

# PROMOTING CORPORATE SOCIAL RESPONSIBILITY IN ALBANIA

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[info@acit.al](mailto:info@acit.al)

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## **TABLE OF CONTENT**

ABBREVIATIONS.....	4
EXECUTIVE SUMMARY.....	5
1 INTRODUCTION .....	6
2 FACTORS FORMING CSR PRIORITIES IN ALBANIA.....	6
2.1 CSR institutional and economic context.....	6
2.2 CSR within EU Integration process .....	8
3 CSR PROMOTION IN LEGISLATION .....	10
3.1 Design of a legal framework securing a rewarding climate for entities with a CSR policy .....	10
3.2 General framework providing rewarding climate for companies with a CSR policy.....	11
3.2.1 CSR role in public procurement.....	11
3.2.2 CSR role in the selection of concessionaire parties or private-public partners.....	12
3.2.3 Strategic investment and foreign investment legislation as a tool to promote CSR.....	14
3.2.4 Licensing of activities as a tool to promote CSR .....	15
3.2.5 Disclosure in public registers as a tool to ensure transparency .....	17
3.3 Provisions for specific and direct cooperation between authorities and business entities.....	18
3.3.1 Cooperation between state bodies engaged in social welfare legislation and corporations ...	18
3.3.2 Cooperation between local authorities and businesses.....	20
4 INTRODUCING CSR STANDARDS TO STATE OWNED COMPANIES.....	21
4.1 CSR promotion by state-owned companies (SOCs).....	21
4.2 Examples of SOCs in Albania .....	23
5 ROLE OF CIVIL SOCIETY .....	26
6 ROLE OF BUSINESS ASSOCIATIONS.....	28
7 CONCLUSIONS .....	29

## ABBREVIATIONS

<b>ASCS</b>	<i>Agency for the Support of Civil Society</i>
<b>ASFA</b>	<i>Albanian Supervising Financial Authority</i>
<b>BoA</b>	<i>Bank of Albania</i>
<b>CSR</b>	<i>Corporate Social Responsibility</i>
<b>EBRD</b>	<i>European Bank for Reconstruction and Development</i>
<b>EU</b>	<i>European Union</i>
<b>GSP</b>	<i>Generalized Scheme of Preferences</i>
<b>IFC</b>	<i>International Finance Corporation</i>
<b>KESH Sha</b>	<i>Korporata Energjitike Shqiptare Sha (Albanian Power Corporation)</i>
<b>NBC</b>	<i>National Business Center</i>
<b>NCCS</b>	<i>National Council for Civil Society</i>
<b>NGO</b>	<i>Non-Governmental Organizations</i>
<b>NPEI</b>	<i>National Plan for European Integration</i>
<b>OECD</b>	<i>Organization for Economic Cooperation and Development</i>
<b>OST Sha</b>	<i>Operatori I Sistemit te Transmetimit Sha (Transmission System Operator)</i>
<b>OSHEE Sha</b>	<i>Operatori I Sherndarjes se Energjise Elektrike (Power Distribution Operator)</i>
<b>PPP</b>	<i>Public-Private Partnerships</i>
<b>SAA</b>	<i>Stabilization Association Agreement</i>
<b>SOC</b>	<i>State Owned Enterprises</i>
<b>SPU</b>	<i>Special Purpose Vehicle</i>

## EXECUTIVE SUMMARY

Introduction of Corporate Social Responsibility (CSR) should consider both macro-and micro-economic landscape, as well as political and institutional context in the country. Albanian economy is characterized by a predominance of Small Medium Enterprises (SMEs). On the other hand, CSR culture is promoted mainly by large international corporations which have incorporated CSR policies and pursue CSR within their host countries, including Albania. CSR promotion plays a role within EU integration process where a more formal and united approach from all the stakeholders, including business community, civil society, and state authorities. In the context of EU accession, placing CSR in the accession political agenda will further strengthen Albania's position. However, in spite of few efforts to raise awareness on the importance of CSR in Albania, there is still lack of knowledge and promotion practices of CSR among business community, public institutions, and civil society. The relatively new business and market culture in the country has not helped in making CSR an important element of business policies.

In suggesting legislative tools to promote and enhance CSR, this policy paper focuses on several areas of possible legislative interventions, such as: legislation regulating public procurement procedures, concessions and public-private partnerships, and legislation regulating strategic and foreign investment. It is suggested to amend the legislation regulating these procedures in the way to allow CSR policies to become an extra incentive for assessment procedures. A similar approach is suggested for the legislation regulating licensed activities.

Another area for intervention is legislation regulating non-financial disclosure: it would be beneficial to include information related to CSR policies and activities into the main informational registrars, including Commercial register of the National Business Centre (NBC), or official websites of the Bank of Albania (BoA) and the Albanian Supervising Financial Authority (ASFA).

Employment is an important area where cooperation between private companies and state authorities can contribute to projects based on corporate responsibility of business enterprises. Introducing CSR policies in state owned companies in Albania is yet another tool for promotion of CSR culture among Albanian businesses.

The policy concludes by focusing on the role that the CSR network Albania should have in promoting CSR, serving as a unifying forum and a driver for the introduction of CSR to Albanian business community at large. The paper suggests how the network could be made functional. In addition, the role of civil society in collaborating with business community and other stakeholders is discussed in a specific section, including concrete recommendations.

# 1 INTRODUCTION

This policy paper seeks to provide a functional review of the CSR landscape in Albania and introduce tools and mechanisms which could contribute to enhancing corporate social responsibility among Albanian enterprises. CSR as such is a multi-façade concept which touches upon great many aspects of business operations and their direct or indirect consequences for a community. This policy paper assumes that CSR as a concept is not entirely based on state-bound norms and provisions but relies for a significant part, on internal policies of business enterprises. However, the contextual background plays a decisive role in shaping CSR policy at the state level, as well as designing own CSR understanding for each and every enterprise. In the Albanian economic context the state has the possibility to enhance social responsibility by way of introducing state-bound norms and provisions, by including CSR standards into internal policies of state-owned companies and adjusting standards for companies which seek to enter into business relations with a state.

This policy paper will start by providing a brief overview of general economic and institutional context which impacts CSR development in Albania. Further, the policy will focus on an analysis of possible legislative amendments which will serve to provide for more room to introduce CSR standards into enterprises' internal operations. In this, mechanisms will be suggested on means to provide private businesses which seek to enter into business/trade relations with the state an extra incentive to adhere to CSR standards. This analysis will be followed by recommendations on how to enhance CSR standards of state-owned companies. Further on, a role in enhancing CSR standards of local government, civil society and business associations will be elaborated with a view to give extra tools for cooperation on a local level between governmental bodies and business enterprises. In drafting the policy paper, suggested mechanisms will be presented based on CSR standards elaborated by international organizations and bodies and having in mind a role of civil society as a CSR watch dog and awareness raiser.

## 2 FACTORS FORMING CSR PRIORITIES IN ALBANIA

### 2.1 CSR institutional and economic context

While preparing a document where CSR development tools are suggested, it is important to underline contextual factors which play a role in shaping priorities. Albanian contextual economic

background is characterized by a specific economic structure with a predominance of micro companies and SMEs. Although large multinational enterprises are present in the Albanian market, smaller-scale businesses are dominating. Further, a level of CSR awareness is rather low, as it was underlined in earlier CSR studies in Albania.<sup>1</sup> Albanian stakeholders predominantly define CSR as a mostly charity-like activity: only large enterprises have actual CSR policies based on specific goals and CSR standards. Many CSR projects do not have a follow-up and are seen as a one-time contribution to the society with no specific link to a company's areas of operations. Furthermore, and it was already underlined in earlier studies, the stakeholder's engagement is not institutionalized. The state does not have a clear CSR policy nor regulatory framework.<sup>2</sup> Up to this day civil society does not play a uniting and decisive role for involvement of stakeholders into developing a CSR approach for Albania. The attempts to study and observe CSR patterns were scattered and left with no significant follow up.<sup>3</sup> However, Albania's exposure to integration with international markets and trade, as well as its political agenda defines a high demand for such policy. We will underline below most crucial factors, such as EU Integration, which call for more formal and united approach from the state, civil society, and business community in shaping the correct understanding and promotion of CSR. However, apart from the EU accession context, placing CSR on the economic and political agenda will contribute to positive sustainable development of the country and will win it a place among sustainable business partners. The government has the capacities to ensure that enterprises become aware of the importance of the corporate responsibility and realize what are specific values and standards remain behind this concept. Placing it on the political agenda will be an important step both for international political partners and foreign investors, as well as in the formation of a national policy of sustainability. It is important, among others, to involve in these political efforts as many as SMEs on board of CSR awareness. Capacity building and institutional involvement for monitoring and supervision is an important part in the promotion and encouragement of CSR development on a national level.

ACIT's previous research, on which this policy relies on, demonstrates that awareness raising and educative initiatives have to become an important step in developing of CSR national policy.<sup>4</sup> It is clear in the Albanian economic scene that so far only the large enterprises, mostly with foreign investors or shareholders, consider a CSR policy as an important part of their business strategy. This is not the case for small and medium enterprises alignment with corporate responsibility

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<sup>1</sup> "Assessment of Corporate Social Responsibility in Albania", ACIT, Tirana 2019;

<sup>2</sup> MVO Nederland, "CSR in Albania: Observations & Recommendations", 2015;

<sup>3</sup> Hayiyev E., Baseline Study on Corporate Social Responsibility Practices in the Western Balkans, 2008. A copy retrieved at: < <https://bit.ly/2FH18ZW>>. see also, [MVO study cit op footnote 2](#)

<sup>4</sup> Cit.op footnote 1;

standards is rare. This gap can be addressed at the level of national social policy, by including a focus on corporate behavior and sustainability. Legislative interventions should be considered with the purpose of making companies aware that corporate social responsibility policy puts them in an advantaged position, for example, in the framework of the state-private business relationship. And, of course, institutional capacity building to involve corporations in the dialogue on social matters and policies will be an important step to address lack of understanding and involvement in CSR in Albania.

## 2.2 CSR within EU Integration process

Since early 2000s CSR has been on the EU political and economic agenda. Although it is typically seen as a 'voluntary' concept imposed on the shoulders of enterprises and businesses, its promotion and encouragement remain an important task for the governments. National CSR policies are important beacons for alignment of the national economic development agenda with the values and principles of corporate responsibility.

The EU Commission takes steps for such policies to be aligned, reviewed and updated to stay in accordance with the internationally adopted and recognized principles of CSR.<sup>5</sup> Adherence to the sustainable business norms and standards is not only important within the EU political boundaries. In a world with an evolving international trade, where business ties go across countries and continents, promotion of CSR norms remains important on the political agenda of the EU.

In regard to the supporting of CSR development outside of the EU, the Commission takes steps to ensure that partner-countries are engaged in a cooperative process to strengthen compliance with domestic and international labor and environmental standards.<sup>6</sup> A significant part of these efforts is focused on the countries with whom the EU has concluded trade agreements. The Generalized Scheme of Preferences (GSP), for example, which allows developing countries to pay lower or no duties on their exports to the EU is another instrument to support and promote sustainable business, along with promotion of foreign direct investment and emphasizing the importance of good governance in developing countries.<sup>7</sup> This approach becomes even more visible when it

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<sup>5</sup> Corporate Social Responsibility. National Policies in European Union. Compendium 2014;

<sup>6</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee: Trade, growth and development Tailoring trade and investment policy for those countries most in need. Brussels, 27.1.2012 COM (2012) 22 final;

<sup>7</sup> Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008



comes to relations with countries which aspire to become EU members and have signed a Stabilization and Association Agreement (SAA) with the EU, such as Albania.

Development of sustainable business, and specifically promotion of adherence to CSR standards in the developing countries and countries-partners of the EU, focuses not only on the trade conditions, but takes important steps to ensure that social policies, and human rights protection systems are growing stronger in those countries. Weak institutional capacities and informal economy, along with low budget allocations, are severe obstacles in establishing strong level of protection against poverty, healthy employment standards and conditions, and protection of human rights.<sup>8</sup>

In Albania, since sustainable business development and corporate social responsibility have become an emphasized priority in EU-Albania agenda, their principles need to be emphasized in the National Plan for European Integration. The current NPEI is more focused on sectors of economic development, including the matters of public procurement, where the importance of alignment with the principles of non-discrimination and reciprocity proclaimed in the Stabilization and Association Agreement is underlined.<sup>9</sup> Section 19 of the current NPEI underlines the duties of Albania in promoting social dialogue and establishing the domestic policy on social development. The priorities are focused on promotion of social security and workers' rights, and the fight against discrimination. The importance of capacity building, relevant institutional and legislative reforming and support of further public-private dialogue is also emphasized.

The role of businesses in further establishing corporate responsibility and sustainable business conduct can be underlined along with the government's efforts in social and sustainable development. This can be achieved through further legislative intervention, as well as through institutional capacity building. In the context of EU accession, placing CSR in the accession political agenda will further strengthen Albania's position.

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<sup>8</sup> Council conclusions on Social Protection in European Union Development Cooperation 3191<sup>st</sup> Foreign Affairs – Development - Council meeting. Luxembourg, 15 October 2012;

<sup>9</sup> The National Plan for European Integration, accessed at: [https://drive.google.com/file/d/1Tco1IRwY\\_BBvlewvw\\_LmthPpkwTvlrku/view](https://drive.google.com/file/d/1Tco1IRwY_BBvlewvw_LmthPpkwTvlrku/view) through <http://em-al.org/en/albanias-eu-membership-process/>;

### 3 CSR PROMOTION IN LEGISLATION

#### 3.1 Design of a legal framework securing a rewarding climate for entities with a CSR policy

CSR is essentially based on voluntary initiatives of business entities. As embraced in various European Commission's documents and strategies, CSR is a voluntary concept<sup>10</sup> whose implementation should be led by businesses themselves.<sup>11</sup> Legislative interventions have not been seen so far as a tool to impose an obligation for CSR nor to design a legal framework aimed to obligatory adoption of CSR standards and principles.

Although there are states which have opted for a legal intervention in order to enhance CSR climate in a business community, in Albania CSR remains fully a voluntary concept.<sup>12</sup> For many Albanian businesses CSR still sounds abstract due to Albanian political and economic context, difficulties to reach a financial consolidation, and very recent history of economic freedom and entrepreneurship. Although these are all plausible reasons to justify an under development of CSR as a concept, it is difficult to agree that in a country with so many social issues and inconsistencies like Albania, participation of corporations in creation and development of social awareness shall be delayed for reasons related to cultural maturity expectations. That is why a soft legislative intervention aiming to introduce CSR principles into Albanian business environment can pave a way for Albanian business community to sustainable business conduct. A creation, by means of legislative tools, of an environment in which corporations could benefit from pursuing CSR might shake this situation of *impasse* among Albanian corporations. Below we will suggest in more details amendments to provide advantages within various assessment or selection procedures, such as for example, during procurement procedures or concessions or public partnership projects. On the other hand, a similar approach serves in relation to an exercise by private entities of certain activities having public relevance such as those activities subject to licenses, authorizations or permits. Those are mechanisms which could incentivize CSR among Albanian corporations. Since we identified a lack of action by the state, an amendment of relevant legislative provisions and

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<sup>10</sup> European Commission's Green Paper: Promoting a European framework for corporate social responsibility, 2001, Section I, pg. 5;

<sup>11</sup> A renewed EU strategy 2011-2014 for Corporate Social Responsibility, Brussels 20122, section 3.4, pg.7;

<sup>12</sup> Lin, Li-Wen, Mandatory Corporate Social Responsibility? Legislative Innovation and Judicial Application in China (March 28, 2019). Forthcoming in American Journal of Comparative Law. Available at SSRN: <https://ssrn.com/abstract=3361448> ;

introduction of an awarding element is a very important first step in encouragement to recognize and promote CSR.

### 3.2 General framework providing rewarding climate for companies with a CSR policy

#### 3.2.1 CSR role in public procurement

Public procurement, concessions, and public-private-partnership (PPP) projects are used by state authorities to select future contractual partners either for supply of services and goods or for strategic projects and investments. These procedures could serve as a tool to introduce CSR within the Albanian business community. Within a selection process, whereas a lack of CSR policy is not a disqualifying or penalizing element, presence of it could be considered as an advantage. However, it is necessary to analyze whether current public procurement legislation leaves room for such an approach.

Albanian public procurement legislation<sup>13</sup> distinguishes between **general qualifications criteria** and **specific contract requirements**.<sup>14</sup> The first group of criteria includes requirements to be fulfilled by all candidates and needs for assessment of a general professional/quality level of a candidate as well as its technical suitability for a bid contract. A contracting authority formally checks submitted documentation and a candidate is automatically disqualified when non-compliance with general qualifications criteria is revealed. On the other hand, contract specific requirements relate to technical conditions of works/services/goods and the technical ability of the bidder to meet such conditions. Candidates are required to supply information and evidences relevant for this group of requirements. The assessment of the candidates focuses on the most advantageous financial offer<sup>15</sup> and to some extent, on the fulfilment of contractual specific requirements, leaving general requirements for a formal check.

We consider the procurement process as an important tool for the government to incentivize CSR among Albanian corporations. CSR would effectively fit into a category of general qualification criteria (specifically within the legal and professional profile of a candidate). This conclusion is derived based on the nature of CSR and its suitability among the criteria provided in procurement legislation.<sup>16</sup> Specifically, certain evaluation advantages should be provided for bidding companies with implemented CSR policy, whereas candidates with no such policy do not need to be

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<sup>13</sup> Law no. 9643 dated 20.11.2006 "On Public Procurement" as amended (the "Public Procurement Law"), could be accessed at: <http://www.app.gov.al/legjislacioni/prokurimi-publik/ligji/>;

<sup>14</sup> Articles 23, 45 and 46 of the Public Procurement Law;

<sup>15</sup> Articles 53 and 55 of the Public Procurement Law;

<sup>16</sup> Article 46 of the Public Procurement Law;

negatively affected. However, regulation of procurement evaluation procedure leaves a legislative gap in relation to provisions that could incentivize CSR. Current legislation, basically, does not give a room to contracting authorities to include CSR as an evaluation element of bidding candidates. On the contrary, if we interpret relevant provisions narrowly, this could be seen as forbidden by law. There are two main reasons for this stance:

(a) General qualification criteria, as provided in the Public Procurement Law, have an obligatory character which means they must be fulfilled to avoid disqualification. Such legal approach makes it difficult for CSR to be foreseen as an additional non-obligatory factor which, if presented within the profile of a candidate, it provides to the latter an evaluation advantage. Therefore, if CSR was included as a qualification criterium, then, by default, it becomes an obligatory element for all candidates to comply, in order not to be disqualified. In this view, in the current socio-economic context in Albania, we believe public procurement procedures serve only as a tool for promoting CSR and thus it would be premature to foresee CSR as an obligatory requirement;

(b) The second reason is related to an evaluation modality used in public procurement procedures. There is no genuine and *ad hoc* evaluation of general criteria as such, and in reality, an evaluation and grading process of bid candidates is almost exclusively based on technical criteria and on (the most advantageous) financial offer. This evaluation does not include any other criteria. Such approach makes it impossible to include CSR activities within general requirement criteria since they would not be subject to any grading or evaluation.

Therefore, in order to use public procurement legislation as a tool to incentivize CSR, certain legislative amendments could be implemented to allow CSR to be included as a selection and qualification criterion. CSR as a criterion is expected to be of a non-obligatory nature and should serve to grant an extra advantage in an evaluation process. This recommendation relates mostly to procurement for publicly opened companies and based on a public announcement modality. However, potential legislative amendments ideally will also regulate other than open and public procurement procedures. Potential legal amendments might also provide for a clearer elaboration of a principle of non-discrimination within procurement procedures in order to avoid any misinterpretation that can lead to an assessment of CSR as a discriminating element.

### 3.2.2 *CSR role in the selection of concessionaire parties or private-public partners*

In this sub-section we discuss another potential tool to incentivize CSR. Concessions and private-public partnerships (PPPs) selection process represents another example of a procedure in which

CSR policies could serve as an advantage for an applicant.<sup>17</sup> PPPs evaluation principles as well as relevant provisions of the Concession Law have close alignment with the principles of public procurement procedures (sub-section 2.1.1.).

Similar to public procurement, concession assessment relies on two groups of obligatory criteria: general qualification and specific technical criteria. For the reasons discussed above in relation to public procurement, there is no room for CSR to be evaluated as an optional criterium: an assessment is mostly focused on the (most advantageous) financial offer and to some extent on whether specific and technical criteria are met. Since CSR activities would not be subject to any grading or evaluation by points within a general requirements assessment, it becomes impossible to include CSR as a requirement. In order to use concession and PPPs procedures as a tool to incentivize CSR, legislative amendments similar to those proposed above shall be made. These amendments could identify CSR policy among groups of non-obligatory selection and qualification criteria and provide an evaluation advantage for candidates fulfilling them.

Another possibility to promote CSR relates to corporations born as a result of state concession contracts. Specifically, concession law provides that for PPPs as well as concession contracts, an awarded candidate is requested to establish a legal entity (a special purpose vehicle company - SPV) for the implementation of an awarded concession/PPP contract (so far every concession contract awarded in Albania has opted for a creation of a SPV).<sup>18</sup>

Foundation of SPVs (either private or public) with a purpose to execute a concession contract, represents in our view a genuine potential to promote CSR. The state has the possibility to request awarded companies to impose on a SPV an obligation to introduce and implement a CSR policy, e.g. with a focus related to a specific sector of a concessionaire's area of activities. Such an intervention by the state is fully justifiable since concession's philosophy is rooted in delegation, by the state to private entities, of powers to exercise certain public interest activities or exploit public goods.

This is emphasized by the fact that all industries presented in the list of potential industries subject to concession procedures are strategic industries with a strong hold of public interest.<sup>19</sup> It is acceptable for a state to request private entities to contribute to community welfare by way of introducing of a strong CSR policy.

Imposing on an SPV implementation of a CSR policy would not any more represent an obstacle within selection procedures. In this case, an obligation to pursue CSR becomes part of the

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<sup>17</sup> Law no.125/2013 "On concessions and private-public partnerships" as amended (the "Concessions Law") and implementing secondary legislation.

<sup>18</sup> Article 8, paragraph 2 and Article 26, paragraph 6 of the Concessions Law;

<sup>19</sup> Article 4 of the Concessions Law;

technical and specific criteria to be fulfilled by a contractor as part of a submitted business plan and by default becomes obligatory, since it relates to the future implementation of a concession project rather than to past/or current activities of candidates. Additionally, another possibility is to include CSR as a condition to be part of the concession contract template which will be concluded between a contracting authority and an awarded candidate or its SPV.

In conclusion, providing a legal duty for SPVs and concession companies to implement CSR policy within execution concession contracts, has a higher probability of positive impact comparing to other options analyzed so far and represents an effective tool of introducing CSR concept among Albanian corporations pursuing activities related to strategic and public interest industries.

### *3.2.3 Strategic investment and foreign investment legislation as a tool to promote CSR*

Since 2015, Albania has adopted a law establishing a status of strategic investor for companies wishing to implement important projects in strategic sectors that reach an established amount of investment value.<sup>20</sup> The Strategic Investment Law provides for a possibility of beneficial assistance to legal entities enjoying a strategic investor status. Specifically, state authorities assist with regard to administrative procedures within a project implementation. The purpose is to create a favorable climate for high value strategic investments by reducing a bureaucratic pressure and by making available to investors public resources crucial to investment implementation.

Considering investments value and state-based facilities offered to assist in finalization of investment process, it would be reasonable to request strategic investors to implement a CSR policy. Currently the Law does not foresee CSR as a requirement but considering the impact on the community of the industries in which strategic investors are operating, an expectation of a strong CSR policy as part of their strategy is not unreasonable.

Usually, a favorable investment climate offered to a strategic investor is justified by economic benefits it brings to specific sectors. However, it is now time that CSR is given public interest relevance in Albania. That is why CSR should become a relevant element within procedures foreseen by the Strategic Investment Law in relation to the granting of strategic investor status.

Similar arguments are applicable in assessment of foreign investments in Albania and of a favorable climate created towards investors by state authorities. One of the earliest legislative initiatives immediately after the fall of the communist regime in Albania was the Law on Foreign

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<sup>20</sup> Law no.55/2015 "On the strategic investments in the Republic of Albania" ("Strategic Investments Law");

Investments which aimed to ensure that foreign investors enjoy equal or even more favorable level of protection of their investments compared to Albanian investors.<sup>21</sup>

It is very important to underline that foreign corporations investing in Albania have become a successful drive of CSR within Albanian business climate. Large foreign corporations mostly focused in strategic sectors such as financial services, telecommunications, construction materials as well as crude oil extraction industry, have brought along a model of successfully implemented CSR policies. However, the number of foreign investors in Albania with a strong implemented CSR policy remains very low.

Although the Law on Foreign Investments regulates only protection for foreign investors in Albania, it would seem feasible to provide for a legal mechanism which would require to foreign capital investors in Albania to engage in CSR activities such as to become a positive influence, especially in relation to Albanian (still very young) business culture but also to the local communities in which such investors operate. Foreign investors can serve as a perfect example of a sustainable business model for Albanian authorities which can use this model for designing of a legal framework regulating sustainable business conduct locally. Therefore, providing amendments to the relevant foreign investment legislation, with a view to introduce CSR related requirements for foreign companies will help to introduce sustainable business conduct among Albanian businesses.

#### *3.2.4 Licensing of activities as a tool to promote CSR*

Licensed activities represent another area where Albanian institutions can take a stance on CSR promotion. Operations of businesses pursuing a licensed activity or exploiting a limited natural resource result in a severe impact to a specific community. It is feasible, therefore, that enterprises focusing their activities in one area are expected to act responsibly towards this community. An enhancement of CSR can be achieved by regulations of licensing procedures or by introducing certain requirements into legislation regulating operations within each industry.

Currently Albanian legislation regulating mining industry requests to businesses applying for exploitation and excavation rights, to prepare and implement an Environmental Rehabilitation Plan (including securing necessary financial backup for implementation), designed to mitigate possible negative environmental impact and rehabilitate an excavation site.<sup>22</sup> Although this provision is not CSR-related, it however represents an example of a good practice in encouragement of

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<sup>21</sup> Law no.7764 dated 02.11.1993 "On foreign investments" as amended ("Law on Foreign Investments");

<sup>22</sup> Law no. 10304 dated 15.07.2010 "On the mining sector in the Republic of Albania";

sustainable business conduct. Another example of current sustainability regulation is Article 14 of the Law on Environmental Protection<sup>23</sup> encouraging additional environmental protection measures (e.g. aimed to prevent pollution) provided in agreements concluded between authorities and businesses.<sup>24</sup> Indeed, the Law on Environmental Protection provides for a possibility for enterprises or specific interests groups (such as industry related interests) and public authorities to enter into agreements among them, securing higher level of environmental protection than those requested by law.<sup>25</sup> These are examples of legislative intervention to promote a higher level of awareness and sustainability for business entities.

However, although serving as a good example, these steps do not seem to be sufficient so far in encouraging companies to engage more actively in the promotion of environmental protection. Provisions regulating a Rehabilitation Plan are designed to mitigate negative environmental impact caused by the licensed activity, and not to undertake actions beyond restoration of damages. These provisions, although secured by possible sanctions for failure to comply with, do little to promote sustainability and corporate responsibility for community welfare.

Current Albanian environmental legislation has made certain efforts to contribute to awareness raising and has created some room for companies to cooperate with communities or state authorities in such regard. However, it is unclear yet whether these provisions are well implemented so far, or whether they achieved their purpose. To encourage their better implementation and to create a possibility for such provisions to be a legal path towards encouraging CSR policies, the Albanian institutions could foresee to grant some beneficial conditions to the licensed entities in connection with the full implementation of the provisions of Article 14 and Article 57 of the Law on Environmental Protection mentioned above as well as in connection to any CSR policy that could derive from such provisions.

Legislative provisions regulating licensed activities could serve as a tool to create a rewarding climate for entities undertaking CSR projects. Various activities can be regulated by means of soft legislation amendments in order to accommodate the promotion of CSR initiatives: heavy industries activities (crude oil extraction, excavation or trade of refined oil products), providing financial services (banking, securities), to telecommunications, media or gambling, which are subject to state licenses and permits and which make use of public goods or have an impact into community's life.

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<sup>23</sup> Law no.10431 dated 09.06.2011 "On the environmental protection" as amended ("**Law on Environmental Protection**");

<sup>24</sup> Decision of the Council of Ministers no 597 of 1 July 2015 "On procedures and requirements of conclusion and implementation of agreements between the public authorities and other interested groups on measures for providing of higher level of environment protection";

<sup>25</sup> Article 57 of Law on Environmental Protection;



Depending on the licensed industry or sector, such amendments could either establish obligatory compliance with CSR requirements or could provide optional benefits for companies in case of compliance.

### 3.2.5 *Disclosure in public registers as a tool to ensure transparency*

Companies' choice of business partners is based on the culture they embrace, their respect for environmental issues, their attitude to employees, as well as their ethical conduct towards a community. All these factors play a role in establishing consumers and clients trust. That is why an official source of disclosed CSR related information could help to enhance CSR.

Albanian legislation recognizes obligatory and non-obligatory information disclosure in relation to companies' activities. The most important public register in Albania is the unique electronic national Commercial Register operated by the NBC.<sup>26</sup> An obligation to disclose relates to internal corporate governance information and any other information required by law to be registered (such as bankruptcy procedures decided by the Court, seizure of shares and capital from bailiff activity, etc).<sup>27</sup> Companies upon own discretion can consider for voluntary disclosure any other information. There is also an obligatory requirement for publication of information for listed companies, as foreseen by the Securities Law<sup>28</sup> and its related secondary legislation,<sup>29</sup> as well as for insurance companies, as foreseen by the Insurance Law<sup>30</sup>, and which includes a more detailed information than the one required for the NBC. However, in this section we will focus only in the role of NBC as an official source of information for the general public and the role it should play in CSR.

Obligatory and voluntary disclosure to the NBC is required by law in the interests of third parties and such information is reflected in an official NBC's extract. On the other hand, certain information which is not publishable in the company's extract from the Commercial Register (not included in the official format of the extract) can be published only in the NBC website. That is the reason why the NBC official website is an important source of public information. However, there is no specific legal provision on disclosure of CSR related activities. Although such information could be freely published at companies' own websites, its publication by an official source such as the NBC, would represent an advantage. It would be very helpful if the NBC could serve as an official platform of

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<sup>26</sup> Law 9723 dated 30.05.2007 "On the National Registration Center" as amended (referred to as "Law on the NRC") and Law no.151/2015 "On National Business Center" (both referred to as the "Legislation on Business Registration");

<sup>27</sup> Articles from 28-43 and Article 45 of the Law on NRC;

<sup>28</sup> Law no.9879 dated 21.02.2008 "On securities"(the "Securities Law");

<sup>29</sup> Regulation of AMF no.42 dated 28.05.2009 "On the obligation of the issuer to inform the public on material facts";

<sup>30</sup> Law no.52/2014 "On insurance and re-insurance activity" (the "Insurance Law");

information for those activities which, although not capable of legally affecting third parties, may provide important data on business, culture and ethical attitude of companies. To serve this purpose a separate section at the NBC's website could be made available for publication of CSR guidelines and policies.

Similarly, other official websites of important independent institutions such as the BoA and of the ASFA have become online databases of information, providing stakeholders with official data and official announcements on the entities they supervise. That is why official websites of these institutions can be an important source of CSR related data disclosure. The current legal framework does not give the NBC enough room to include in the register any information related to ethical conduct and companies' social responsibility. The same gap is noted in relation to provisions regulating operations of the BoA and of the ASFA. It would be beneficial for CSR promotion if legislative or regulatory interventions are made in order for the NBC, the BoA, and the ASFA to be able to include in the related registers or in their official websites, any information regarding business culture and ethical conduct of businesses under their supervision.

### **3.3 Provisions for specific and direct cooperation between authorities and business entities**

#### *3.3.1 Cooperation between state bodies engaged in social welfare legislation and corporations*

Earlier we identified few possible legal mechanisms which could give advantages to companies which opted to introduce a CSR policy. In this section we will further address domestic legal provisions regulating state's social policies with a purpose to establish an enduring cooperation between authorities and business entities engaged in CSR projects. Such cooperation could be established either by amendment of current legislation or by establishing a voluntary bilateral cooperation between specific state organs and business corporations.

Since 2019, the new Employment Promotion Law has been in force, setting up administrative infrastructure to provide employment services within local communities. Such services include employment services, employment promotion programs, and professional formation programs.<sup>31</sup> The law grants to state bodies a possibility to cooperate with business community and civil society, in order to achieve objectives, set out by the law (i.e. in the professional formation, employment and recruiting industry, etc.).<sup>32</sup>

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<sup>31</sup> Law no.15/2019 "On employment promotion" (the "Employment Promotion Law");

<sup>32</sup> Article 11 (3), Article 12 (2), Article 18, 19, 20 and Article 21 (2/b) of the Employment Promotion Law;

Involvement of non-state actors in employment and professional formation initiatives is useful for creation of a connection between state social programs and CSR initiatives. However, an involvement of private enterprises in employment promotion activities of state organs has been either in quality of a private contractor or within a framework of information exchange for job vacancies.

We notice a certain gap in provisions of the Employment Promotion Law which leaves unexploited a very important source for achievement of its objectives: formation and training of employees by means of CSR projects offered by corporations. CSR policies related to formation and training (either in their CSR internal or external dimension) would be an efficient tool to reach objectives set out by the Law by using available financial resources and a high-level technical expertise offered by corporations. The latter can include in their CSR policies the training, formation and hiring of certain categories of individuals which need a sustainable and enduring attention.

The Employment Promotion Law has set a minimum standard obligation for employers to employ individuals included by the Law in “labor market disadvantaged categories”.<sup>33</sup> However, this standard provides for a very low threshold and, besides, there is a legal loophole available for employers to neglect this obligation. The obligation is lifted if an employer provides a monetary contribution to the Social Employment Fund, in the amount equal to a minimum monthly salary for each individual of such group they should have hired.<sup>34</sup> This requirement and its alternative remedy are not sufficient to effectively address real needs of individuals belonging to these categories. A more decisive role of companies should be foreseen by establishing an official liaising procedure between state organs and corporations, aiming to bring together CSR projects with information and data managed by the state authorities.

Article 3(4) of the Law provides a list of categories of disadvantaged in the labor market individuals, which could assist corporations in targeting their specific CSR projects. This list includes, among others, people with disabilities, foster homes resident, single mothers, elderly people, Roma community, social assistance beneficiaries, human trafficking victims, family violence victims, and gender-based victims. These disadvantaged persons in the labor market, would effectively benefit from a stronger and formal cooperation between state bodies and corporations.

Similarly, the same arguments are applicable to special laws regulating non-discrimination,<sup>35</sup> gender equality,<sup>36</sup> youth,<sup>37</sup> social care services,<sup>38</sup> professional education,<sup>39</sup> social assistance,<sup>40</sup>

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<sup>33</sup> Article 3 (4) of the Employment Promotion Law;

<sup>34</sup> Article 21(2) of the Employment Promotion Law;

<sup>35</sup> Law no.10221 dated 04.02.2010 “On Protection from Discrimination”;

<sup>36</sup> Law no.9970 dated 24.07.2008 “On gender equality”;

<sup>37</sup> Law no.75/2019 “On Youth”;

disability.<sup>41</sup> Each of these normative acts do provide for setting up state programs and financial assistance aiming to promote improvement of disadvantaged persons wellbeing. In this light, social policies could be very well coordinated with CSR policies. Although, current legislation allows state bodies to a certain extent to engage and cooperate with private enterprises, a formalized and permanent cooperation mechanism is not in place. Coordination would be more effective if it is formalized and addressed in the relevant legislative acts. For example, cooperation in the form of joint committees where state bodies and corporations can set realistic common agenda could be an efficient alternative. Furthermore, *ad hoc* offices or units within responsible state institutions could be established with a focus on bringing together the state social policies with private entities' CSR agenda. In addition to the above, the relevant state authorities can provide corporations with guidance and assistance in overcoming numerous bureaucratic formalities obstructing implementing CSR policies and specific projects.

### 3.3.2 Cooperation between local authorities and businesses

The role of the local territorial authorities could be an important tool to be used for promoting the CSR activities of Albanian corporations. Two aspects could be analyzed regarding the potential involvement of the local authorities in the promotion of CSR activities. One could be the establishment of *ad hoc* units serving as coordination or a contact point between the given local authority and the business entities operating in the territory. The local authorities could provide the necessary information and guidance to companies wishing to engage in CSR activities by helping them identify which are the most relevant or even most urgent matters. Local authorities may appoint personnel or even establish specific units within their administration in order to periodically discuss with business entities, either by creating joint committees or holding periodical meetings. This format will serve the purpose of joining efforts in identifying potential areas where to develop a project but also to follow up on their implementation. In addition, local authorities could as well prepare in advance relevant studies or sectorial guidelines to be made available to the CSR units of the business entities to help the later identify the necessities for contribution.

Another way to enhance sustainable and long-lasting cooperation between businesses and local authorities is simplifying certain bureaucratic procedures which fall within the direct powers of such local authorities and do not affect other legislation, but which do impact the implementation and

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<sup>38</sup> Law no.121/2016 "On Social Care Services";

<sup>39</sup> Law no.15/2017 "On education and professional education";

<sup>40</sup> Law no. 57/2019 "On social assistance";

<sup>41</sup> Law no.7889 dated 14.12.1994 "On physical invalidity"; Law no. 8098 dated 28.03.1996 "On blind individuals"; Law no.8626 dated 22.06.2000 "On the status of paraplegic and tetraplegic status";

follow-up of CSR projects. Often successful implementation of CSR policy is impeded by bureaucratic obstacles.

Local authorities do have the necessary competences (or discretion) to implement the above-mentioned initiatives without legislative intervention. However additional provisions could be included to make more straightforward the undertaking by the local government of the initiatives mentioned above. Articles from 24 to 28 of the Law on Local Government<sup>42</sup> dealing with the competences of the local government on environmental, cultural and economic development of the territories, could foresee a formal cooperation of the local authorities with the business community in order to make the later play an active role in such aspects of the communities' life.

## 4 INTRODUCING CSR STANDARDS TO STATE OWNED COMPANIES

### 4.1 CSR promotion by state-owned companies (SOCs)

Another instrument of the state to promote CSR, is to introduce necessary CSR policies and standards within state owned companies (SOC) operating in strategic sectors of the economy. Sustainable CSR policy at state-owned companies can become a model policy for other privately-owned enterprises. This could be achieved, firstly, by means of amendments of legislation regulating organizational and governance aspects of the SOCs and, secondly, by invoking shareholder capacities to use or modify internal corporate documents.

In addition to the Company Law regulating an important part of SOCs' internal governance,<sup>43</sup> the applicable secondary legislation provides for a unique model of bylaws for SOCs,<sup>44</sup> as well as for the composition and powers of their supervising bodies.<sup>45</sup> Such secondary legislation could be used for the promotion of CSR among SOCs. However, the relevant acts need update and modernization (e.g. *SOCs Model Statute*) since they lack concepts and principles regulating governing organs specific capacities (such as a Decision on the Supervisory Councils).

The SOCs Model Statute was approved in 1998 and needs to be brought in line with the current Company Law. Moreover, the Model Statute should not only be brought in accordance with modern commercial and governance principles, but also with standards of sustainable business

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<sup>42</sup> Law no.139/2015 "On the self-government of local territories" ("Law on Local Government");

<sup>43</sup> Law 9901 dated 14.04.2008 "On entrepreneurs and commercial enterprises ", as amended (the "Company Law");

<sup>44</sup> Decision of the Council of Ministers no.271 dated 09.05.1998" On the model statute for state owned companies", (the "Model Statute");

<sup>45</sup> Decision of the Council of Ministers no.570 dated 03.10.2018" On the supervisory councils of the state-owned companies" (the "Decision on SC");

conduct. In this regard, transparency and disclosure, internal policies on training and social assistance to employees and adoption of code of ethics, could become part of a unified Model Statute for all SOCs.

A gap in the legal framework regulating the SOCs is characterized by the absence of a state ownership policy which would provide uniformed principles and standards for all SOCs. Albania currently lacks a general policy on the role of the state as shareholder in which the main elements of governance of the SOCs are set out. A state ownership policy for SOCs could design the important role of SOCs in the society and community and appropriate CSR concepts could be also provided serving as a model to be embraced by private companies as well.

In 2018 the Council of Ministers approved a Decision on Supervisory Councils, regulating composition of the Supervisory Councils (“SC”) in SOCs. The new Decision lacks provisions on the strengthening of the decision-making role of SC, which nowadays is an internationally accepted standard recommended also by the OECD Guidelines of Governance in the State Owned Enterprises.<sup>46</sup> Stronger decision-making capacities of SC and their influence on SOCs, and competences to approve and initiate general CSR policies can assist in imposing on SOCs specific CSR related obligations.

Another aspect worth considering is the financing of CSR by SOCs. Budgeting of SOCs is strictly regulated by public procurement legislation. Therefore, any financial transactions by SOCs shall undergo public procurement procedures and are subject to state audit. Therefore, SOCs need to find mechanisms to finance CSR related activities especially when they require contracting of third parties. Whereas implementation of CSR standards related to transparency, disclosure or trainings of employees do not represent any difficulties, procurement legislation could represent an obstacle for SOCs to be engaged in activities, outside their direct goals. That is why legal amendments should be considered, especially aimed at classifying CSR activities within the public interest objectives of SOCs as well as at establishing *ad hoc* faster and less bureaucratic procurement procedures for CSR related activities.

Another way, by means of which the state could use to promote CSR activities within the SOCs, is by intervening in quality of shareholder, merely by using or modifying the SOCs' internal corporate documents. The competence of the state in modifying the corporate documents of the SOCs is unlimited and is guaranteed not only by the above-mentioned *ad hoc* secondary legislation, but also by the more generally applicable Company Law. By choosing this alternative, instead of the legal amendments, the state could undertake individual modifications of the SOCs' corporate

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<sup>46</sup> OECD Guidelines of Governance in the State-Owned Enterprises, Edition 2015, (referred “OECD Guidelines”) pages 26-27, page 59-60;

documents in order to pave the way for their engagement in external CSR activities and projects. However, as mentioned above, the undertaking of such initiatives could not have the full desired result without at least providing certain modifications to the primary legislation regulating procurement procedures of SOCs.

## 4.2 Examples of SOCs in Albania

CSR principles related to internal governance such as transparency, disclosure and whistleblowing procedures are not left forgotten by Albanian SOCs and are required by the legal framework governing their activity in quality of state entities. Thus, SOCs, according to the Law on Information Right are required to disclose certain relevant information on their own website.<sup>47</sup> This includes a wide range of information, such as those on internal governance structure, relevant legislation applicable to their industry, ongoing procurement procedures, a code of ethics and other.<sup>48</sup> Also the Whistle-blowers Law requires to implement related whistleblowing rules and to establish internal related units to process any received information.<sup>49</sup> However, in practice not everything is fully disclosed at SOCs' websites.

Another positive impact in creating so far a CSR culture of certain SOCs has come from the international finance institutions (IFIs). In the recent decades the most important IFIs have been present in Albania either with financing assistance or consultancy projects towards SOCs especially those operating in the power and utility sector. Very often, IFIs such as the European Bank for Reconstruction and Development (EBRD) or International Finance Corporation (IFC) part of the World Bank Group, have requested certain transparency, disclosure and good governance standards and principles to be established within the SOCs as a condition to offer their cooperation and assistance. Depending on the industry sectors, important CSR principles have been very often requested to be embraced by SOCs mainly about environmental protection, training of employees and activities focused on external community projects. Such impact of the IFIs on enhancing the CSR culture of corporations in Albania has not only affected the SOCs, which have been very active in seeking financial assistance from the IFIs, but it has also affected the activity of private corporations.

We have reviewed to what extent the major SOCs in Albania have complied with the internal dimension of CSR and with the disclosure and transparency standards established by various pieces of legislation regulating the activity of state institutions. It should also be admitted that an

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<sup>47</sup> Law no.119/2014 "On Information Right", (the "Law on Information Right");

<sup>48</sup> Article 7 of the Law on Information Right;

<sup>49</sup> Law no.60/2016 "On whistle-blowers", (the "Whistle-blowers Law");

important contribution with regard to the adherence to such standards of the below SOCs, has been given by the relationship established these years with important IFIs. Below we provide a review of the SOCs, operating in the power, energy and utility sector:

**Korporata Energjitike Shqiptare Sh.a. (KESH Sh.a)** which is the state owned power generator company is the most important generator of power energy in Albania. KESH Sh.a. has its own functioning website<sup>50</sup> with a vast information available to the general public which includes: information on mission and strategy of the company, the internal structure of the company and its corporate governance and full contact details, sectorial legislation, list of power generating assets of the company and related capacities, emergency plans, list of investment projects foreseen by the company, CSR description with focus on environmental protection values (the company's environmental risk plan is published in the website together with environmental monitoring reports, company's engagement in health and safety standards, the transparency program of the company, and code of ethics. Moreover, data regarding exploitation of resources, maintenance reports, report regarding trading transactions, economic indicators, financial statements (from 2013 to 2017) and activity performance reports (from 2013 to 2018) were also published in the website. As it can be noticed, the variety and quantity of information is satisfactory.

- **Operatori i Shperndarjes se Energjise Elektrike Sh.a. (OSHEE Sh.a)** is the state owned national power distributor. OSHEE has its own functioning website<sup>51</sup> and a certain amount of information has been disclosed, which includes: information on the mission and strategy of the company, internal structure and corporate governance and full contact details, applicable sectorial legislation, full disclosure on consumer invoicing, prices, details on the standard contractual terms with consumers, instructions on complaints, online services for consumers, publication of the transparency policy of the company, publication of the personal data policy. In addition the company has published in its website the company's financial statements (from 2015 to 2018) and budgetary information and data (from 2014 to 2018), the independent audit report of 2015, company's investment plans, risk and operational risk management policy of the company and policy on classification of information. However, no information regarding CSR community projects or environmental protection or awareness was found.
- **Operatori i Sistemit te Transmetimit Sh.a. (OST Sh.a.)**, is the state-owned company managing the nationwide power transition system. The company has its own functional

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<sup>50</sup> [www.kesh.al](http://www.kesh.al);

<sup>51</sup> [www.oshee.al](http://www.oshee.al);



website<sup>52</sup> which includes the following: information regarding mission and strategy, internal structure and corporate governance and full contact details, applicable sectorial legislation, information regarding transmission capacities, applicable service contractual terms and information about investments. The company has a vast publication regarding environmental matters such as the company's environmental manual ISO 14001, company's environmental policy, company's environmental managing system as well as the environmental data base publication with all the environmental issues registered up to 2017. In addition, the company has published its transparency program, the financial statements from 2017 to 2019. However, no information regarding CSR community projects or environmental protection or awareness was found.

- **Port Authority of Durres Sh.a**, (the "Port of Durres" Sh.a.) is the company managing the biggest port in Albania. The company has its own functional website<sup>53</sup> which includes the following information: information regarding mission and strategy, internal structure and corporate governance and full contact details, applicable sectorial legislation, publication of the most relevant resolutions of the supervisory board, publication of tariffs, investment projects, procurement information, online formats for permits and authorizations, detailed description of services provided by the company, publication of safety and emergency management policy, employees safety standards, internal code of conduct, full list of contractors and port's commercial operators. In addition, the company has published its environmental policy, the environmental performance management policy. On the financial disclosure the company has published its financial reports and detailed business plans from 2015 to 2018.
- **Albpetrol Sh.A (Albpetrol)** is the state-owned company managing the crude oil resources and assets and operates the excavation and exploitation of such resources. The company has its own functional website<sup>54</sup> which includes the following information: information regarding mission and strategy, internal structure and corporate governance and full contact details, applicable sectorial legislation, publication of the assets and territories in which the exploitation and excavation activity of the company is focused, information and data on the production activities and the adopted technology, publication of contractors. The company has published a list of internal departments which are focused on the services related to safety and environment. However, no environmental policies, strategies, reports or evaluations were published. On the financial side, no financial reports or information was published. On the CSR

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<sup>52</sup> [www.ost.al](http://www.ost.al);

<sup>53</sup> [www.durresport.al](http://www.durresport.al);

<sup>54</sup> [www.albpetrol.al](http://www.albpetrol.al);

project and activities, the company has published its initiative regarding the traineeship program for engineering students.

All the above assessed SOCs do fulfil a minimal satisfactory level of transparency and disclosure. Such levels, however, are different and change depending on each SOCs. We notice that in most of the cases the financial disclosure was not full and was not updated and in all the SOCs reviewed, there were no independent auditors' reports published. In addition, no list of activities or projects regarding CSR were found, which leads to believe that either such companies do not engage in CSR activities and projects at all, or in case they do, such activities are not considered to be highly important as to be published or announced.

## 5 ROLE OF CIVIL SOCIETY

In Albania, interaction between a civil society and corporations is essentially important for promotion of CSR culture. The knowledge of NGOs operating to implement community projects is necessary for successful development of companies' CSR policies. A good working relationship between corporations and NGOs is based on common interest and shared values and therefore cannot be easily stimulated by legal interventions. However, institutional support can be found among institutions designed to enhance collaboration between a civil society and business. Thus, a role of the state in promoting cooperation between NGOs and corporations is played by the National Council of the Civil Society (NCCS).

The NCCS is a committee whose aim is to establish an institutional cooperation between the state and civil society organizations. Its main objective is to stimulate involvement of civil society in decision-making processes with a view to expand democracy, to consolidate good governance and to increase transparency.<sup>55</sup> Among other purposes, the NCCS targets to enable a cross-sectoral cooperation between public institutions and civil society organizations, as well as to promote philanthropy culture and social capital. The Committee is governed by high-level political institutional representatives (deputy ministers) and NGOs representatives elected among operating in the fields of 1) democratization, rule of law, human rights and EU integration; 2) economic, territorial and environmental improvement; and 3) welfare, social services, health protection and improvement of life conditions. The NCCS has advisory capacities and submits specific proposals in relation to state the relevant governmental policies and in relation to further development of civil society in Albania. In principle areas of focus of the NCCS are not different from the fields where

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<sup>55</sup> Law no.119/2015 "On creation and functioning of the National Council for Civil Society", ("NCCS Law");

companies can define their CSR efforts. Therefore, putting in the agenda of the NCCS the discussion on how to develop a sustainable relationship and cooperation between NGOs and corporations in the fields mentioned from 1-3 above does go in the same line with the purpose of the NCCSs activities. In this regard, the state institutions participating in the NCCS should include as part of the NCCS agenda the discussion on how to establish a sustainable cooperation between NGOs and corporations in the light of the CSR policies and such state institutions could become the liaison point between the NGOs which are part of the NCCS and important industry corporations in order to assist both parties in establishing and creating a durable and sustainable cooperation with regard to CSR projects and activities having a community relevance. In addition, the NGO members of the NCCS could become further involved in a more general promotion among the Albanian NGO community, of the importance of creating a practical and efficient cooperation with corporations which will allow the NGOs to implement their main projects and the corporations to further advance their CSR activities. In addition, the NCCS through its administrative body, the Agency for the Support of Civil Society (ASCS) could orient the NGO's applying to ASCS for government funds, to increase their cooperation and partnership with companies as far as their CSR projects are concerned.

Another aspect of the role of the civil society in promoting the CSR activities could be the creation of a publishable evaluation system accessible to the general public and to stakeholders, providing for rankings and classifications regarding corporations which engage in CSR activities. In this regard, either the level of CSR development as such, or singular successfully implemented CSR projects, could become the target of such evaluation systems to be undertaken by the civil society. NGOs projects addressing these aspects could be very helpful in providing to companies a platform in which they are awarded, complimented or even criticized in relation to their involvement or not in CSR activities. In this way a sense of competitiveness between companies for their involvement in CSR activities is promoted. Whereas, public appraisal of commercial companies based on their commercial success (income, sales, consumer satisfaction) in Albania is done through many platforms, as of today, however, there are no major initiatives aimed in providing classification and ranking of CSR efforts. Such initiative can assist in raising awareness of businesses of importance of the CSR efforts and will spread general understanding of CSR as a daily routinely part of business operations.

## 6 ROLE OF BUSINESS ASSOCIATIONS

Business associations established and organized as NGOs, can play another important role in promotion of CSR. Many business associations in Albania operate under classical denomination of chambers of commerce. Such chambers are either established by law or by business entities in a form of an association divided, among others, by territory of operations, types of activities, nationality of invested capital.<sup>56</sup> The business associations do operate as organizations aiming to pursue the common interest of their members acting as lobbying entities towards the state bodies. In this capacity, they lead and influence organizational and business conduct of their members. Therefore, they could play an important role in promoting of a CSR agenda.

There are different ways to lead promotion of CSR within the business organizations. For example, business associations can include as their membership criteria, the embracing by members of certain CSR values and standards, such as adoption of a code of ethics, compliance with principles of transparency and disclosure, environment protection standards, sustainable employment conditions, or other requirements to responsible business conduct. Another way, similar to the idea described above the NGOs cooperation, is designing of a public appraisal system which classifies and ranks businesses depended on their CSR performance. As already mentioned, such appraisal system serves as another motivational factor to pursue sustainable business conduct.

In Albania in 2011 CSR Forum and the Albanian CSR Network were established aiming to unite businesses in their efforts to shape CSR policy and to provide consolidation and follow up for such efforts. Institutionalization of CSR engagement, capacity building and awareness raising were among first objectives of the CSR network. It was designed to bring stakeholders together to discuss on ways to improve the CSR landscape in Albania, and that's what they did for the time they were active (conferences, meetings, and round tables were organized with public and private institutions). The UNDP report in 2013 was published partially due to the work of the CSR network in Albania. However, as of today the network and forum do not demonstrate much of activity. Their last news and activity date from 2013. Data received during the survey demonstrate that in the recent years the CSR network in Albania has not been active and membership in the network has become a formal attire without being connected to any up to date events. CSR experts admit in interviews that specific Albanian 'business mentality' (meaning non-cooperative approach) was among reasons for a lack of active participation in the network, where CSR policies are introduced to achieve successful public relation goals, rather than society wellbeing. Therefore, companies

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<sup>56</sup> Law no.9640 dated 09.11.2006 "On industry and commerce chambers" as amended;

would rather organize their own charity related activities, contributing to publicity, rather than contribute to activities of the network. As of today, the Albanian CSR Network remains virtually non-existent. In this policy we cannot help but underline the importance of the network in the establishment and further promotion CSR agenda among local businesses. The CSR Network remains not only a key promoter, but a developer of CSR policies. assisting in setting CSR goals and helping businesses to achieve them. Reviving of the Network can play a decisive role in further integrating CSR into Albanian business culture. It was our understanding that imposing the chairing and administration of the Network to a non-corporate entity (an NGO, a think-tank) can contribute to more effective administration of the Network. Such approach can also help to avoid the same obstacles previously preventing the Network from effective realization of its initial goals.

## 7 CONCLUSIONS

Specific context of Albanian economy and history of entrepreneurship delays somewhat developing a CSR culture and awareness in the country. Currently contextual factors include predominance of small and medium businesses in the economy with a very low level of awareness and understanding of CSR principles and objectives. Involvement of all level stakeholders remains low and is characterized by scattered attempts to bring CSR standards into separate enterprises' (mainly large with foreign investments) operations. However, state CSR policy is an important factor for both developing trade and business relationship with partnership countries, and, plays as an important factor within EU accession process. Therefore, more attention should be paid to developing an institutionalized framework and policy at a state level.

CSR is essentially based on voluntary initiatives of corporations and business entities. Legislation in general is not seen neither as a tool to enhance business entities' CSR efforts nor to provide for a compulsory rules and regulations framework to govern CSR conduct. However, appropriate legislative interventions can contribute to designing a favorable climate for pursuing CSR enterprises-partners in state-business relations. The below listed initiatives and measures, accompanied by the necessary amendments to legislation, could be undertaken as part of a policy to enhance the CSR climate in Albania:

- ***Legislations regulating public procurement and concessions and PPPs*** which involve the contractual relationship between state and corporations could provide for the creation of an incentivizing and rewarding climate for those corporations engaged in CSR activities. However, to achieve this objective, certain further modifications should be applied to the

legislation on public procurement and concessions procedures, especially in relation to the categories of selection criteria such CSR requirements should belong to, as well as in relation to the methodology for their evaluation.

- ***Commercial activities which are subject to licensing, permissions and authorizations*** procedures by public authorities and are related to the exploitation of public resources may be required to adopt CSR standards. In this case it is suggested that for certain industries, the requirement to engage in determined CSR activities or projects, could become a legal requirement for the entire duration of the licensed activity. In this regard the related legislation regulating such activities and industries shall be amended in order to provide such requirement.
- ***Creation of infrastructure for an enduring and sustainable relationship between state organs and corporations*** may be effective with regard to improvement of CSR activities by companies. Such relationship could be developed either by exchanging information or by specifically engaging in joint initiatives implementing certain CSR projects. Formalized liaison procedures between state organs engaged in welfare programs and policies and corporations wishing to engage in CSR activities and projects, could create the right synergies for an effective cooperation. We suggest that necessary amendments are made to the related legislation in order to establish concrete modalities of cooperation between such state units and corporations that would address welfare programs by means of CSR projects.
- ***Public online registers and official websites held by state or independent regulatory authorities***, may be used as a tool for state authorities to create necessary conditions for corporations to promote their CSR standards. State authorities' online registers or websites could serve as an informative public platform in which corporations could disclose their CSR activities. In this regard certain legislative amendments could be necessary, especially regarding the online Commercial Register managed by the National Business Centre.
- ***The role of the state as shareholder in the state-owned companies*** may be used as an example and could become a direct approach which the state could follow in order to promote CSR activities as a model in the Albanian business environment. The Albanian government controls some of the biggest companies operating in strategic sectors of the economy. It is through these companies that the state as the controlling shareholder could offer concrete examples on how CSR activities and projects can become part of the business culture. In this policy two ways have been identified in which the state can achieve the above approach. One is through modifying the current legislation regulating certain

organizational and governance aspects of the SOCs by introducing the necessary legal provisions to enhance CRS principles and standards and the other one is the intervention of the state in quality of shareholder of such companies, merely by using or modifying their internal corporate documents. However, necessary amendments shall be made to the procurement legislation in order to provide the SOCs with the possibility of financing CSR activities and projects.

- **NGOs, as part of the civil society, may play an essential role in promotion of CSR.** The knowledge and information of NGOs which operate in community projects targeting specific areas, communities or categories of individuals could be very useful to corporations wishing to successfully implement their CSR activities and projects. On the other hand, the financial resources of the corporations could be useful to the NGOs to better pursue their main activities. The state can enhance such role of NGOs and civil society by including matters related to the cooperation with corporations and CSR projects as part of the agenda of the NCCS. Furthermore, NGO projects could be very helpful in providing to companies a platform in which they are awarded, complimented or even criticized in relation to their involvement or not in CSR activities, by promoting this way a sense of competitiveness between companies for their involvement in CSR activities.
- **The role of the business associations and chambers of commerce** may be essential in enhancing the CSR culture of companies should be considered as crucial. CSR Network plays an important role in stakeholder's involvement, steps to reviving it are necessary. Such associations may have direct impact in the behavior of their members with regard to uniformization of certain conducts. Adoption by business associations of certain membership requirements related to implementation of CSR projects and activities is considered to be an important measure towards improving CSR climate in Albania.

We are aware that the undertaking of the initiatives mentioned above as part of this policy require the involvement of many stakeholders all being important actors in the achievement of the policy's objective which is the improvement of the CSR climate in Albania. However, as it becomes very evident in all the sections of such policy, the most important stakeholder equipped with the most efficient tools to implement the proposed measures, is the Albanian government. Therefore as a last recommendation addressed to policy makers within the Albanian state institutions, we would advance the proposal for the establishment of an inter-institutional working group which would also include other relevant stakeholders such as NGOs, business associations and major industries, with the purpose of preparing a working plan to review and adopt the necessary amendments and initiatives that would enable the environment for CSR projects and activities in Albania.



The Albanian Center for Competitiveness and International Trade (ACIT) is an economic think-tank focused on economic governance and integration. ACIT contributes to the improvement of public policies by bridging between institutional actors, business community, civil society, and experts. ACIT provides in-depth analysis of development processes and evidence-based policy recommendations. Its mission is to strengthen capacities, promote good governance, and fuel the public debate on how to benefit best from economic integration.