

Contract law of Albania in the context of public-private partnerships

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Abstract. The significance of the research is underscored by the fact that Albania, as a country in the process of socio-economic development, faces the need to attract specialists for the implementation of infrastructure projects. The research seeks to explore challenges within the realm of public-private partnerships concerning contract law in Albania and to propose constructive avenues for enhancement. The methods employed in this endeavor encompassed systematisation, logical analysis, concretisation, and generalisation, along with the application of formal-legal and formal-logical approaches. The investigation analysed modern mechanisms of legal regulation in the system of public-private partnerships. Problems, including compliance with free market principles, ensuring competition and high quality of public services, have been identified. Specific steps are proposed to address them: strengthening internal control in contract awarding procedures, updating legislation with a focus on maintaining market freedom and competition, assessing, and sharing risks between the private and public sectors, and actively engaging stakeholders. The recommendations aim at organic implementation, considering the interests of all stakeholders. In addition, it is suggested that changes in the justice system should stably take place, considering the stability of the overall system. The study also delved into analysing the existing views and concepts of scholars on the subject matter. Examining various perspectives has facilitated a more profound comprehension of the intricacies surrounding the phenomenon and potential avenues for enhancing contract law in Albania within the framework of public-private partnerships. The outcomes of this research possess the potential to provide valuable insights for the formulation of effective legal measures governing contract law in the context of public-private partnerships in Albania

Keywords: projects; protection of parties' interests; problems and challenges; legislation; effective mechanisms

Introduction

In modern professional practice, the strategies of the state and its partners acquire multiple meanings, significantly influencing the evolution of general practice. Thus, to date, public finances remain in a vulnerable state, especially in light of the significant level of public debt, exceeding 35% of the total domestic product in 2022 (International Monetary Fund, 2022). This generates a strong debate on public-private partnerships (PPPs), which has become a major topic due to its high weight in the economy, reaching 35% of the gross domestic product in the said year. Thus, the link between the factors affecting the state of public finances and their reflection on the discussed aspects of collaborations between public and private entities is improving.

The contract law of Albania in the context of PPPs represents an important relevance in modern society. The development and regulation of PPPs are becoming key aspects of the economic and societal advancement of the nation. In this context, understanding and strengthening contract law plays an essential role in creating a stable and reliable legal framework for cooperation between public and private actors. Albania, a rapidly developing country, faces an

increasing need to attract investment and create a favourable climate for business. PPPs are becoming a key instrument in achieving these objectives and their effective functioning requires clarity, coherence, and adaptability in the area of contract law.

The analysis of the contract law of Albania in the context of PPPs reveals important aspects such as the compliance of the legislation with international standards, the protection of the interests of all parties in PPP agreements, and the effective regulation of the procedures for the conclusion and execution of contracts. Thus, studying and improving Albania's public-private partnership contract law is important for creating a favourable investment environment, building trust between the parties to the agreements and ensuring sustainable economic development of the country. In a study conducted by I. Lushi *et al.* (2021), an attempt is made to examine the correlation between the degree of trust of the main buyer and contractual relations in the agro-industrial sector.

According to A. Spahiu (2020), public-private partnership (PPP) mechanisms are extensively employed as a means to engage private entities in the execution of public projects.

Suggested Citation

Article's History: Received: 16.08.2023 Revised: 18.11.2023 Accepted: 23.12.2023

Kullolli, B. (2023). Contract law of Albania in the context of public-private partnerships. *Social & Legal Studios*, 6(4), 105-113. doi: 10.32518/sals4.2023.105.

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The implementation of this type of partnership provides instant access to services, avoidance of debt obligations for the state, effective management, introduction of technology and higher standards of service, and compliance with contracts. This level of interaction requires careful attention to the legal framework to ensure regular and reasonable facilitating the involvement of the private sector in public initiatives and ensuring the safeguarding of public interests, optimisation of value for money, and equitable risk distribution.

L. Dalipi and A. Emini (2023) highlight that the Civil Code has established legislative cohesion within the realm of civil law, providing Albania with a distinct legal framework aligned with contemporary challenges and European standards. Meanwhile, K. Nasto and J. Sulillari (2021) have uncovered a noteworthy surge in public-private partnership contracts in Albania over recent decades. These agreements have exerted a considerable influence on the country's public finances, particularly resulting in substantial alterations to government expenditures and revenues. This has caused concern and criticism from the opposition and the public due to potential negative consequences such as increased public debt, reallocation of budgetary funds from other sectors, and possible restrictions on social programmes and infrastructure projects.

R. Kau and S. Veliu (2023) performed a comprehensive examination of the legislation and operation of public-private partnerships within the context of Albania. Their study covers many aspects, including comparisons with the legislation of the European Union and other European countries. Their findings and recommendations emphasise the positive dynamics of this institution in the context of legal regulation and improved transparency of public and private partnership processes in Albania. The main focus of the article is on significant problems, such as corruption in tender procedures, weakened institutions and the lack of effectiveness of the PPP Commission and the Administrative Court in handling numerous appeals in this area.

While the authors of these studies have covered a significant number of aspects, some key issues have been overlooked. These include corruption in tender procedures, weakened institutions and ineffective regulatory bodies. Some studies also did not analyse the impact of PPP contracts on the country's financial situation. Therefore, the study aims to assess the impact of PPP contracts on the functioning of contract law in Albania, to identify problems in the legal system, and to propose recommendations to improve transparency and efficiency in this area. Albania marks a record in Europe in terms of the government's off-balance sheet commitments, which it has received for concessions in the form of PPP, at 9.5% of the Gross Domestic Product (GDP). This percentage is at least three times higher than the country that spends the most on PPPs in Europe, Slovakia, according to Monitor's calculations, based on the 2021 draft budget data from the Ministry of Finance and Eurostat data for EU countries. for off-balance sheet commitments of PPPs (Albania, record in Europe..., 2020).

Within the framework of this research, philosophical, general scientific and special scientific approaches have been used, which have allowed to delve deeper into the essence and content of contract law in Albania, especially in the context of public-private partnership, namely: dialectical, formal-logical, formal-legal methods, methods of systematisation, logical analysis, concretisation, and generalisation. The

dialectical method was applied to analyse the development of contract law in Albania within the framework of public and private partnerships, identifying the contradictions and evolution of this field. Formal-logical method – for systematisation and logical analysis of data related to contract law in Albania, which allowed structuring the information and highlighting the main aspects. The formal-legal approach was employed to analyse legal norms, laws, and their application in the public-private partnership, ensuring legal precision and accuracy of the analysis. Systematisation, concretisation, and synthesis methods to clarify the specificities of contract law in the context of collaborations between public and private entities, and to identify general patterns and conclusions based on the findings.

In the course of the scientific investigation, a comprehensive understanding and substantiation of the issues were achieved by referencing various legal norms from both national and international sources. These include the Constitution of Republic of Albania (2016), Civil Code of the Republic of Albania (1994), and Law of the Republic of Albania No. 125/2013 “On Concessions and Civil Partnership” (2013), Law of the Republic of Albania No. 9643 “On Public Procurement” (2006). The identified gaps and potential in the legislation indicate the need for further improvement of the legal framework for more effective management of this area in the country.

Public-private partnerships in modern scientific research

Presently, a universally accepted definition of Public-Private Partnerships (PPPs) is lacking, leading to challenges in assessment and comparison on an international scale. The term “public-private partnership” is subject to varying interpretations by academics, government agencies, and international organizations, contributing to the absence of a consistent definition in the literature.

The use of the term PPP encompasses a broad spectrum of contract types, and there is no standardized global convention for naming or describing these diverse contracts across different countries or jurisdictions. Nevertheless, a working definition can be offered: PPP represents a distinctive contract type wherein a public partner (government entity) delegates certain responsibilities to a private partner through a long-term agreement. This agreement delineates the rights and obligations of each party, along with mechanisms for financial adjustments arising from unforeseen events or non-compliance by the parties (PPP/Public-Private Partnership..., 2018; Commission Staff Working..., 2022).

As posited by L. Liu *et al.* (2022), PPP is essentially a medium to long-term contract between the public and private sectors, characterized by an explicit agreement on shared objectives for the provision of public infrastructure or services. L. Liu *et al.* (2022) assert that the PPP model leverages the private sector's managerial expertise and investment to deliver essential resources for producing public goods and services. In alignment with L. Chunling *et al.* (2021), private companies engaging in PPPs are primarily motivated by economic benefits, and effective risk management is paramount. Companies entering into projects with the public sector face the risk of suboptimal resource utilization.

One crucial aspect explored in the literature pertains to the alignment of Albanian legislation in contract law with

international standards and practices. Researchers delve into the influence of European Union directives on shaping the legal framework for Public-Private Partnerships (PPPs) in Albania and assess its adherence to global standards in the realm of contract law. As such, C. Petrovan and C. Nastase (2022) analyse PPPs, focusing on the comparison of cost-effectiveness with private actors operating in this field. It is found that these partnerships have improved the availability of dialysis services but have not improved renal transplantation.

The studies center around issues associated with contract fulfillment within the framework of public-private partnerships. N. Wang and M. Ma (2020) examine dispute resolution mechanisms and the liability of parties for non-fulfillment of obligations. Notably, the research pays special attention to concerns of corruption and transparency in the initiation and execution of public-private partnership agreements. T. Adebayo *et al.* (2021) and I. Akomea-Frimpong *et al.* (2021; 2022) delve into the legal consequences that may arise in case of violations related to these aspects.

The literature emphasises the need to improve Albanian contract law, considering the experience of other countries and international standards. The authors analyse proposals to improve the legislation to increase transparency, eliminate legal gaps and ensure more efficient functioning of public-private partnership mechanisms.

E. Jokar *et al.* (2021) and N. Song *et al.* (2022) note that public-private partnership is characterised not only by results but also by the management of the project and related contracts. The focal point is risk sharing, a crucial element in the evolution of this partnership model. As per G. Ampratwum *et al.* (2022), public-private partnership represents an institutional innovation that optimally leverages the strengths of both government and private entities to foster long-term collaboration for the efficient provision of infrastructure and services.

S. Verweij and I. Meerkerk (2021), H.M. Liman *et al.* (2021) and A. Žuvela *et al.* (2023) note that one of the key findings from the Albanian experience is the fact that despite the existence of specific primary legislation regulating PPPs, there are serious problems related to corruption in the process of their implementation.

Thus, the relevance and complexity of issues related to the conclusion and performance of contracts in the context of public-private partnerships in Albania are identified in the literature review on contract law.

Peculiarities of PPP legal regulation in Albania

In Albania, the PPP unit is subordinate to the Ministry of Finance, but is not officially mandated with fiscal management functions. The PPP legislations in Albania explicitly require the approval of the Minister of Finance for PPP projects both before the start of the procurement and before the signing of the contract (Albania, record in Europe..., 2020).

Public-Private Partnerships (PPPs) represent a distinct form of collaboration between public entities and the private sector with the objective of financing, developing, modernizing, managing, operating, and/or delivering services related to infrastructure. A pivotal aspect of PPPs is the shared assumption of risks between the public and private sectors in the delivery of infrastructure or services. Despite the absence of universal consensus on the definition of PPPs, certain key elements characterize this model of interaction.

PPPs entail contractual arrangements between the public and private sectors for the provision of infrastructure and public services. The financing of infrastructure or services is undertaken by the private partner, and risks are distributed between the partners based on their respective risk management capabilities. In its guidance on public-private partnerships, the European Commission (2003) emphasises the key importance of the private sector in these schemes. It acts not only as a source of additional capital but also as a provider of alternative management skills and implementation tools. The private sector adds significant value to projects for society, considering the needs of society and using resources efficiently.

Albanian legislation views Public-Private Partnerships (PPPs) as enduring bilateral contractual agreements between a client organisation (public partner) and one or more economic operators (private partner). In such arrangements, the private partner commits to delivering services within the public partner's jurisdiction, shouldering various levels and scopes of risks while receiving compensation based on the contract terms. Within this legal framework, the obligation to provide public services encompasses aspects like financing, design, construction, utilisation, operation, and maintenance of public infrastructure facilities. The risks undertaken by the private partner may pertain to financing, construction, accessibility, operation, management, maintenance, and technical issues. In return, users and consumers receive regular direct payments from the public partner, along with other forms of financial support, including ownership transfer and other contractual obligations (Law of the Republic of Albania "On Public Procurement", 2006).

The existing Law of the Republic of Albania "On Concessions and Public Private Partnership" (2013) uniformly regulates concessions and public-private partnerships from a procedural standpoint. According to this law, PPPs can manifest as public works concessions, public services concessions, contract works contracts, or public services contracts, contingent on the remuneration form favorable to the private partner and the distribution of primary risks. The conclusion of a public-private partnership (or concession) contract in Albania involves multiple administrative procedural phases. In the preparatory phase, various steps are executed, including the identification of potential concession/PPP projects, appointment of a concession commission/PPP committee, preparation of a feasibility study, cost calculation of the concession contract/PPP, and the formulation of tender documents. Emphasising the need and feasibility of the project idea, the public authority compiles a synthesis report during the preparatory work, considering implementation alternatives and identifying all relevant technical and economic scenarios in advance.

In Albania, PPPs represent a strategic collaboration between the public and private sectors to execute projects across diverse domains such as infrastructure, health, education, and more. This form of partnership plays a vital role in stimulating economic growth and modernising the country's infrastructure. PPPs in Albania are a significant component of the strategy for developing infrastructure and other sectors of the economy. PPP trends in the country usually reflect the desire to attract investment, technological development, and improvement of public services. The implementation of such projects can cover various areas, including transport, health, education, and energy (Fig. 1).

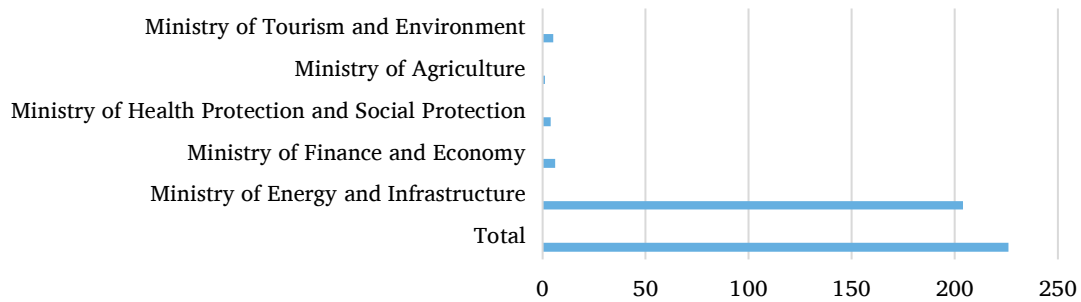


Figure 1. Trend of concession/PPP projects signed during the period 2006-2022

Source: compiled by the author based on International Monetary Fund. (2022)

The adoption of Public-Private Partnerships (PPPs) is motivated by several pivotal factors, including the pursuit of value for money, swift access to supplementary services, prevention of arrears and impacts on the public budget, and enhanced management, technology, and productivity. Before deciding whether to favour PPPs or other alternatives, performance analyses and comparative studies of the different options are necessary. The primary goal of a Public-Private Partnership (PPP) project is to ensure value for money, signifying the extent to which the customer can optimize the benefits derived from the works or services delivered within the PPP framework. Undertaking a preliminary analysis of alternatives is a crucial step in attaining the objectives of a PPP project, given the efficiency of this collaborative model compared to other contract types. The public authority is obligated to conduct an analysis, rooted in a feasibility study, to ascertain whether a project structured as a PPP is more cost-effective than a traditional procurement alternative. PPPs offer enhanced value for money to the public because the provision of public services under this framework is pre-evaluated and compared with other contracting approaches.

PPPs enable the realisation of projects that, for various reasons (e.g. limited budget, lack of experience), cannot be implemented under traditional forms of contracting. It facilitates the delivery of public services that might have been delayed or not realised at all, thus providing more public services. In Albania, for example, there have been several public-private partnership projects ranging from infrastructure to social and economic initiatives (IRD Engineering will enhance..., 2019). Road construction, reconstruction and maintenance projects are often implemented through public-private partnerships. For example, the construction of new motorways, such as the Dures-Cukes highway, is carried out with the participation of private investors.

Energy projects also include the participation of private companies. For example, the construction and modernisation of energy facilities such as hydroelectric power plants or solar energy installations are carried out in partnership with public entities. Tourism infrastructure development projects, such as the construction of hotels, restaurants, and entertainment complexes, are carried out with the participation of private investors who cooperate with the government to create conditions for the development of tourism in the country. Sometimes public-private partnerships are used in projects related to education and health care. For example, the construction of new educational institutions or modern medical centres can be carried out by joint efforts of private and public structures. These projects demonstrate the variety of areas in which public-private partnerships in Albania are

being used to contribute to the development and modernisation of the country. Despite the need for PPPs, their implementation in practice raises several issues that should be addressed for the effective implementation of this partnership.

Preserving market freedom and maintaining competition remain key requirements of European law. This is particularly important when selecting private partners and setting conditions for contract renewals. The renewal of agreements due to significant initial investments may create the risk of a closed and uncompetitive market. Adhering to selection procedures that ensure competition, transparency and proportionality is therefore critical for the successful functioning of public-private partnerships. Data has been received that for the year 2024, new concessions/PPPs worth about 109.5 billion Lek or 1.04 billion Euros are planned for the year 2024, accounting for about 4.5% of the projected GDP. As a result, the percentage of the total value of contracts in the Gross Domestic Product (GDP or GDP) for all existing and planned Concessionary and PPP contracts increases to 30.6% of GDP.

According to the Sector, of the new planned PPP concession projects, 4 are in the Transport sector (road and air) with a total value of 104.3 billion Lek, while the other 2 concessions/PPP are in the urban development sector, two Concession contracts in the sector of Educational Infrastructure, Tirana Municipality with a total value of 5.18 billion Lek. From the official information so far, for 5 out of 6 planned PPP concession contracts, the tender competition has been held and the winners have been announced. For 5 investment contracts, it will be private, but with an anticipated level of income from the State Budget as guarantor, and 1 is fully privately financed (Concessionary and PPP contracts..., 2023).

PPPs in Albania have a crucial role in promoting economic growth, modernising infrastructure, and providing essential public services. The legal framework ensures a structured and transparent approach to these partnerships, balancing risk-sharing between public and private entities. Despite challenges, PPPs continue to evolve in Albania and have made significant contributions to various sectors, including transport, energy, tourism, education, and health-care. As Albania progresses, PPPs are expected to continue playing an important role in the country's development strategy by utilizing private sector involvement for public benefit.

Challenges and promising avenues for improvement

Articulating service quality can be challenging, particularly within the realm of public services, where the relationship between inputs and outputs is frequently not clear. This necessitates ongoing and active monitoring of service

management, especially when a service provider is granted a monopoly in a specific area. Concurrently, Public-Private Partnerships (PPPs) encounter common risks inherent in project implementation. These risks encompass technical challenges linked to structural defects, construction risks arising from time and cost overruns, operational risks tied to maintenance costs, income risks stemming from insufficient demand, financial risks associated with financial expenses, potential environmental hazards arising from the project's influence on the surroundings, and political and legal uncertainties stemming from alterations in legislation or un-supportive government policies, in addition to the risk of unexpected situations.

One of pivotal aspects of PPPs remains the question of the sustainability of revenues from the services provided to cover operational and financial costs, as well as to ensure a return on investment. Factors that may cause problems in PPPs include the following aspects (Batjargal & Zhang, 2021):

- ▶ Unstable organisational structure of the public partner. In an unstable environment, the organisational structure of the public partner often suffers from inefficiency and high bureaucracy, which can complicate project implementation.
- ▶ Uncertainty of project objectives. Problems arise when the private partner lacks a clear understanding of the project's initial objectives and the expected results of the cooperation in the initial phase.
- ▶ Insufficient communication. Ineffective information sharing within the government-contractor relationship can lead to inconsistencies in the resources required to achieve project objectives.
- ▶ Improperly structured PPPs. Different types of PPPs transfer varying levels of risk to the private sector. Harmonised risk allocation based on manageability in both the public and private sectors is recommended.
- ▶ Lack of internal capacity. Occurs when both the government and the private contractor lack the necessary human resources to effectively manage a PPP.
- ▶ Poor planning. The outcome of a Public-Private Partnership (PPP) frequently depends on the effectiveness of the initial framework, policies, legislation, and various other factors. Proper planning from the project's outset is crucial.
- ▶ Insufficient attention to operations. Viewing the partnership primarily as a financing tool can lead to neglect of infrastructure maintenance.
- ▶ Insufficient comprehension of value for money. Challenges emerge when the costs linked with PPPs are not adequately balanced by returns, or when public officials lack a complete understanding of the value-for-money concept.
- ▶ Divergent organisational cultures and objectives among partners.
- ▶ Subpar institutional environment and support.
- ▶ Fragile political and legal frameworks.
- ▶ Untrustworthy mechanisms for sharing risk and responsibility.
- ▶ Insufficient procedures for selecting PPP partners.
- ▶ Discrepancy between resource inputs and quality.
- ▶ Insufficient monitoring and evaluation of PPP processes.
- ▶ Opacity exacerbated by the intrinsic characteristics of PPPs.

To mitigate the aforementioned risks, governments can formulate a comprehensive Public-Private Partnership (PPP) life cycle that encompasses all its stages – from initial planning and transaction conclusion to ongoing partnership

management. An inherent challenge in the legal regulation of PPPs is the involvement of public authorities in projects, necessitating the establishment of a public accountability mechanism distinct from situations where all participants are private. Simultaneously, the establishment of PPPs involves a departure from the political and bureaucratic processes inherent in public activities.

To effectively tackle this issue, ensuring public awareness and averting unnecessary bureaucracy, it is recommended to focus on legal mechanisms. For example, developing transparent legal regulations that are easily accessible and understandable to all stakeholders, in addition to minimising administrative burdens. However, difficulties arise here: how to balance the interests of the state and the private sector to avoid conflicts; whether it is possible to delegate long-term management of infrastructure to a state organisation; and what administrative requirements are necessary to achieve such a balance. This focus on legal aspects may raise questions, but it is through analysing legal issues that one can look for ways to strike a balance between public openness and avoiding unnecessary complexity in management.

A PPP model in Albania that combines the positive elements of both sectors will be successful if there is both a profit and a return on private investment, as well as delivering high-quality services to citizens and fulfilling the public interest. These two aspects, while interdependent, can be both a strength and a risk of the partnership. Vulnerabilities include the difficulty of mutual understanding between the two sectors and monitoring, which in transition countries can create risks of corruption and abuse. Therefore, a priority in Albania is to establish effective legal control mechanisms before the legal framework itself.

According to the European Commission's 2022 report on Albania (Commission Staff Working..., 2022), the Law on Concessions and Public-Private Partnerships demonstrates partial compliance with the EU Concession Contracts Directive. While Albania has made strides in public procurement, updating legislation, implementing an electronic complaints system, providing procurement training, and establishing an online PPP database, more efforts are required to combat corruption in procurement procedures. The report suggests several recommendations for enhancing the PPP legal framework, such as broader use of the most economically advantageous tender award criterion and alignment of concessions and PPP legislation with EU standards. Additionally, there is an emphasis on improving the capacity of relevant authorities to handle a high volume of complaints in this domain.

Albania's experience highlights that despite having specific legislation governing PPPs, corruption-related issues can arise during implementation. It is recommended to reinforce internal controls in PPP award procedures from the outset to preempt potential corruption-related problems. Strengthening the role of institutions in project selection and contract management is crucial to mitigate future risks, and continuous monitoring of risks at all stages of the process is necessary. Successful implementation of projects to improve collective services requires that the state, through its central, regional, and local organisations, identifies the needs of citizens and businesses, creates and delivers services, and entrusts the creation and management of tangible and intangible infrastructure to private individuals through a competitive mechanism and the selection of competent personnel in the relevant fields.

Trends in contract law in the context of PPPs in Albania in the context of modern doctrine

When it comes to contract law in the context of PPPs in Albania, the study of this area becomes a key task for legal science. The comparison of foreign experience with national legal regulation opens new perspectives for advancing and enhancing the national justice system. This contributes to a more balanced and efficient legal system that ensures fairness and harmony in the functioning of the country's laws. The PPP concept in Albania is reflected in contract law and fiscal policy, playing a key role in shaping economic interrelationships. It influences the structure and dynamics of the country's economy, aiming at the joint development of the private and public sectors.

Studies conducted by T. Liu *et al.* (2020) and L. Liu *et al.* (2022) reveal that the analysis of PPP systems of different countries allows to highlight their unique features. PPP regulation in Albania is affected by the current economic environment and political changes, which affects the effectiveness of PPPs and contract law in general. Of particular interest is the use of artificial intelligence in law enforcement. L. Chunling *et al.* (2021) note that computers can collect huge amounts of data for subsequent analysis. They note that computers are capable of collecting huge amounts of data for further analysis. However, turning this information into useful knowledge requires the analysis of experienced professionals or intelligent tools that provide facts and alternative solutions to law enforcement. Their research underscores the utilization of computer science technologies, including geographic information systems, clustering, link analysis, and advanced intelligent analytical tools, for crime profiling and prediction. Nonetheless, it is essential to weigh the potential risk of these technologies being exploited by criminals.

In the context of Albanian contract law and PPPs, the digital age brings with it vast amounts of information from various sources and formats. This data is becoming an important strategic resource for public authorities and businesses, enabling the creation of products that best meet the needs of users. However, the systematicity and consistency in shaping tax relations and policies in many countries do not always match the needs of the modern environment. The introduction and active use of Big Data technology will not only help to counter tax evasion and fraud but will also simplify procedures for the implementation of projects in the field of contract law in Albania through the PPP prism. W. Wang and M. Ma (2020) argue that the risks listed in the context of PPPs are not unique to this type of partnership but are characteristic of most projects in various sectors. They can appear in both purely private and public projects. As such, risks need to be considered in any investment activity, and they are not related exclusively to PPPs.

As mentioned earlier, project management faces common risks inherent in its execution. These risks include technical deficiencies related to design, problems during construction, delays and budget overruns, operational risks related to maintenance, risks of low demand, financial risks, environmental impacts of the project, and political and legal risks related to changes in legislation or unsupported government policies. In addition to these, there is the risk of force majeure. It is important to emphasise here that the risks described in the PPP context can be manageable with the right project management approach. This includes the use of insurance, the development of risk minimisation

plans, and careful consideration of the legal and policy environment to prevent negative impacts.

T. Adebayo *et al.* (2021) and I. Akomea-Frimpong (2022) consider the development of sustainable financing models that consider risks to be key in the implementation of PPPs. While agreeing with this thesis, it should be added that this includes a variety of funding sources, contingency reserves and modelling of revenues and expenditures to ensure stable financial flows. At the same time, it should be noted that effective management and professional execution of PPP projects can also reduce risks, improve service quality, and ensure revenue stability. A competent team of managers and specialists can effectively overcome the risks linked to the technical, environmental, and financial facets of the project. Despite the existence of primary legislation regulating PPPs, experience has shown the emergence of corruption problems during the tendering process. This raises the need to strengthen internal controls already at the stage of PPP award, to prevent potential problems in the process. Criticism is also levelled at the weakness of the institutions responsible for project selection and contract management, which may create risks in the future. The focus is on reinforcing the role of these institutions, emphasising the need to control risks at all stages of project implementation. Strict competition requirements may limit the choice of partners and increase the cost of projects by excluding potentially qualified participants. This can reduce the effectiveness of PPPs and make it more difficult to find the best solutions for project implementation.

The need for ongoing active monitoring also requires significant resources and may cause additional bureaucratic complications. Long-term contracts extended due to significant investments may create a monopoly and reduce competition, negatively affecting service users in the long term. This can lead to limited choice and a lack of incentive to improve services. This is highlighted by S. Verweij and I. Meerkerk (2021). Consequently, for successful implementation of collective service improvement projects, it is suggested that the state should actively identify the needs of citizens and businesses through central, regional, and local organisations. This includes establishing, providing services, and entrusting private individuals to manage the infrastructure through competitive mechanisms and competent recruitment in the relevant fields.

Thus, Albania's tax system is an integral part of managing the country's economy and ensuring its financial stability. In recent years, the country has been actively modernising its tax system to improve the business environment, stimulate investment and increase competitiveness in the global arena. This includes revision of tax rates, simplification of taxation procedures and introduction of advanced information technologies for more efficient collection and monitoring of tax revenues. Measures are also aimed at promoting tax discipline and discouraging tax evasion through stricter control and compliance with tax laws. These efforts are intended to create a favourable business environment and contribute to strengthening the country's financial sustainability in the face of global challenges and dynamic changes on the world stage. Certainly, the significance of tax policy in the realm of Public-Private Partnerships (PPPs) in Albania is steadily growing. This mirrors not just the economic requirements of the country but also its commitment to fortifying the collaboration between public entities and the private sector to foster sustainable development.

The government is poised to formulate a new law on the concession of public-private partnerships, with the objective of mitigating the issue that is now appearing with the existing contracts of public relations and private companies. In the document “priority measures within the framework of the Public Administration Reform 2023-2030” released for public consultation, it is noted that the law, which is expected to be approved at the end of 2025, will be preceded by the drafting and approval of the methodology for the inventory, the comment and the depreciation of assets in the public sector, which will be ready by mid-2025. It is also expected to be the methodology for approving concession/PPP projects – until the end of 2026. These legal changes aim to synchronize based on the data of monitoring contracts and following the monitoring process of concession/PPP contracts continuation; Strengthening and supplementing the government’s capacities for monitoring ongoing concession/PPP contracts; Creation of efficient mechanisms related to the monitoring of concession contracts/PPP, so that the risks of the contracted parties, with the focus to continue on the contracting parties, as low as possible to ensure more and the greatest benefit.

Strengthening the role of contracting authorities in determining the procedures that are chosen for public contracts, to determine which procedures maximize “best value for money” and “value for people” by the 2026 fund. It seems that this initiative is not referring to the history of the concession contracts in sale, before those who deal with the provision of services and have become a burden on the state budget (New law on concessions..., 2023).

The landscape of contract law in the context of PPPs in Albania is constantly evolving due to the interplay between economic development, legal reform, and technological advancement. The integration of advanced digital technologies like Big Data and Artificial Intelligence has the potential to improve the efficiency and transparency of PPP management. However, this advancement also presents challenges, including data security risks and the need for robust legal frameworks to effectively manage these new technologies. As Albania continues to modernise its legal and economic systems, it is crucial to focus on sustainable financing models, risk management, and transparent procedures in PPPs to achieve long-term economic stability and growth.

Conclusions

Contract law in Albania, especially in the context of PPPs, represents an important aspect of the country’s legal system. PPPs are gaining importance in Albania, becoming a pivotal tool for advancing infrastructure, services, and various sectors of the economy. The laws and regulations concerning contract law in PPPs are aimed at balancing the interests of the parties, ensuring transparency of transactions and respecting competition rules. It is worth noting that Albania endeavours to align its PPP system with international standards and practices, especially in light of the aspirations of integration into the EU. The recent decades of progress in market economies have identified a novel and effective source of financing for public projects, particularly those of strategic significance. This newfound resource lies in the collaboration between the public and private sectors. The exploration of the dynamics and challenges associated with this public-private partnership (PPP) arises as a necessity recognised several years ago in Albania, at which point this topic became the most discussed issue in politics Albanian.

In conditions when the need for financing projects and services of a public and strategic nature is above the real possibilities of public finances, cooperation with the private partner becomes necessary. This necessity is even more pronounced for developing countries such as Albania, for whom the construction of road, energy and social infrastructure are emergency and impossible to face from public funds. In addition, the rise of collaboration between the public and private sectors offers opportunities for increasing the quality of management, efficiency as well as minimizes project risks, compared to the traditional method procurement. PPPs in Albania can cover various areas such as construction, transport, health, and education. Despite the importance of PPPs, their implementation faces challenges such as respecting free market principles, maintaining competition, and ensuring the quality of public services. Risk factors include poor organisational structure, uncertainty, inappropriate structure, and lack of internal resources. To avoid such problems, the government can develop a legal framework, giving due consideration to all stages of Public-Private Partnerships (PPPs), encompassing planning, contracting, and management, is crucial.

To avert potential issues related to corruption in the tendering process and PPP implementation, it is advisable to enhance internal controls within contract award procedures. This may include strict measures and monitoring systems to ensure compliance with ethical standards and prevent corrupt practices. For more effective PPP implementation, continuous improvement of the legal framework is necessary. This includes analysing and updating legislation to ensure compliance with free market principles, competition, and quality of public services. Additionally, within the framework of PPPs, it is imperative to conduct a thorough assessment of risks and determine their allocation between the private and public sectors. This approach facilitates effective risk management for each party, a critical aspect of ensuring a successful partnership. To attain the desired outcomes in PPP projects, active involvement of multiple stakeholders is essential. This can facilitate a broader understanding of needs and better utilisation of resources, as well as provide feedback and support from different community groups. The implementation of these recommendations can contribute to improving public-private partnership processes in Albania, making them more efficient, transparent, and consistent with fairness and competition.

In the future, various aspects of safeguarding the rights and interests of the parties in public-private partnership contracts in Albania can be investigated: mechanisms for dispute resolution, contract enforcement and liability for breaches; the role of the judiciary in dispute resolution and law enforcement; the impact of legal norms on the investment climate and the enhancement of the economy of the country; the assessment of the effectiveness of control mechanisms and transparency in the conclusion and execution of these contracts; the effectiveness of legislative changes and recommendations. These topics can be the basis for a more in-depth study of issues related to contract law in Albania in the context of public-private co-operation.

Acknowledgements

None.

Conflict of interest

None.

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Договірне право Албанії в контексті державно-приватного партнерства

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Анотація. Актуальність дослідження зумовлено тим, що Албанія, як країна, що перебуває в процесі соціально-економічного розвитку, стикається з потребою залучати спеціалістів до реалізації інфраструктурних проєктів. Мета цього дослідження полягала в розгляді проблемних аспектів функціонування державно-приватного партнерства в контексті договірного права в Албанії та формуванні перспективних шляхів його вдосконалення. У роботі використано методи систематизації, логічного аналізу, конкретизації та узагальнення, а також формально-юридичний і формально-логічний методи. Виконано роботу з аналізу сучасних механізмів правового регулювання в системі державно-приватного партнерства. Виявлено проблеми, зокрема в дотриманні принципів вільного ринку, забезпеченні конкуренції та високої якості державних послуг. Для їх розв’язання запропоновано конкретні кроки: посилення внутрішнього контролю в процедурах присудження контрактів, оновлення законодавства з фокусом на підтримці свободи ринку та конкуренції, оцінка та розподіл ризиків між приватним і державним секторами, а також активне залучення зацікавлених сторін. Рекомендації спрямовані на органічне впровадження, враховуючи інтереси всіх учасників. Крім цього, запропоновано, щоб зміни в системі правосуддя відбувалися стабільно і з урахуванням стабільності загальної системи. Дослідження також поглиблено в аналіз наявних думок і концепцій учених, що стосуються цієї проблематики. Вивчення різних поглядів дало змогу глибше осмислити складність цього явища та можливі шляхи вдосконалення договірного права Албанії в контексті державно-приватного партнерства. Результати цього наукового дослідження мають потенціал бути цінними для розроблення ефективних правових актів регулювання договірного права Албанії в контексті державно-приватного партнерства

Ключові слова: проєкти; захист інтересів сторін; проблеми та виклики; законодавство; ефективні механізми