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**Competition in the Food Supply Chain – Contribution from Albania**

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This contribution is submitted by Albania under Session IV of the Global Forum on Competition to be held on 2-3 December 2024.

More documentation related to this discussion can be found at: [oe.cd/gfc24](https://oe.cd/gfc24).

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## *Competition in the Food Supply Chain*

### *- Contribution from Albania -*

#### **The fruits and vegetables collection and wholesale market**

##### **1. Introduction**

1. Fruit and vegetables are an important sector of agricultural production in Albania, providing the population with sufficient food, as well as income for the rural households where they are produced. At the same time about 20%<sup>1</sup> of consumption basket for the Albanian citizens is focused in fruit and vegetables making it an important part of daily consumption of every family. During 2024, the Albanian Competition Authority (ACA) has monitored and investigated for the first time the fruit and vegetables collection and wholesale market with the purpose to study, identify competition concerns in the market and investigate the conduct of the operators in term on collusive behavior.

2. Despite this, there are several difficulties in terms of storage, harvesting, processing, and transportation dealing with supply chain management of fruits and vegetables. This paper describes shortly the Albanian experience in investigation of the fruits and vegetables collection and wholesale market, the different elements of a food supply and how government policy can play an important role to limit market failures.

##### **2. Legal framework and Procedure**

3. Vegetables and fruits constitute one of the most productive and important sub-sectors of Albanian agriculture, with good opportunities to grow the domestic and export markets. According to INSTAT data for the year 2022, it turns out that the largest regions to produce vegetables in greenhouses are the regions of Fier, Berat and Tirana, while for the production of fruits are the regions of Korça and Elbasan. These are the cities that have the largest share of production in the Albanian market.

4. In the Albanian legislation according to article no. 4 of Law no. 9121/2003 “On Competition Protection”, it is foreseen that: “Prohibited agreements” are agreements which have as their object or effect the prevention, restriction or distortion of competition shall be prohibited, and in particular those which: directly or indirectly fix purchase or selling prices, or any other trading conditions; limit or control production, markets, technical development, or investment; share markets or sources of supply. Also, article 74 of the law no. 9121/2003 Fines for serious infringements 1.” The Commission may impose to undertakings or associations of undertakings fines not exceeding 10 % of their aggregate turnover in the previous financial year”.

5. Besides the ACA may give recommendation to public institutions as foreseen in Article 69: "Duties of central and local administration structures 1. Central and local administration bodies require the Authority estimation for any draft normative act which,

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<sup>1</sup> <https://www.instat.gov.al/al/temat/%C3%A7mimet/indeksi-i-%C3%A7mimeve-t%C3%AB-prodhimeve-bujq%C3%ABsore/>

in particular, includes: a) quantitative restrictions concerning trading and market access; 31 b) establishment of exclusive rights or special rights in certain zones, for certain undertakings or products; c) imposing uniform practices in prices and selling conditions. 2. The Authority shall assess the degree of restriction or prevention of competition brought by draft normative acts, defined in paragraph 1 of this article"; and Article 70 "Role of the Authority with regard to regulation and regulatory reform 1. When carrying out the assigned tasks related to the regulation of economic activity within the Republic of Albania, central and local administration bodies, regulatory entities shall ensure fair and effective competition. 2. In particular, the Authority shall assess the regulatory barriers to competition incorporated in the economic and administrative regulations, for reasons of protecting a general economic interest. In this case, the Authority shall issue appropriate recommendations. 3. The Authority, in applying this law to regulated sectors, co-operates with regulatory entities and other regulatory institutions."

6. Although Albanian law no. 9121/2003 "On competition protection", as amended, is fully aligned with articles 101 and 102 of TFEU, other laws and policy are present in European experience such as CAP and UTP Directive. In Europe the EU's "Common agricultural policy (CAP)"<sup>2</sup> is a partnership between agriculture and society, and between Europe and its farmers, that aims to:

- support farmers and improve agricultural productivity, ensuring a stable supply of affordable food;
- safeguard European Union farmers to make a reasonable living;
- help tackle climate change and the sustainable management of natural resources;
- maintain rural areas and landscapes across the EU;
- keep the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors.

7. CAP foresees some exceptions to the application of the Competition rules: Council Regulation (EC) No. 1184/2006<sup>3</sup> dated July 24, 2006 "On the implementation of certain competition rules for the production and marketing of certain agricultural products" (amended by Regulation No. 1379/2013) states that, with the exception of some exceptions detailed below, Articles 101 to 106 TFEU apply to all agreements, decisions and practices referred to in Articles 101(1) and 102 TFEU relating to the production or marketing of agricultural products. There are three exceptions. These general rules do not apply to:

- agreements, decisions and practices that constitute an integral part of a national market organization;
- agreements, decisions and practices that are necessary to achieve the objectives of the CAP common agricultural policy;
- certain agreements, decisions and practices of farmers or associations of farmers belonging to a single country of the European Union (EU), provided that these agreements do not present the obligation to set the same prices, exclude competition or jeopardize the objectives of CAP.

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<sup>2</sup> [https://agriculture.ec.europa.eu/common-agricultural-policy/cap-overview/cap-glance\\_en](https://agriculture.ec.europa.eu/common-agricultural-policy/cap-overview/cap-glance_en)

<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32006R1184>

8. In addition to the CAP Regulation, Directive 2019/633 (UTP)<sup>4</sup> "On unfair commercial practices in business relations in the agricultural and food supply chain" is also in force, which aims to strengthen the position of farmers in the food supply chain and the treatment of unfair trade practices. UPT Directive in the agricultural and food supply chain aims to protect small suppliers of agriculture and food products, including processed food, in relation to buyers with a power of significantly negotiated, identified by means of relative turnover thresholds. The directive prohibits several commercial practices in business-to-business relationships, which are considered unfair. In particular, it lists ten 'black' practices, which are always prohibited, and six 'grey' practices, which are prohibited unless they are previously agreed in clear terms between the supplier and the buyer. The directive prohibits some unfair trade practices that were happening all too often:

- late payments for perishable and non-perishable food products;
- order cancellations at the last minute;
- unilateral or retroactive changes to contracts;
- forcing the supplier to pay for lost products and rejecting written contracts.

9. The UPT Directive also empowers farmers to speak safely in confidence and for authorities to launch sectoral investigations to identify and penalize unfair trade practices. Member States, in charge of implementing these rules, were required to transpose the Directive into their national legal framework by 1 May 2021 and implement it six months later. In implementing the Directive, EU Member States will have to decide which national authority will be responsible for implementing the new legislation. Some member states have assigned this responsible role to national competition authorities. In order to assess the prevalence of prohibited unfair trade practices and to evaluate the effectiveness of the measures taken at the national level, the Commission is conducting annual surveys. The currently open survey is the third since the first baseline survey carried out before the implementation of the Directive. The results will be used in the evaluation of the current rules that the Commission is required to carry out by November 1, 2025.

10. As stated to the Albania Progress Report 2023: There has been limited progress on the CAP regulation. This means that in Albania compared to the European experience, it is noted that for fruits and vegetable market there is a lack in the approximation of the EU acquis legal acts for the proper functioning of all levels.

### 3. Methodology and Economic theory

11. The first step in all cases is defining the relevant market which includes both the product and the geographic market as foreseen in the Guideline no. 76/2008<sup>5</sup> "On Market Definition". Determining the relevant market is the main element of competition analysis. Referring to Article 3, point 7, of Law no. 9121, dated 28.07.2003 "On the protection of competition", as well as Guidance no. 76, dated 07.04.2008 "On the determination of the relevant market", "the relevant market consists of products that are evaluated as substitutable by consumers or other customers, in terms of their characteristics, price and operation and that are offered or requested by enterprises in a geographical area with the same conditions of competition, this area which is separated from other restrictive areas".

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<sup>4</sup> <https://eur-lex.europa.eu/eli/dir/2019/633/oj>

<sup>5</sup> [http://www.caa.gov.al/uploads/laws/Udhezim\\_tregu\\_perkates.pdf](http://www.caa.gov.al/uploads/laws/Udhezim_tregu_perkates.pdf)

Pursuant to law no. 9121/2003, "On the protection of competition", the relevant market includes the product market and the geographic market.

12. In this case the product market includes: import-export of fruits and vegetables; the fruit and vegetable collection market; wholesale fruit and vegetable market. The relevant geographic market will be considered the region of Tirana, Elbasan, Berat, Fier and Korçë where the most of production is made.

13. Literature review and best cases from OECD, ECN, ICN or other competition authorities are as well taken into consideration when a case regards a new market that hasn't previously been under investigation. During the drafting of this report, the following reports were analyzed:

- OECD Report (2013) "Competition Issues in the Food Chain Industry"
- OECD Report (2004) "Competition and regulation in agriculture in June 2004"
- OECD Report (2004) Competition and Regulation in Agriculture: Monopsony Buying and Joint Selling
- ECN report (2012) "Report on competition law enforcement and market monitoring activities by European competition authorities in the food sector"
- Report of the Albanian Investment Council (2016) "Technical note on formalization in agriculture: the proper functioning of the VAT compensation scheme and the promotion of investments".

14. Quantitative data were also requested from Ministry of Agriculture, Directory of General Taxation, and National Institute for Statistics as well as various experiences from the Competition Authorities and the European Commission were taken into consideration. In addition, field monitoring was carried out by inspectors in the form of dawn raids.

## 4. Analysis

15. During 2024, the Albanian Competition Authority (ACA) conducted a market monitoring in the fruits and vegetables collection and wholesale market in the region of Tirana, Elbasan, Berat, Fier and Korçë, as this market constitutes one of the most productive and important sub-sectors of Albanian agriculture, with good opportunities to grow the domestic and export /markets. From the structure of the market, it is found that this market has many trading levels in the supply chain as described below:

### 4.1. Producers are considered

16. Small farmers. Small traditional farmers make up the majority of producers in this sector in terms of numbers, about 80% of all the producers. These producers typically operate on land sizes ranging from 0.9 to 1.2 hectares. Their production is used for both family consumption and market trade. Small farmers trade their products either individually through street markets or through traders (collectors). At the same time, this segment of producers are customers of agricultural inputs, mainly seedlings, fertilizers, pesticides, herbicides, etc usually doing so without formal documentation. Small farmers constitute at the same time the main group of informal producers and consumers of agricultural inputs.

17. Large traditional farmers. Operating on farms between 2 and 25 hectares, these farmers focus on open-field cultivations of annual crops such as watermelons, cauliflowers, carrots, broccoli, tomatoes, cucumbers, and potatoes. They sell their products to the

wholesale market where purchases depend on wholesalers/collectors billing in the form of auto-billing.<sup>6</sup> Like small farmers, they source inputs through traders but do not typically engage in formal invoicing practices.

18. Large and modern farmers. This group consists mainly of farmers who cultivate vegetables in greenhouses/farms and are characterized by their use of advanced farming technologies. With the increase in the volume of exports, many producers in this category have expanded their operations significantly. They heavily rely on fertilizers and mechanized services. This category mainly sells its products to wholesalers and consolidators/distributors for both domestic and export markets. Unlike the previous groups of producers, this category is part of the formal sector, often with proper tax identification numbers (NIPT) and included in the VAT scheme, although they may still use auto-billing methods with collectors.

## 4.2. Regional collectors

19. Collection points play two primary roles: they serve as marketplaces where farmers sell their produce to collectors, and they act as storage facilities equipped with refrigeration for preserving fresh produce. Collectors, also known as consolidators, are traders who procure products directly from farmers, often under regular contracts. These traders may include local buyers or those from neighboring countries, and they typically focus on exporting fresh vegetables to regional, European, or international markets. This system offers farmers a level of market predictability and helps guide their production planning. Collectors source produce either directly from farms or through village-based collection centers. The importance of collection points is growing, with many receiving support from government initiatives and EU/PARD program schemes, enhancing traceability and production standards through proper grading, selection, and packaging of products. As such, they not only help in accumulating large volumes of produce but also contribute to formalizing the agricultural economy. Both farmers and traders recognize the importance of these collection points in the overall value chain. The relationship between farmers and sellers at these points typically operates on an auto-billing method.

20. Processors: Most processing firms rely on raw products like vegetables and fruits. While large processing enterprises are common, there is also a notable segment of informal processing occurring within small workshops or homes. This segment contributes to the informality of the market, leading to challenges related to food safety and unfair competition.

21. Imports and exports of fruits and vegetables are primarily conducted by collectors/consolidators. However, the market remains unstable and inconsistent due to various factors including timing, sales volume, product quality, weight uniformity, packaging size, packaging material, design, traceability, certification, storage, and freshness of the produce.

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<sup>6</sup> According to the General Directorate of Taxation in agricultural markets, the buyer is considered the taxpayer, as the recipient of the supply, and he is obliged to mark his NIPT on the invoice prepared for him (auto billing). The invoice issued by the buyer, a taxable person subject to value-added tax or profit tax or simplified profit tax, is the document that justifies the deductible business expenses to calculate profit tax and simplified tax on profit. <https://www.tatime.gov.al/shkarko.php?id=6230>

### 4.3. Agricultural Markets

22. Wholesale agro-food markets have emerged in key production areas such as Fier, Berat, Tirana, and Korca. These markets are necessary for the distribution of agricultural products, facilitating connections between producers and larger buyers.

### 4.4. Retailers

23. Retailers represent a highly fragmented market of several hundred thousand small shops that are mainly supplied by regional wholesalers. In addition, some minority markets sell their own products. This category includes not only small stores or open-air markets but also larger supermarkets that in some cases have created their own chain in some areas of Albania such as Conad, Big Market, Spar, etc. These supermarkets represent the most formalized segment of the retail market.

24. Besides administrating data from undertakings and public institutions meetings with farmers were organized by the ACA. During the meeting held with the farmers in the district of Berat, it was claimed that:

25. a) The prices of agricultural products (fruits and vegetables) are unfair and the creation of an exchange for the prices of agricultural products would prevent price speculation. b) Collection points in most cases collect the farmers' product without a price and do not issue VAT invoices, and as a consequence this brings consequences for the farmer, because the farmer is not familiar with the real price that the product is sold on the local market or the price with it which this product was sold for export. Farmers presented various complaints where the main issue was the fixing of the purchase price of the products by all collection points in the area. c) The invoices that declare the collection points in their balance sheets are fictitious and do not represent the real price, which according to the farmers is done in order to avoid tax obligations. d) Collection points operate without a contract with farmers, exposing the latter to the risks of selling an agricultural product at a loss. According to the farmers, this way of working on the part of the collectors, where they work without a contract, without prices and in many cases even without an invoice, has deformed the market, bringing abusive prices.

26. For these reasons, the Competition Commission, through decision no. 1085, dated 14.06.2024, decided: the opening of the preliminary investigation procedure in the collection and wholesale market fruits and vegetables, to see if there is, or not, a violation of Article 4 of Law no. 9121/2003. The preliminary investigation covered the time period from January 1, 2023 to May 31, 2024 for a basket of fruits such as: apples, oranges, lemons, strawberries and vegetables such as tomatoes, onions, carrots, cucumber, paprika, cauliflower, leek, and cabbage. During the preliminary investigation 65 down raids were conducted and several problems were found in the market such as:

- the informal economy and vertical integration since the collectors can also own the greenhouses themselves. As the fruit and vegetable production, collection and wholesale market is composed of many trading levels, the prices from the farmer to the final consumer turn out to be very high for the final consumer (margins up to 50% in the monitored districts) although the final price of products in the retail market is affected by *firrot* (*losses*) and shelf life of the product;
- The undertakings that operate in the collection market are concentrated in the region of Tirana, Fier, Berat and Korca. Based on the geographical position and the distance between the undertakings, some of them have the same accounting office for keeping economic data;

- During the period under investigation, it has been noticed that the collecting undertakings have applied approximate prices for the purchase of these products from local farmers;
- Due to the informal economy, farmers and collectors work without contracts, without invoices, without financial support. Debt collectors do not pay off arrears. Almost all collection points operate without a contract with farmers, exposing the latter to the risk of selling an agricultural product at a loss. For farmers, this situation, without prices and in many cases even without an invoice, has distorted the market, bringing abusive prices.

27. Referring to market structure, vertical integration, conduct of competitors, and large differences in the value chain of the product from producers, collectors, wholesalers to the final consumer, it was found that there might be an anti-competitive behavior such as prohibited agreements and/or concerted practices between two or more undertakings operating in the market of collection and wholesale of fruits and vegetables, in terms of Article 4 of Law no. 9121 dated 28.07.2003 "On competition protection ".For these reasons through Decision no. 1114 dated 04.10.2024 it was opened the in-depth investigation that is still ongoing.

## 5. Final Remarks

- Although Albanian law no. 9121/2003 “On competition protection”, as amended, is fully aligned with articles 101 and 102 of TFEU, other laws and policy are present in European experience such as CAP and UTP Directive. As stated to the Albania Progress Report 2023: There has been limited progress on the CAP regulation. This means that in Albania compared to the European experience, it is noted that for fruits and vegetable market there is a lack in the approximation of the EU acquis legal acts for the proper functioning of all levels;
- According to the supply chain during the monitoring of the market, it has been found that it has many trading levels in the supply chain as: farmers/producers; collection points; wholesalers (wholesale agro-food markets); importers and exporters of fruits and vegetables retailers and faces a lot of management challenges related to logistic, transportation, storage, informality. The creation of a “National Logistic Portal” can improve food supply chain management and competition in fruit and vegetable market.
- After the preliminary investigation for the period January 2023-September 2024 with Decision no.114, date 04.10.2024,The Albanian Competition Authority has opened an in-depth investigation in the fruit and vegetables collection and wholesale market with the purpose to find competition infringements and other market failures.
- The Competition Commission will proceed with the relevant decision making if proof will be found for prohibited agreement the undertakings will be fined as the law foresees article 74 of the law no. 921/2003. If not detailed recommendations will be given to public institutions based on best practices on other OECD countries.
- Modernization and land management through the digital registration of land data are also an important factor that makes it difficult for farmers to access alternative forms of financing from which they would benefit through investing in working capital, infrastructure, etc. Even though Albania has many competitive advantages

and the potential to succeed in foreign markets there is still a need to strengthen the agriculture sector competition, formality of the value chain, and digitalization in order to increase exports and to increase competitiveness of the country. This can be fostered through digitalization which can offer significant benefits for agriculture, lower costs, better resource management, and more sustainable practices and make the agriculture sector in Albania a promising player in the competitiveness of the country in the region and European trade.