POLICY SPOTLIGHT: LAW ON SPONSORSHIP

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About the Policy Spotlight

The Policy Spotlight is a publication of the American Chamber of Commerce in Kosovo which aims to bring attention on different economic policies and outline the challenges for the development of such policies, in order to pave the way for addressing them. In addition. This edition places the spotlight on Law on Sponsorship.

Introduction

Sponsors are new or recognizable businesses who wish to promote their brand by investing financially and materially on events or clubs social and public, including humanitarian, cultural and artistic, sports, educational, teaching, ecological sport and generally youth. Sponsorships represent the legal transaction through two partners, with an assessment of supporting non-profitable activities, in return for advertisement and marketing for the business’s parties. By publishing the name, logos, slogans, locations, telephone, product lines etc., could acknowledge the sponsors rights which are protected by the law on sponsorship.

This law regulations describes the importance of partnership with a clever method of providing and receiving, in which both participating parties benefit. The law on sponsorship contributes in creating and advancing legal provisions for the benefit not only of businesses and activities but also for the benefit of the state. Supporting private businesses towards improvement also affects the economy of and enables further progress. In the following, we will be able to recognize about the law on sponsorships, its purpose and scope, understanding of the law on sponsorship, which institutions deals and focuses positively on them, and other attentions.

Law on sponsorships in the field of culture, youth and sport in Kosovo

A sponsorship presents the financial and material support based on free will provided by domestic or foreign natural or legal persons for the purpose of support of activities in the field of culture, youth and sports.

First introduced in 2015 by the Ministry of Culture, Youth and Sports (MYCS), the Law no. 05/L-090 on Sponsorship in the field of Culture, Youth and Sports in Kosovo was approved by the Assembly of the Republic of Kosovo in January 2017. It was first introduced in 2015 by the MCYS which ‘regulates the financial and material support of cultural, youth and sports activities through sponsorship and advertising’.
As observed, the law supports a few social areas which are different in context; on top of that, all these sectors are treated under the same institution which is the Ministry of Culture, Youth and Sports.

A sponsorship contract shall be proved by its written form requiring the contracts object, value, duration, and the terms and conditions for the parties.

The main purpose of this law is to regulate the support of financial and material care of cultural, youth and sports activities through sponsorship and advertising, which accordingly, reveals the general interest of the sponsors on these fields that brings improvement to individual and social life of citizens, business organizations, foundations, natural and legal persons in the Republic of Kosovo.

Furthermore, sponsorship is given to the receiver for the employment of the general public interest by the particular culture, youth and sport activity as defined in the sponsorship or agreement. Whether it is to advance our economy for it to be appropriate with the people in Kosovo, the government is very much involved into exploring the various talents in Kosovo whose empowerment permitted into raising the image of the country, largely in sports events, and also in other activities.

Therefore, this law opens the way for businesses to invest in sports, and thirty percent of the tax profit can be allocated to sports. Whereas, the sponsors in the field of culture and youth are recognized the twenty percent deduction from the profit tax according to the Law on Corporate Income Tax.

Contributions in the form of donations and sponsorships provided by taxpayers who keep books and records under paragraph 5 of Article 35 of this law for humanitarian, health, educational, religious, scientific, cultural, environmental protection, and sports purposes are considered contributions given for public interest and are allowed as expenses up to a maximum of ten percent (10%) of the taxable income calculated before this law. Contributions made by taxpayers in the fields of culture, youth, and sports, as assessed under Law No. 05/L-090 for Sponsorships in the Fields of Culture, Youth, and Sports.

Changes over the years

Many local online portals have been focused in the occasions directed predominantly to the youth of Kosovo and the success of their achievements, whether we are referencing in culture, youth and mainly sports as well beyond other activities such as artistic, educational, humanitarian etc.

The Assembly of Kosovo passed Law No. 05/L-090 for Field Sponsorships of Culture, Youth, and Sports in 2017, following the Ministry of Culture’s initiative for its creation several years before. In addition, Regulation (MCYS) no. 01/2018 for regulating the criteria, procedures, and form for proving sponsorship in the fields of culture, youth, and sports lays out the criteria and procedures for certifying sponsorship.
However, in terms of its applicability, this law does not appear to have had much success in practice thus far. One of the most commonly cited reasons for not implementing it is because it is incompatible with existing tax legislation.

Considering the Kosovo’s regulations, on 2015 the Government of the Republic of Kosovo approved the Draft Law on Sponsorships and Donations in the Field of Culture, Youth and Sports, which for the first time in Kosovo, it would regulate the conditions and will determine the services for sponsors and donors in the mentioned arenas.

During the forum held by the American Chamber, there was talk about informing the law on sponsorships in Kosovo. The Ministry of Culture, Youth, and Sports, the Ministry of Finance, and the tax administration of Kosovo have expressed interest in cooperating in understanding and clarifying changes and implementing this law so that businesses are safe in the sponsorship process.

The Ministry of Culture, Youth and Sports has shown great commitment in informing the legal provisions regarding the financial and material support of cultural and sports activities through sponsorships and advertisements and has a strong impact on the development of businesses. This law is effortlessly greeted since businesses have already been willing to support.

The American Chamber of Commerce in Kosovo and Deloitte Kosovo co-hosted a session on revisions in the Corporate Income Tax Law and the Application of Reverse Charge in Construction, where business representatives learned about recent tax policy changes.

The new modifications, according to Deloitte Kosovo’s Director of Tax and Legal Department, define a complete execution of tax legislation amendments that began ten years ago. The Kosovo Tax Administration has made significant progress in implementing tax legislation, including compliance with an EU directive on the application of the VAT law and the implementation of a double taxation agreement on the elimination of taxes.

The contribution of the taxpayer in the form of donations and sponsorships is defined by the Corporate Income Tax Law. This, of course, causes some ambiguity in the definition of what sponsorships represent in practice. If the taxpayer benefits from the display of any advertising sign in the case of sponsorship for the public benefit activities of the NGO or other entity, then the comparison of these two notions is unfair, as it cannot be regarded unprofitable and the same as a contribution.

Donations provided by taxpayers in the field of culture, youth, and sports, calculated according to Law no. 05 / L - 090 for Sponsorships in the field of Culture, Youth, and Sports, constituted an innovation, and can be considered as further advancement in this field, according to a 2019 amendment to the CIT law, wherein article 11, Par. 1.1 includes references that Contributions provided by taxpayers in the field of culture, youth, and sports, calculated according to Law no. 05 / L – 090.
Pros & cons of the Law on sponsorship

Politics can be a huge effect how the ministry works in decision making while listening to the public opinion so that many non-profitable activities can have the opportunity to be sponsored by persons or organizations.

The reluctance of the deputies of the Assembly of Kosovo to pass the Law on Corporate Income Tax, an amendment which would give immediate way to the Law on Sponsorship in the field of Sports, Culture and Youth, has surprised the entire sports community, who have expressed great disappointment to the Assembly of Kosovo.

However, it is said that about 4 million euros have been lost to the state budget since the implementation of the Law on Sponsorships in the field of culture, youth and sports. On the other hand, the Ministry of Culture, Youth, and Sports show that the value benefited from this Law is about 6 million euros, which according to the ministry is not enough to cover all the requests from largely the sports community.

The government sees the change to the Law on Sponsorship in the Fields of Sports, Culture, and Youth as beneficial, while economic experts regard it as pointless.

The comparison of sponsorship legislations in the region

Most of the time, when we compare the legal regulations on sponsorships for activities in Kosovo with that of countries in the region, we notice that Kosovo has included in its legislation a similar approach to regional countries, and even brings benefits not only for activities but also for businesses here.

The legal framework that covers this topic provides nearly everything that the countries of the region regulate and offer of the EU in this field. However, Kosovo does offer more than the other countries in the region in some areas. However, due to a number of issues, this legal framework’s practical usefulness is limited.

Kosovo - This law governs the sponsorship and advertising of cultural, youth, and sports activities, as well as the financial and material support, they receive. The general interest is fulfilled through the financing of various activities in the fields of culture, youth, and sports that promote the individual and social lives of citizens, businesses, foundations, and natural and legal persons in Kosovo.

Albania - In 2019, the Law on Sponsorships, which has existed in Albania since 1994, was also improved or amended. This law governs the financial and material support of social and public activities, such as humanitarian, cultural and aesthetic, sporting, educational, instructional, environmental, and literary works, as well as scientific and encyclopedic activities. Sponsorship with the intention of making a profit for the sponsor is illegal. Only
those subjects with the quality of merchant, whether physical or juridical persons, local or international, or joint ventures, are defined as sponsors under this regulation. Budgetary subjects (i.e., state bodies) and budgetary-funded bodies are not eligible to become sponsors.

**Macedonia** - In April 2006, Macedonia’s Parliament passed a law regulating donations and sponsorship in public activities. The law was proposed by a consortium of business leaders, legislators, and civil society organizations. The law defines donations and sponsorships, describes the purposes for which they can be granted, and identifies the entities that are qualified to give and receive gifts/sponsorships under the law. Individuals and organizations can also take advantage of tax breaks for donations and sponsorships made in the public good. Only companies were eligible to make tax-deductible donations to public institutions and the Red Cross prior to the passage of this law.

**Croatia** - Sponsorship is any contribution made by a public or private undertaking or natural person not engaged in providing audiovisual media services or in the production of audiovisual works, to the financing of audiovisual media services or programs with a view to promoting its name, its trade mark, its image, its activities or its products. Political parties and coalitions may not sponsor an audiovisual or radio broadcast unless they are promoting an election in accordance with a particular act.

**Legislation on sponsorships in the European Union**

**Germany** - Sponsorship in the German federal administration includes not only money, materials or services from companies, but also donations and gifts from private individuals who want to support and promote the activities of the administration. Under current law, sponsorship contracts are generally not subject to formal requirements. In the case of a written fixation, it does not matter what the contract is called, but only the content is crucial. To avoid ambiguities in the implementation of the contract and any disputes arising from it, it is strongly recommended that you insist on the written documentation subsequently signed by both partners, if necessary, after a verbal agreement.

**France** - In France sponsorship requires a deep understanding of the legal and fiscal implications involved, the corporate objectives and specifics of a French public known as skeptical. The French Republic, with a rich artistic heritage, focuses a large part of its cultural sponsorship on the preservation of its history and buildings. The Bank’s initiatives are guided by two main principles: the preservation of its heritage and its implementation. The August 1, 2003 laws on patronage, known as the "Aillagon law," created a very attractive tax system. It gives a corporate tax deduction of 60% of the amount of donations made in cash, 40% of donations in skill or in kind, within the limit of 0.5% of your annual turnover without tax. It should be noted that clients are subject to reporting obligations. This law authorizes counterparts in communication, public relations or tickets to your company. The value of these counterparts should remain in "significant disproportion" to the amount of the donation, limited to 25% of the donation amount.
Italy - The sponsorship contract is not explicitly regulated by Italian law in the Civil Code, but rather by other legislation. For example, in the realm of television and radio shows, the legislation no. 223 of 1990 enables public or private firms to fund TV and radio programs, while the legislative decree no. 300 of 2004 prohibits any type of tobacco product sponsorship.

Europe, which already offers a unique market for businesses, can be seen as representing a new and promising space for arts sponsorship, whether in the form of support for artistic creation, heritage protection or the encouragement of cultural exchanges. At the same time, however, Europe is not a uniform entity. Sponsorship of the art business within Europe is a relatively new phenomenon. In the 1970s alone, many international corporations, mostly from the United States, opened markets and offices in Europe and expanded their corporate philanthropic policies into these emerging markets. Of course, the history of financial support for art is not new; in fact, it dates back to the Roman Empire, with Maecenas giving his name to the patronage of the arts. Patronage is defined as “the material support provided, without direct compensation by the beneficiary, to a work or person for the exercise of activities of general interest.” Otherwise, this is the origin of the French word for patronage: mécénat.
Table 1 – Community sponsorship approaches in Europe, 2013-2019

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Source: Share Network (data from October 2019).
Impact of COVID-19 on Sponsorship

Since Covid-19, mass gatherings were cancelled as a measure implemented to combat the spread of the disease – with that meant that events connected to sport, youth and culture and other activities mentioned on sponsorships, suffered the consequences of not being able to continue their work. This created stagnation in the economy globally which justifies the fact why many businesses went bankrupt of this exact reason and measurements.

The pandemic displayed regress not only by risking of getting COVID-19 but also slowing down the pace of the working industry.

When labor institutions stop acting, even for a short time, they slow down the process of activities, creating resentment in the workplace, stress, chaos and so on. Of course, the impact of this pandemic had a negative impact and this is mostly noticed in the “success” of businesses in the region, in import and export, in education, culture and sports. The ban on meetings was one of the first faculties that mainly started with problems that are still present. Technology, however, was a positive factor as it enabled the possible in a global crisis. Everything was virtualized and enabled the continuation of the work process, although differently from the daily. Defined as the new virtual reality.

Apart from this, for the past three years of getting familiar with the disease, there were opportunities invented in order to continue the work and activities without risking our lives of getting COVID. Advancing the technology created new possibilities into a new reality of living and start working as per-usual.

Source: [Link](March 31, 2020)
Conclusions & Recommendations

From the analysis of the Law on Sponsorship in the Republic of Kosovo and next where that directly or indirectly affects the functioning of Governmental and non-Governmental activities would draw the following conclusions and recommendations:

This law was adopted in 2015 and since then, apart from sports activities and businesses that have welcomed this rule, economic experts feel differently. Apart from the fact that this law must be approved, its improvement in practice is more than necessary so that not only events and businesses are satisfied but also the state itself with its budget.

Including many other activities that are capable to recognize the talents of others without neglecting them, such as educational, humanitarian, religious, philanthropic, sporting, human rights, medical and sanity, professional representation areas as well as in areas dealing with the maintenance, restoration, preservation and value enhancing of historical monuments etc. The expansion of activities enables them to grow continuously and be effective in different ranges.

The government is constantly striving to perfect its laws in order for the law on sponsorships to be a plus for the country and its development, both internally and externally. Though, it is important to mention that the applicability of this law has not been successful in practice, due to the lack of harmonization of the law on sponsorships with tax legislation.

It should be important to bring to spotlight the issues and the obstacles and find a way that reduces or minimizes the chances of eventual misuse, so that not only sponsored businesses and sports or culture events are profitable, but also the full country’s interests.

In tax legislation a clear distinction should be made between donations and sponsorships, which have been given the same status as legislation tax. Therefore, the concept of sponsorship should either be clarified or what it contains per se, or leave it to a separate sponsorship law which can be passed in the future. The 2019 Law on CIT made a reference to Law no. 05 / L-090 for Sponsorships in the field of Culture, Youth and Sports, which can be considered greatest innovation, given that due to the contradictions between these two laws, it was impossible to realize in practice the benefits provided by law no. 05 / L-090.
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