POLICY POSITION
FOR AN INVESTMENT LAW THAT PROMOTES DEVELOPMENT AND PROTECTS THE PUBLIC INTEREST
(Institutional position on the draft law "On Investments in the Republic of Albania")

Summary. This institutional position assesses the draft law "On Investments in the Republic of Albania," which brings together in a single act investment protection, incentive measures, and the screening of foreign investments on security grounds.

ACER supports the reform conditionally and sets out five requirements prior to adoption: competition and equal treatment, protection of the value of public property, fiscal discipline, support in exchange for results, and accountable decision-making. Drawing on the experience of the period 2016 – May 2025, when 54 projects received strategic status, 42 of them in tourism, the document argues that policy success should be measured by realized investment, sustainable employment, and public benefit relative to cost, not by the number of statuses granted.

The recommended alternative retains the one-stop shop and investor guarantees, but sets clear limits on the use of public resources, defines an action package for the responsible institutions, and proposes measurable indicators for implementation, public benefit, cost, equity, and accountability.

ACER supports the unification of the legal framework for investments, but calls for the adoption of the draft law to be made conditional on strengthening competition, transparency, fiscal responsibility, and legal certainty. The reform should facilitate productive investment, not widen the scope for benefits negotiated on a case-by-case basis. Public assets and public support should be granted in exchange for measurable results and enforceable obligations.

The draft law combines investment protection, incentive measures, and the screening of foreign investments on security grounds.

It provides for competition, state aid control, proportionality, and verification of investor integrity; these elements should be preserved.

However, exemptions from competition and the delegation of decisive parameters require stronger safeguards. (Draft law, Articles 1-3, 14-16, 23-26, and 47-56.)

A) Five requirements prior to adoption

- **Competition and equal treatment:** the right to invest in private property should be distinguished from the right to benefit from public resources. Exemptions from competitive tendering should be narrow, justified, and subject to review.
- **Protection of the value of public property:** the classification of zones, the valuation of assets, and any payment reduction should be based on verifiable criteria. Support for Zone 3 should not be left undefined.
- **Fiscal discipline:** the cost of financial and non-financial support should be presented, including infrastructure, payment reductions, and state participation. Every commitment should have a funding source and a risk assessment.
- **Support in exchange for results:** contracts should link benefits to realized investment, employment, and environmental obligations. Suspension, revocation, and proportional recovery of support should be provided for.
- **Accountable decision-making:** there should be a documented assessment trail, declaration and management of conflicts of interest, clear means of appeal, and complete timelines for the screening of foreign investments.

B) Why should the reform be results-oriented?

What does the explanatory material show?

The explanatory report states that, during the period 2016 – May 2025, 54 projects received strategic investment/investor status, 42 of them in tourism. It identifies sectoral and territorial concentration, varying rates of implementation, inter-institutional delays, and a need for corrective mechanisms.

The policy lesson is not that tourism should be restricted, but that the number of statuses granted is not sufficient to measure success. Policy should assess the capital actually invested, productivity, sustainable employment, and public benefit relative to the cost of support. Diversification should be encouraged through transparent criteria, not by replacing one sectoral preference with another.

C) What do we think should be preserved and what should change?

- **One-stop shop:** AIDA's coordination should be preserved and the exchange of documents between institutions improved. Acceleration should not replace legality review, consultation, or environmental standards.
- **Investor guarantees:** protection against arbitrariness and equal treatment should be preserved. The transition from Law No. 7764/1993 to the new framework should be accompanied by a clear explanation regarding expropriation, transfers, and dispute resolution avenues. (Law No. 7764/1993, Articles 4-8; draft law, Articles 7-11 and 57.)
- **Accountability after approval:** monitoring should be complemented by defined consequences for non-compliance. Law No. 55/2015 provides for revocation in cases of false or altered information; the draft law needs an explicit regime for the new support as well. (Law No. 55/2015, Articles 19-20; draft law, Articles 26 and 45.)

D) Recommended alternative

For ACER, reform with binding safeguards is the preferred alternative. Maintaining the existing fragmentation does not meet the unification objective set out in the explanatory report. Adopting the draft without substantive changes, on the other hand, would leave unresolved the key issues identified in the Opinion: exemptions, cost, oversight, and the consequences of non-delivery.

The proposed alternative retains administrative facilitation but sets clear limits on the use of public resources. The automatic creation of new institutions is not recommended; priority is given to identifiable responsibilities, the functional separation of duties, and effective oversight within the envisaged architecture.

1) Genuine competition and responsible property management: Private ownership does not create an automatic entitlement to public support
2) Visible cost, integrity, and conditional support: No support without a financial assessment
3) Legal certainty and proportional screening of foreign investments: The right to effective protection should be understandable
4) Action package and success test

E) What is required of institutions

This package is a proposal for implementation, not an existing binding timetable. Priority should be given to changes that limit discretion and make the relationship between public cost and results subject to review.

- **Before adoption, the proposing ministry and AIDA:** should submit the revised draft, the financial assessment, the rules on exemptions, and the monitoring and recovery scheme. They should publish a comments matrix with reasoned responses and harmonize Articles 15/43 with Article 23, as well as Article 54 with Article 56.
- **During parliamentary review, if the draft law is submitted to the Assembly:** public property, fiscal risk, and investor guarantees should be examined separately. A table of changes against the consolidated texts of the laws being replaced should be requested.
- **Before new schemes are launched, the Council of Ministers and the implementing bodies:** should adopt the necessary regulations following consultation and anti-corruption review. AIDA should prepare the register, the publication methodology, and the declaration of interest forms; ministries should designate those responsible for monitoring.
- **During the first year of implementation, AIDA and the line ministries:** should report on projects, implementation, and support. An annual public report and a policy evaluation after two years should be proposed, without replacing the competences of existing audit and oversight institutions.

How to measure success?

- **Implementation:** the ratio between realized and contracted investment; timelines, completion, and actual operation of the project.
- **Public benefit:** sustainable jobs, professional skills, linkages with local suppliers, and environmental outcomes, in line with verifiable commitments.

- **Cost and equity:** total support per project and per result, territorial and sectoral distribution, the share of benefits granted through competition, and the justification for exemptions.
- **Accountability:** completeness of disclosure, complaints and their handling, violations identified, and support recovered. Baseline data should be collected at the outset and targets set through a methodology, not through arbitrary thresholds.

Conclusion for public policy

More investment, but no fewer safeguards for the public interest. ACER's summarized position is conditional support for the reform: facilitation for investors who meet their obligations and proportional oversight of every public resource committed.

ACER calls for adoption to follow the closing of substantive gaps, rather than leaving all decisive arrangements to the implementation phase.