

REPUBLIC OF ALBANIA
PEOPLE'S ASSEMBLY

LAW No. 8102, dated 28.03.1996

WATER SUPPLY AND SANITATION SECTOR REGULATION

Pursuant to Article 16 of Law No. 7491, dated 29.04.1991

"On the Main Constitutional Provisions," proposed by the Council of Ministers
The People's Assembly of the Republic of Albania

DECIDED:
PART 1

GENERAL
PROVISIONS

ARTICLE 1

Purpose of this Law

The purpose of this Law is to establish a regulatory framework and an autonomous regulatory agency, the National Water Supply Sanitation Regulatory Commission. The Law shall define its functions, duties, and powers, the procedures and standards under which the Commission will operate. An important objective of this Law is on one hand to promote the public interest in securing safe and reliable sources of potable water and waste water treatment and on the other hand to promote private investment in this sector by developing a transparent legal and regulatory environment.

ARTICLE 2

Definitions

1. Law is defined as the Law on the regulation of the Water Supply and Sanitation Sector for the regulation of the water supply and sanitation sector.
2. Regulatory Agency (Secretariat) is the executive agency for the regulation of the water supply and sanitation sector.
3. Commission is the Regulatory Commission, the leading decision making body for regulating the water supply and sanitation sector.
4. Ministry is the Ministry of Construction and Tourism
5. Water Resources are defined as all waters found within or adjacent to Albania's internationally recognized borders
6. Waste waters are the waters that have been used for sanitary, industrial purposes and their collection and treatment is indispensable for the public health.
7. Water Supply Sector is defined as encompassing all economic activities relating to the collection, treatment, or distribution of water resources for the public benefit.
8. Water Supply is defined as all naturally occurring sources of water within the territory of Albania, including aquifers and other subterranean and surface sources of water.
9. Water collection is defined as all activities whereby such structures or mechanisms like dams, wells, storage tanks, cisterns, channels, aqueducts, pipes, storm drains and sewers are used to collect, channel, divert or extract water for the public benefit.
10. Water distribution is defined as all activities whereby water is pumped, delivered or/and transported from one location to another for the public benefit.
11. Water treatment is defined as all methods or means, whether chemical, mechanical, electrical, or otherwise, for purifying or otherwise altering the condition of water for the public benefit.

ARTICLE 3

Scope of Application of This Law

This Law applies to all public and private activity in the Water Supply and Sanitation Sector including, but not being limited to, the rights and duties of physical and juridical persons and entities, including the national, regional and local governments.

PART 2
ESTABLISHMENT OF THE COMMISSION
ARTICLE 4

The Composition of the Commission

1. After this Law's entry into effect, the Council of Ministers shall appoint an independent regulatory commission to be known as the national Water Supply and Sanitation Regulatory Commission (.Commission") for the purpose of exercising the powers and performing the functions set forth in this Law.
2. The Commission shall be a juridical persons enjoying all the rights and privileges extended to such entities under the laws of Albania.
3. The Commission shall be composed of five members appointed by the Council of Ministers from a list of candidates to be prepared by the Selection Committee.
The list shall include:
 - (a) at least two members who are qualified professional with formal training and at least 10 years of relevant experience in civil engineering, hydrology, urban planning, public health, epidemiology, microbiology, or other similar disciplines to be appointed for terms of four years and one year, respectively from the creation of the Commission.
 - (b) at least two members who are qualified professionals with formal training and at least 10 years of relevant experience in business, economics, law, commerce, banking, finance, accounting, public administration or other similar disciplines to be appointed for terms of three years and two years, respectively from the creation of the Commission.
 - (c) one member, designated as the Chairman of the Commission who shall be an eminent person with at least fifteen years of experience in any or more of the professional disciplines identified in subarticles (a) and (b), above, shall be appointed for a term of five years from the creation of the Commission.
 - (d) Upon expiration of the original members' terms as provided in sub-articles (a), (b), (c), above, successor members shall be appointed to terms .f four years, except that anyone appointed; to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed to serve only for the duration of the unexpired term.
 - (e) No member shall be eligible to serve on the Commission for more than two complete terms.
 - (f) Every member shall, prior to his appointment, notify the Council of Ministers of, and shall, before taking office, resign from any office, employment, or consultancy arrangement and shall sell or divest himself of any interest which he may have in any firm, association of persons, or company carrying on any commercial activities subject to the regulatory jurisdiction of the Commission.
4. The Selection Committee shall: (a) be constituted as often as may be required, but in any event, not later than three months prior to the expiration of the term of office of a member of the Commission. (b) consist of three members with one to be appointed by the Assembly, one to be appointed by the Council of Ministers, and one to be appointed by the. The Selection Committee shall identify and evaluate suitable candidates to serve as members of the Commission, who shall meet such minimum qualification as set forth in sub-article (7) of this Article. The Selection Committee shall act expeditiously and within two months of its formation identify and evaluate qualified candidates who, by majority decision, they consider best suited to carry out the functions, powers, and duties of a member of the Commission as provided for in this Law. In selecting candidates, the Committee shall give due consideration to the skills, qualifications, and experience of sitting members of the commission so as to achieve the balance of qualification and skills required under sub-article 3 of this Article.
5. The Selection Committee shall promptly notify the Council of Ministers of its selection of candidates for appointment to the Commission. Within thirty days of such notification, the Council of Ministers shall make the necessary appointment to the Commission from the list of candidates supplied by the Selection committee.
6. Members of the Commission shall at all times during their period of service on the Commission conform their official conduct to the highest standards of public service, scrupulously avoiding all conflicts of interest, actual or apparent, and acting with the public interest foremost in mind.
7. A person shall be disqualified from service on the commission if he: (a) is a member of the Parliament or any other elective or appointive position in local or national government; (b) is directly related by birth, marriage to currently sitting members of the Council of Ministers whose official positions may reasonably

create the public perception of conflict of interest on the part of the member; (c) has been convicted of fraud, official corruption, theft, or other offences involving dishonesty or moral turpitude; (d) holds a beneficial financial interest in any corporate or business entity subject to the Commission's regulatory control; (e) is otherwise disqualified from holding positions of public trust by operation of other laws, rules, or regulations in power

ARTICLE 5

The Removal of Members of the Commission

1. The Council of Ministers may remove from office any member of the Commission who: (a) is found to be or becomes of unsound mind or whose physical condition prevents him from fulfilling his duties as a member; (b) is convicted of fraud, official corruption, theft, or other offenses involving dishonesty or moral turpitude during his term of office; (c) becomes, or seeks to become, a civil servant or a member of Parliament or any other elective or appointive government office with the exception of membership in political or professional associations and offices pertaining thereto; (d) without reasonable cause, has refused or failed to act, or has become incapable of acting for a period of six months or more; (e) is related to any way to the provisions of subarticle 7 of Article 4 of this Law.
2. In the event that a member is removed from office pursuant to subarticle 2 of this Article, a replacement shall be appointed by the Council of Ministers from a list of candidates prepared and presented by the Selection Committee as provided for in Article 4/b above.
3. Any member who has been lawfully removed from office under this section shall be ineligible for reappointment to the Commission.

ARTICLE 6

Proceedings of the Commission

1. The headquarters of the Commission shall be located in Tirana; however the Commission shall be entitled to conduct its proceedings, hearings, and consultations elsewhere in Albania.
2. The Commission shall have exclusive power to issue its own rules and procedures to ensure the efficient discharge of its duties under this Law. Rules, procedures, standards, rulings, proceedings, and other official acts of the Commission shall be published or otherwise made available to the public on request. All final rulings and determinations of the Commission shall be in writing and include an explanation of the Commission's action.
3. The commission may investigate any facts, conditions, practices, or matters which it may find necessary or proper to determine whether any person has violated or is about to violate any provision of this Law or any regulation thereunder, or to aid in the enforcement of the provisions of this Law, or in prescribing regulations thereunder.

ARTICLE 7

Role of the Chairman of the Commission

1. The Chairman shall act as the Commission's chief executive determined by the Council of Ministers, to be provided upon the appointment of the Chairman under Article 4/c of this Law. (b) fees prescribed by the Commission for processing various applications under this Law and such other fees payable by licensees as may be prescribed by the Commission.

Missing Articles 8-10

ARTICLE 10 (part)

- (2) Commission funds shall be administered through accounts maintained in an Albanian bank whose integrity and soundness have been approved by the Government

ARTICLE 11

Commission Budget and Financial Accounts

- (1) No later than three (3) months before the beginning of each fiscal year, the Commission shall establish a budget of its anticipated operating expenses for that year for submission to the Council for approval. (2) The Commission shall maintain complete and accurate books of account of actual expenses in accordance with existing accounting laws of Albania. (3) Any and all surplus revenues over and above the Commission's actual outlays will remain the property of the Government, payable at its request into its general funds.

PART III—REGULATION OF WATER SUPPLY SECTOR

ARTICLE 12

General Powers and Duties of the Government Relating to the Water Supply Sector

1. The government shall have the power to issue directives on water supply, wastewater, and sanitation policy on any matter provided that no such policy directive shall adversely affect or interfere with the exercise by the Commission of its duties, functions, and powers under this Act. If any dispute arises as to whether a policy adversely affects or interferes with the exercise of the Commission of its duties, functions, and powers, that dispute shall be referred to the Constitutional Court, whose decision shall be final.

ARTICLE 13

General Duties of the Commission

(1) In exercising their functions and powers under this Act, Members of the Commission shall have the duty to act in such a manner as they consider most likely to: (a) promote efficiency, economy, and safety on the part of licensees and the efficient and safe use of water; efficient collection, treatment, and disposal of wastewater; and effective public sanitation; (b) enable licensees to finance the activities which their licenses authorize them to carry on; (c) enable all reasonable demands for water, wastewater collection, treatment, and disposal, and sanitation to be met within the bounds of economic feasibility; (d) ensure that licensees comply with the conditions of their licenses and, subject to other provisions of this sub-article (1), protect the interests of consumers of water supplied by licensee and the effective and sanitary collection, treatment, and disposal of wastewater in respect of: (i) the prices, charges, and other terms of service; and (ii) quality, efficiency, continuity, and reliability of service; (e) where feasible and efficient in the Water Supply Sector, promote competition; (f) achieve transparency in relation to the activities of the Commission; and (g) achieve a fair balance of the interests of the consumers, the Government, the public, investors, and participants in the Water Supply Sector. (2) The Commission shall act as arbitrator in disputes arising between licensees.

ARTICLE 14

. General Powers of the Commission

(1) To fulfill its mandate under this Act, the Commission shall be empowered to: (a) license commercial entities engaged in the provision of services in the Water Supply Sector to, or for the benefit of, the public; (b) approve prices or charges and terms and conditions of services provided by licensees in the the Water Supply Sector or, where appropriate, by unlicensed entities providing water for public consumption; (c) prescribe procedures and standards for investment programs and for the sale of assets by licensees in the Water Supply Sector; (d) develop and enforce performance standards for such licensees; (e) encourage uniform industry standards and codes of conduct; (f) establish a uniform system of accounts for such licensees; (g) prepare industry reports for submission to the Government and to gather relevant information from such licensees; (h) prescribe fees applicable to licensees hereunder; (i) impose sanctions for violations of this Act, including monetary penalties; (j) frame regulations to give effect to the powers conferred and functions required by this Act; and (k) perform any other function that is incidental or consequential to any of the aforesaid functions.

ARTICLE 17

Requirement to be Licensed

1. No person, other than those authorized to do so by license or exemption, shall engage in the business for purpose of supply or service to others of distributing, supplying, or treating water for public consumption.
2. On-site water-production facilities shall not require licenses but shall enter into appropriate contractual arrangements with supplying and distribution companies.
3. Where any difference or dispute arises as to whether any person is or is not engaging or about to engage in the business of carrying out any of the functions described in sub-article (1), the matter shall be referred to the Commission for determination, and the Commission's decision shall be final.

ARTICLE 18

General Qualifications of Licensees

(1) Any person, physical or juridical, may apply for and be considered eligible for any license under Article 16 if that person is determined by the Commission to meet each of the following standards: (a) (i) operational capabilities; and (ii) financial capabilities at the applicant's command as are necessary to fulfill

the functions and meet the conditions of the license applied for; (b) professional capabilities and Water Supply Sector experience sufficient to fully comprehend and undertake the obligations of the license applied for; (c) such personal qualities of integrity and maturity as to indicate fitness to manage the licensed business; and (d) domicile in the Republic of Albania with a permanent office and identifiable representative who shall be responsible for communication with the Commission and with other arms of Government as to all matters pertaining to the license.

(2) The Commission may require reasonable provision of evidence or data to support the applicant's claims as to any of the grounds for qualification; and the Commission shall refuse to grant a license if the applicant fails in a material respect to meet any one of these standards, except that, if the Commission concludes that such failure is not serious and is capable of timely correction, it may nevertheless grant the license or grant it upon conditions that ensure that the licensee cure the failure within a reasonable period of time.

ARTICLE 19

Grant of Licenses by the Commission

(1) The Commission may, upon application made in such form as the Commission may prescribe, and on payment of any fee to which the Commission shall be entitled, grant a license authorizing any qualified person to perform one (1) or more of the following services:

- a. collect and treat water in that person's facilities;
- distribute water for public consumption; and
- collect, treat, and dispose of wastewater.

(2) Categories of licenses and the procedures for applying for licenses and the issuance of licenses shall be established in a separate Decree of the Council.

1. The Commission has the right to modify or amend a license upon the licensee's having a reasonable opportunity to be heard. Conditions included in a license may contain provision for the conditions to cease to have effect or be modified at such time, in such manner, and in such circumstances as may be specified in or determined by or under the circumstances.

ARTICLE 20

Amendment and Revocation of Licenses

(1) The Commission shall have the power to amend or revoke any license issued hereunder for significant failure of the licensee to comply with the conditions of the license or for other sufficient cause.

(2) The Commission, by regulation, shall establish procedures governing amendment and revocation of licenses, such procedures to include reasonable notice to the licensee and an opportunity to respond.

ARTICLE 21

Restrictions on Licenses and Licensees

(1) No licensee shall at any time, without the prior written consent of the Commission, acquire by purchase or otherwise the license or undertaking of, or associate himself with, any other licensee treating or distributing or intending to treat or distribute potable water, or dispose of wastewater, and before applying for such consent, the licensee shall give no less than one (1) month's written notice of the application to the Commission.

(2) The licensee shall not at any time assign his license or transfer his undertaking or any part thereof by way of sale, mortgage, lease, exchange, or otherwise without the prior written consent of the Commission, which consent shall not be unreasonably withheld or delayed.

(3) The holder of a license may, unless expressly prohibited by the terms of the license, enter into arrangements for the sale or purchase of water to or from: (a) the holder of a distribution license which permits the holder of that license to supply water to other licensees for distribution by them; and (b) any person with the consent of the Commission.

(4) Any agreement relating to any transaction of the nature described in sub-articles (1) or (2), above, unless made with or subject to the consent of the Commission, shall be void.

ARTICLE 22

Annual Accounts of Licensees

Every licensee shall, unless expressly exempted from the liability by the license, prepare and submit to the Commission, on or before the date in each year specified in the license, an annual statement or statements of accounts of its undertaking and each separate business unit as specified in the license made up to such date,

in such form, and containing such particulars, as may be required by the license. The license shall require that such statements be audited and published.

PART IV—TARIFFS

ARTICLE 23

Tariff Standards

(1) The Commission, by regulations framed within one (1) year of the effective date of this Act, shall establish procedures and standards whereby the Commission will establish, approve, modify, or disapprove of prices or charges and terms and conditions of service for all water sales and services provided by licensees under this Act, except as otherwise provided herein.

(2) Among other standards that the Commission may establish under sub-article (1), above, prices or charges for treatment and distribution shall: (a) protect consumers from monopolistic prices; (b) permit licensees to recover their reasonable costs of providing efficient service, including the opportunity to earn a return on equity that is sufficient to attract financing for capital improvements and new construction; (c) encourage efficiency in internal operations by allowing the licensees' financial returns to increase as a result of the licensees' having increased their revenues by reducing non-technical losses or billing delinquencies or decreased its costs of providing service, provided that the licensees meet all requirements of their respective licenses concerning the provision and quality of service and any applicable contractual requirements concerning the provision and quality of service; (d) encourage economic efficiency within the industry by sending accurate price signals regarding the relative abundance or scarcity of supply; (e) permit licensees to recover all costs incurred by those companies (i) under contracts that meet the requirements of those companies' approved investment programs, or (ii) have otherwise been pre-approved by the Commission; (f) openly and clearly reflect subsidies that the Government has expressly authorized; (g) reflect cost and other appropriate differences between classes of customers and types of service, subject to applicable subsidies; and (h) be consistent with licensees' obeying all applicable environmental laws.

ARTICLE 24

Tariff-Establishment Procedures

The Commission shall establish a methodology for setting tariffs as provided for under this Act. The public shall be given notice and opportunity to comment on any and all tariff determinations by the Commission. No tariff or part of any tariff may be amended more frequently than once in any financial year.

PART V—GENERAL

ARTICLE 25

Orders for Securing Compliance

(1) Where the Commission is satisfied that a licensee is contravening or is likely to contravene any relevant condition or requirement of its license or this Act, it shall issue an order making such directions as it considers are necessary to secure compliance.

(2) If the Commission proposes to make an order, it shall give notice to the licensee: (a) stating that it proposes to make an order; (b) stating the relevant condition or requirement with which the order proposes to secure compliance, the acts or omissions which, in its opinion, constitute contravention of that condition or requirement, and such other facts which, in its opinion, justify the making of the order, together with the effect of the order; and (c) specifying the period (being not less than five (5) days from the date of notification) within which the licensee may make representations or objections to the proposed order.

(3) Subject to the licensee's having had a fair and reasonable opportunity to answer the charges against him, the Commission, having considered any representations or objections from the licensee pursuant to sub-article (2)(c), above, may make an order (which may be modified from the proposed order following the licensee's representations or objections) at any time after the expiration of the period referred to in sub-article (2)(c), if: (a) the Commission has good reason to believe that the licensee to whom the order relates is contravening or is likely to contravene any relevant condition or requirement; or (b) the provision made by the order is requisite for the purpose of securing compliance with that condition or requirement.

(4) As soon as practicable after making an order, the Commission shall: (a) serve a copy of the order on the licensee to whom the order relates; (b) publish the order in such manner as it considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it; and (c) commence enforcement proceedings under the order.

ARTICLE 26

Validity and Effect of Orders

If the licensee to whom an order relates is aggrieved by the order and desires to question its validity on the grounds that the making of the order was not within the powers of the Commission under Article 25, or that the requirements of Article 25 were not complied with in relation to it, or that the Commission failed to give reasons for its decision, then the licensee may make an application for relief to the competent court.

ARTICLE 27

Other Sanctions

The Commission is hereby empowered to impose such sanctions as are reasonable necessary to enforce the provisions of this Act as this body may authorize.

ARTICLE 28

Industry Standards

(1) The Commission shall encourage, by whatever means it deems appropriate, the development of industry performance standards and codes of conduct to be implemented uniformly in Albania, such standards and codes of conduct to include: (a) planning criteria for system safety, reliability, and cost effectiveness; (b) construction practices and standards; (c) operating standards and procedures; (d) maintenance schedules; (e) equipment specifications and standardization; and (f) health and sanitation standards.

PART

ADMINISTRATION AND PROCEDURES

ARTICLE 29

Regulations

(1) Regulations framed by the Commission shall be published in the appropriate official publication and shall have the force of law. The Commission's regulations may be enacted from time to time as the Commission deems appropriate.

(2) The Commission shall annually, beginning one (1) year after the creation of the Commission, file a report with the Government describing in detail the Commission's progress in finalizing regulations and carrying out its other duties required under the Act.

ARTICLE 30

Investigations

(1) The Commission may investigate any facts, conditions, practices, or matters which it may find necessary or proper to determine whether any person has violated or is about to violate any provision of this Act or any regulation or order thereunder, or to aid in the enforcement of the provisions of this Act, or in prescribing regulations thereunder.

ARTICLE 31

Decisions

All orders, determination, and regulations of the Commission shall: (1) be in writing; (2) identify: (a) the Members of the Commission (including the Chairman) who voted on such order, determination, or regulation; and (b) the vote of each Member; (3) indicate, in the case of an order or determination issued by any special panel or tribunal delegated by the Commission, the Member(s) or officer(s) serving on such special panel or tribunal; and (4) include a written explanation of the reasons for the establishing such special panel or tribunal.

ARTICLE 32

Procedures

(1) Within one (1) year of the effective date of this Act, the Commission shall frame regulations respecting the procedures that the Commission will employ in performing its functions under this Act. Such regulations shall require, at a minimum: (a) notice to the public of (i) the Commission's intent to conduct investigations or to frame regulations, and (ii) the filing of applications, complaints, and other requests for action before the Commission; and (b) opportunity for public comment, including comment by Government.

(2) The Commission shall hold public proceedings under guidelines issued by the Chairman and from time to time as the Chairman deems necessary and appropriate.

ARTICLE 33

Complaints

Any interested person, including a Government, may file a written complaint with the Commission against a licensee hereunder alleging a violation of any provision of this Act or any order, regulation, license, or instruction framed or issued hereunder. The Commission shall promptly provide the licensee with written notice of the complaint and shall permit an opportunity to respond in writing.

ARTICLE 34

Reports and Information Gathering

(1) The Commission shall submit to the Government and to the Assembly: (a) as soon as possible at the end of every financial year, but before the last day of September next: (i) an Annual Report on the conduct of its affairs for that year and indicating anticipated developments for the following financial year; and (ii) an Industry Report on the state of the water industry in Albania. including, but not limited to, (act) the ownership, operation, management, and control of water facilities; (bb) the amount of treatment and distribution capacity and present and estimated future demand; (cc) the cost of water services; (dd) the relation of such matters to the development of the standard of living in Albania; and (ee) recommendations for Government action. (b) to the extent that the Government or the Assembly may require:

- i. any return, statement, estimate, statistics, or other information regarding any matter under the Commission's control;
 - a report on any such matter; and
 - a copy of any document in the charge of the Commission.

(2) Pursuant to regulations framed by the Commission, each licensee under this Act shall submit to the Commission any report, statement, and information that the Commission, by regulation, deems absolutely necessary for the safe, reliable, and economic operation of the national water system and related facilities and for the effective execution of the Commission's duties under this Act. (3) Upon the Commission's request, the Government shall submit to the Commission: (a) a copy of any document in the charge of the Government relating to the administration of this Act; and (b) other reports, statements, and information as the Commission may determine to be necessary or appropriate for the Commission's periodic assessment of the effectiveness of this Act.