

**BENCHMARKING PPP PROCUREMENT 2017 IN ALBANIA**

| <b>Regulatory and Institutional Framework for PPPs</b>  |   |
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| <b>Does the regulatory framework in your country allow procuring PPPs?</b>  | Yes   |
| <b>Yes. If yes, please specify the relevant regulatory framework and the year of adoption:</b>  | Law No. 125/2013 dated 25.04.2013 "On Concessions and Public Private Partnership" (hereinafter "Law No. 125/2013"), amended by law 88/2014 and law 77/2015, Decision of Council of Ministers (DCM) No. 575, dated 10.07.2013, "On Approval of Rules for Assessment and Granting with Concession / Public-Private Partnership" (hereinafter "DCMLaw No. 575/2013". Law No. 9643/2006 dated 20.11.2006 "On Public Procurement" (hereinafter "Law No. 9643/2006"). Council of Minister Decision No. 914/2014, dated 29.12.2014 "On public procurement rules" (hereinafter "DCMLaw No. 914/2014"), DCM no. 634 Dated 01.10.2014 "On approval of rules for assessment and award of concessions/PPP of public works and services on construction, operation, maintenance and rehabilitation of national roads . |
| <b>and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:</b>  | <a href="https://www.atrako.gov.al/legjislacioni">https://www.atrako.gov.al/legjislacioni</a><br><a href="https://www.app.gov.al/ep/Concessions.aspx">https://www.app.gov.al/ep/Concessions.aspx</a><br><a href="https://www.app.gov.al/ep/Concessions_VKM.aspx">https://www.app.gov.al/ep/Concessions_VKM.aspx</a>   |
| <b>Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?<br/>Transportation.</b> | Yes   |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>   | Pursuant to Article 5, point f, of Law No. 125/2013, the Concession/PPP law does not apply to the air transport sector. Furthermore, Pursuant to Article 5, j) the Concession/PPP law does not apply to concessions of public works on construction, operation, rehabilitation of national roads, when they show special interest about national infrastructure.<br>DCM no. 634 Dated 01.10.2014 "on approval of rules for assessment and award of Concessions/PPP of public works and services on construction, operation, maintenance and rehabilitation of national roads.   |
| <b>Water and irrigation</b>   | No  |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>   | n/a   |
| <b>Energy generation and distribution</b>   | Yes   |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>   | Pursuant to Article 5, point i, of Law No. 125/2013, the Concession/PPP law excludes public works concessions for the construction, operation, and maintenance of hydropower production, as well as the generation of electricity.  |
| <b>Telecom</b>  | Yes   |

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| <b>If yes, please provide the relevant legal/regulatory provisions:</b>   | Pursuant to Article 5, point c, of Law No. 125/2013, the Concession/PPP law excludes "the acquisition, development, production or co-production of program material or commercials intended for broadcasting by broadcasters or publication in the media, as well as contracts for broadcast material".   |
| <b>Health</b>   | No  |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>   | n/a   |
| <b>Education</b>  | No  |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>   | n/a   |
| <b>Other</b>  | Yes   |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>   | <p>Pursuant to Article 5 of Law No 125/2013, the law shall not apply to concessions/PPP in the following cases: a) Under the low monetary threshold; b) When their performance must be accompanied by special security measures in accordance with the laws, regulations or administrative provisions in force, or when the protection of the State's essential interests so require; c) For the acquisition or rental, by whatever financial means, of immovable property or rights thereon. Nevertheless, financial service contracts concluded at the same time as, before or after the contract of acquisition or rental, shall be subject to the Law; d) Concessions, which are subject to different rules and are awarded pursuant to special procedural rules of international organizations; h) For arbitration and conciliation services; e) For financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments, - in particular transactions by contracting authorities - to raise money or capital; f) for all the services mentioned in the procedures for the award of sectorial contracts specified in the public procurement law; g) Concessions/PPPs, which are subject to different rules and are awarded in accordance with international agreements concluded by the Republic of Albania with one or several other states, signed in accordance with the Treaty on the Functioning of the European Union, and which include works, supplies or services intended for joint implementation or use of the projects by the signatory countries; h) To the extent that this Law conflicts with an obligation of the State, or arising out of an agreement with one or more other states or with an international organization, the provisions of the Concession/PPP agreement shall prevail. In all other respects, award procedures and principles shall be governed by this Law; i) Public service concessions awarded by a Contracting Authority to another Contracting Authority, or to an association of Contracting Authorities, are done on the basis of an exclusive right that they enjoy pursuant to the legislation in force.</p> |
| <b>Please identify the PPP procuring authorities in country_name and provide their website(s) (if available):</b> | 1. Ministries of the central government, i.e. Ministry of Transport and Infrastructure ( <a href="http://www.transporti.gov.al">www.transporti.gov.al</a> ); Ministry of Economic Development, Tourism, Trade and Entrepreneurship ( <a href="http://www.ekonomia.gov.al">www.ekonomia.gov.al</a> ); Ministry for Urban Development ( <a href="http://www.zhvillimiurban.gov.al">www.zhvillimiurban.gov.al</a> ); Ministry of Education and Sports ( <a href="http://www.arsimi.gov.al">www.arsimi.gov.al</a> ); Ministry of Justice ( <a href="http://www.drejtesia.gov.al">www.drejtesia.gov.al</a> ); Ministry of Innovation and Public Administration ( <a href="http://www.inovacioni.gov.al">www.inovacioni.gov.al</a> ); Ministry of   |

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|   | Environment ( <a href="http://www.mjedisi.gov.al">www.mjedisi.gov.al</a> ); Ministry of Agriculture, Rural Development and Water ( <a href="http://www.bujqesia.gov.al">www.bujqesia.gov.al</a> ); Ministry of Health ( <a href="http://www.shendetesia.gov.al">www.shendetesia.gov.al</a> ); Ministry of Energy and Industry; Ministry of Culture ( <a href="http://www.kultura.gov.al">www.kultura.gov.al</a> ),<br>2. Units of the local government,<br>3. In case the PPP/concessions fall within the competences of more than one contracting authority, the Council of Ministers assigns one contracting authority. |
| <b>In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?</b> | Yes   |
| <b>If yes, please indicate its name, and its website (if available):</b>  | Concessions Treatment Agency (ATRAKO): <a href="http://www.atrako.gov.al/">http://www.atrako.gov.al/</a> . The Public Procurement Agency (PPA): <a href="https://www.app.gov.al/">https://www.app.gov.al/</a>   |
| <b>If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.</b>   | Yes   |
| <b>PPP policy guidance and capacity building for other public authorities.</b>  | Yes   |
| <b>PPP promotion among the public and/or private sectors in national and international forums.</b>  | Yes   |
| <b>Technical support in implementing PPP projects.</b>  | Yes   |
| <b>Gatekeeping (approval of PPP projects).</b>  | No  |
| <b>Procurement of PPPs.</b>   | No  |
| <b>Oversight of PPP implementation.</b>   | Yes   |
| <b>Other</b>  | Yes   |
| <b>please specify:</b>  | The Agency for Concessions Treatment (ATRAKO) supports the contracting authority to follow procedures in designing the feasibility study, in drafting the tender documentation, in evaluating the proposal, and in contract-signing negotiations.   |
| <b>Preparation of PPPs</b>  | Score: 67   |
| <b>Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?</b>                    | Yes   |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>  | Pursuant to Article 42 of Law No. 125/2013 and Article 17 of DCM No. 575/2013, any project requiring state financial support, as determined by the feasibility study, shall require an approval by the Ministry of Finance with regards to fiscal affordability, sustainability, and feasibility. This step is required   |

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|  | regardless of the Concession/PPP model envisioned, as well as the manner in which they were envisioned (solicited or unsolicited proposal). The contracting authority is therefore obliged to submit a subject matter feasibility study as well as the draft of the contract to the Ministry of Finance.  |
| <b>If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority required before signing the PPP contract?</b>  | No  |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | n/a   |
| <b>Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process?</b> | No  |
| <b>If yes, please specify the relevant authority</b>   | n/a   |
| <b>and provide the relevant legal/regulatory provisions (if any):</b>  | n/a   |
| <b>If yes, is a second approval by the same authority required before signing the PPP contract?</b>  | No  |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | n/a   |
| <b>Does the government integrate the prioritization of PPP projects with all other public investment project prioritization? (e.g. in the context of a national public investment system)?</b>   | Yes   |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | <p>Pursuant to Article 8(5) of Law No. 125/2013, "the Council of Ministers shall adopt a strategic policy document establishing priority sectors for PPP based investments, preferable forms of PPPs and other issues relating to general policy frameworks for concessions and PPPs in the Republic of Albania." A strategic plan ""On the approval of the Business and Investment Development Strategy and of the action plan for the period 2014-2020"" has been made (Pursuant to DCM No. 635/2014).</p> <p>Furthermore, according to Article 19(3) of Law No 125/2013, a feasibility study shall take into account public interest and the alignment of the project with national and sector strategic objectives.</p> |

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| <p><b>If yes, which of the following options best describes the way your government prioritizes PPP projects? (Please select only one). The regulatory framework provides for the inclusion of PPPs in the national public investment system and/or details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b></p> | <p>No</p>   |
| <p><b>If yes, please specify:</b></p>   | <p>n/a</p>  |
| <p><b>The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</b></p>   | <p>Yes</p>  |
| <p><b>The regulatory framework does not include any provisions.</b></p>   | <p>No</p>   |
| <p><b>Other</b></p>   | <p>No</p>   |
| <p><b>please specify:</b></p>   | <p>n/a</p>  |
| <p><b>Among the PPP projects procured within the last two (2) years, how many of them were prioritized along with all other public investment projects? Please elaborate:</b></p>   | <p>Most of the Projects.</p>  |
| <p><b>Which of the following assessments are conducted when identifying and preparing a PPP? (check all that apply): 10.1. Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the project)</b></p>  | <p>Yes</p>  |
| <p><b>Relevant legal/regulatory provision (if any)</b></p>  | <p>Pursuant to Article 19 of Law No. 125/2013, a feasibility study of the Concession/PPP will be conducted. The feasibility study shall, in particular, take into account public interest, environmental impact and protection, viability and bankability of the project, value for money indicators, alignment of project with national and sector strategic objectives, direct and in-direct financial risks and impacts on central and local government budget, financial support needed, technical and commercial feasibility, as well as market interest and ability to attract interested economic and financial operators.</p> |

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| <b>Is there a specific methodology?</b>  | No   |
| <b>If yes, elaborate.</b>  | n/a  |
| <b>Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)</b> | Yes  |
| <b>Relevant legal/regulatory provision (if any)</b>  | Pursuant to Article 19 (5) (b) (c) (d) of Law No. 125/2013, the Concession/PPP feasibility study shall contain the following: a) Estimated direct financial risks and impact on central and local government budget, b) The estimated contract value, c) The proposed duration of the contract.  |
| <b>Is there a specific methodology?</b>  | No   |
| <b>If yes, elaborate</b>   | n/a  |
| <b>Risk identification, allocation and assessment (risk matrix)</b>  | Yes  |
| <b>Relevant legal/regulatory provision (if any)</b>  | Pursuant to Article 7 (11) of DCM No. 575/2013, a qualitative and quantitative risk analysis shall be performed in order to identify and assess the range of risks that could affect the project. This information will be used to develop strategies for risk management and will be a good basis for allocating risks between the public and private partners.   |
| <b>Is there a specific methodology?</b>  | No   |
| <b>If yes, elaborate</b>   | n/a  |
| <b>Financial viability or bankability assessment.</b>  | Yes  |
| <b>Relevant legal/regulatory provision (if any)</b>  | Pursuant to Article 19 of Law No. 125/2013, a feasibility study of the Concession/PPP will be conducted. The feasibility study shall, in particular, take into account public interest, environmental impact and protection, viability and bankability of the project, value for money indicators, alignment of project with national and sector strategic objectives, direct and in-direct financial risks and impacts on central and local government budget, financial support needed, technical and commercial feasibility, as well as market interest and ability to attract interested economic and financial operators. Furthermore, Article 7 (10) of DCM. No 575/2013 states that a bankability analysis shall be performed, where "Bankability reflects whether the project is likely to be able to attract good-quality sponsors and lenders by providing robust and reasonable financial returns." |
| <b>Is there a specific methodology?</b>  | No   |
| <b>If yes, elaborate</b>   | n/a  |
| <b>Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives</b>         | Yes  |

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| <b>Relevant legal/regulatory provision (if any)</b>  | Pursuant to Article 3 (3) of DCM No. 575/2013, as a first stage of the feasibility study, the contracting authority shall prepare a prefeasibility study, which shall focus particularly on the necessity and appropriateness aspects of the project idea, and shall consider a wide range of realization alternatives.  |
| <b>Is there a specific methodology?</b>  | Yes  |
| <b>If yes, elaborate</b>   | Article 8 of DCM 575/2013 describes the methodology to evaluate whether a PPP is better than a traditional procurement. This methodology is based on public sector comparator (PSC).   |
| <b>Market assessment (showing evidence of enough interest in the market for the project)</b>   | Yes  |
| <b>Relevant legal/regulatory provision (if any)</b>  | Pursuant to Article 19 (3) of Law No. 125/2013, the feasibility study will examine the technical and commercial feasibility of the project, as well as the market interest and ability to attract interested economic operators and financial backers.   |
| <b>Is there a specific methodology?</b>  | No   |
| <b>If yes, elaborate</b>   | n/a  |
| <b>Among the PPP projects procured within the last two (2) years, for how many of them were all of the required assessments conducted? Please elaborate:</b>                             | All of the projects.   |
| <b>Does the procuring authority include a draft PPP contract in the request for proposals?</b>   | Yes  |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | Pursuant to Article 24 (2) of Law 125/2013 and Article 26 of DCM 575/2013 the request for proposal should contain draft PPP contract.  |
| <b>If no, please elaborate (provide examples):</b>   | n/a  |
| <b>Have standardized PPP model contracts and/or transaction documents been developed?</b>  | Yes  |
| <b>If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:</b>                              | Pursuant to Article 12 (2) (c) of Law No. 125/2013 ATRAKO, in cooperation with the Public Procurement Agency (PPA), are responsible for preparing and publishing standard tender documents to be used in award procedures. ( <a href="https://www.app.gov.al/ep/Standard_Bidding_Documents_Concessions.aspx">https://www.app.gov.al/ep/Standard_Bidding_Documents_Concessions.aspx</a> ) |
| <b>Does the procuring authority obtain the permits necessary to develop and operate the PPP project before calling for tenders in any of the following areas? Environmental permits.</b> | No   |

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| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | n/a   |
| <b>Urban and zoning permits.</b>   | No  |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | n/a   |
| <b>Other permits.</b>  | No  |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | n/a   |
| <b>Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Land</b>                           | Yes   |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | Pursuant to Article 37 of Law No. 125/2013, in case the concession/PPP contract involves the use of property owned by a person that is not involved in the contract award procedure, the property issues associated with such property must be resolved in a manner conducive to unhindered performance of the project during the contracted period. If the Republic of Albania is the owner of the immovable property involved in the execution of a concession/PPP contract, or if the concession/PPP involves the use of public goods, the Contracting Authority shall resolve any unresolved property issues in a manner conducive to unhindered performance of the project during the contracted period. |
| <b>If no, please elaborate (provide explanation):</b>  | n/a   |
| <b>Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Right of way</b>                   | Yes   |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | Pursuant to Article 37 of Law No. 125/2013, if the Republic of Albania is the owner of the immovable property involved in the execution of a Concession/PPP contract, or if the concession/PPP involves the use of public goods, the Contracting Authority shall resolve any unresolved property relations in a manner conducive to unhindered performance of the project during the contracted period.   |
| <b>If no, please elaborate (provide explanation):</b>  | n/a   |
| <b>Does the regulatory framework establish any exceptions where the preparation process described above does not apply or allows for a “fast track” procedure?</b> | Yes   |

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| <p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>   | <p>Law No. 55/2015 "On Strategic Investments", provides for a fast-track procedure for the acquisition of the licenses/permits/authorizations that are required for the development of the PPP project. More specifically, the Albanian Investment Development Agency, which functions as a one-stop shop, files the set of documents that it has received from the Investor with the competent State authorities within 5 days as of the receipt of such documents. The State authorities should then issue the respective licenses/permits/authorizations within 15 days of the date of receipt of the complete set of documents. Pursuant to Articles 23 and 24 of Law No. 55/2015 "On strategic Investments". The time limit mentioned above may be extended only once for a period of 15 working days due to reasonable causes related to the complexity of the said licenses/ permits/authorizations.</p> <p>Pursuant to Articles 23 and 24 of Law No. 55/2015 "On strategic Investments" Only investments/investors that are qualified either as Strategic Investors/Investments, Assisted Procedure or as Strategic Investors/Investments Special Procedure can take advantage of the aforementioned procedure.</p> |
| <p><b>What is the average number of calendar days that the procuring authority spends on each of the following activities to prepare a PPP project?<br/>Conducting the required assessments:</b></p> | <p>60</p>   |
| <p><b>Obtaining the required approvals from other relevant authorities:</b></p>  | <p>45</p>   |
| <p><b>Preparing the draft PPP contract:</b></p>  | <p>30</p>   |
| <p><b>Obtaining any permits, land and/or right of way that the procuring authority must provide according to the regulatory framework:</b></p>   | <p>55</p>   |
| <p><b>PPP Procurement</b></p>  | <p style="text-align: right;">Score: 78</p>   |
| <p><b>Are the bid evaluation committee members required to meet specific qualifications?</b></p>   | <p>Yes</p>  |
| <p><b>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</b></p>   | <p>Pursuant to Article 18 of Law No 125/2013, the commission members need to be professionals with legal, economic and technical backgrounds and professionals from other relevant fields, depending on the subject and characteristics of concession/private public partnership.</p>   |
| <p><b>If no, please elaborate (provide examples):</b></p>  | <p>n/a</p>  |
| <p><b>If yes, which of the following options best describes the required qualifications of the committee members? (Please</b></p>  | <p>No</p>   |

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| <b>select only one). The regulatory framework details the qualifications required and/or the specific membership of the bid evaluation committee.</b>                              |  |
| <b>If yes, please specify:</b>   | n/a  |
| <b>The regulatory framework requires generally sufficient qualification without detailing the specific qualifications required to be a member of the bid evaluation committee.</b> | Yes  |
| <b>The regulatory framework does not include any provisions.</b>   | No   |
| <b>Other</b>   | No   |
| <b>please specify:</b>   | n/a  |
| <b>Does the procuring authority issue a public procurement notice of the PPP?</b>  | Yes  |
| <b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>  | Pursuant to Article 24 (6) of Law No. 125/2013 and Article 26 (3) of DCM No. 575/2013, the contract notice shall be published electronically in the electronic platform of procurement and in the Public Procurement Bulletin.   |
| <b>If yes, is the public procurement notice published online?</b>  | Yes  |
| <b>If yes, please specify the website:</b>   | <a href="https://www.app.gov.al/ep/ContractNotice.aspx">https://www.app.gov.al/ep/ContractNotice.aspx</a>  |
| <b>Does the procuring authority grant the potential bidders a minimum period of time to submit their bids?</b>   | Yes  |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | Pursuant to Article 22 (4) of Law No. 125/2013, when concessions for public works are given; the deadline for submission of offers is not less than 30 days from the date of publication of the contract award notice. It should also be noted that Article 43 of Law No. 9643/2006 provides further details on the timelines based on various different scenarios.                                |
| <b>and the time in calendar days :</b>   | 30   |
| <b>Do the tender documents detail the stages of the procurement process?</b>   | Yes  |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | Pursuant to Article 24(2) of Law No. 125/2013, the main stages of the procurement process are as follow: - the publication of the notice of the PPP contract; - The time limit for the submission of the bids; - The public bid opening; - The submission of the complaints; - The determination of the winning bidder; - The issuance of the guarantee in favor of the procuring authority; - The |

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|  | <p>signing of the PPP contract.</p> <p>Furthermore, Pursuant to Article 24 (3) of Law No. 125/2013, when granting concessions/ private public partnerships, the contracting authority may use the open procedure, the limited procedure, or the negotiation procedure, with preliminary announcement of the contract award notice.</p>  |
| <p><b>If no, please elaborate (provide examples):</b></p>  | <p>n/a</p>  |
| <p><b>Does the procurement process include a pre-qualification stage to select a number of qualified bidders to present the full proposal?</b></p> | <p>Yes</p>  |
| <p><b>If yes, please provide the relevant legal/regulatory provisions (if any):</b></p>  | <p>Pursuant to Article 46 of Law No. 9643/2006, in order to participate in the awarding procedures, economic operators must qualify by meeting several criteria as the contracting authority (CA) considers appropriate, insofar as they are proportionate to the nature and size of the contract to be awarded and are not discriminatory:</p> <p>(a) Professional qualification: any economic operator is requested to prove its enrolment, as prescribed in his/her State of establishment, on one of the professional or trade registers, or to provide a declaration on oath or a certificate as for his/her suitability to pursue the professional activity required by the contract to be awarded;</p> <p>(b) Technical ability: economic operators are requested to prove they have the necessary technical qualifications, professional and technical competence, organizational capacity, equipment and other physical facilities, managerial capability, reliability, experience and reputation and the personnel to perform the contract as indicated by the CA in the contract notice;</p> <p>(c) Economic and financial standing: economic operators are requested to prove they have the economic and financial capability to enter the contract. This may be proven by providing appropriate statements from banks or, where appropriate, evidence of relevant professional risk indemnity insurance; the presentation of balance-sheets or extracts from the balance-sheets; a statement of the undertaking's overall turnover and, where appropriate, of turnover in the area covered by the contract for a maximum of the last 3 financial years available, as far as the information on these turnovers is available;</p> <p>(c) Legal capacity: economic operators are requested to prove they have the legal capacity to enter the contract, or – in the case of groups of undertakings - that they have such capacity, when they enter such contract.</p> <p>Furthermore, Pursuant to Article 31 of Law No. 9643/2006, CA may use the restricted procedure to carry out a procurement activity which leads to the award of a public contract, when:</p> <p>a) The respective good, service or work – having a rather complicated and special character – may be supplied, obtained or executed by economic operators, who possess the proper technical, professional and financial capacities;</p> <p>b) It would be economically more effective for the CA to examine the capacities and the qualifications of the interested economic operators first and then, to</p> |

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|   | invite those operators who possess specific minimal qualifications to submit their tenders.   |
| <b>If yes, do the tender documents specify the prequalification criteria in order to make them available to all of the bidders?</b>   | Yes   |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>  | <p>Pursuant to Article 31 (2) of Law No. 9643/2006, in restricted procedures, the contracting authority (CA) shall publish a notice, as provided in Article 38 of PPL, which must contain the following:</p> <ul style="list-style-type: none"> <li>a) A description of the object of the contract to be awarded;</li> <li>b) An indication of the selection criteria;</li> <li>c) An invitation to express interest in participating to the awarding procedure;</li> <li>ç) The criteria of determining the winning bid.</li> </ul>  |
| <b>Among the PPP procurement processes conducted within the last two (2) years that had a prequalification stage, how many of them included prequalification criteria in the tender documents? Please elaborate</b> | Most of the projects.   |
| <b>Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?</b>   | Yes   |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>  | <p>Pursuant to Article 42 (1) (3) of Law No. 9643/2006:</p> <p>Potential tenderers may request clarifications of the tender documents from the contracting authority (CA). CA shall respond to any request for clarification of the tender documents by economic operators, providing it is received within 5 days prior the deadline for the submission of tenders. CA shall respond within 3 days from the request so as to enable economic operators to make a timely submission of their tenders, and shall, without identifying the source of the request, communicate the clarification to all economic operators, to which CA have provided the tender documents.</p> <p>If CA convene a meeting of economic operators, they shall prepare minutes of the meeting containing the requests submitted at the meeting for clarification of the tender documents and their responses to those requests, without identifying the sources of the re quests. The minutes shall be provided promptly to all economic operators to which CA provided the tender documents, so as to enable them to take the minutes into account in preparing their tenders.</p> <p>Furthermore, Pursuant to Article 24 (3) of Law No. 125/2013, the interested parties in the competitive procedure are entitled to request the change or correction of the standard documents of the competitive procedure. Such a request needs to be filed not later than five days prior to the expiration of the deadline for the submission of offers. When the competitive procedure documents are changed or corrected, the final deadline for the submission of</p> |

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|   | offers may be postponed, depending on the circumstances, but not for more than 10 days.   |
| <b>If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?</b>  | Yes   |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>  | <p>Pursuant to Article 42 (1) (3) of Law No. 9643/2006, potential tenderers may request clarifications of the tender documents from the contracting authority (CA). CA shall respond to any request for clarification of the tender documents by economic operators, providing it is received within 5 days prior the deadline for the submission of tenders. CA shall respond within 3 days from the request so as to enable economic operators to make a timely submission of their tenders, and shall, without identifying the source of the request, communicate the clarification to all economic operators, to which CA have provided the tender documents.</p> <p>If CA convenes a meeting of economic operators, they shall prepare minutes of the meeting containing the requests submitted at the meeting for clarification of the tender documents and their responses to those requests, without identifying the sources of the requests. The minutes shall be provided promptly to all economic operators to which CA provided the tender documents, so as to enable them to take the minutes into account in preparing their tenders.</p> |
| <b>Among the PPP procurement processes conducted within the last two (2) years where questions were submitted, in how many were the questions and clarifications disclosed to all of the potential bidders? Please elaborate:</b> | All of the projects.  |
| <b>Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?</b>  | No  |
| <b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>  | n/a   |
| <b>If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?</b>   | n/a   |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>  | n/a   |
| <b>Among the PPP procurement processes conducted within the last two (2) years where any other type of dialogue was conducted, in how many was</b>  | No Data   |

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| the content and the result of the dialogue disclosed to all of the potential bidders? Please elaborate:  |  |
| Does the procuring authority require the bidders to prepare and present a financial model with their proposals ?   | No   |
| If yes, please provide the relevant legal/regulatory provisions (if any):  | n/a  |
| If no, please elaborate (provide examples):  | No obligation for the presentation of a financial model is included in the relevant legal provisions.  |
| Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?   | Yes  |
| If yes, please provide the relevant legal/regulatory provisions (if any):  | Pursuant to Article 55 (2) of Law No. 9643/2006, the procuring authority shall evaluate and compare admitted tenders in order to select the successful tender, in accordance with the procedures and criteria set forth in the tender documents. No criterion shall be used that has not been set forth in the tender documents. |
| Among the PPP procurement processes conducted within the last two (2) years, in how many of them was the evaluation of the bidders conducted in accordance with the criteria stated in the tender documents? Please elaborate:                                 | All of the Projects.   |
| In the case where only one proposal is submitted (sole proposals), does the procuring authority follow any special procedure before awarding the PPP?  | No   |
| If yes, please provide the relevant legal/regulatory provisions (if any):  | n/a  |
| If yes, what of the following options best describes the way the procuring authority deals with sole proposals? (Please select only one). The regulatory framework details a specific procedure that the procuring authority must follow before awarding a PPP | n/a  |

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| <b>contract where only one proposal is submitted.</b>   |  |
| <b>Please specify:</b>  | n/a  |
| <b>The regulatory framework considers sole proposals valid as long as they meet the conditions outlined in the tender documents.</b>  | n/a  |
| <b>The regulatory framework does not allow the award of a PPP contract if only one proposal is submitted.</b>   | n/a  |
| <b>The regulatory framework does not include any provisions.</b>  | n/a  |
| <b>Other</b>  | n/a  |
| <b>please specify:</b>  | n/a  |
| <b>In practice, what is the average number of calendar days between the initial publication of the PPP public procurement notice and the award of the PPP? Number of calendar days:</b> | 105  |
| <b>Does the procuring authority publish the award notice?</b>   | Yes  |
| <b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>   | Pursuant to Article 58 (2) of Law No. 9643/2006, within five days of notification of award, the Contracting Authority shall send a notice to the Public Procurement Agency for publication in the Public Procurement Bulletin.   |
| <b>If yes, is the public procurement award notice published online?</b>   | Yes  |
| <b>If yes, please specify the website:</b>  | <a href="https://www.app.gov.al/ep/AwardNotice.aspx">https://www.app.gov.al/ep/AwardNotice.aspx</a>  |
| <b>Does the procuring authority provide all the bidders with the result of the PPP procurement process?</b>   | Yes  |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>  | Pursuant to Article 21 (2) of Law 9643/2006, any decision of the contracting authority is sent to all the bidders within 5 days as of the date that the decision is taken.<br>Moreover, Article 58(2) of Law 9643/2006 provides that the award notice which contains, inter alia, information on the names of the disqualified bidders, the reasons of the disqualification thereof, is published on line; hence it is freely accessible by all the bidders. |
| <b>If no, please elaborate (provide examples):</b>  | n/a  |

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| <b>If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?</b>  | Yes   |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | Pursuant to Article 58(2) of Law No. 9643/2006, the notification shall contain at least the following information: a) The names of participating bidders; b) The values of the bids; c) The names of disqualified bidders and reasons for disqualification; ç) The name of the successful bidder and the value offered by him; d) Complaints, (if any).                       |
| <b>Does the regulatory framework restrict or regulate in any way negotiations with the selected bidder between the award and the signature of the PPP contract?</b>  | No  |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>  | n/a   |
| <b>Among the PPP procurement processes conducted within the last two (2) years, in how many of them were the terms and conditions changed between the award and the signature of the PPP contract? Please elaborate:</b> | Some of the projects.   |
| <b>Does the procuring authority publish the PPP contract?</b>  | Yes   |
| <b>If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):</b>  | Pursuant to Article 14 of the Law 125/2013 and DCM 211 date 16.03.2016 "On creation and administration of electronic register of concession and PPP" all of the PPP contracts shall be published online excluding confidential information. The concession unit (ATRAKO) is preparing the register and it will be populated after June 2016.                                  |
| <b>If yes, is it published online?</b>   | Yes   |
| <b>If yes, please specify the website:</b>   | <a href="https://www.app.gov.al/ep/Arkiva_e_Buletineve.aspx">https://www.app.gov.al/ep/Arkiva_e_Buletineve.aspx</a>   |
| <b>Does the regulatory framework establish any exceptions where the procurement process described above does not apply or allows for a "fast track" procedure?</b>   | Yes   |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>  | Pursuant to Article 32 of Law No. 9643/2006, when the procurement commission decides to apply a negotiated procedure with prior publication of the notice, the procurement process is considered as a fast track procedure considering the short term for offers evaluations and the avoidance of the preparation process which is conducted after the award of the contract. |

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| <b>Unsolicited proposals</b>  | Score: 75  |
| <b>Does the regulatory framework allow for the submission of unsolicited proposals? (if no, skip to section F)</b>  | Yes  |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>   | The law allows the submission of unsolicited proposals, pursuant to Article 17 (d) of Law No. 125/2013. Furthermore, Article 25 (1) of Law No. 125/2013 states that “the Contracting Authority shall be authorized to review and accept unsolicited proposals pursuant to the procedures set forth in this article, provided that such proposals do not relate to a project, for which selection procedures have been initiated or announced.”   |
| <b>If yes, please specify, to the best of your knowledge, the percentage of PPP investments in your country approved as unsolicited proposals during the last five (5) years:</b> | No Data  |
| <b>Does the procuring authority conduct an assessment to evaluate unsolicited proposals?</b>  | Yes  |
| <b>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</b>  | <p>Pursuant to Articles 10 and 12 of DCM No. 575/2013, the procuring authority verifies that the submitted unsolicited proposal is within the scope of the application of Law No. 125/2013 and that it does not relate to any project for which an awarding procedure has been initiated or for which the PPP notice has been published.</p> <p>Pursuant to Article 25 (2), the procuring authority, shall accept unsolicited proposals only if they are accompanied by an advanced or fully pledged feasibility study. The procuring authority then, based on the information provided in the unsolicited proposal, carries out an assessment in order to determine whether:</p> <ul style="list-style-type: none"> <li>- The objectives of the project are clearly determined and achievable;</li> <li>- The objectives of the project are in the public interest and are consistent with the strategic priorities of the procuring authority;</li> <li>- There are no legal obstacles or restrictions for the implementation of the project and/or the conclusion of the PPP contract;</li> <li>- The project may be implemented as planned;</li> <li>- The project is economically stable;</li> <li>- The project is likely to attract financial supporters/guarantors;</li> <li>- The proposed level of risk allocation from the entities of the public and private sector is rational and reasonable;</li> <li>- The required financial support may be adjusted within the restricted budget and within the other fiscal obligations.</li> </ul> |
| <b>If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?</b>  | Yes  |

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| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>  | Pursuant to Article 12(5) (b) of DCM No. 575/2013, the contracting authority assess the proposal in order to determine whether the project objectives serve the public interest and fits within the strategic priorities of the contracting authority.   |
| <b>If yes, which of the following options best describes how unsolicited proposals are evaluated against existing government priorities? (Please select only one). The regulatory framework details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</b> | No   |
| <b>If yes, please specify:</b>  | n/a  |
| <b>The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.</b>  | Yes  |
| <b>The regulatory framework does not include any provisions.</b>  | No   |
| <b>Other</b>  | No   |
| <b>please specify:</b>  | n/a  |
| <b>Among the unsolicited proposals approved within the last two (2) years, how many of them were a part of the existing government priorities? Please elaborate:</b>  | Most of the projects.  |
| <b>Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?</b>   | Yes  |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>  | Pursuant to Article 25(2) of Law No. 125/2013, the contracting authority shall set up the commission for concessions/PPPs for identification, examination and granting of concessions/private public partnerships. Furthermore, Article 14(1) of DCM No. 575/2013 also states that if the USP is accepted, the contracting authority may launch a procedure for awarding the contract. |
| <b>Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?</b>  | Yes  |

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| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>  | Pursuant to Article 22(4) of Law No. 125/2013, when concessions for public works are given; the deadline for submission of offers is not less than 30 days from the date of publication of the contract award notice.  |
| <b>and the time in calendar days:</b>   | 30   |
| <b>Does the procuring authority use any of the following mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer.</b> | No   |
| <b>Developer's fee (reimbursing the original proponent for the project development cost).</b>   | Yes  |
| <b>Bid bonus.</b>   | Yes  |
| <b>Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).</b>  | No   |
| <b>Other</b>  | No   |
| <b>please specify:</b>  | n/a  |
| <b>Please provide the relevant legal/regulatory provisions (if any):</b>  | <p>Pursuant to Article 15 (1) of DCM No. 575/2013, when an award procedure, initiated with regard to unsolicited proposals, results with the signing of the contract, the promoter shall be entitled to reimbursement of the expenses incurred when preparing the unsolicited proposal if he has participated as tenderer in the awarding procedure but he has not been declared winner.</p> <p>Pursuant to Article 25 (6) of Law No 125/2013, the proposer is given a bonus for the technical and/or financial score received during the competitive procedure, up to a maximum of 10 % of the total score of the competition. Furthermore, according to Article 16 (1) of DCM No. 575/2013, In case of acceptance of an unsolicited proposal for hydropower plants, the selection procedure, which favors the applicant's unsolicited proposal by granting a bonus of up to a maximum of 10% of the scores for technical and financial result as achieved during the selection period.</p> |
| <b>PPP Contract Management</b>  | Score: 55  |
| <b>Has the procuring or contract management authority established a system to manage the implementation of the PPP contract?</b>  | Yes  |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any)</b>   | Practice   |
| <b>If yes, which of the following tools does it include (check all</b>  | No   |

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| that apply)? Establishment of a PPP contract management team.  |   |
| If yes, please provide the relevant legal/regulatory provisions (if any):  | n/a   |
| Participation of the members of the PPP contract management team in the PPP procurement process.   | No  |
| If yes, please provide the relevant legal/regulatory provisions (if any):  | n/a   |
| Possibility to consult with PPP procurement experts when managing the PPP contract.  | No  |
| If yes, please provide the relevant legal/regulatory provisions (if any):  | n/a   |
| Elaboration of a PPP implementation manual or an equivalent document.  | No  |
| If yes, please provide the relevant legal/regulatory provisions (if any):  | n/a   |
| Other  | No  |
| please specify:  | n/a   |
| If there is a contract management team, in how many of the PPP projects procured within the last two (2) years did the management system and tools fully inform the contact management team? Please elaborate: | No data   |
| Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract?  | Yes   |
| If yes, please provide the relevant legal/regulatory provisions (if any):  | Pursuant to Article 12 of Law No. 125/2013, the procuring authority monitors the implementation of the PPP contract by the selected bidder. Furthermore, pursuant to Article 77(1) of DCM No. 914/2014, during the implementation of the contract, the contracting authority and/or other state bodies, authorized by law, supervise the performance of the contractor. |
| If yes, which of the following tools does it include (check all that apply)? PPPCo must provide the procuring or contract management   | Yes   |

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| <b>authority with periodic operational and financial data.</b>   |  |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | Practice   |
| <b>The procuring or contract management authority must periodically gather information on the performance of the PPP contract.</b> | Yes  |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | Practice   |
| <b>The procuring or contract management authority must establish a risk mitigation mechanism.</b>                                  | No   |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | n/a  |
| <b>The PPP contract performance information must be available to the public.</b>   | No   |
| <b>If yes, please provide the relevant legal/regulatory provisions (if any):</b>   | n/a  |
| <b>Other</b>   | No   |
| <b>please specify:</b>   | n/a  |
| <b>Is PPP contract performance information publicly available online?</b>  | No   |
| <b>If yes, please specify the website:</b>   | n/a  |
| <b>Does the regulatory framework expressly regulate a change in the structure (i.e. stakeholder composition) of PPPCo?</b>         | Yes  |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>  | Article 32 of the Law No. 125/2013 and Article 23 of DCM No. 575/2013, regulate the change in the structure of or the transfer of the contract. The clauses set forth that, upon written consent by the Contracting Authority, the concession/PPP contract may be transferred to a third person which suitability fulfills the requirements set out in the tender documentation, on the basis of which the contract was initially awarded, unless those requirements refer to conditions that are no longer necessary for the fulfillment of the contract, due to the fact that the requirements referred to have already been fulfilled or executed by the previous concessionaire/private partner. Pursuant to Article 32 of Law No. 125/2013, when concessionaire/private partner is a special purpose vehicle (SPV), a change in the SPV's ownership or management rights, as a result |

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|  | <p>of the transfer of stocks or businesses shares, cannot be implemented without the approval of the Contracting Authority and Ministry of Finance. Almost all economic operators are required to create an SPV. The Contracting Authority shall request a prior approval from the Ministry of Finance for all planned transfers of the contract, which in any way or manner effect, or create the risk of effecting, state budget or budget of other government or local bodies or, which in any way, change the financial support of the venture.</p>  |
| <p><b>If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in PPPCo during an initial period (e.g. construction and first five years of operation).</b></p> | No   |
| <p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>   | n/a  |
| <p><b>In case of a change affecting the controlling interest, the replacing entity must meet the same technical qualifications as the original operator.</b></p>   | Yes  |
| <p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>   | <p>Pursuant to Article 32 (1) of Law No. 125/2013, the concession/PPP contract may be transferred to a third person which fulfils the suitability requirements set out in the tender documentation, on the basis of which the contract was initially awarded, unless those requirements refer to conditions that are no longer necessary for the fulfillment of the contract, due to the fact that the obligations those requirements are referred to have already been executed by the previous concessionaire/private partner.</p>   |
| <p><b>Flexibility to substitute non-controlling interest after the initial period.</b></p>   | Yes  |
| <p><b>If yes, please provide the relevant legal/regulatory provisions:</b></p>   | <p>Article 32 of the Law No. 125/2013 and article 23 of DCM No. 575/2013, contains the laws that regulate the change in the structure of or the transfer of the contract. The clauses set forth that upon written consent by the Contracting Authority, the concession/PPP contract may be transferred to a third person which suitability fulfills the requirements set out in the tender documentation, on the basis of which the contract was initially awarded, unless those requirements refer to conditions that are no longer necessary for the fulfillment of the contract, due to the fact that the obligations those requirements referred to have already been fulfilled or executed by the previous concessionaire/private partner. Pursuant to Article 32 of Law No. 125/2013, when concessionaire/private partner is a special purpose vehicle (SPV), a change in the SPV's ownership or management rights, as a result of the transfer of stocks or businesses shares, cannot be implemented without the approval of the Contracting Authority and Ministry of Finance. Almost all economic operators are required to create an SPV. The Contracting Authority shall request a prior approval from the Ministry of Finance for all planned transfers of the contract, which in any way or manner effect or create the risk of effecting state</p> |

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|  | budget or budget of other government or local bodies or, which in any way change the financial support of the venture.   |
| <b>Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?</b>                 | Yes  |
| <b>If yes, please provide the relevant legal/ regulatory provisions:</b>   | Article 31 of Law No. 125/2013 regulates the modification of the PPP/Concession contract. Modifications to the contract can be done upon the request of either contractual side on the basis of the following cases:<br>a) Endangering the national security and defense of the country, endangering the environment, the nature and the human health; b) Collapse of the facility that is subject to the contract, or when there is an objective impossibility for its usage, in case of Force Majeure; c) During change of legal framework; ç) Other cases leading to change in the factual or legal basis for using the facility or provision of services, or in the contract performance. It should also be pointed out that pursuant to Article 31 (4) of Law No. 125/2013, changes to the essential terms of the contract not provided for in the tender documentation and/or contract shall require implementation of a new concession/PPP award procedure. |
| <b>If yes, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.</b> | No   |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>  | n/a  |
| <b>A change in the risk allocation of the contract.</b>  | Yes  |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>  | The risk allocation is considered to be an essential term and condition of the contract, and as such, its amendment requires the application of a new procedure for the award of the PPP contract, as specified in Article 32 (4) of Law No. 125/2013. Pursuant to Article 31 (6) of Law No. 125/2013, the Contracting Authority shall request a prior approval from the Ministry of Finance for all planned modifications, which effect or create the risk of direct or indirect effect on the budget of the Contracting Authority, state budget or budget of other government or local bodies or, which in any way change the financial support as defined by Law No. 125/2013.  |
| <b>A change in the investment plan or duration of the contract.</b>  | No   |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>  | n/a  |
| <b>Does the regulatory framework expressly regulate the following circumstances</b>  | Yes  |

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| <b>that may occur during the life of the PPP contract? (check all that apply): Force Majeure.</b>  |  |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>  | Pursuant to Article 31 (3) (b) of Law No. 125/2013, modifications to the contract may be concluded upon the initiative of either contractual side in the case of the collapse of the facility that is subject to the contract, or when there is an objective impossibility for its usage, in case of Force Majeure.  |
| <b>Material Adverse government action.</b>   | No   |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>  | n/a  |
| <b>Change in the Law.</b>  | Yes  |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>  | Pursuant to Article 31 (3) (c) of Law No. 125/2013, modifications to the contract may be concluded upon the initiative of either contractual side in case of a change in the legal framework of the economy.   |
| <b>Refinancing.</b>  | No   |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>  | n/a  |
| <b>Other.</b>  | Yes  |
| <b>If yes, please specify and provide the relevant legal/regulatory provisions:</b>  | Pursuant to Article 31 (3) (a) of Law No. 125/2013, in cases where the national security, the defense, the environment, or human health is at risk, both parties may initiate the amendment of the PPP contract.   |
| <b>Does the regulatory framework establish a specific dispute resolution mechanism for PPPs?</b>   | Yes  |
| <b>If yes, please specify and provide the relevant legal/regulatory provisions</b>   | Pursuant to Article 46 (3) of Law No. 125/2013, any disputes between the contracting authority and the concessionary/ private public partner shall be settled through dispute resolution mechanisms, recognized by the parties in the concession/private public partnership, including the procedure of international arbitration. In any case, the applicable law shall be the Albanian law in force. |
| <b>If yes, which of the following options best describes the dispute resolution mechanism for PPPs? (Please select only one). The regulatory framework details specific resolution mechanisms for disputes arising during the implementation of the PPP.</b> | No   |
| <b>If yes, please specify:</b>   | n/a  |
| <b>The regulatory framework prescribes that a dispute resolution mechanism should be regulated in the contract.</b>  | Yes  |
| <b>The regulatory framework provide the parties with</b>   | No   |

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| <b>recourse to arbitration but no other alternative dispute resolution mechanism.</b>  |  |
| <b>Other</b>   | No   |
| <b>please specify:</b>   | n/a  |
| <b>Does the regulatory framework allow for the lenders to take control of the PPP project (lender step-in right) if either PPPCo defaults or if the PPP contract is under threat of termination for failure to meet service obligations?</b> | No   |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>  | n/a  |
| <b>If yes, which of the following options best describes the lender step-in right? (Please select only one). The regulatory framework expressly regulates the lender step-in rights.</b>   | n/a  |
| <b>If yes, please specify:</b>   | n/a  |
| <b>The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.</b>   | n/a  |
| <b>The regulatory framework prescribes that a direct agreement should be signed with the lenders.</b>  | n/a  |
| <b>Other</b>   | n/a  |
| <b>please specify:</b>   | n/a  |
| <b>Does the regulatory framework expressly establish the grounds for termination of a PPP contract?</b>  | Yes  |
| <b>If yes, please specify:</b>   | <p>Unless otherwise provided for in the contract, the Contracting Authority may terminate the contract when: a) It may be proved that the concessionaire/private partner can no longer perform its obligations, owing to insolvency, serious breach or other cases, which hinder or do not allow the continuation of the contract in accordance to technical and other standards agreed; b) concessionaire/private partner fails to ensure the financing of the project within 12 months as of signing or of coming into force of the contract.</p> <p>Either party shall, unless otherwise provided for in the contract, have the right to terminate the contract when: a) Performance of its obligations is rendered</p> |

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|   | impossible because of circumstances of either party; b) There is serious breach by the other party, and that party fails to rectify such breach within the time period and in the manner established in the contract.  |
| <b>and provide the relevant legal/regulatory provisions:</b>  | Pursuant to Article 36 of Law No. 125/2013   |
| <b>If yes, does the regulatory framework also establish the consequences for the termination of the PPP contract?</b>   | Yes  |
| <b>If yes, please provide the relevant legal/regulatory provisions:</b>   | Pursuant to Article 38 (3) of Law No. 125/2013, following the termination of the contract, the concessionaire/private partner shall be obliged to return, i.e. to transfer the ownership of the facilities constructed under the contract, regardless whether they have been entirely or partially constructed, reconstructed, preserved, equipped or improved, under conditions and in a manner as set out in the contract, unless otherwise stipulated by the Law.   |
| <b>Are you aware of any reforms (in practice or in laws, regulations, policies, etc.) related to PPPs that: Took place in 2015, are ongoing and/or are planned to be adopted BEFORE June 1, 2016?</b> | Yes  |
| <b>Please describe:</b>   | The latest amendments made to Law No. 125 dated 25.04.2013 "On Concessions and Public Private Partnership", as amended, are performed during 2015. Among several amendments and additions made to this law one of the most important due to its useful use is the establishment of Private/Public Partnership Unit. This unit simplifies and accelerates the partnership procedures. These amendments are made to fully align the legal framework of the Republic of Albania with the European Union legal framework. Also the penalties system is revised to give the member of the Commission more responsibility. |
| <b>Are you aware of any reforms (in practice or in laws, regulations, policies, etc.) related to PPPs that: 50.2. Are ongoing and/or are planned to be adopted AFTER June 1, 2016?</b>                | Yes  |
| <b>Please describe:</b>   | Pursuant to DCM 211 date 16.03.2016 "On creation and administration of electronic register of concession and PPP" all the PPP contracts shall be published online. The concession unit (ATRAKO) is preparing the register and it will be populated after June 2016.  |