribunals established and functioning according to the rules set out in the treaty itself, or otherwise as agreed between the parties, or established and functioning under the ICSID Convention, the United Nations Commission on International Trade Law (UNCITRAL) rules, the International Chamber of Commerce (ICC) rules, etc. Notably, the 1993 Foreign Investment Law allowed the parties to use arbitration also in the context of disputes between a foreign investor and a private Albanian party (Art. 8(1)).[8]

The Albanian government's openness to arbitration has also been reflected in the sector-specific legislation. The laws on mining, oil and gas, as well as concessions and private sector participation in public works and services, provided for the possibility of foreign - and sometimes local - companies to incorporate arbitration provisions in their contracts concluded with the Albanian state once they were

conditioned the entry of all FDIs on government authorization (see, Timmermans, 1993, pp. 553-567; Carlson, 1995, pp. 577-598); The 1993 Foreign Investment Law aimed at overcoming such matters of concern faced in the prior law and provided for a liberal legal regime (see, Gjuzi, 2008, pp. 33-34).

6 Today most of the countries have an investment law dedicated to the protection of foreign investments. See, UNCTAD, 2016, p. 2 (referring to at least 108 countries worldwide).

7 As opposed to the classical arbitration agreement in the context of a purely commercial transaction, in the context of such IIAs, the arbitration agreement is the result of meeting the so-called 'standing offer' to arbitrate made by the state party wishing to attract the foreign investor in the relevant agreement and the 'acceptance' of such an offer by the qualifying investor once a dispute between him and the host state has arisen under such an agreement (Blackaby *et al.*, 2015, pp. 1-70).

8 Note that this is a general analysis and does not delve into the details of each specific regulation under the above legal instruments. For example, Article 8 of the Albanian 1993 Foreign Investment Law, in the cases of disputes between a foreign investor and Albania, provides for the option of ICSID arbitration only where the dispute has arisen between a foreign investor and the public administration (as opposed to a state enterprise) and where such a dispute is related to expropriation, compensation from expropriation, discrimination, and transfers.

awarded projects in those sectors. For instance, under the 1993 Petroleum Law, foreign investors could be eligible to certain benefits, including the possibility of using international arbitration as a means for the settlement of disputes arising under the petroleum agreements concluded between the Albanian state authorities and the state-owned company Albpetrol SHA on the one hand, and foreign investors on the other (Law no. 7746, Art. 5, para. 3, lit. (f)). Similarly, the 1995 Concessions Law provided that disputes of the parties under the concession agreements could be resolved by the judicial authority in Albania or by "arbitration, if the parties had so agreed in the contract" (Law no. 7973, Art. 17; Law no. 9663, Art. 31; Law no. 125/2013, Art. 46, para. 3). The 1994 Mining Law went a step further by identifying the rules and arbitration institution that the dispute settlement provision of a mining contract could refer the dispute to, specifically the ICC (Law no. 7796, Art. 100, lit. (l)).

2.2. 1996 Code of Civil Procedure

The legal framework governing arbitration in Albania, which until that point had been useful mostly to the disputing parties from the perspective of international investment arbitration, was enriched by the enactment of the Code of Civil Procedure (Code or CCP) in 1996.

The Code provided for the general rules regarding the disputing parties' confrontation before the domestic courts on questions of jurisdiction (Art. 59), and the courts' role to decide whether the dispute under review belonged to "judicial or administrative jurisdiction". Notably, the Supreme Court has interpreted these phrases broadly to encompass also the "constitutional" and "arbitration" jurisdictions.[9]

Similarly, the Code addressed questions of conflict between the domestic courts' jurisdiction vs. other "foreign" jurisdictions (Art. 37) where the Supreme Court again

[9] See e.g., Supreme Court Judgment no. 356, dated 6 June 2013 (*Marko Tel & Hes Kablo Albania SHPK vs. ZTE Albania SHPK*), p. 6 ("The Civil College of the Supreme Court assesses that despite the fact that these provisions speak of the conflict between administrative and judicial jurisdictions, the same principle is respected in the case of a conflict that may exist between the judicial jurisdiction and the jurisdiction of arbitration courts, by the court of arbitration, or by ordinary judicial bodies. … the arbitration clause agreed between the parties means that the judiciary has no jurisdiction to review the dispute, except in the case where this agreement is invalid."); Supreme Court Judgment no. 284, dated 3 June 2015 (*Ital Trade SHPK vs. Trapani Charter SHPK*), paras. 18-19; Supreme Court Judgment no. 189, dated 1 June 2016 (*Ark I. Post Engineering vs. Sphinx SHPK*), pp. 7-8. In a similar vein, years later, the Albanian Parliament enacted a separate procedural law addressing administrative disputes (Law no. 49/2012). In the context of administrative disputes, its Art. 9 addressed the same confrontation between the categories of judicial and non-judicial jurisdictions, where the latter were deemed to cover also the arbitration jurisdiction. See, Supreme Court Judgment no. 142, dated 3 February 2022 (*Opsion-2010 SHPK et al., vs. Albanian Road Authority, Ministry of Infrastructure and Energy*), para. 10.

confirmed that such foreign jurisdictions should include also foreign/international arbitration (Supreme Court Judgment no. 284, dated 3 June 2015 (*Ital Trade SHPK vs. Trapani Charter SHPK*), para. 35). Markedly, such foreign jurisdictions have been found to prevail over the domestic courts' jurisdiction in the event of the existence of foreign elements, or the application of a relevant international agreement ratified by Albania, such as the European Convention on International Commercial Arbitration (European Convention on International Commercial Arbitration, signed in Geneva on 21 April 1961, adhered by Albania by means of Law no. 8687, dated 9 November 2000, hereinafter: Geneva Convention) and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, signed in New York on 10 June 1958, adhered by Albania by means of Law no. 8688, dated 9 November 2000, hereinafter: New York Convention) as discussed shortly below.

Furthermore, the CCP introduced rules on the recognition and enforcement of arbitral awards (Arts. 393-399). Although they were shaped to address decisions of foreign courts, a reference provision within the Code made them applicable also to the arbitral awards rendered in foreign states (Art. 399). Such rules provided for the conditions for the application of foreign awards, the formal requirements, as well as the grounds for the refusal of recognition of such awards.

In this context, an important CCP regulation provided for the interaction between the Code and other rules available on the subject-matter. Pursuant to Art. 393, foreign awards shall be recognized and enforced in Albania based on the provisions of the Code "or" other special laws. Moreover, in case of a special agreement with a foreign state, "its provisions shall apply."

As pointed out above, in 2000 Albania acceded to the Geneva Convention and the New York Convention, two key international agreements aiming to promote international commercial arbitration and the enforcement of foreign arbitral awards. Earlier, it had concluded several bilateral agreements on the mutual judicial assistance in civil matters, which comprised specific provisions on enforcement of arbitral awards (Agreement with Greece ratified by Law no. 7760; Agreement with Türkiye ratified by Law no. 8036).

From a broader Albanian constitutional law perspective, international agreements ratified by Albania and duly published in the Official Journal constitute a source of law that prevails over the laws enacted by the Parliament, including the CCP (Arts. 5, 116 and 122, Albanian Constitution). Thus, the Albanian domestic law guarantees the prevalence of the binding international agreements, such as the Geneva Convention and the New York Convention, over the purely domestic legislation. This has been confirmed also by the Albanian Supreme Court in a 2011 judgment that unified previous judicial practice on matters relating to the

enforcement of foreign arbitral awards, in response to some inconsistencies between the CCP and the New York Convention:

> "…according to Article 122 of the Constitution, being an international agreement to which the Republic of Albania is a party, the provisions of the New York Convention prevail over the regulations of the Code of Civil Procedure and are directly applicable by the courts of appeal that adjudicate requests for the recognition of a foreign arbitral award."[10]

Moving a step further, in the case of questions of interaction between the New York Convention and other (multilateral or bilateral) international agreements concluded by Albania or even domestic laws of Albania, the more-favorable-right provision of the former should be employed in justifying the application of the latter provisions, if they are indeed more favourable to the interested party.[11] As some commentators put it,

> "…the New York Convention recognises explicitly that, in any given country, there may be a local law that, whether by treaty or otherwise, is more favourable to the recognition and enforcement of arbitral awards than the Convention itself. The Convention gives its blessing, so to speak, to any party who wishes to take advantage of this more favourable local law." (Blackaby *et al.*, 2015, p. 622).

Most importantly, the CCP introduced detailed regulation on domestic arbitration (Articles 400-438) and a few provisions on international arbitration (Arts. 439-441).

Except for the above provisions on jurisdiction and recognition and enforcement of foreign awards, which are still in force today, the Code's dedicated chapters on domestic and international arbitration proved anything but stable in the years to follow.

In 2001, in addition to some amendments to the domestic arbitration rules of the Code, the few rules on international arbitration were repealed and substituted

---

[10] See, Supreme Court Unifying Judgment no. 6, dated 1 June 2011 (*I.C.M.A. s.r.l, AGRI. BEN S.A.S v. Ministry of Agriculture and Food, Republic of Albania*), para. 28.1 (emphasis added). See also, Supreme Court Judgment no. 181, dated 1 June 2016 (*2T SHPK vs. Iren Acqua e Gas (IAG) Dega Shqiperi*), paras. 14, 16, 16.1.

[11] Art. VII(1) New York Convention: "The provisions of the present Convention shall not affect the validity of multilateral or bilateral agreements concerning the recognition and enforcement of arbitral awards entered into by the Contracting States nor deprive any interested party of any right he may have to avail himself of the arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon." The Albanian courts so far do not seem to have considered the implications of this other important provision of the New York Convention. See, Section 3.1.3 below.

by a provision stating that international arbitration would be regulated by a separate law (Law no. 8812, dated 17 May 2001, Arts. 61-68), though no such law was in place at the time.

In 2013, upon the state authorities' projections that a separate law on arbitration would be in place soon, other amendments were introduced to the arbitration rules of the Code. They referred to what can be regarded as a 'conditional abrogation' of all the regulations regarding arbitration in the CCP (Arts. 400-441). The 'condition' for such abrogation was the entry into force of a new law on arbitration that was planned to be drafted in due course (Law no. 122/2013, Arts. 30 and 49). Due to some other changes made to the CCP within the same year (Law no. 160/2013, Art. 1), and what was likely a flawed omission of the 'condition' inserted in the previous amendment (see, Supreme Court Judgment no. 181, dated 1 June 2016 (*2T SHPK vs. Iren Acqua e Gas (IAG) Dega Shqiperi*), para. 13.1; Tafaj & Vokshi, 2016, p. 188), such rules on arbitration were formally abrogated as of that subsequent 2013 change, regardless of the fact that the draft law on arbitration was not yet in place. As a result, since 2001 (for the international arbitration rules) and since 2013 (for the domestic arbitration rules) Albania had formally faced a legal gap in terms of the regulation of arbitration in its Code of Civil Procedure until a separate law on arbitration was enacted.[12]

2.3. 2023 Law on Arbitration

The Law on Arbitration no. 52/2023 was enacted by the Albanian Parliament on 6 July 2023, and entered into force on 21 July 2023.

The Law on Arbitration governs the organization and development of the procedures of domestic and international arbitration having the seat in the Republic of Albania, as well as aspects of recognition and enforcement of foreign awards rendered by tribunals seated outside Albania. It addresses key elements such as the arbitration agreement, the appointment and challenge of arbitrators, the jurisdiction of the arbitral tribunal, the arbitral procedure including the possibility of holding virtual and hybrid hearings, as well as the awards, and recourse against the arbitral awards.

The Law on Arbitration brings a modern regulation of arbitration compared to the outdated rules that were present in the CCP before their abrogation. It is

[12] Occasionally, however, the Albanian courts appear to have still applied the 'abrogated' provisions, disregarding the omission that occurred after the second 2013 amendment to the CCP. See e.g., Supreme Court Judgment no. 00-2018-1229, dated 27 December 2018 (*Sekcuk Sencer Esenyel vs. Trade Minerals AL SHPK*), paras. 10-11; Supreme Court Judgment no. 580, dated 11 October 2023 (*Edil Quattro SHPK vs. HCE Costruzioni S.p.a. (former Todini Construzioni Generali S.p.a.)*), paras. 24-25.

generally modelled after the UNCITRAL Model Law, as stated in the explanatory report of the Law (see, Albanian Parliament, 2024) and confirmed by UNCITRAL (UNCITRAL, 2024).

The practice will reveal the strengths and weaknesses of this new Law. From an initial review, a few deviations from the UNCITRAL Model Law, the New York Convention and the Geneva Convention have been encountered. By way of example,[13] with respect to the arbitration agreement and claims before the Albanian courts, the Law on Arbitration provides *inter alia* that where a claim is brought before a court in a matter that is the subject of an arbitration agreement, the court, even *ex officio*, must decline jurisdiction unless the arbitration agreement is "manifestly void" (Art. 12(1)).

These two elements appear to echo a similar regulation in the CCP, respectively Art. 414, and Art. 59 as interpreted by the Supreme Court of Albania (see e.g., Supreme Court Judgment no. 284, dated 3 June 2015 (*Ital Trade SHPK vs. Trapani Charter SHPK*), paras. 18-20). Meanwhile, by inserting the *ex officio* requirement and the 'manifestly' qualifier, the Law on Arbitration departs from the thresholds of the UNCITRAL Model Law (Art. 8(1)),[14] the New York Convention (Art. II(3))[15] and the Geneva Convention (Art. 6(1)).[16] Contrary to the international standards under the above instruments, the Law on Arbitration grants to the Albanian courts a stronger role for intervention in matters that are deemed to belong predominantly to the arbitral tribunal. At the same time, the Law on Arbitration appears more favorable by specifying fewer grounds (only if the arbitration agreement is "void") as opposed to the broader scope under the UNCITRAL Model Law and New Work Convention referring to "null and void, inoperative or incapable of being performed") for courts to accept jurisdiction if a party to the dispute submits that there is an arbitration agreement (see, Halili & Turši,, 2023; Tafaj & Cinari, 2023a, pp. 83-104).

[13] This analysis illustrates some aspects of the new law and does not aim to offer a comprehensive review thereof.

[14] "A court before which an action is brought in a matter that is the subject of an arbitration agreement shall, *if a party so requests* not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative or incapable of being performed." (emphasis added).

[15] "The court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article, shall, *at the request of one of the parties*, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed." (emphasis added).

[16] "A plea as to the jurisdiction of the court made before the court seized by either party to the arbitration agreement, on the basis of the fact that an arbitration agreement exists *shall… be presented by the respondent* before or at the same time as the presentation of his substantial defense, depending upon whether the law of the court seized regards this plea as one of procedure or of substance." (emphasis added).

While the Law on Arbitration has also introduced its own rules on the recognition and enforcement of foreign arbitral awards, that matter is still regulated to a considerable extent by the effective CCP provisions. The Law on Arbitration in its Art. 47 refers to the recognition and enforcement of awards that are subject to foreign/international arbitration proceedings with the seat of arbitration located outside Albania. In its first paragraph it provides that the recognition of such awards shall be made in accordance with the New York Convention "as well as" the CCP. On the one hand, by referring to the CCP, the Law on Arbitration makes a circular regulation since the CCP in its Art. 393 (applicable to foreign arbitral awards through its Art. 399) provides for the separate law to apply instead of the CCP.[17] On the other hand, Art. 47 puts at the same level two legal instruments of different weighs, ignoring somehow the already established regulation and case law on the prevalence of the New York Convention *vis-à-vis* domestic legislation, including the CCP.[18] Such a cumulative reference may cause unnecessary uncertainty possibly triggering divergent courses of evolution in the legal practice and jurisprudence.

The same could be argued for Art. 47(2), which introduces the grounds for refusing recognition of a foreign arbitral award, such grounds purporting to, but not fully mirroring those provided for in the CCP (Art. 394) and in the New York Convention (Art. 5).

Meanwhile, Art. 47 refers to the grounds for refusal of foreign arbitral awards but remains silent as to the remaining procedural provisions that are closely related to the former in the context of the recognition and enforcement of foreign arbitral awards. Provisions on the competent court for examining the request, the formal-procedural requirements for such a request, etc., are currently regulated by the CCP (Arts. 395-397 as per the reference provision of Art. 399).

From a legislative technique perspective, it could have been more appropriate for the legislator to take a holistic approach by introducing the Law on Arbitration as the *lex specialis* on all matters of recognition of foreign arbitral awards, while simultaneously repealing the respective provisions of the CCP on the same subject-matter (Art. 399 referring to Arts. 393-398).[19]

---

[17] Art. 393(1) in conjunction with Art. 399 CPP: "[Foreign arbitral awards] are recognized and enforced in the Republic of Albania, according to the conditions provided for in this Code *or in special laws*" (emphasis added).

[18] See the discussion in Section 2.2 about Art. 393 CCP, Art. 122 of the Constitution, and Art. VII (1) of the New York Convention, as well as the Supreme Court Unifying Judgment 6/2011.

[19] Such abrogation could occur only by a special law, other than the Law on Arbitration. This is due to the nature of the Codes, which under the Albanian Constitution (Art. 81) require a qualified majority approval by the Parliament as opposed to simple majority approved laws, such as the Law on Arbitration.

Looking forward, it can be reasonably expected that the Albanian constitutional and legal rules, the Supreme Court case-law on the hierarchy of legal instruments in Albania, as well as a better understanding of the implications of the more-favorable-right provision of the New York Convention, will help to unravel any contradictions between the Law on Arbitration, the CCP and the prevailing international treaties. This is so to the extent that the binding international instruments are invoked as applicable law, which in turn could raise questions about a potential double standard regarding the application of the Law on Arbitration on domestic vs. international arbitration matters (e.g., the subject-matter of Art. 12(1)).

3. Overview of the Arbitration Practice in Albania: Challenges and Prospects

3.1. International Arbitration

3.1.1. International Arbitration Involving Albanian State Institutions and Enterprises

Albania has significant experience in international arbitration. This is observed from the publicly available case law and the private practice of the author of this paper.

The availability of an adequate legal framework has created a favourable context in this regard. Reference is made to the wide regulation of foreign investment protection, as well as the express permission of international arbitration in the domestic legislation as of the early 1990s. Against this background, foreign companies have availed themselves of the possibility of incorporating international arbitration clauses in the respective contracts concluded with the Albanian institutions, agencies and state enterprises in the mining, oil and gas, and hydropower sectors, in the context of concession projects, etc.[20] Local companies, in turn, generally had to accept the state party's position that the use of international arbitration was somewhat exclusive to contracts involving foreign counterparties only.[21] The dispute

[20] See e.g., a mining concession contract concluded between the Ministry of Economy and Privatization and Ber-Oner Madencilik San.Ve.Tic.A.S. (Turkish company), approved by Law no. 8761; A petroleum production sharing agreement concluded between the state-owned company Albpetrol SHA and Sherwood International Petroleum Ltd (Canadian company), approved by CMD no. 686 (referring to UNCITRAL arbitration, Zurich); a concession contract concluded on 6 February 2015 between the Municipality of Vlore and the Joint Venture TIS Holding LLC (US) and On Track Innovations Ltd (Israel) referring to ICC arbitration, Paris.

[21] See exceptionally e.g., the production sharing agreements concluded between the Albanian

resolution clauses in the state contracts concluded with local businesses typically referred to Albanian courts.[22]

As early as in 1994, the first ICSID claim against Albania was filed by a Greek investor, based on the 1991 BIT with Greece and the 1993 Foreign Investment Law (*Tradex Hellas S.A. v. Republic of Albania, ICSID Case No. ARB/94/2*, Award, 29 April 1999). So far eleven cases have been already heard and concluded before ICSID tribunals, and one of them is still pending (ICSID, 2024).

Other disputes between foreign claimants and the Albanian state institutions and enterprises have been or are still being heard before other tribunals (see, UNCTAD. 2024b). They comprise *ad hoc* arbitral tribunals (where probably the first case of an international arbitration involving an Italian company and Albania was resolved in 1993) (see, *Iliria S.r.l. v. Republic of Albania*; *Sky Petroleum, Inc. v. Ministry of Economy, Trade, and Energy of Albania*; *ČEZ v. The Republic of Albania*) or arbitral tribunals under the auspices of permanent international arbitration institutions, such as the ICC and its International Court of Arbitration (see, *Ital Strade IS S.R.L. vs. Republic of Albania*), the Stockholm Chamber of Commerce (SCC) (see *Ivicom Holding GmbH v. Republic of Albania*), the Permanent Court of Arbitration (PCA) (*Valeria Italia Srl v. Republic of Albania*; *Mrs. Mimoza Ndroqi v. Republic of Albania*) the Vienna International Arbitral Center (VIAC) (see, *Fyber SHPK vs. Hidro Invest SHPK and Alb-Star SHPK*), the Court of Arbitration of the Serbian Chamber of Commerce (see, *Galenika a.d. v. Jona Farma SHPK*), etc.

A good deal of these arbitration cases are based on the alleged violations of the respective investment treaties and the 1993 Foreign Investment Law. Others refer to the alleged violations of the contracts concluded between foreign companies and the Albanian state institutions and/or enterprises in a variety of sectors including oil and gas (see, *GBC Oil Company Ltd. v. Albania and Albpetrol sh.a.*, ICC Case No. 22676/GR, Award, 6 July 2020; *Sky Petroleum, Inc. v. Albania and Albpetrol sh.a.*, UNCITRAL Rules, Final Award, 7 May 2013), infrastructure (see, *G.E. Transport s.p.a. and Athena s.a. v. Ministry of Public Works, Transport and Telecommunication*), electricity (see, *SC Energy Holding Srl vs. KESH SHA*), as well as concessions (see, *TIS Park SHPK vs Municipality of Vlore (Albania)*, ICC Case, 2018; *Hydro S.R.L. (Italy) v. Republic of Albania*, ICC Case No. 20654/EMT/GR, Award of 7 September 2018). Thus, the

state-owned company Albpetrol SHA and an Albanian private company (Phoenix Petroleum SHA) approved by CMD no. 699 (referring to UNCITRAL arbitration with a seat in Zurich).

[22] For an early example, see a hydropower concession contract concluded between the Ministry of Economy, Trade and Energy and the Albanian company Hasi Energji SHPK referring to the Tirana Judicial District Court (approved by CMD no. 543). For a recent example, see a production sharing agreement concluded between Albpetrol SHA and the Albanian company (EDG Natural Gas SHPK) referring to the Tirana Judicial District Court (approved by CMD no. 402).

friendly approach of the Albanian legal framework to the use of contract-based arbitration has yielded its fruits in the selection of international arbitration as a dispute resolution mechanism and its successful implementation where disputes have arisen.

Overall, Albania is a positive example of the contractual use and application of international arbitration. A decisive factor is the favourable legal framework. It reflects the government's stable policy of promoting and attracting foreign investors in the country by making available the necessary tools to that effect.

At this point, one should consider certain developments that could have an impact on the current status-quo of the Albanian legal framework. At the international level, there are ongoing discussions primarily led by UNCTAD (UNCTAD, 2017), and the European Union (EU) (European Commission, 2024) in a regional context, about the old-generation IIAs and the need to reform the system to make it compatible with the sustainable development considerations. Similarly, since 2017, the UNCITRAL Working Group III has been working on the possible reform of the investor–state dispute settlement model (UNCITRAL, 2024). Questions have been raised, *inter alia,* on the legitimacy of investor-state arbitration, amid concerns about the excessive costs and lengthy proceedings, inconsistent and incorrect decisions, lack of transparency, and arbitral diversity and independence (see, Roberts, 2017; Langford *et al*., 2020, pp. 167-187).

In the Albanian context, most of the IIAs in force belong to the old-generation category. It can be anticipated that they will undergo renegotiations, though so far there has been no official announcement about any government initiative with that respect. The same applies to the 1993 Foreign Investment Law. A couple of years ago, the Albanian government announced its plans to revise this law along with another piece of legislation that aims to promote strategic investments from the domestic and foreign investors (Law no. 55/2015). The intention is to align their rules and introduce an integrated law that would aim at attracting and protecting both foreign and domestic investments.[23] In 2019, the government circulated a draft law on investments for consultations with the business and legal communities (see, Albanian Electronic Register on Public Notifications and Consultations). So far there have been no public statements about any further developments regarding the drafting of the integrated law on investments. Recently, the European Commission has insisted that Albania should adopt such a law in the context of the Stabilization and Association Agreement (Chapter 20 Enterprise and Industrial Policy) concluded between the European Communities and their Member States, on the one part, and the Republic of Albania, on the other part (European Commission, 2023, pp. 102-103).

[23] For the latest communication about the Albanian government' plans to prepare and approve a draft law on investments, which would subsequently be sent to the Parliament for enactment, see, CMD no. 466; CMD no. 790, p. 49.

This perspective might cause some hesitance on the foreign investors' part about the future rules on investment arbitration that Albania may introduce and apply to their projects. Nevertheless, these rules should not affect the existing projects made under the law in force, to the extent they benefit from the sunset clauses of the relevant legal instruments. From a broader perspective, Albania's adherence to the EU integration processes and its commitments *vis-à-vis* the World Bank Group largely exclude any possibility that the country's legislative approach regarding investment arbitration would be in any way unaligned with the relevant standards enshrined in the EU and World Bank policies.

As to the arbitration cases heard before international tribunals, the fact that Albania has succeeded in a considerable number of disputes adds to an optimistic view by the state and the public opinion on the continued use of arbitration in the future.[24]

Undoubtedly, this picture is more mixed due to some infamous losses Albania had suffered before international tribunals. Recently, in the case of *Hydro S.r.l. et al. vs. Albania*, an ICISD tribunal awarded the Italian businessman Francesco Becchetti, his companies and associates around EUR 110 million in compensation (see, *Hydro S.r.l. et al. v. Republic of Albania*; *G.E. Transport s.p.a. and Athena s.a. v. Ministry of Public Works, Transport and Telecommunication*; *GBC Oil Company Ltd. v. Albania*, Albpetrol; *JV Copri Construction Enterprises et al. v. Albanian Road Authority*).

Such losses do not appear to have triggered questions about the legitimacy of international arbitration *per se* and its use by the Albanian state. Rather they have provoked concerns about the allegedly irresponsible government conduct with respect to the grounds that had led to such disputes and to the loss itself,[25] as well as the budgetary effects of the government defense.[26]

---

[24] Some of the cases won by Albania include *Pantechniki S.A. Contractors & Engineers (Greece) v. The Republic of Albania*, ICSID Case No. ARB/07/21, Award, 30 July 2009; *Burimi SRL and Eagle Games SH.A v. Republic of Albania*, ICSID Case No. ARB/11/18, Award, 29 May 2013; *Mamidoil Jetoil Greek Petroleum Products Societe Anonyme S.A. v. Republic of Albania*, ICSID Case No. ARB/11/24), Award, 30 March 2015; *Anglo-Adriatic Group Limited v. Republic of Albania*, ICSID Case No. ARB/17/6, Award, 7 February 2019; *Hydro S.r.l. et al. v. Republic of Albania*, ICSID Case No. ARB/15/28, Award, 24 April 2019; *Ivicom Holding GmbH v. Republic of Albania*, SCC Case No. 2021/155, Award, 26 June 2024; *Durres Kurum Shipping SH.P.K. et al. v. Republic of Albania*, ICSID Case No. ARB/20/37, Award, 26 July 2024.

[25] For example, in 2021, some members of the Albanian Parliament requested the establishment of an *ad hoc* investigative commission that would control the legality of the actions and omissions of the government institutions and public officials in relation to the cases initiated by the Italian businessman Becchetti, his companies and associates. The request was not approved by the Parliament, which was controlled by the same political party that established the government. See, Decision of the Parliament of Albania no. 80/2021.

[26] See e.g., Open Data Albania, 2023 (about an assessment of the budgetary costs associated with key arbitration cases involving the Albanian government).

In the aftermath of *Hydro S.r.l. et al. vs. Albania* case, the Albanian Prime Minister is reported to have reacted by stating that the government is "analyzing the possibility of getting out of [ICSID's] jurisdiction because what happened is scandalous" (BIRN, 2023; China-SEE Institute, 2023). It was rather clear to the legal and business communities within and outside Albania that this was more of a political and hasty statement void of any consequential effects. The dependency of the Albanian economy on the World Bank policies should *inter alia* sustain this rationale.

The obstacles and delays in relation to the enforcement and execution of foreign arbitral awards could also raise concerns among the foreign businesses with respect to the functionality and effectiveness of the system. From the perspective of enforcement and recognition of ICSID awards, which are deemed to succeed smoothly because of the special ICSID Convention rules (Arts. 53-55), the *Hydro S.r.l. et al. vs. Albania* shows the struggle that the award creditor may encounter as Becchetti *et al*. have been purporting to execute Albania's assets abroad over the last years (ICSID, 2024).

Another recently publicized case (*Iliria S.r.l. v. Albania*) relates to a dispute that was resolved by an arbitral award as early as in 1993 in favour of the Italian company only to make headlines in view of the landmark ruling by the European Court of Human Rights in July 2024. The Court found that Albania and its domestic courts had violated the European Convention of Human Rights (Art. 6, due process of law) by causing unreasonably prolonged and complicated legal processes over the recognition of the 1993 arbitral award against Albania (*Iliria S.r.l. v. Republic of Albania*).[27]

3.1.2. International Commercial Arbitration among Private Parties

With a view to private international commercial arbitration, the available case law from the Albanian judiciary and the information collected privately by the author show that Albanian and/or foreign parties have on many occasions opted for international arbitration instead of the domestic courts or domestic arbitration. The main sectors covered include construction, telecommunications, energy, and services, while the parties come from Albania, Germany, Türkiye, Austria, Italy, etc.[28]

[27] See also, Supreme Court Judgment no. 102, dated 28 September 2017 (*Kaptan Metal Dis Ticaret Ve Nakliyat AS vs. Scutari Construction SHPK*), where a foreign arbitral award of 1 July 2010 was recognized by the Tirana Appeal Court on 1 March 2011, but subsequently challenged before the Supreme Court which rendered its final judgment on 28 September 2017 (i.e., 6 years later).

[28] See e.g., Supreme Court Judgment no. 5, dated 8 January 2013 (*C.A.E. SHPK vs. Energji SHPK*) (two Albanian parties selecting ICC arbitration in a 2007 construction sector service agreement); Supreme Court Judgment no. 356, dated 6 June 2013 (*Marko Tel & Hes Kablo Albania SHPK vs. ZTE Albania SHPK*), p. 7 (two Albanian parties selecting LCIA arbitration, London, in a 2011 telecommunications sector service agreement); Supreme Court Judgment no. 175,

The legal gap on international arbitration in the Albanian CCP does not seem to have affected the parties' willingness and decision to select international arbitration, at least in the cases reviewed.

Generally, the inclusion of an international arbitration agreement in the specific contracts is owed to the foreign parties' special preference for international arbitration and their stronger bargaining power during the negotiations with local partners.

Most importantly, as discussed in Section 2.2 above, Albania has ratified the Geneva Convention and the New York Convention. This offers sufficient guarantees to the parties with respect to the direct, and where necessary the prevalent application of such international instruments *vis-à-vis* the domestic legislation before Albanian courts in cases of the latter's intervention.

This rule is reflected in the CCP itself (Art. 393) and is generally applied by the domestic courts. In a 2013 case, the Supreme Court of Albania held that

> "[i]n the absence of a specific law regulating international arbitration, any international agreement or convention ratified by our country will be applied in the case under judgment, as part of domestic law. … In such circumstances, being part of our legal system, [the New York Convention] will not only apply directly, but it will prevail over any legal provision of our domestic law." (see, *C.A.E. SHPK vs. Energji SHPK*, p. 5; *Marko Tel & Hes Kablo Albania SHPK vs. ZTE Albania SHPK*, p. 7).

The dispute had arisen out of a commercial agreement concluded between the parties in 2007, when the provisions on international arbitration contained in the CCP were abrogated and no separate law on international arbitration was in place.

3.1.3. Judicial Intervention in International Arbitration Cases

Judicial intervention in arbitration cases can cut both ways. It may support the success of an arbitration, which is a welcome endeavour that ultimately leads to its legitimacy and effectiveness (Lew, 2009, pp. 489-537). But it may also defeat the rationale behind arbitration, undermining the party autonomy and other benefits thereof (see, Gaillard, 2023, pp. 367-378). When considering international arbitration and its connections with the respective national legal systems, the contracting parties look for national laws and court practices that are inclined to assist them in solving their dispute based on their arbitration agreement rather than disrupting it.

---

dated 24 April 2014 (*S4E Group GmbH vs. KESH SHA*) (a German company and an Albanian state enterprise selecting ICC arbitration in a 2006 power sector service agreement); Supreme Court Judgment no. 102, dated 28 September 2017 (*Kaptan Metal Dis Ticaret Ve Nakliyat AS vs. Scutari Construction SHPK*) (a Turkish company and an Albanian company selecting arbitration under the Swiss Rules of International Arbitration, Geneva in several 2008 contracts).

In the Albanian setting, the judicial intervention in international arbitration cases has been usually encountered in the context of the jurisdictional 'competition' (judicial procedure vs. arbitration) with questions raised before the local courts about the validity of the arbitration agreement and the submission of substantive claims,[29] the granting of interim measures of protection,[30] and the recognition and enforcement of foreign arbitral awards (see, *I.C.M.A. s.r.l, AGRI. BEN S.A.S v. Ministry of Agriculture and Food, Republic of Albania*, para. 28.1; *2T SHPK vs. Iren Acqua e Gas (IAG) Dega Shqiperi*, paras. 14, 16, 16.1).

Without delving into details here, there have been instances of incorrect application of the law in relation to such matters, particularly with respect to the recognition and enforcement of foreign arbitral awards. This is due to a combination of factors: the formal application of the CCP rules for the recognition of foreign court decisions in the case of foreign arbitral awards, which is deemed to some extent inappropriate due to the differences between the two categories, as well as the discrepancies between the CCP and the New York Convention regarding the formal-procedural requirements and the grounds of refusal of recognition of foreign arbitral awards (Tafaj & Çinari, 2023b, pp. 677-691; Spahiu, 2017, pp. 52-63). One could also add the Albanian judges' limited experience with arbitration law matters and its proper interpretation and application where domestic law interacts with binding international law (see, ICC Albania, 2024, p. 18).[31]

[29] The Albanian courts have generally upheld the jurisdiction of arbitral tribunals where a valid arbitration agreement was in place. In the absence of domestic rules on international arbitration, they have based their reasoning on the direct effect of the international treaties ratified by Albania (New Work Convention and Geneva Convention) as inferred from Arts. 37 and 59 of the CCP (which are still in force). See e.g., Supreme Court Judgment no. 356, dated 6 June 2013 (*Marko Tel & Hes Kablo Albania SHPK vs. ZTE Albania SHPK*), p. 6 (where the Supreme Court upheld the previous position of the lower court on the same dispute and stated that "… the arbitration clause agreed between the parties means that the judiciary has no jurisdiction to review the dispute, except in the case where this agreement is null and void. … ").

[30] The Albanian courts have generally admitted that interim measures taken by the judiciary in the context of a valid arbitration clause are not incompatible with the arbitration agreement or an infringement of the arbitration jurisdiction that is responsible for the merits of the case. See e.g., Supreme Court Judgment no. 580, dated 11 October 2023 (*Edil Quattro SHPK vs. HCE Costruzioni S.p.a.*), para. 31 (where the Supreme Court upheld the previous position of the lowest court and quashed the opposite position of the appeals court by stating that "… a valid arbitration agreement does not prevent the parties from turning to the ordinary judicial jurisdiction with the request for obtaining an interim measure of securing the claim. The submission of such a request cannot be considered as incompatible with the arbitration agreement or as an infringement of the jurisdiction, which is responsible for examining the merits of the case." The key legal basis that the court used to reach this conclusion was the Geneva Convention Art. 6(4), which was again found to apply directly within the domestic legal order, and this was given particular emphasis in light of the missing regulation on the same matter in the CCP.

[31] In its survey on arbitration in Albania, it found that about 59 percent of the participants stated that they had not encountered any challenge concerning the recognition and enforcement

The Supreme Court has admitted the different positions of the Albanian courts in previous judgments on the matter of recognition and enforcement of foreign arbitral awards (*I.C.M.A. s.r.l, AGRI. BEN S.A.S v. Ministry of Agriculture and Food, Republic of Albania*, para. 9). Its judgment of 2011 served a good purpose in respect of unifying such practice, though there have been discussions that its reasoning could have been clearer on certain aspects (see, Tafaj & Çinari, 2023b, pp. 677-691). Building on such a judgment, the courts' reasoning over the last years increasingly shows a diligent approach towards the application of arbitration law in Albania, particularly in terms of giving the appropriate weight to the applicable international agreements (*S4E Group GmbH vs. KESH SHA*, paras. 32-36; *SC Energy Holding Srl vs. KESH SHA*, p. 5).

The relevance of the current court practice must be assessed on a case-by-case basis. This is even more pertinent considering the recently enacted 2023 Law on Arbitration and its special rules about court intervention in international arbitration matters. The existing practice will continue to have a say for the arbitration proceedings that have been initiated before the entry into force of that Law, subject to its provisional requirements (Art. 48). It can be also expected that the disputing parties and the courts could still invoke and rely upon this case law when addressing issues arising under the 2023 Law on Arbitration to the extent it interacts with the relevant provisions of the CCP that are still applicable (e.g., the matter of formal requirements for the enforcement and recognition of foreign arbitral awards).

Summing up, a proper understanding and application of the supremacy of the international conventions over the domestic rules where inconsistencies exist, or their direct application in the absence of such domestic rules, should enable Albanian courts to reach arbitration-friendly judgments when intervening in international arbitration cases. This alignment with the international standards accepted by Albania should increase the confidence of the business community in the supportive intervention of Albanian courts.

3.1.4. Selecting Arbitration outside Albania

In the Albanian context, a common aspect of the international arbitration disputes (among Albanian and foreign, as well as state and private entities) is the parties' selection of an arbitration seat outside Albania. The selected centres typically include Paris, Geneva, Zurich, London, Vienna, Stockholm, Milan, Rome, Istanbul, etc.

---

of arbitral awards by the courts during their practice. Meanwhile among those who faced challenges in recognition and enforcement proceedings, one of the most cited problems included the judges' misapplication or misreading of Albania's legal regime related to the recognition and enforcement of arbitral awards in Albania.

Tirana appears not able to rival those centres as far as one considers the advanced legal regimes and judicial practice in these locations, as well as their established experience and reputation on the topics of arbitration proceedings and court interventions.[32] Beyond the uncrystallized legal regime governing arbitration in Albania, another factor that supports this assumption is the generally limited knowledge and experience of arbitration law matters among the Albanian legal community, and particularly the judges. Moreover, one cannot disregard a defective justice system and significant delays due to the high case overload and the recent justice reform (introducing the vetting process as a transitional re-evaluation of all sitting judges as mandated by law), as well as the corruption concerns among the various branches of government (European Commission, 2023, p. 103; Transparency International, 2023; Freedom House, 2024).

3.2. Domestic Arbitration

The domestic arbitration practice in Albania is rather sparse. While there are no statistical data or sufficient public information, the lawyers involved report about a few cases that have been heard under the rules of the Albanian Mediation and Arbitration Center (MEDART), an Albanian arbitration institution established in 2002 (Tafaj & Çinari, 2015, pp. 99-100).[33] Similarly, a few contracts, usually concluded in the years immediately after the establishment of MEDART, have referred to this centre in their dispute resolution clause (see, *Elona Banda, Erkin Banda vs. Lani SHPK*; *Colliers International SHPK vs. City Park SHPK*).

The legal gap created in 2013 due to the omission of the domestic arbitration rules in the CCP and the limited experience of legal professionals in domestic arbitration matters have probably deterred the contracting parties from selecting domestic arbitration in the first place, or from using it as previously agreed upon, in case disputes would arise.[34]

[32] A recent survey of arbitration in Albania showed that most of the participants preferred foreign jurisdictions for the resolution of their disputes through arbitration. See, ICC Albania, 2024, p. 5.

[33] MEDART was registered in the Albanian Register of Non-governmental Organizations under the Tirana District Court Decision no. 73, dated 30 December 2002 (information taken from the Supreme Court Judgment no. 357, dated 5 July 2011 (*City Park SHPK vs. MEDART*)).

[34] As it was reported in the drafting documents for the Law on Arbitration, "the review of Albanian courts' case law on arbitration has shown that over the last years arbitration has been used in very few cases. This is the result of the lack of confidence of the parties in having a "private court" to resolve their disputes, but very likely also due to the lack of regulation on such an area of law." (Explanatory Report of the Law on Arbitration, 2023).

Very recently, two other arbitration institutions have been established in Albania.[35] The future will show whether and how these and other local institutions that may be incorporated in the upcoming years will develop a solid domestic arbitration experience.

By filling a legal vacuum, the 2023 Law on Arbitration provides a solid foundation for the advancement of the domestic arbitration culture in Albania. The same is true for the success of domestic arbitration institutions, since these are specifically, or perhaps exclusively,[36] promoted by the law.

The legal practice shows that when negotiating their dispute settlement agreement within the contractual transactions, the Albanian local businesses are generally open to new options and alternatives to the judiciary. They also appreciate the efficiency and confidentiality of the arbitral proceedings and the arbitrators' expertise. It can be expected that the local businesses operating in Albania will be encouraged to use domestic institutions, particularly where the contractual elements are domestic in nature and the values involved would not justify the potentially higher costs resulting from the engagement of an international arbitration institution. In fact, the parties to this category of transactions have been the most deprived in using arbitration as a dispute settlement mechanism as opposed to the larger domestic businesses that have typically opted for foreign/international arbitration with a seat outside Albania.

At the same time, there is a number of challenges that should be considered. Some local businesses still have a sense of insecurity about these "private courts."[37] Doubts arise also about the legal community's limited experience with domestic arbitration and the potential inadequate involvement of the Albanian judiciary where the seat of arbitration is in Albania and the Albanian arbitration law applies.[38] Other

[35] Based on the publicly available information from the Albanian Commercial Register, the following centers have been established as limited liability companies: Tirana Chamber of Arbitration (May, 2021) and Albanian Chamber of Arbitration (May, 2022).

[36] The Law on Arbitration appears to leave out of its scope international arbitration institutions that could be engaged in resolving arbitration disputes with the seat of arbitration in Albania. See, Art. 3(4) defining 'Permanent Institution of Arbitration' as "a legal entity, established by natural or legal persons, domestic or foreign, *according to Albanian law*, whose object of activity is the administration of arbitral proceedings" (emphasis added) in conjunction with Arts. 1, 4(1), 6(1), 24(4). In practice, international institutions have taken such a role in the past. See e.g., Supreme Court Judgment no. 00-2015-3802, dated 16 July 2015 (*R&T SHPK vs. General Customs Directorate*) (referring to an arbitration agreement in a 2008 administrative contract between Albanian parties referring to ICC arbitration with a seat in Tirana).

[37] Explanatory Report of the Law on Arbitration, 2023. For an earlier discussion of this perception in Albania, see Emmond, Tefta & Përparim, 2007, p. 183. For a discussion about this and other possible grounds of the so-called "cold" approach to arbitration in Albania, see Spahiu, 2015, pp. 82-83.

[38] One should consider here the general deficiencies of the judiciary as discussed above,

factors include a degree of distrust in the existing Albanian arbitration institutions, which are currently inoperative or still have to gain a reputation, concerns over the integrity and professionalism of local arbitrators, who operate within a small market and business community and have yet to be tested in a significant number of cases, etc. While perception of corruption in the justice system should serve as a strong incentive to promote domestic arbitration as an alternative, the opposite effect is also possible and some individuals in the private sector may continue to doubt the ability of private arbitrators within the Albanian community to deliver effective justice.

The existence of several arbitration institutions (currently three, with the potential for more to be established) within a small market with a limited pool of professionals that could act as arbitrators could also cause unnecessary fragmentation. This could represent a missed opportunity to consolidate efforts into a single or fewer centres, enabling the Albanian professionals to gain more intensive experience and develop a more robust practice and reputation. Combined with a strong competition from reputable foreign arbitration institutions, which are actively targeting the Albanian market and adjusting to its needs, these factors could make a compelling case – particularly for large companies in Albania – to continue opting for international arbitration with a foreign seat.[39]

Overall, this critical assessment does not aim to discourage expectations for the future of domestic arbitration in Albania. Rather, it seeks to provide a perspective that the effective implementation of the Law on Arbitration, from the standpoint of domestic arbitration, may require time.

Arguably, in the short term, there is a potential for small and medium-sized businesses in Albania to prefer domestic arbitration through local arbitration institutions rather than resorting to international arbitration institutions (associated with higher costs) or local courts. This expectation is likely to be fulfilled if there is a growing arbitration-friendly culture among professionals, a fair promotion of the new Law on Arbitration, and continued progress in strengthening the rule of law within the country.

especially regarding domestic arbitration cases where case law is limited and hardly accessible to the public (except for the Supreme Court judgments, which are available on its website).

[39] See e.g., ICC Albania, 2024, p. 5 (finding that most participants expressed their preference of arbitration over traditional litigation, confirming familiarity and perceived effectiveness as their primary reasons. Moreover, they prefer resolving their disputes in foreign jurisdictions).

4. Conclusions

Albania offers a rather robust legal framework for international investment and commercial arbitration, and the relevant jurisprudence so far is proof of its accomplishments. The intervention of the Albanian courts, although not flawless, has generally been supportive of the arbitration cases. The direct and prevalent application of the Geneva Convention and the New York Convention over the purely domestic law ensures adherence to the international standards on essential matters of international arbitration.

The development of domestic arbitration practice has been rather slow. Key contributing factors include the prolonged regulatory gap prior to the enactment of the Law on Arbitration in 2023, as well as Albania's overall legal and business environment, which is marked by a weak justice system and limited experience in arbitration law.

Looking ahead, the success of the arbitration practice in Albania hinges on several key factors. The diligent interpretation of the recently enacted Law on Arbitration by lawyers, arbitrators and judges, in conjunction with other relevant pieces of legislation, such as the Code of Civil Procedure and the binding international conventions, is of utmost importance. This should enable a consistent evolution of the arbitration case law in Albania, and thus a reliable jurisdiction for arbitration-related matters. Additionally, there is a need to promote further arbitration law courses and advanced studies in the academic curricula at Albanian universities. Developing capacity-building projects for judges, lawyers, and other professionals, as well as fostering partnerships between the Albanian professionals and institutions and their foreign counterparts are also sound foundations for mainstreaming the arbitration practice in the country.[40]

Strengthening the rule of law and improving the judiciary's performance in Albania should convey positive signals to businesses and legal professionals. This would raise the expectation of a satisfactory experience when disputes arise and the arbitration agreement is invoked, thereby promoting the use of arbitration as an alternative dispute resolution mechanism.

[40] For a list of recommendations that could promote the development of the arbitration practice in Albania, as drawn from a recent survey on arbitration in Albania, see, ICC Albania, 2024.

References

Blackaby, N., Partasides, C. & Redfern, A. Hunter, M. 2015. *Redfern and Hunter on International Arbitration*. 6th ed. Oxford: Oxford University Press. https://doi.org/10.1093/law/9780198714248.001.0001

Born, G. B. 2001. *International Commercial Arbitration: Commentary and Materials*. Transnational Publishers. https://doi.org/10.1163/9789004502222

Carlson, S. N. 1995. Foreign Investment Laws and FDI in Developing Countries: Albania's experiment. *The International Lawyer*, 29(3), pp. 577-598.

Emmond, P., Tefta, Z. & Përparim. K. 2007. *Arbitrazhi dhe Ndërmjetësimi*. Tiranë: Shkolla e Magjistraturës së Republikës së Shqipërisë.

Ferreres Comella, V. 2021. The Liberal Case for Arbitration. In: *The Constitution of Arbitration*. Cambridge: Cambridge University Press (Comparative Constitutional Law and Policy), pp. 9-30. https://doi.org/10.1017/9781108906395.002

Gaillard, E. 2023. Seven dirty tricks to disrupt an arbitration and the responses of international arbitration law. *Arbitration International*, 39(3), pp. 361-378. https://doi.org/10.1093/arbint/aiad037

Gjuzi, J. 2008. Selected Aspects of the International and Domestic Legal Regime Governing Foreign Investments in Albania: Present Structure and Future Challenges. Master of Law and Business thesis.Hamburg: Bucerius Law School/WHU – Otto Beisheim School of Management . Available at: www.gbv.de/dms/buls/631008780.pdf, 1. 12. 2024.

Gjuzi, J. & Nowrot, K. 2024. Admission and Establishment of Foreign Direct Investments in Albania: A Predominantly Liberal Approach with Certain Exceptions. *Zeitschrift für das Recht der Außenwirtschaft, Sanktionen und Auslandsinvestitionen (ZASA)*, 6, pp. 329-333 Available at: https://cdn-assetservice.ecom-api.beck-shop.de/productattachment/toc/15367765/35709766_2024_06_18_zasa_06_inhaltsverzeichnis.pdf, 1. 12. 2024.

Halili, E. & Turši, D. 2023. *New Era Begins in Albania: Parliament Passes Arbitration Law*. Kluwer Arbitration Blog. Available at: https://arbitrationblog.kluwerarbitration.com/2023/08/19/new-era-begins-in-albania-parliament-passes-arbitration-law/, 1. 12. 2024.

Langford, M., Potesta, M., Kaufmann-Kohler, G. & Behn, D. 2020. Special Issue: UNCITRAL and Investment Arbitration Reform: Matching Concerns and Solutions: Introduction. *Journal of World Investment & Trade*, 21(2-3), pp. 167-187. https://doi.org/10.1163/22119000-12340171

Lew, J. D. M. 2009. Does National Court Involvement Undermine the International Arbitration Process? *American University International Law Review*, 24(3), pp. 489-537.

Roberts, A. 2017. The Shifting Landscape of Investor-State Arbitration: Loyalists, Reformists, Revolutionaries and Undecideds. *EJIL: Talk! Blog of the European Journal of International Law,* 15. Available at: https://www.ejiltalk.org/the-shifting-landscape-of-investor-state-arbitration-loyalists-reformists-revolutionaries-and-undecideds/, 1. 12. 2024.

Spahiu, A. 2015. *Konventa e Nju Jork-ut dhe instrumentet juridike të njohjes dhe ekzekutimit të vendimeve të arbitrazhit ndërkombëtar në Shqipëri*, PhD thesis (Alb).

Spahiu, A. 2017. Recognition and Enforcement of International Arbitral Awards in Albania. Current challenges to the Albanian Domestic Law. *European Journal of Multidisciplinary Studies*, 2(4), pp. 52-63. https://doi.org/10.26417/ejms.v4i4.p52-63

Tafaj, K. F. & Çinari, S. 2015. *Zgjidhjet Alternative të Mosmarrëveshjeve*. Tirana: Albas.

Tafaj, K. F. & Çinari, S. 2023b. Recognition and Enforcement of Foreign Arbitral Awards in Albania, *European Business Organization Law Review*, 24, pp. 677-691. https://doi.org/10.1007/s40804-023-00270-w

Tafaj, K. F. & Çinari, S. 2023a. Njohje me legjislacionin e ri. Parimi *kompetenz/kompetenz* në ligjin e ri shqiptar të arbitrazhit. *Jeta Juridike*, 1, pp. 83-104

Tafaj K. F. & Vokshi, A. 2016. *Procedurë Civile, Pjesa e Dytë*. Tirana: Albas.

Timmermans, W. A. 1993. The 1992 Albanian Foreign Investment Law. *Review of Central and East European Law*, 19(5), pp. 553-567.

Williamson, J. 2004. *The Washington Consensus as a Policy Prescription for Development*, A lecture in the series "Practitioners of Development", World Bank 13 January 2004. Peterson Institute for International Economics. Available at: https://www.piie.com/sites/default/files/publications/papers/williamson0204.pdf, 1. 12. 2024.

Legal Sources

Convention on the Settlement of Investment Disputes between States and Nationals of Other States, signed in Washington DC on 18 March 1965: United Nations Treaty Series (1966), Vol. 575, p. 160, No. 8359, adhered by Albania by means of Law no. 7515, dated 1 October 1991, ratified on 15 October 1991, and entered into force on 14 November 1991.

Council of Ministers' Decision no. 26, dated 4 January 1991 "On the approval of the Regulation for the examination of cases by the state arbitration".

Council of Ministers' Decision no. 686, dated 19 October 2007 "On the approval of the production sharing agreement concluded between Albpetrol SHA and Sherwood International Petroleum Ltd for the development and production of hydrocarbons in the oilfield of Kucova."

Council of Ministers' Decision no. 543, dated 1 May 2008 "On the approval of the concession contract BOT between the Ministry of Economy, Trade and Energy and the Company Hasi Energji SHPK for the construction of the Lengarica 1 and Lengarica 2 hydropower plants."

Council of Ministers' Decision no. 699, dated 16 August 2013 "On the approval of the petroleum agreements between Albpetrol SHA and Phoenix Petroleum SHA for the development and production of hydrocarbons in the oil fields of Amonica, Drashovica, Pekisht-Murriz and gas fields of Panaja, Frakull, Povelçë, Divjakë, Ballaj-Kryevidh dhe Finiq-Krane.

Council of Ministers' Decision no. 466, dated 30 July 2021 "On the approval of the strategy for the development of business and investments 2021 – 2027 and of its action plan."

Council of Ministers' Decision no. 402, dated 9 June 2022 "On the approval of the production sharing contract for the development and production of hydrocarbons in

the natural gas field Frakull, Albania between Albpetrol SHA and EDG Natural Gas SHPK.

Council of Ministers' Decision no. 790, dated 28 December 2023 "On the approval of the general analytical program of draft-bills that shall be submitted for consideration to the Council of Ministers during the year 2024."

Decision of the Parliament of Albania no. 80/2021 "On the non-approval of the draft decision "For the establishment of the investigation committee of the Parliament "For the control of the legality of the actions and omissions of the state institutions and public officials in matters that have resulted in the arbitral award "*Becchetti and others vs. Albania*"."

Decree no. 682, dated 4 November 1993 "On the dissolution of state arbitration."

Decree no. 1872, dated 7 May 1954 "On the state arbitration."

Decree no. 4359, dated 16 January 1968 "On the arbitration of foreign commerce near the Chamber of Commerce of the Popular Socialist Republic of Albania."

Decree no. 5009, dated 10 November 1972 "On the state arbitration" as amended.

European Convention on International Commercial Arbitration, signed in Geneva on 21 April 1961: United Nations Treaty Series (1963–64), Vol. 484, p. 364, No. 7041, adhered by Albania by means of Law no. 8687, dated 9 November 2000.

Law no. 7424, dated 14 November 1990 "On state arbitration."

Law no. 7515, dated 1 October 1991 "On the membership of the Republic of Albania in the International Monetary Fund, the International Bank for Reconstruction and Development, the International Finance Corporation, the International Development Association the Multilateral Investment Guarantee Agency and the International Center for the Settlement of Investment Disputes."

Law no. 7594, dated 4 August 1992 "On foreign investments."

Law no. 7746 of 28 July 1993 "Petroleum Law (Exploration and Production)."

Law no. 7760, dated 14 October 1993 "On the ratification of the Convention between the Republic of Albania and Greece for the mutual judicial assistance in civil and criminal cases."

Law no. 7764, dated 2 November 1993 "On foreign investments."

Law no. 7796, dated 17 February 1994 "Mining Law of Albania."

Law no. 7973, dated 26 July1995 "On concessions and the participation of the private sector in public services and infrastructure."

Law no. 8036, dated 22 November 1995 "On the ratification of the Convention for the mutual judicial assistance in civil, commercial and criminal cases between the Republic of Albania and the Republic of Turkey."

Law no. 8116, dated 29 March 1996 "The Code of Civil Procedure of the Republic of Albania."

Law no. 8261, dated 11 December 1997 "On the ratification of the Energy Charter Treaty and the Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects."

Law no. 8417, dated 21 October 1998 "The Constitution of the Republic of Albania."

Law no. 8761, dated 2 April 2001 "On the approval of the Concession Agreement of the type BOT between the Ministry of Public Economy and Privatization and the Turkish company Ber-Oner for certain objects of the copper and chrome industry as well as for the award of certain benefits and guarantees to the concessionaire of this agreement."

Law no. 9663, dated 18 December 2006 "On concessions."

Law no. 49/2012 "On administrative courts and the adjudication of administrative disputes."

Law no. 125/2013 "On concessions and public-private partnership."

Law no. 55/2015 "On strategic investments in the Republic of Albania."

The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, signed in New York on 10 June 1958: United Nations Treaty Series (1959), Vol. 330, p. 38, No. 4739, adhered by Albania under Law no. 8688, dated 9 November 2000.

Case Law

Anglo-Adriatic Group Limited v. Republic of Albania, ICSID Case No. ARB/17/6, Award, 7 February 2019.

Award of the Court of Arbitration at the Serbian Chamber of Commerce, Belgrade, 27 January 2009 (*Galenika a.d. vs Jona Farma SHPK*), recognized by the Albanian Court of Appeal as per Judgment no. 30-2018-6338, dated 1 October 2009.

Bankers Petroleum Albania Ltd v. The Ministry of Energy and Industry of Albania and Albpetrol SHA, ICC Case No. 21349/EMT/GR, Final Award, 7 June 2024.

Burimi SRL and Eagle Games SH.A. v. Republic of Albania (ICSID Case No. ARB/11/18), Award, 29 May 2013.

ČEZ v. The Republic of Albania, UNCITRAL Rules, initiated on 16 May 2013, settled.

Durres Kurum Shipping SH.P.K., Durres Container Terminal SH.A, Metal Commodities Foreign Trade Corp. and Altberg Developments LP v. Republic of Albania (ICSID Case No. ARB/20/37), Award, 26 July 2024.

GBC Oil Company Ltd. v. Albania, Albpetrol, ICC Case No. 22676/GR, Award, 6 July 2020.

G.E. Transport s.p.a. and Athena s.a. v. Ministry of Public Works, Transport and Telecommunication, Republic of Albania, ICC Case 14403/FM, Final Award 28 July 2008 (ICC, Rome) (information taken from the enforcement decision of the United States District Court for the District of Columbia, Case 1:08-cv-02042-RMU, Doc. 16, 16 March 2010, and the subsequent CMD no. 386, dated 19 May 2010).

Hydro S.r.l., Costruzioni S.r.l., Francesco Becchetti, Mauro De Renzis, Stefania Grigolon, Liliana Condomitti v. Republic of Albania, ICSID Case No. ARB/15/28, Award, 24 April 2019, Decision on Annulment, 2 April 2021, Decision on rectification of the decision on annulment, 29 July 2021, Decision on the Claimants' preliminary objections pursuant to ICSID Arbitration Rule 41(5), 29 March 2023.

Hydro S.R.L. (Italy) v. Republic of Albania, ICC Case No. 20654/EMT/GR, Award of 7 September 2018.

Iliria S.r.l. v. Republic of Albania, Award, 3 September 1993.
Iliria S.r.l. v. Republic of Albania, ECHR, Judgment, 5 March 2024.
Ivicom Holding GmbH v. Republic of Albania, SCC Case No. 2021/155, Award, 26 June 2024.
Italstrade IS S.R.L. vs. Republic of Albania (Council of Ministers and the Ministry of Public Works, Transport and Telecommunications, General Directorate of Roads), ICC Case No. 13205 FM, Final Award 14 February 2006.
Kubota Corporation and Costruzioni Dondi S.p.A v. Albania, ICC case, Final Award 2023.
Mamidoil Jetoil Greek Petroleum Products Societe Anonyme S.A. v. Republic of Albania (ICSID Case No. ARB/11/24), Award, 30 March 2015.
Mrs. Mimoza Ndroqi v. Republic of Albania, PCA Case No. 2023-64, initiated in August 2022, pending.
Pantechniki S.A. Contractors & Engineers (Greece) v. The Republic of Albania, ICSID Case No. ARB/07/21, Award, 30 July 2009.
Sky Petroleum, Inc. v. Ministry of Economy, Trade, and Energy of Albania (Acting by and through the National Agency of Natural Resources), UNCITRAL Rules, Final Award, 7 May 2013.
Supreme Court Judgment no. 00-2015-3802, dated 16 July 2015 (*R&T SHPK vs. General Customs Directorate*).
Supreme Court Judgment no. 00-2018-1229, dated 27 December 2018 (*Sekcuk Sencer Esenyel vs. Trade Minerals AL SHPK*).
Supreme Court Judgment no. 5, dated 8 January 2013 (*C.A.E. SHPK vs. Energji SHPK*).
Supreme Court Judgment no. 92, dated 2 Mars 2010 (*Colliers International SHPK vs. City Park SHPK*).
Supreme Court Judgment no. 102, dated 28 September 2017 (*Kaptan Metal Dis Ticaret Ve Nakliyat AS vs. Scutari Construction SHPK*).
Supreme Court Judgment no. 142, dated 3 February 2022 (*Opsion-2010 SHPK et al., vs. Albanian Road Authority, Ministry of Infrastructure and Energy*).
Supreme Court Judgment no. 175, dated 24 April 2014 (*S4E Group GmbH vs. KESH SHA*).
Supreme Court Judgment no. 181, dated 1 June 2016 (*2T SHPK vs. Iren Acqua e Gas (IAG) Dega Shqiperi*).
Supreme Court Judgment no. 189, dated 1 June 2016 (*Ark I. Post Engineering vs. Sphinx SHPK*).
Supreme Court Judgment no. 284, dated 3 June 2015 (*Ital Trade SHPK vs. Trapani Charter SHPK*).
Supreme Court Judgment no. 356, dated 6 June 2013 (*Marko Tel & Hes Kablo Albania SHPK vs. ZTE Albania SHPK*).
Supreme Court Judgment no. 357, dated 5 July 2011 (*City Park SHPK vs. MEDART*).
Supreme Court Judgment no. 362, dated 6 June 2014 (*SC Energy Holding Srl vs. KESH SHA*).
Supreme Court Judgment no. 467, dated 18 September 2014 (*Elona Banda, Erkin Banda vs. Lani SHPK*).

Supreme Court Judgment no. 362, dated 22 July 2015 (*Fyber SHPK vs. Hidro Invest SHPK and Alb-Star SHPK*).
Supreme Court Judgment no. 580, dated 11 October 2023 (*Edil Quattro SHPK vs. HCE Costruzioni S.p.a. (former Todini Construzioni Generali S.p.a.*).
Supreme Court Unifying Judgment no. 6, dated 1 June 2011 (*I.C.M.A. s.r.l, AGRI. BEN S.A.S v. Ministry of Agriculture and Food, Republic of Albania*).
TIS Park SHPK vs Municipality of Vlore (Albania), ICC arbitration, Paris (information taken from the Municipality of Vlore webpage, 2018. Available at: https://bashkiavlore.org/wp-content/uploads/2018/07/2-KRITERET-PROCEDURES-MONITORING-COMMISSION.pdf, 1. 12. 2024.
The Joint Venture "JV Copri Construction Enterprises W.L.L. & Aktor Technical Societe Anonyme" 2. Copri Construction Enterprises W.L.L. 3. Aktor S.A. v. Albanian Road Authority under the Authority of the Ministry of Public Works and Transport, ICC Case No. 23998/MHM/HBH (C-24011/MHM/HBH), Final Award, 1 September 2020.
Tradex Hellas S.A. v. Republic of Albania, ICSID Case No. ARB/94/2, Award, 29 April 1999.
Valeria Italia Srl v. Republic of Albania, PCA Case No. 2018-49, Award on Jurisdiction, 17 August 2021.

Internet Sources

Albanian Commercial Register available at: https://qkb.gov.al/, 30 September 2024.
Albanian Electronic Register on Public Notifications and Consultations, Available at: https://konsultimipublik.gov.al, 30. 9. 2024.
Albanian Parliament. 2024. Available at: https://www.parlament.al/, 30. 9. 2024.
BIRN, 2023. *Albanian PM Threatens to Quit International Arbitration Body*, 7 April 2023, Available at: https://balkaninsight.com/2023/04/07/albanian-pm-threatens-to-quit-international-arbitration-body/, 1. 12. 2024.
China-SEE Institute, 2023. *It is time for Albania to pay! The costs of an international legal battle*, Weekly Briefing, no. 61(2) (AI), April 2023, Available at: https://china-cee.eu/2023/04/25/albania-economy-briefing-it-is-time-for-albania-to-pay-the-costs-of-an-international-legal-battle/#_ftn9, 1. 12. 2024.
European Commission. 2023. *Commission Staff Working Document, Albania 2023 Report accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2023 Communication on EU Enlargement policy*, 8 November 2023 Available at: https://neighbourhood-enlargement.ec.europa.eu/albania-report-2023_en, 1 December 2024.
European Commission. 2024. Available at: https://commission.europa.eu/, 1. 12. 2024.
Freedom House. 2024. *Nations Transit, Albania*, Available at: https://freedomhouse.org/country/albania/nations-transit/2024, 1. 12. 2024.
ICC Albania. 2024. *Survey Report: Arbitration in Albania 2024: Perceptions, Preferences and Expectations*, Available at: https://icc-albania.org.al/survey-report-arbitration-in-albania-2024-perceptions-preferences-and-expectations/, 1. 12. 2024.

ICSID. 2024. *Compliance with and enforcement of ICSID Awards, Background Paper* Available at: https://icsid.worldbank.org/resources/publications/compliance-and-enforcement-icsid-awards, 1. 12. 2024.

Open Data Albania. 2023. Cases Lost in Arbitration: Issues and Liabilities of the Albanian State. May 2022, Available at: https://ndiqparate.al/?p=19599&lang=en, 30. 9. 2024.

Transparency International. 2023. *Corruption Perceptions Index, Albania*, Available at: https://www.transparency.org/en/cpi/2023/index/alb, 1. 12. 2024.

UNCITRAL. 2024. Available at: https://uncitral.un.org/en/working_groups/3/investor-state, 30. 9. 2024.

UNCTAD. 2016. *Investment Laws – A Widespread Tool for the Promotion and Regulation of Foreign Investment*, Investment Policy Monitor, Special Issue, November 2016.

UNCTAD. 2017. *Phase 2 of IIA reform: Modernizing the existing stock of old-generation treaties*. IIA Issues Note, 2, Available at: http://unctad.org/en/PublicationsLibrary/diaepcb2017d3_en.pdf, 1. 12. 2024.

UNCTAD. 2024b. *Investment Dispute Settlement Navigator, Albania*, Available at: https://investmentpolicy.unctad.org/investment-dispute-settlement/country/2/albania/investor, 30. 9. 2024.

UNCTAD. 2024a. *International Investment Agreements Navigator*, Albania, Available at: https://investmentpolicy.unctad.org/international-investment-agreements, 30. 9. 2024.

World Bank Group. 1992. *Guidelines on the Treatment of Foreign Direct Investment, Legal Framework for the Treatment of Foreign Investment: Volume II: Guidelines*. Washington, D.C.: The International Bank for Reconstruction and Development/The World Bank), Available at: https://documents1.worldbank.org/curated/en/955221468766167766/pdf/Guidelines.pdf, 1. 12. 2024.