

Law on local finances and the current legislation context

Support document to focus group discussion on Local finance law/ draft as of 1 February 2016 by Ornela Shapo

The law on “Local Self Governance” approved in December 2015 expressly foresees on the article no. 34, point 6 that:

“Each local self-government shall prepare, adopt, carry out, and administer a budget each year that does not include a deficit in compliance with applicable legislation that regulates the administration and implementation of budgetary system and with the law on local finances”.

There for the implicit fact that the policy maker has decided to develop and take clear reference on the law on “Local Finances”.

I. List of legal acts on local finances

The discussion on Local governance finance legislation might take into consideration the current regulations that have an impact on local governances. Below a list of legislation that needs to be taken into consideration when a law on local governance finance is going to be designed.

1. Law on Local Governance / No. 30/2015 (available in English & [Albanian](#) / attached for e-copy)
2. Law on Budget System Management / No. 9936, date 26.06.2008 (available in English & [Albanian](#) / attached for e-copy and click on the subject for e-links version)
3. Law on Local Government Borrowing / No. 9869, date 4.02.2008 (available in [English](#) & [Albanian](#) / click on the subject for e-links version)
4. Law on Local Taxes and Fees / No. 8982, dated 12.12.2002 (available in [English](#) & [Albanian](#) / click on the subject for e-copy)
5. Law on tax procedures / No. 9920, dated 19.05.2008 (available in [English](#) & Albanian / click for e-copy)
6. Law on public procurement / No. 9643 dated 20.11.2006 (available in [English](#) & [Albanian](#) / click for e-copy)
7. The code on “Administrative procedures” / No. 8485, date 12.5.1999 / revised 2014 (available in [Albanian](#) & [English](#) / click for e-copy)
8. Law on Concessions and Public Private Partnership / No. 125/2013 (available in [English](#) & [Albanian](#) / click for e-copy)
9. Law on Inspection of Public Finances / No. 112/2015 (available in [Albanian](#))
10. Law on financial management and controlling / No. 10 296, date 8.7.2010 (amended by law no. 110/2015, date 23.10.2015) (available in [Albanian](#))
11. Annual budget law (subject of approval every budget year)
12. Ministry of Finance Budget Implementation Instructions (subject of revision and approval every budget year)

II. Law on local finances & the legal context to date

A. Local Revenues:

Model based on best experiences	Current legislation in Albania	
<ul style="list-style-type: none"> Definitions Examples: clarification of the following terms: taxes, fees, charges, (tariffs), ... 	<ul style="list-style-type: none"> Law on local governance Law on local taxes and fees Law on management of the budget system 	<ul style="list-style-type: none"> Need for clarification and not overlapping
<ul style="list-style-type: none"> Principles for the allocation of revenue sources, such as finance follows function, financial autonomy, stability and buoyancy of local revenues, incentives for a smart local fiscal policy-making, etc. 	<ul style="list-style-type: none"> None of the existing legislation is specifically defining this concept 	<ul style="list-style-type: none"> Need for clear definition
<ul style="list-style-type: none"> Local taxes: own taxes and shared taxes 	<ul style="list-style-type: none"> Law on local governance Law on local taxes and fees 	<ul style="list-style-type: none"> Need to clearly define shared taxes
<ul style="list-style-type: none"> Local fees 	<ul style="list-style-type: none"> Law on local governance Law on local taxes and fees 	<ul style="list-style-type: none"> Probably the time to use the international experience with regard fees and different categories
<ul style="list-style-type: none"> Grants: non-earmarked and earmarked 	<ul style="list-style-type: none"> Law on Local governance Law on budget system management 	<ul style="list-style-type: none"> Need to define by law the formula of grants Intergovernmental relations All kind of grants applied and in which bases
<ul style="list-style-type: none"> (limited) discretion to set tax rate and fees 	<ul style="list-style-type: none"> Not expressly mentioned like this in the current legislation Experience has shown that there is no discretion on tax rate but free on fees 	<ul style="list-style-type: none"> Need to reflect this principle in the new law of local finances

B. Management of Local Finances

Model based on good experiences	Current legislation in Albania	
<ul style="list-style-type: none"> Principles, such as lawfulness for revenue collection and expenditure, fiscal balance between revenue and expenditure, economy principle, effectiveness, polluter pays principle, compensation in case of particular economic benefits, PFM transparency 	<ul style="list-style-type: none"> Law on management of the budget system Law on local governance 	<ul style="list-style-type: none"> Need for clarification and not overlapping
<ul style="list-style-type: none"> Instruments for the management of public finances: SDP, MTBP, annual budget, annual action plan, annual financial and policy report; for each PFM instrument: competences, content and elements, formal requirements, deadlines 	<ul style="list-style-type: none"> Law on budget system management 	<ul style="list-style-type: none"> Clarification and not overlapping
<ul style="list-style-type: none"> Budget classification (institutional, functional, economic, programme) 	<ul style="list-style-type: none"> Law on budget system management 	<ul style="list-style-type: none"> Need to design template documents for Municipalities
<ul style="list-style-type: none"> Budget rules: binding character of the budget, supplementary credits, procedures in case of delayed approval of the budget 	<ul style="list-style-type: none"> Law on budget system management 	<ul style="list-style-type: none"> Clarification with regard borrowing procedures and right of approval Intergovernmental relations to be clarified
<ul style="list-style-type: none"> Budget calendar including budget in-year and end of year report 	<ul style="list-style-type: none"> Law on budget system management 	<ul style="list-style-type: none"> Need to harmonise calendars at CG and LG levels
<ul style="list-style-type: none"> Improved templates for annual budget, annual financial report, balance sheet (specifying structure and minimum content including annexes) 	<ul style="list-style-type: none"> Law on annual budget Law on budget system management 	<ul style="list-style-type: none"> GFS templates to be tailored for Albanian municipalities
<ul style="list-style-type: none"> Payment procedures via single treasury account 	<ul style="list-style-type: none"> Law on budget system management 	<ul style="list-style-type: none"> Harmonisation of loan procedures

		with specific donors (EBRD; KFW etc) using TSA
<ul style="list-style-type: none"> Accounting system and principles: type of accounting system, gross principle, time of recording flows (commitment and payment), valuation rules for stocks and flows, ... 	<ul style="list-style-type: none"> Law on budget system management 	<ul style="list-style-type: none">
<ul style="list-style-type: none"> Consolidation requirements and procedures 	<ul style="list-style-type: none"> Law on budget system management 	<ul style="list-style-type: none">
<ul style="list-style-type: none"> Financial control instruments: ceilings, financial key figures 	<ul style="list-style-type: none"> Law on public finance inspection Law on internal control and audit Law on budget system management Law on LG 	<ul style="list-style-type: none">
<ul style="list-style-type: none"> Financial control procedures and competences: ex ante budget control, in-year control, end of year control; role of internal control and audit, external audit, financial commission, council, oversight by MoF, financial inspection 	<ul style="list-style-type: none"> Law on public finance inspection Law on internal control and audit Law on budget system management 	<ul style="list-style-type: none">
<ul style="list-style-type: none"> Monitoring of strategy and MTBP implementation (competences, procedures) 	<ul style="list-style-type: none"> Law on budget system management Law on LG 	<ul style="list-style-type: none"> Need for further clarification
<ul style="list-style-type: none"> Sanctions in case of non-compliance 	<ul style="list-style-type: none"> Law on budget system management Law on public finance inspection 	<ul style="list-style-type: none">