

COMMENTS AND RECOMMENDATIONS ON THE DRAFT LAW “ON DONATIONS AND SPONSORSHIPS”

Purpose of the draft law

The draft law “On Donations and Sponsorships” is introduced at a pivotal moment in Albania’s legal and institutional reform process, in the context of its obligations under the European integration agenda and as part of the broader package of anti-corruption legislation.

The draft law aims to regulate the principles, rules, and procedures applicable to the granting and acceptance of donations and sponsorships of public interest in the Republic of Albania. As set out in the accompanying explanatory document, **it is conceived as a framework law aimed at strengthening transparency and accountability in cases where public bodies receive donations and sponsorships**, in line with the Rule of Law Roadmap, which envisages an analysis of the legal framework by 2025 and a subsequent legislative revision by 2027. Furthermore, Article 4 of the draft law provides that: *“The subjects of this law are public bodies when they receive donations and sponsorships for the implementation of activities of public interest, in accordance with the fields defined in Article 2 of this law”*.

The draft law also provides for the regulation of sponsorships involving other entities, including nonprofit organisations, thereby extending its scope beyond public bodies, which constitute the primary focus of the law.

On the other hand, the draft law also provides tax incentives for sponsors and beneficiaries of sponsorships (public bodies, nonprofit organisations, sports organisations, sports companies, commercial entities in the field of film production and the audiovisual industry, as well as individuals representing the Republic of Albania in international activities in the fields of art, sport, and culture), which are not related to the object of the law. On the contrary, revisions of the sponsorship framework in relation to tax incentives are foreseen in the Roadmap for the Functioning of Democratic Institutions, which provides for the adoption of a revised law on sponsorships related to tax incentives for donations by 2027, under the area “Role of Civil Society”.

Assessment of the Draft Law

Nonprofit Organisations

With regard to nonprofit organisations, as outlined in the accompanying explanatory document, the draft law focuses narrowly on the regulation of sponsorship agreements, aimed at protecting the public interest, and does not apply to donations or grants received by nonprofit organisations.

In our assessment, **nonprofit organisations regulated under Law No. 8788/2001 “On Non-Profit Organisations”**, as amended, should not fall within the scope of this law, nor be subject to the **National Electronic Register of Donations and Sponsorships**. The arguments supporting this position are as follows:

1. Nonprofit organisations (NPOs) do not exercise public authority role and do not adopt binding decisions for citizens. Their activities are carried out under private law and in the public interest or in the interest of their members, without regulatory or sanctioning powers such as those exercised by public bodies. In this context, considering that the law aims to increase transparency and accountability of public bodies when they accept donations and sponsorships, the inclusion of non-profit organisations within the scope of the law is not justified by the nature of the role and functions they perform.
2. With regard to the National Register of Donations and Sponsorships, neither the draft law nor its accompanying explanatory document clearly explains the purpose of registering sponsorships whose beneficiaries are nonprofit organisations, particularly given that the draft law provides that data in the register are not publicly accessible when the beneficiaries are nonprofit organisations, sports organisations, sports companies, commercial entities, or individuals. In European practice, including in the countries referred to in the accompanying explanatory document of the draft law, there is no public register for sponsorships granted to nonprofit organisations.
 - Furthermore, pursuant to Article 11 of the European Convention on Human Rights (ECHR), freedom of association includes the right of association to seek, receive, and use financial resources from various sources, whether monetary or in kind. Consequently, the regulation of NPO financing constitutes an interference with a fundamental right and must comply with the principles of legality, legitimate aim, necessity, and proportionality.
 - Within the same vein, the Joint Guidelines on Freedom of Association of the OSCE/ODIHR and the Venice Commission emphasise that *“the right to freedom of association includes the right to seek, receive, and use financial and other resources... However, such requirements shall not be unnecessarily burdensome and shall be proportionate to the size of the association and the scope of its activities, taking into consideration the value of its assets and income.... Reporting requirements should not be regulated by more than one piece of legislation, as this can create diverging and potentially conflicting reporting requirements and, thus, diverging liability for failure to fulfil them..”*¹ For this reason, transparency mechanisms in the field of NPO financing must be designed carefully, ensuring transparency without undermining the willingness to provide lawful private support.
 - The Council of Europe’s Expert Council on NGO Law has further noted that *“the publication of donors’ personal information would make them publicly identifiable, and information relating to their political affiliation, opinion, or belief could be inferred from the fact that they donate to or are involved with certain NGOs and not others, which is protected by the right to privacy. The fact that such information would be publicly available may have a chilling effect on them and other potential donors, thereby risking a*

¹ OSCE/ODIHR and Venice Commission (2014), *Joint Guidelines on Freedom of Association*. Available online. <https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD%282014%29046-e>

limitation of NGOs' access to resources, particularly if identification obligations apply to all donations regardless of size, including crowdfunding and SMS donations.”²

- Similarly, in its Opinion on the Draft Law on the Transparency of Organisations Receiving Support from Abroad, the Venice Commission stated that “*disclosing the identity of all sponsors, including minor ones, is, however excessive and also unnecessary, in particular with regard to the requirements of the right to privacy as enshrined under Article 8 ECHR. These sponsors can hardly have any major influence on the relevant organisation and there is thus no legitimate reason and necessity for their inclusion in the list*” (paragraph 53)³.
3. Nonprofit organisations are not subject to the law on the right to information, and therefore their contractual relationships with private sponsors cannot be treated as public information. Imposing an obligation to register sponsorship agreements would create a new transparency regime that does not derive from any existing legal obligation and would be contrary to the principle of proportionality.
 4. Sponsorships received by nonprofit organisations are already regulated and reported through existing legal and administrative mechanisms. NPOs report received sponsorships to the tax authorities as part of their annual financial statements, thereby making this information available to the tax administration. In addition, they are subject to reporting obligations under legislation on the prevention of money laundering and terrorist financing. Under these circumstances, there is no justified or substantiated need for the same information to be registered in a separate sponsorship register. The introduction of an additional registration obligation for the same information would create regulatory overlap and result in a double administrative burden, without being justified by a clear regulatory necessity or a documented risk assessment. If the aim is to enhance transparency and accountability of nonprofit organisations, which is not the stated purpose of this law, this objective can and should be pursued through the effective implementation and strengthening of the existing tax and AML/CFT frameworks, rather than through the creation of parallel reporting mechanisms.

Tax Incentives

With regard to tax incentives, we propose that **they should not fall within the scope of this law**. The arguments are as follows:

1. As defined in the object of the draft law and its accompanying explanatory document, the draft law “On Donations and Sponsorships” does not aim to establish tax incentives, which are regulated through tax legislation. Moreover, the adoption of a revised law on sponsorships in

² Council of Europe Expert Council on NGO Law (2018), *International Standards Relating to Reporting and Disclosure Requirements for Non-Profit Organisations*, p. 17. Available online <https://rm.coe.int/expert-council-conf-exp-2018-3-review-ngo-reporting-requirements/16808f2237>

³ Venice Commission (2017), *Opinion on the Draft Law on the Transparency of Organisations Receiving Support from Abroad* (CDL-AD(2017)015). Available online: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)015](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)015)

relation to tax incentives for donations is foreseen in the Roadmap for the Functioning of Democratic Institutions, under the area “Role of Civil Society”.

2. From a preliminary analysis of the draft law, we assess that it intervenes in an unclear and uncoordinated manner in the area of tax incentives. The draft law and the existing tax legislation provide different mechanisms for the fiscal treatment of sponsorships. Specifically, the draft law provides for the recognition of sponsorships as deductible expenses of no less than 3% of the corporate income tax (Article 14), as well as a total tax benefit of up to 30% of corporate income tax for sponsorships in the fields of art, sport, and culture (Article 15). Meanwhile, Law No. 29/2023 “On Income Tax”, as amended, provides for a different treatment, recognising sponsorships as deductible expenses of up to 3% or 5% of profit before tax, as well as up to **three** times the amount sponsored in the field of sport (Article 50). These provisions apply at different stages of tax calculation, produce different fiscal effects, and are not harmonised with one another, creating uncertainty for taxpayers and difficulties in implementation.
3. The introduction of tax mechanisms outside the income tax framework risks undermining the coherence of tax policy. For this reason, revisions to deductible thresholds or fiscal instruments designed to promote sponsorship should be regulated within Law No. 29/2023 “On Income Tax”, as amended, and should not be incorporated into the Draft Law “On Donations and Sponsorships”.

Comments and Recommendations on Specific Articles

Article 1 “Object of the Law”, paragraph 1, provides that the law aims to define the principles, rules, and procedures for the “*granting and acceptance of donations and sponsorships for activities of public interest*”. In line with the stated aim of the law to “**increase transparency and accountability in cases where public bodies accept donations and sponsorships,**” and with our recommendation to exclude **nonprofit organisations from the scope of the law**, it is recommended that the aim of the law be reformulated as “*the granting and acceptance of donations and sponsorships by public bodies for activities of public interest.*” It is further recommended that an additional provision be introduced specifying that the provision of public funding by public bodies in the form of grants, subsidies, and other forms of budgetary financing does not fall within the scope of regulation of this law. Such addition is necessary to ensure normative clarity and to avoid confusion with the existing legislation governing the allocation of public funding.

Article 2 “Scope of Application” includes, among others, “(b) *art, culture and heritage protection*” and “(d) *sport and physical education,*” whereas Articles 15, 18, 19, and 27 of the draft law refer solely to “*art, culture and sport.*” This discrepancy indicates a lack of terminological consistency within the law. To ensure conceptual coherence and legal clarity, the categorisation of fields in Article 2 should therefore be reviewed and aligned with the terminology used in Articles 15, 18, 19, and 27.

Article 3 “Definitions”, paragraph 2, defines a donor as “*any natural or legal person, domestic or foreign, who makes a donation pursuant to this law.*” This wording does not explicitly cover individuals who may make unconditional transfers to public institutions. It is therefore recommended that the term “individual” be expressly included, in line with paragraph 16, which defines “sponsor.”

Paragraph 10 of Article 3 “*Beneficiary of Sponsorship*” provides that beneficiaries also include individuals in the fields of culture, art, and sport who represent the Republic of Albania at the international level. However, the current provisions create significant legal uncertainty and open space for potential abuse, for the following reasons:

- Lack of distinction between sponsorship and commercial relationships. The law does not clearly differentiate sponsorship as support for an activity of public interest (which is non-taxable) from commercial or promotional arrangements, under which a service is provided (e.g. use of image or promotional activities) and which should be treated as taxable income. This ambiguity enables agreements of a commercial nature to be presented as tax-exempt sponsorships.
- Undefined legal status and absence of a tax basis. Although individuals are permitted to be beneficiaries, the draft law: (i) does not require them to be registered with a tax identification number (NUIS) or under an accepted tax status; and (ii) does not provide a lawful mechanism for issuing valid tax documentation to the sponsor. This also negatively affects sponsors, who are unable to justify tax deductions under Law No. 29/2023 “On Income Tax”, as amended.
- Tax exemption without control over the use of funds. Sponsorships granted to individuals are exempt from taxation; however, (i) no mechanism is provided to monitor or justify the use of the sponsored funds, and (ii) such funds may be used for personal or commercial purposes. This creates a risk that these funds may effectively function as undeclared income, concealed under the cover of a legal tax exemption.
- Lack of integration with anti-money laundering legislation. The draft law neither refers to nor requires the application of Law No. 9917/2008 on AML/CFT. In particular, it lacks: (i) enhanced verification for high-value sponsorships; (ii) obligations to report suspicious transactions; and (iii) a clearly designated supervisory authority. As a result, this framework may be used for money laundering or tax evasion, particularly in informal sectors.
- Weak enforcement and lack of effective sanctions. The draft law does not provide for: (i) exclusion from eligibility for sponsorship in cases of legal violations by individuals; (ii) recovery of funds in cases of misuse; or (iii) institutional oversight to ensure compliance. This leaves non-compliant individuals without effective consequences and allows continued misuse of the framework.

Accordingly, it is recommended that the Draft Law:

1. Require a tax identification number (NUIS) or registration under a specific tax regime for individual beneficiaries;
2. Introduce a standardised sponsorship document format valid for tax purposes;
3. Establish a clear link with AML/CFT legislation and include obligations for reporting suspicious transactions;
4. Introduce control thresholds for high value sponsorships;
5. Designate a competent supervisory authority for the reporting and monitoring of individual beneficiaries; and
6. Provide for sanctions in cases of abuse of tax exemptions and failure to report funds.

The current wording of Article 4 “*Subjects of the Law*”, according to which “*public bodies do not apply the rules of this law to donations received within the framework of the activities of international public institutions,*” creates normative ambiguity, as it does not clarify whether, and to what extent, such donations are subject to registration, documentation, and oversight requirements. This ambiguity risks being interpreted as a regulatory gap and may undermine the principle of legal certainty. For this reason, it is recommended that the provision expressly stipulate that donations received by public bodies from international public institutions or intergovernmental organisations be subject to minimum registration and institutional oversight, with the aim of ensuring transparency and traceability. At the same time, the provision should allow for limitations on the public disclosure of such donations in cases where transparency is ensured through the donor’s own public reporting mechanisms, in accordance with the principle of proportionality and in order to avoid duplication of reporting obligations.

Article 6 “*Forms of Donations and Sponsorships*”, paragraph 1, provides that “*financial donations and sponsorships shall be carried out through the banking system.*” This wording is restrictive for nonprofit organisations (should they remain within the scope of the law) that do not have easy access to, or geographic proximity to banking institutions and should therefore be reconsidered. Sponsorship for the nonprofit sector should not be limited exclusively to transactions conducted through the banking system but may also be carried out through other payment or transfer channels, provided that clear identification of the donor or sponsor and the beneficiary is ensured, as well as the traceability and proper documentation of the transaction.

Furthermore, there is an inconsistency within Article 6 between paragraphs 2 and 3. Paragraph 2 stipulates that “*donations and sponsorships in movable or immovable property, goods, infrastructure support, and the provision of services shall be calculated at their market value at the time the donation is made or at the time the sponsorship agreement is concluded,*” whereas paragraph 3 stipulates that “*donations in the form of technical or professional expertise shall not be converted into a financial value.*” As currently formulated, these two provisions are not fully coherent, since paragraph 2 expressly provides for the financial valuation of services, while paragraph 3 categorically excludes technical or professional expertise, which constitutes a form of service. Also, Paragraph 3 of Article 6 should also be reviewed. The exclusion of donations provided in the form of technical or professional expertise from financial valuation, in a context where the law requires the registration of donations exceeding the threshold of ALL 500,000, undermines transparency and accountability. As a result, donations consisting of professional expertise would not be subject to registration under any circumstances, regardless of their actual value.

Article 7 “*Restrictions on Donors and Sponsors*”, paragraph 1, provides for a general prohibition on acting as a donor or sponsor for natural or legal persons convicted of criminal offences related to corruption, money laundering, terrorist financing, and other similar offences. This prohibition is also extended to cases where the convicted person is a shareholder, partner, or administrator of a legal entity. Although this provision seeks to address significant risks related to integrity and corruption, it requires revision in light of the nature of donations and sponsorships. In particular, it should expressly specify that persons who have been convicted by a final court decision of criminal offences related to corruption, money laundering, terrorist financing, tax evasion, organised crime, or misappropriation of public funds,

and who have not been legally rehabilitated in accordance with the Criminal Code, are not permitted to act as donors or sponsors under this draft law.

Albanian right recognises the institution of rehabilitation, whether automatic or judicial, and following rehabilitation a person is legally considered not to have been convicted, except in cases where the law expressly provides otherwise. Accordingly, any provision of the draft law that restricts donations or sponsorships by persons convicted of corruption, money laundering, or tax evasion must clearly specify whether it applies only to non-rehabilitated convictions or also extends beyond rehabilitation. In the absence of a clear and explicit legal provision to the contrary, such restrictions risk undermining the legal effect and purpose of rehabilitation and amount to a sanction exceeding the penalty imposed by the court, without regard to the seriousness of the offence, the passage of time, or the individual's subsequent lawful conduct. While longer-term restrictions may be justified in cases involving serious financial crimes, rehabilitation remains legally relevant unless it is expressly excluded by the Constitution or by a specific law. Any derogation from this principle must be clearly defined, limited in scope, and constitutionally justified. Legislative silence is not sufficient.

In the absence of a clear and explicit legal provision to the contrary, such restrictions risk undermining the legal effect and purpose of rehabilitation and amount to a sanction exceeding the penalty imposed by the court, without regard to the seriousness of the offence, the passage of time, or the individual's subsequent lawful conduct. While longer-term restrictions may be justified in cases involving serious financial crimes, rehabilitation remains legally relevant unless it is expressly excluded by the Constitution or by a specific law. Any derogation from this principle must be clearly defined, limited in scope, and constitutionally justified. Legislative silence is not sufficient.

Article 9 *"Documents Required under the Law"*, paragraph 1, states that *"prior to the conclusion of the sponsorship agreement, the sponsor submits to the beneficiary of the sponsorship documentation demonstrating that it meets the criteria for acting as a sponsor."* The term "criteria" is unclear, as the draft law does not define the criteria for eligibility to act as a sponsor. It is therefore recommended that the provision be expressly reformulated as follows: *"Prior to the conclusion of the sponsorship agreement, the sponsor submits to the beneficiary of the sponsorship the following documentation"*.

Article 9, paragraph 2, sets out an extensive list of documents to be submitted either in original form or as duly certified copies. In its current formulation, these requirements impose a disproportionate administrative burden and are more akin to a control regime characteristic of public procurement than to the voluntary nature of sponsorship. Of particular concern is the extension of criminal background checks and self-declarations to shareholders or partners of a legal entity who are not contractual parties and do not necessarily exercise powers of representation, management, or control over the sponsorship arrangement. Furthermore, open-ended wording such as *"any other document deemed necessary"* increases the risk of arbitrary application. In this context, it is recommended that documentary requirements be reviewed and streamlined through a differentiated approach based on the level of sponsorship, in line with European practices that apply a tiered regulatory approach. Such practices are grounded in the principles of proportionality and risk assessment, providing for minimal documentation requirements for sponsorships with limited impact and exposure, and more detailed requirements only where the level of sponsorship and the associated risks are higher. With respect to low-value sponsorships, which in European practice are typically defined as amounts up to EUR 3,000, documentary requirements should be proportionate and limited to those elements necessary to establish the identity of the parties

and the legality of the transaction. This approach aligns with practices in Belgium, the Netherlands, and Switzerland, where enhanced verification is not required for sponsorships or donations of limited value. The required documentation should therefore be limited to the sponsorship agreement, proof of identity of the legal representative, and a self-declaration regarding the fulfilment of tax obligations. In the case of medium-value sponsorships, generally defined in European practice as ranging between EUR 10,000 and EUR 20,000, additional documentation may be required on a limited and clearly circumscribed basis, primarily for the purpose of verifying the sponsor's tax status. This approach aligns with practices in Germany, Italy, and France, where enhanced criminal background checks are not applied even for sponsorships of significant value, and where the principal requirements relate instead to payment traceability, contractual arrangements, and compliance with tax obligations. Only in cases of high-value sponsorships, exceeding the thresholds referred to above, should more comprehensive documentation be required, including a criminal record certificate for the legal representative and official documentation concerning the sponsor's financial situation. This approach is consistent with the principle that the intensity of controls should be proportionate to the level of risk and the value of the sponsorship. It also reflects practices applied in France, Spain, and Finland, where enhanced verification and expanded documentation requirements are activated only for high-value sponsorships or for multi-year arrangements that entail greater financial or reputational exposure.

Article 10 "*National Electronic Register of Donations and Sponsorships*", paragraph 2, provides that the data contained in the Register are not accessible to the public when the beneficiaries of sponsorships are nonprofit organisations, sports organisations, sports companies, commercial entities, or individuals. This provision, in itself, confirms that the legislator recognises the existence of differentiated transparency regimes for certain categories of beneficiaries. In this context, given that sponsorships received by nonprofit organisations are already subject to specific regulation under the tax framework and anti-money laundering and counter-terrorist financing (AML/CFT) mechanisms, it is recommended that sponsorships involving nonprofit organisations be excluded from the scope of this law and from the National Electronic Register of Donations and Sponsorships. Their inclusion creates regulatory overlap and risks imposing unnecessary administrative requirements, without materially enhancing transparency or the protection of the public interest, as further argued above in this document.

Article 13 "*Avoidance of Conflicts of Interest*" provides excessive and disproportionate provisions, applied across all organisational levels, which go beyond what is genuinely necessary to address conflicts of interest. Given that donations and sponsorships are permitted only after passing public interest filters and in the absence of incentive mechanisms, these provisions create overlap with existing legislation and impose unnecessary regulatory burdens. For this reason, it is recommended to simplify the provision, focusing on the core principles and referring to the applicable general legislation in force.

Article 14 "*Tax Incentives*" and Article 15 "*Tax Incentives in the Fields of Art, Sport and Culture*" should not fall within the scope of this law. Notwithstanding this position, and in line with the recommendation to remove Articles 14 and 15 from the Draft Law, we assess that they raise a number of substantive concerns, as set out below:

Article 14 "*Tax Incentives*", paragraph 1, point (a), provides that for entities, whether natural or legal persons, subject to corporate income tax under Law No. 29/2023 "On Income Tax", amended, the sponsored amount shall be recognised as a deductible expense **of no less than three (3) per cent of the corporate income tax**. Meanwhile, Article 50, point (p), sub-paragraph (iv), of Law No. 29/2023 "On

Income Tax”, as amended, provides that the deduction limit for sponsorships **is up to three (3) per cent of profit before tax**. This formulation is conceptually flawed and creates uncertainty in implementation, as it departs from the basic structure of the tax deduction scheme. For this reason, it is recommended that Article 14 be fully harmonised with Law No. 29/2023 “On Income Tax”, as amended, by applying the same calculation base and avoiding any wording that alters or distorts the substance of the tax incentive provided for under the legislation in force. The wording “**no less than three per cent of corporate income tax**” transforms the deduction limit from a maximum threshold, as provided under Law No. 29/2023 “On Income Tax”, into a minimum threshold, leading to unreasonable consequences in practice. As a result, sponsorships below this threshold would not be recognised as deductible expenses, thereby indirectly creating the presumption that entities providing sponsorships of lower value do not benefit from tax incentives.

Article 14, paragraph 2, provides that the sponsor must submit a copy of the sponsorship agreement, a report on the use of the sponsorship, and other supporting documents to the tax authorities. The broad reference to “*other supporting documents in accordance with the requirements of the tax legislation in force,*” without minimum specification as to their nature, purpose, or limits, creates legal uncertainty for sponsors and allows for discretionary additional requests by the tax administration. Given that the sponsorship agreement and the related financial documentation already constitute the evidentiary basis for tax verification, this open-ended formulation risks imposing an unnecessary administrative burden on sponsors and may discourage sponsorship activity, particularly in the nonprofit sector, where sponsorship amounts are generally modest.

Article 15 of the draft law introduces a fiscal mechanism that differs from that provided under Law No. 29/2023 “On Income Tax”, as amended. Specifically, paragraph 1 of the article stipulates that “*sponsors of public activities in the fields of art, culture and sport, who are subject to corporate income tax under Law No. 29/2023 ‘On Income Tax’, amended, may deduct the sponsored amount up to 30% (thirty per cent) of the corporate income tax of the preceding fiscal year.*”. Article 50, point (p), sub-paragraph (ii), of Law No. 29/2023 “On Income Tax”, amended, stipulates that “*the following expenses are non-deductible when they exceed 5 per cent of the tax for sporting activities. Sponsored amounts within the above limit for the activities of sports teams that are part of sports organisations, sports federations, Olympic committees, as well as high-level athletes who have obtained merit-based titles in sport recognised under the legislation in force, are deductible for the purposes of calculating corporate income tax in an amount equal to three times the value of the sponsored amount. This provision applies only to sponsoring entities that realise taxable profits exceeding ALL 100 million.*” In this case, two distinct fiscal mechanisms coexist: one provides for a direct deduction from the corporate income tax liability (Article 15 of the Draft Law), while the other treats sponsorships as deductible expenses or as a tripled deduction from the tax base (Law No. 29/2023 “On Income Tax”, as amended), thus operating at different stages of tax calculation. These two mechanisms intervene at different phases of the tax computation process and produce different fiscal effects. The draft law does not clarify the relationship between these mechanisms, nor does it specify whether they are intended to apply alternatively, cumulatively, or in parallel. This lack of clarity creates uncertainty in the calculation of tax liabilities and entails a risk of normative overlap and unequal application.

Article 15 “*Tax Incentives in the Fields of Art, Sport and Culture*”, paragraph 4, stipulates that “*income derived from sponsorship constitutes non-taxable income for the beneficiary of the sponsorship.*” The

accompanying explanatory document expressly clarifies that this tax exemption applies to all sponsorships, irrespective of their field, form, or purpose. However, this clarification is not explicitly reflected in the text of the draft law, which limits the application of this tax exemption to the fields of art, sport, and culture only. This inconsistency between the draft law and the principle articulated in the accompanying explanatory document creates an unjustified differentiation between sponsorship fields and results in normative ambiguity.

Article 15, paragraph 6, stipulates that “*the sponsor submits to the tax authorities a copy of the sponsorship agreement, transfer payment orders, as well as other supporting documents in accordance with the requirements of the tax legislation in force*”. In our assessment, this provision constitutes overregulation, as the obligation to submit transfer payment orders goes beyond what is necessary for tax verification and effectively assigns to the tax authorities control and document-retention functions that exceed their statutory competences. These matters are already adequately addressed through the existing mechanisms for tax declaration and tax audit under the current tax framework.

Article 18 “*Public Interest in the Fields of Art, Sport and Culture*”, paragraph 1, provides that, prior to the conclusion of a sponsorship agreement, the competent ministry, at the request of the beneficiary, issues a certificate confirming that the sponsorship constitutes a public interest. This provision raises concerns with regard to the principles of independence and proportionality, as it imposes a mandatory procedural requirement for all sponsorships, regardless of their value, thereby creating unnecessary administrative barriers, particularly for small-scale sponsorships involving nonprofit organisations. Moreover, the issuance of such a certificate constitutes an excessive procedural step and creates space for an unfair competition between the state and the nonprofit sector in accessing sponsorships. While such a mechanism may be justified for high-value sponsorships, it is not appropriate for low-value ones. For this reason, it is considered necessary to establish a clear threshold above which the issuance of such a certificate would be required, as well as to expressly provide for the right to appeal against the ministry’s decision, in the interests of reasonableness, proportionality, and legal certainty, a right that is currently absent from this draft law.

Article 19 “*Reporting on the Implementation of Sponsorship*” provides for the preparation of a joint report by the sponsor and the beneficiary of the sponsorship. However, the requirement to submit such a report, in addition to the sponsorship agreement, is not clearly justified in the accompanying explanatory document in terms of its function or added value, given that the sponsorship agreement already constitutes the primary legal and evidentiary document governing the sponsorship relationship. Furthermore, the obligation to submit this report to two different institutions, the tax authorities and the competent ministry (in the case of individuals representing the Republic of Albania in international activities in the fields of art, sport, and culture), creates procedural overlap, duplicate reporting, and an unnecessary administrative burden for the parties. This occurs in the absence of a clear delineation of institutional competences or of the intended purpose of the report, thereby undermining the principle of proportionality and unjustifiably complicating the sponsorship process.

Article 20 “*Restrictions on Public Bodies*”, paragraph 2, stipulates that “*public bodies shall not directly or indirectly influence the collection of donations aimed at supporting direct services provided by the state free of charge*”. This wording is vague and declaratory in nature and lacks sufficient legal clarity and therefore requires revision.

Article 21 “*Access to Information*”, paragraph 1, stipulates that “*the sponsorship agreement constitutes public information within the meaning of Law No. 119/2014 ‘On the Right to Information’, as amended*”. However, as argued above, organisations operating in the nonprofit sector are not subjects of this law. Consequently, sponsorship agreements in which the beneficiary is a nonprofit organisation (should such organisations remain within the scope of this law) cannot be considered public information within the meaning of the legislation on the right to information. This creates normative ambiguity and entails a risk of incorrect application of the provision.

Article 23 “*Open Call for Sponsorships*” provides that an open call for sponsorship shall be accompanied by the criteria taken into account by the public body in the selection process, with reference to the rules of this law. However, given that this provision essentially regulates elements of competition and selection, it is necessary that the relevant criteria be clearly and expressly defined in the law itself and in the corresponding secondary legislation, in order to ensure transparency, equal treatment, and the avoidance of any unjustified discretion in the sponsorship process.

Paragraph 3 of this Article, which stipulates that “*the open call for sponsorship shall be accompanied by the criteria that the public body takes into account in the selection of the sponsored entities*”, appears to contain a terminological error. Logically, and in line with the purpose of the provision, the reference should be to “sponsors” rather than to “sponsored entities”.

Article 24 “*Donations to Public Bodies*”, paragraphs 6 and 7, provide that, prior to accepting a donation from an individual or a foreign legal person, the public body shall notify its superior authority and, during the process of acceptance and conclusion of the agreement, shall take all necessary measures to ensure national security, independence and impartiality in decision-making, as well as institutional integrity. However, these provisions remain insufficiently clear, as they do not specify the concrete criteria on the basis of which foreign donations are to be assessed with regard to the protection of national security. By contrast, for donations originating from domestic sources, the law expressly provides for verification mechanisms and identifies the responsible authorities. The absence of defined criteria and procedures for foreign donations creates legal uncertainty and leaves room for discretionary interpretation. Accordingly, greater clarity and specificity are required in this regard.

Article 27 “*Administrative Sanctions*”, paragraph 3, provides that the acceptance of unlawful sponsorships constitutes an administrative offence and is punishable by a fine ranging from ALL 200,000 to ALL 300,000, irrespective of the value of the sponsorship. This provision raises serious concerns with regard to the principle of proportionality, as it imposes a fixed and relatively high sanction without taking into account the nature of the violation, its specific degree of risk, or the value of the sponsorship received. According to the principles of the Constitution of the Republic of Albania, administrative punitive measures must be appropriate, necessary, and reasonable in relation to the objective pursued. The imposition of identical sanctions for violations of differing gravity and impact risks producing measures that are more severe than required to achieve the legislative objective, thereby resulting in unjustified penalties for formal or low-impact infringements. Furthermore, the absence of a clear link between the amount of the fine and the value of the sponsorship or the financial impact of the violation undermines the requirement of legal clarity and foreseeability, exposing subjects to potentially arbitrary sanctions. In this context, it is considered necessary that the system of sanctions be differentiated according to the seriousness of the violation and reflect a fair relationship between the punitive measure and the actual consequences of the unlawful conduct.

Article 30 “*Transitional Provisions*” provides that sponsorship agreements and procedures initiated for tax incentives prior to the entry into force of this law shall be governed by the law in force at the time the sponsorship agreement was signed. However, this provision falls outside the scope of the draft Law “On Donations and Sponsorships”, which does not aim to regulate the general regime of tax incentives and provides only for two limited fiscal elements, that are already governed by the income tax legislation.

Consequently, any reference to the transitional treatment of tax incentives should be expressly and exclusively linked to the applicable tax framework, in the interest of normative coherence and legal certainty.