

NewsLetter 20 Years



THE OFFICIAL NEWSLETTER OF THE AMERICAN CHAMBER OF COMMERCE IN ALBANIA

ECONOMIC OPINION

Subsequent events

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If the widespread impact of COVID-19 began during the entity's reporting period, the impact will be reflected in its financial statements for that period. However, to the extent that the widespread impact of COVID-19 occurred during the entity's "subsequent events period" (ie the period between the end of the reporting period and the date when the financial statements are authorised for issue), management must determine how the developments subsequent to the year-end should be reflected in the entity's financial statements for the period under audit or review.

In accordance with IAS 10 'Events after the Reporting Period', entities are required to distinguish between subsequent events that are adjusting (i.e. those that provide further evidence of conditions that existed at the balance sheet date) and non-adjusting (i.e. those that are indicative of conditions that arose after the balance sheet date). Entities are required to adjust the amounts recognised in their financial statements to reflect any adjusting events that occur during the subsequent events period.

IS THE IMPACT OF COVID-19 AN ADJUSTING EVENT FOR REPORTING PERIODS ENDED 31 DECEMBER 2019 (OR PRIOR)?

In our view, the impact of COVID-19 is generally a non-adjusting subsequent event for reporting periods ended on or before 31 December 2019. Consequently, there would be no impact on the recognition and measurement of assets and liabilities in an entity's financial statements. Although cases of the virus in Wuhan City, China were reported to the World Health Organisation (WHO) on 31 December 2019, there was little confirmed evidence of human-to-human transmission

at that time and the WHO did not declare the outbreak to be a public health emergency of international concern until 31 January 2020.

As such, it is presumed that the significant development and spread of the COVID-19 did not take place until January 2020. Financial statements for an entity with a reporting period ending on or before 31 December 2019 should only reflect the conditions that existed at 31 December 2019 and must therefore exclude the significant effects of the COVID-19 outbreak...

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Welcomes
New Members

VEGA means strong will, energy, warranty and achievement

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Welcomes
New Members

"Souvenir Albania" 13 years of operating in the Albanian market,

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WHAT DISQUALIFIES BUSINESSES FROM sovereign guarantee loans

The Sovereign Guarantee II loan program has now received the official approval stamp, and 15 billion leks (roughly \$140 million) have already been distributed to commercial banks to support businesses with the necessary funds for working capital and investment to support the recovery of trade activities that have been affected by the situation created by the COVID-19 pandemic. The first financial package, introduced on March 19, provided for a \$100 million sovereign guarantee for businesses facing difficulties so they could obtain loans from banks to pay employee salaries, with the government also taking responsibility for paying the interest.

The purpose of the guarantee scheme is to stimulate lending by commercial banks operating in the Republic of Albania, to enable business owners or companies to get the necessary funding to keep afloat commercial activities that were directly or indirectly affected by government legal acts and regulations in the context of managing the situation created by COVID-19.

However, not every business affected by the COVID-19 pandemic will be able to benefit from these loans. Banks were clear from the start of their agreement with the state that there would not be risky loans to businesses that have a troubled past in their credit files. Banks have two criteria for lending: first, businesses should not be on the list of bad loans, and, second, that beneficiary businesses must not have unpaid dues to the tax authorities. Another key condition is that the loans would only be used to pay employee



WHAT IS THE SOVEREIGN LOAN

- » The government guarantees 60 percent of the principal of each loan that the banks will provide to the business, according to the best international experiences.
- » Provides funding opportunities with a repayment term of up to 5 years.
- » Offers the ability not to repay principal for a period of no less than 6 months.

WHAT IS THE SELECTION CRITERIA

- » The business must not be in the bad credit list.
- » The company must not owe money to tax authorities.
- » The loan can only be used to pay employee salaries.

THE PROVISION OF CREDIT AMONG COMMERCIAL BANKS

Raiffeisen Bank sh.a. Albania, up to the amount of 2,600,000,000 leks;
Banka Tirana sh.a. up to the amount of 850,000,000 leks;
Union Bank sh.a. up to the amount of 800,000,000 leks;
Intesa Sanpaolo Albania Bank sh.a. up to the amount of 1,200,000,000 leks;
National Commercial Bank (Banka Kombëtare Tregtare sh.a.) up to the amount of 2,550,000,000 leks;
OTP Albania Bank sh.a. up to the amount of 1,450,000,000 leks;
Procredit Bank sh.a. up to the amount of 600,000,000 leks;
Alpha Albania Bank sh.a. up to the amount of 950,000,000 leks;
American Bank of Investments sh.a. up to the amount of 650,000,000 leks;
Credins Bank sh.a. up to the amount of 2,800,000,000 leks;
United Bank of Albania sh.a. up to the amount of 150,000,000 leks;
First Investment Bank, Albania sh.a. up to the value of 400,000,000 leks.

salaries.

“Sovereign Guarantee II provides funding opportunities for all companies affected by the pandemic situation and which have a positive credit history,” Finance Minister Anila Denaj said, reaffirming the banks’ decision not to provide loans to businesses that have a high risk of default.

Moreover, Central Bank of Albania Governor Gent Sejko shared during a public appearance an almost identical position with the head of the association of banks. Governor Sejko clarified that the granting of these loans requires a careful analysis, emphasizing that not all customers can benefit 100 percent from this guarantee.



LEGAL ACTS

Additions and amendments regarding the procedures, documentation and the amount of financial assistance for current employees and for dismissed employees due to Covid-19

PREPARED BY DELOITTE
ALBANIA

The Decision of the Council of Ministers (DCM) no. 423, dated 28.05.2020, published in the Official Gazette no. 97, brings some additions and amendments to the DCM no. 305, dated 16.04.2020 “On determining the procedures, documentation and the amount of financial assistance for current employees and dismissed employees due to Covid-19”. Please refer to Notification no. 33 published earlier by Deloitte Albania on the DCM no. 305, dated 16.04.2020.

The amending DCM foresees the provision of the financial assistance in the amount of 40,000 Lekë, among others, to former employees in entities that have been allowed to carry out activities or have been closed according to the orders of the Minister of Health and Social Protection, who have been dismissed from 01.03.2020 to 17.05.2020 (previously, the deadline for dismissed employees was until 10.04.2020).

In cases where entities do not apply for financial assistance for their employees or former employees, the financial assistance will be provided upon approval by the tax administration based on the data held by the latter and on the data employees or former employees shall submit. The following data:

Data of the entity (employer);

Identifying data of the beneficiary (individual);

Bank and bank account number of the beneficiary (individual),

must be submitted within 05.06.2020.

For the current or former employees that benefit the financial assistance based on this decision, the simultaneous benefit from other governmental packages such as the economic assistance or the unemployment income is not allowed.

The nominal list of beneficiary individuals for the Financial Package 2 and the list of NUIS of the respective entities (employers) have been published in the official website of the General Tax Directorate.

The above legal provisions are effective immediately starting on 29.05.2020



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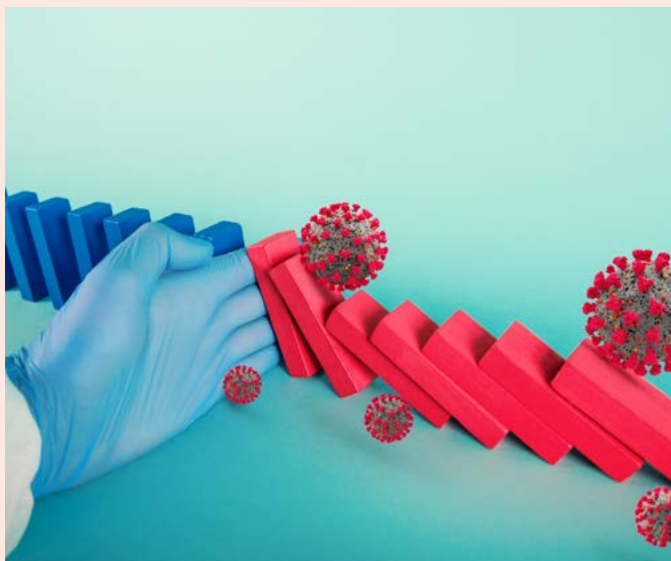
...However, entities will need to determine whether they should make additional disclosures to describe the impacts of the outbreak in the subsequent event period. Generally, disclosure should be made of those events during the subsequent events period that do not relate to conditions that existed at the date of the financial statements but cause significant changes to assets or liabilities in the subsequent period and either will,

or may, have a significant effect on the future operations of the entity. For material non-adjusting events, an entity must disclose (a) a description of the nature of the event; and (b) an estimate of the financial effect, or a statement that such an estimate cannot be made. Furthermore, the entity should be taking into account their assessment of going concern and adjust the financial statements as appropriate.

EXAMPLES OF NON-ADJUSTING EVENTS THAT WOULD GENERALLY RESULT IN DISCLOSURE INCLUDE:

- » management's plans to deal with the effects of the COVID-19 outbreak and whether there is material uncertainty over the entity's ability to continue as a going concern
- » breaches of covenants, waivers or modifications of contractual terms in lending arrangements
- » supply chain disruptions
- » the assessment of certain purchase or sale agreements as onerous contracts
- » announcing a plan to discontinue an operation
- » announcing, or commencing the implementation of, a major restructuring or downsizing (temporarily or permanently)
- » declines in the fair value of investments held after the reporting period (e.g., pension plan investments)
- » abnormally large changes in asset

Subsequent events



prices or foreign exchange rates, and entering into significant commitments or contingencies, such as issuing significant guarantees to related parties.

WHAT IS THE IMPACT OF COVID-19 ON FINANCIAL STATEMENTS FOR REPORTING PERIODS ENDING AFTER 31 DECEMBER 2019?

Since late January 2020, the number of COVID-19 cases and countries affected outside of China has grown rapidly, and on 11 March 2020, the WHO declared COVID-19 to be a global pandemic. During this period, national governments

and various private sector organisations have taken significant measures to contain the virus, including quarantines and school, store, plant and border closures. Consequences of the outbreak have also contributed to significant volatility in global stock markets since late February 2020.

In our view, for reporting periods subsequent to 31 December 2019 (ie reporting periods ending in 2020), more information was available that preparers and market participants will need to factor into their assumptions and assessments. Accordingly, the later the reporting period is after 31 December

2019, the greater the need to consider whether the impacts of COVID-19 in the subsequent events period should be considered an adjusting event in an entity's financial statements.

For periods ending after 31 December 2019, entities will need to use their judgement to determine the impact of COVID-19. They need to carefully consider the conditions that were present at the reporting date. This may not necessarily result in entities reaching the same conclusion for the same reporting date. Management should consider the specific circumstances that relate to the entity's operations and the relevant events that existed in their jurisdiction at that time. For example, some countries have been put on lockdown and people have been told not to leave their homes and some countries have not. If, for example, the entity is in the hospitality industry, this could have a major impact.

Where this judgement has a significant impact on the amounts in the financial statements, it should be disclosed in accordance with IAS 1.

When it is determined that COVID-19 was an event that existed and caused an impact to operations at or before the reporting date, events subsequent to the reporting date should be accounted for as adjusting events.

GOING CONCERN

Assessing an entity's ability to continue as a going concern IAS 1 contains guidance related to the going concern assumption and outlines when financial statements are prepared on the assumption the entity will continue as a going concern. IAS 1 explicitly states that at each reporting date, management is required to assess the entity's ability to continue as a going concern and consider all available information about the future, which is at least, but is not limited to, twelve months from the annual reporting date. Management should consider a wide range of factors, such as: current and expected profitability, debt repayment schedules and potential sources of replacement financing and the ability to continue providing services. If management concludes that the entity may be liquidated (either by choice or because it has no realistic alternative but to do so), the going concern assumption would not be appropriate and the financial statements may have to be prepared on another basis, such as a liquidation basis. If there is material uncertainty about the entity's ability to continue as a going concern, the entity should include going concern disclosure in the notes to its financial statements.

Because the assessment regarding an entity's ability to continue as a going concern covers the period no less than twelve months from the annual reporting date, all events that occur during an entity's subsequent events period should be considered when evaluating whether there is significant doubt about the entity's ability to continue as a going concern.

In other words, even if events during the subsequent events period are not considered adjusting subsequent events, they should still be incorporated into the going concern assessment. Furthermore, events or conditions that cast significant doubt on an entity's ability to continue as a going concern should be disclosed if there are material uncertainties or if a significant amount of judgment is involved in reaching the conclusion about whether the going concern assumption is appropriate. IFRIC agenda decisions from July 2010 and July 2014 should be taken into consideration here

CONCLUSION

It is important to remember that this situation is constantly moving. Assessments need to be kept up to date, for example, those carried out two weeks before the financial statements are due to be signed will likely be out of date two weeks later.

So it is crucial to ensure all judgements made are current and based on the information available at the latest date possible (ie the date the financial statements are authorised and approved).

We hope you have found the information in the series of articles useful. Now more than ever the need for clients and their auditor or advisor to work closely together is essential.



Kris Hasa

Associate Frost & Fire Consulting

The COVID-19 pandemic has changed the conditions in which businesses operate across the world, bringing about well-known consequences, the most important of which has been the suspension of economic activities. In a reality in which restaurants, shops, factories and many other activities were forced to shut down, the attention of all actors turned to a contractual provision that until now was commonly considered as something routine that only takes up space in documents -- the contract clauses that cover *force majeure*. Parties with mutual obligations were put on different sides of the trench, each trying to justify the fulfillment or not of the obligations, based on the force majeure clause.

But is the COVID-19 pandemic a force majeure event? Albanian legislation mentions force majeure several times, especially in the Civil Code, but it does not provide a definition for it. Unfortunately, judicial practice, in the absence of such events, offers no further solution than what is provided in the legislation. In addition, the Civil Code creates confusion between the concepts of *force majeure* (the consequences of which are inevitable even with the utmost care) and the *fated case* (which is theoretically avoidable with "average" care), which further complicates the classification of events that cause obstacles in the fulfillment of obligations.

Albanian legislation is not alone in failing to give a definition for this concept. International commercial legal acts also fail to do so. More specifically, the Convention on the International Sale of Goods (CISG) regulates situations in which fulfilling obligations is impossible through its Article 79, which does not explicitly mention force majeure. Despite this, it is already widely accepted that Article 79 of the CISG deals with this matter. This provision presents some cumulative elements of being in conditions of impossibility, which are: the existence of an obstacle outside

The COVID-19 pandemic as a force majeure event



the control of the party; that this obstacle has been unpredictable at the time of entering into the contract and that the obstacle is unavoidable. From the above, it is understood that force majeure is based on the presence of an obstacle. The occurrence of a pandemic such as COVID-19 cannot automatically constitute force majeure in any civil or commercial relationship. For example, Amazon, the online retail company, cannot claim COVID-19 as a force majeure to evade its obligations while sales on its platform have increased by more than 30 percent due to the pandemic. It is necessary to carefully consider how the pandemic has affected the relationship in question -- whether it has made it difficult or impossible to carry out the obligations. If there has been no insurmountable impact, the claim of force majeure would be meaningless.

If it is accepted that there is a force majeure in preventing the fulfillment of certain obligations, the next issue

would be to identify the consequences that this occurrence brings to the particular relationship. The effects may not be the same in all types of relationships. For example, the Civil Code's provisions are different from those in the Labor Code. The more specific a relationship is, the more specific the legal consequences of force majeure must be. On the other hand, if the contracts contain any clause on force majeure, it is necessary to analyze them in relation to the legal provisions, as not every provision that the parties may have made for the event of force majeure may be valid or applicable in the cases currently at hand.

Also, those relationships where obligations are periodic should be assessed specifically, as opposed to those relationships where obligations are settled immediately. At the same time, it should be noted whether the party's inability to pay for its obligation is temporary or permanent. This relative view exists

because mainly the provisions on the impossibility of repayment of obligations are located in the general part of the obligations in the Civil Code, while the part of special contracts does not always regulate such situations explicitly. The Civil Code, more than regulating specific issues, establishes principles, and consequently there is a need to do an analysis on a case by case basis.

When in a contract with mutual obligations, the execution of the obligation of one party has become impossible without the fault of either party, each of them has no right to demand from the other the execution of the obligation or compensation for damages, except when the law or contract specifically notes otherwise. Each of the parties has the right to request from the other party to return what has been given for the execution of the obligation (Article 488 of the Civil Code). This is the case when meeting the obligation has become completely impossible, and the purpose of this provision of the Civil Code is to return the parties to the previous state. On the other hand, Article 527 of the Civil Code stipulates that when the inability to execute the obligation is temporary, the debtor is not responsible for the delay in execution for the time it lasts. This is a different case as the execution of obligations has not become impossible permanently, but only temporarily. In this case, the legislation does not aim to terminate the relationship as in the case of Article 488, but only to adapt to the circumstances so that the obligations are settled as soon as possible. As can be understood from the above, the standard set by Albanian legislation is the impossibility of enforcing the obligation, and not simply facing difficulties in doing so. The party cannot be released from liability when the fulfillment of the obligation has become difficult, as long as it is still possible. However, the parties involved may have decided otherwise in their contract.

In conclusion, the issue of the impossibility of the execution of obligations due to a force majeure is still debatable not only in Albania, but everywhere in the world, even in countries with the most advanced legal traditions in this area of law. Since each relationship is unique in one detail or another, the impact that the pandemic has had on each relationship requires a careful consideration of the relevant facts and legislation. The situation created by COVID-19 should serve businesses, in Albania and beyond, to understand the importance of consulting with legal advisors before facing such situations -- in order to ensure that various contracts regulating their commercial activity optimally protect the respective interests.



Welcome



VEGA shpk was established on Aug. 19, 1999 as an active company in the area of civil construction, to be later expanded to the entire construction sector. Today, VEGA Construction Group is one of the leading companies in the sector of project management and construction services. Thanks to the experience gained over the years and continuous

investment in equipment, machinery, manpower, etc., VEGA Construction Group has expanded its activities in various sectors, including maritime, infrastructure, hydropower, civil and industrial construction, among others. VEGA's mission has not changed since its establishment. It is important for the company to combine integrity, tireless work and professionalism in order to create a better quality of life, not only targeting consumers but also employees and partners. These 19 years of experience have shown that what one could call a dream in the past are now projects being completed. The company's mission has been continuous investment in the construction industry and the production of building materials in the country, as well as investment in its team and partners. The company wants to make its modest contribution to increase Albania's exports and create one of the largest companies operating in the construction industry, with the aim of becoming well known in the Balkans region. The company's goal is not only to increase financial gains, but to better invest that income on the improvement of Albania's image. Participation in the completion of public investments financed by international organizations and the Albanian Government has made the company an active participant in the reconstruction and modernization of Albania's infrastructure.

VEGA MEANS **STRONG WILL, ENERGY, WARRANTY AND ACHIEVEMENT**

VEGA Group's projects and activities are supported by a very professional and experienced staff, part of which has accompanied the company since its inception. Later, with the expansion of the activity, the company added additional qualified personnel. International specialists have served as company executives at times, introducing new working methodologies and advanced knowledge to VEGA Group. The company can offer full support on any project -- not only for VEGA Group projects but also third-party projects.

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Welcome

SOUVENIR ALBANIA

Shkodra is one of the cities in Albania where the artisanal handicraft tradition lives on. A passion for handicrafts was one of the main reasons that prompted Ardit Bilani to establish his business, Souvenir Albania, in the northern metropolis in 2007.

The idea of a business that combines a family tradition and a passion for handicrafts is where the dream of Souvenir Albania started. The main goal was to bring back attention to the handicraft sector in a city like Shkodra, which has a long tradition in this area.

In its 13 years of operating in the Albanian market, Souvenir Albania has been distinguished for correctness, professional service, quality and a variety of products. That has led to a considerable interest for the company's products, which has expanded its activity across Albania.

The success of Souvenir Albania is tangible, and its handicraft products, through the company's head, Ardit Bilani, have been featured in more than 20 national and international fairs, including in Italy, Canada, Montenegro, among others, exchanging experiences with well-known businesses in the foreign markets in the souvenirs sector.

It is also worth mentioning the 2013 participation in the international handicraft fair, organized in Fortezza da Basso in Florence, one of the most important handicraft sector fairs for Albania in Italy, as well as the Milan fair. It was the first time that the fair dedicated a special space for Albania, through the Ministry of Tourism, creating the opportunity to present handicraft products such as souvenirs, silver works, wood, textiles and embroidery, ceramics and various other products. Souvenir Albania was part of it all. In Canada, the company was also part of the Toronto Gift Fair, an event organized in 2018.

Meanwhile, Souvenir Albania has not lacked in cooperation with various institutions, whether local or national, without forgetting its cooperation with associations or various private entities.

Souvenir Albania is a leader in the Albanian market and beyond. The peak of success is seen in the summer season, during which there is great interest in local products from foreign and domestic tourists. Meanwhile, in 2013, Souvenir Albania started importing and exporting souvenirs, dealing with many countries around the world and working together with prestigious companies in the United States, Canada, Turkey and China. Cooperation with these partners continues to this day -- a successful win-win relationship for both sides.



NEW START: AUSTRIAN AIRLINES TO RESUME FLIGHT OPERATIONS ON 15 JUNE

Austrian Airlines to resume regular flights after an interruption of close to 90 days



- Restart focuses on European destinations and Tel Aviv
- Steady ramp-up of the flight offering, about 40 destinations in the flight schedule by the end of June
- Austrian Airlines to resume Tirana - Vienna flight with 4 weekly frequency in June to further more in July .
- Over 2,000 weekly frequencies to connections to more than 130 destinations worldwide
- Lufthansa: 34 additional destinations from Munich, 20 more from Frankfurt in the flight program

Starting from June 15th, Lufthansa alone will be resuming around 20 German and European destinations from Frankfurt and as many as 34 from Munich, thus supplementing the airline's flight schedule, which has been growing steadily for a few weeks.



FINANCES CORRECT 4-MONTH FIGURES - CAPITAL REVENUES AND EXPENDITURES INCREASE

The Ministry of Finance has corrected the revenue figures during the period January-April 2020. In the latest publication of fiscal indicators, it is noted that total revenues have been reported with a slight increase of 180 million ALL, reaching the figure of about 133.2 billion ALL. What seems to have changed the figures in the budget are the income from aid, which in the indicators published in May resulted in 4 months in 1.5 billion ALL, while already recorded in about 1.7 billion ALL.



309 BUSINESSES HAVE BENEFITED FROM THE SOVEREIGN GUARANTEE, AHMETAJ: WB REPORT, WE ARE PREPARED, SOON WE PRESENT THE PLAN OF ECONOMIC RECOVERY

309 businesses have benefited from the sovereign guarantee with a value of almost 40 million

dollars from 628 thousand applications from the first instrument, while the application for the second instrument has also started. Minister of Reconstruction and Coordinator for the drafting of the National Recovery Plan Arben Ahmetaj in a press release also commented on the assessment of the World Bank, stating that the government is vigilant and is preparing a plan for economic recovery.



SEJKO AT THE 43RD MEETING OF THE GOVERNORS' CLUB: COVID-19, ECONOMIC ACTIVITY IS EXPECTED TO DECLINE, IS EXPECTED TO BE TEMPORARY

Due to the spread of Covid-19 pandemic during 2020, economic activity is expected to decline in Albania, which is expected to be transitional and then recover in the coming years, said the Governor of the Bank of Albania, Gent Sejko at the meeting of the 43rd of the Central Asian Governors' Club, the Black Sea Region and the Balkans.

COVID-19

COVID -19 RISKS RETURNING TO EDUCATION A DECADE LATER

The COVID crisis, among other things, has hit the education sector hard. Distance learning en masse threatens to degrade young people and lead them back years. The World Bank in a special analysis of the impact of education on the Covid crisis says that the skills of Albanian students are at risk of returning to the levels of 2012.



BROKERAGE AGENTS IN SECURITIES, AFM REGULATION CHANGES, HOW TO DEAL WITH CONTRACTS

Agents operating on behalf of brokerage firms will be recognized by the Financial Supervisory Authority as such as long as they have an active contract. The Board of the Supervisory Authority recently approved some changes to the regulation "On the activity of the agent of the brokerage

company in securities" which were specifically related to Article 18 of this regulation.

THE CRISIS BEGAN BEFORE COVID-19, CLOSED 4,300 SMALL BUSINESSES IN 2019

INSTAT data show that in total, excluding agriculture, the number of entities in the country was 116.6 thousand in 2019. Compared to a year ago, about 4 thousand businesses were closed net, with a decrease of 2.5%. Detailed INSTAT data show that this decline has come entirely from the bankruptcy of small entities with 1-4 employees.

LAST IN THE REGION FOR HEALTH SPENDING - WB: ALBANIAN GOVERNMENT SENDS ONLY \$ 307 PER CAPITA, 65% LESS THAN PENULTIMATE

Albania has the lowest public spending per capita on health in the region, the World Bank says in the latest series of publications on the region and the impact of covid-19. In the report dedicated to health systems, it is noteworthy that in Albania, public health spending is fixed at only \$ 307 per capita. The European Union average is 10 times higher. That figure, at \$ 307 per capita, is also 65% lower than Montenegro's closest follower.