

Article 3 is amended by the addition of the following clauses after clause g):

h) "Organization" means a Fisheries Management Organization established pursuant to the article 26 of the Civil Code of the Republic of Albania and article 31/1 of this law;

i) "Fishing port" means a port or harbor that is used for fisheries purposes, including the landing of aquatic species from navigating vessels, or a defined area within a commercial port that is used for such purposes together with related land, buildings and facilities;

j) "Landing site" means a defined quay, jetty, wharf, pier, breakwater or slipway, adjacent to the sea or an inland water body that is used for fisheries purposes, including the landing of aquatic species from navigating vessels, together with related land, buildings and facilities;

ARTICLE 2

e. to ensure the operation and management of fishing ports and landing sites;

2. after "dh" added "e" as follow:

b. to better organize the management of fishery and aquaculture sectors, involving Fisheries Management Organizations in the decision-making and co-management of fishery resources;

1. Article 2 is changed by the reformulation of clause b as follows:

ARTICLE 1

The following amendments take place in the Law No. 7908 date 05/04/1995 "On Fishery and Aquaculture":

D E C I D E D:

**THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA**

In compliance with articles 78/1 and 83/1 of the Constitution and upon the proposal of the Council of Ministers,

**“ON AMENDMENTS TO LAW NO. 7908 DATED 05/04/1995 FOR FISHERY AND
AQUACULTURE”**

No. 8870 date 21.3.2002

L A W

**REPUBLIC OF ALBANIA
PEOPLE'S ASSEMBLY**



k) "Co-management Area" means a Fisheries Co-management Area designated pursuant to article 31/14 of this law, in which at least one Fisheries Management Organisation participates in the management of fisheries resources; and

l) "Co-management Plan" means a plan for the management of fisheries co-management area, prepared in compliance with the provisions of clause 3 of article 31/15 of this law.

ARTICLE 3

The following sentence is added to Article 14, clause 1:

‘The maximum number of fishing and aquaculture licenses to be issued in a Co-management Area is specified in the applicable Co-management Plan.’

ARTICLE 4

The following words are added to Article 15, clause 1:

‘except in a Co-management Area in which case licences will be issued in accordance with the applicable Co-management Plan.’

ARTICLE 5

A new sub-clause 4 is inserted into article 19, after sub-clause 3 as follows:

4. ‘A fishing licence shall not be issued in a Co-management Area unless this is expressly provided for in the applicable Co-management Plan.’

ARTICLE 6

Article 23 is amended by addition of the following clauses after clause d):

‘e) When using spear guns with a self contained underwater breathing apparatus;

f) In the marine protected areas.’

ARTICLE 7

In Article 31, the following words are added to the end of clause 1 ‘Agreements shall not be executed in respect of geographical areas that have already been designated Co-management Areas in respect of the same types of fishing activity.’

ARTICLE 8

Three new chapters, Chapter VII/I, VII/II, VII/III are inserted after article after 31 as follows:

CHAPTER VII/I

FISHERIES MANAGEMENT ORGANISATIONS

Article 31/1

Fisheries Management Organisations

1. A Fisheries Management Organisation may be established as a private independent body with legal personality in accordance with the provisions of the article 26 of the Civil Code, to undertake tasks in the fisheries sector based on the provisions of this law. FMOs have an independent budget based on the membership fees, different donations and every other income generated from their activity foreseen in the law. Any surplus of income over expenditure is not divided amongst its members but retained within the Organisation for fulfilment of its objectives.
2. Foundation Meeting approves the draft statute of the Organization based in the model statute and appoints its officers. At least, half of Owner Members present in the Meeting should agree with the statute. The Minister approves the draft statute. An ordinance to establish an Organisation, together with a copy of the statute, is published in the Government Gazette.
3. FMO wins a legal status after publishing in the Governmental Gazette the Minister ordinance on FMO statute approval.
4. The FMO will:
 - a) manage a fishing port or landing site in accordance with Chapter VII/II; or
 - b) participate in the co-management of fisheries resources as provided for Chapter VII/III; or
5. Not more than one Organisation may be established in respect of a single fishing port or landing site.
6. The Minister approves the procedures of FMO establishment, functioning way and model statute.

Article 31/2
Membership of Organisations

1. Membership of Organisations is voluntary and comprises Owner Members and Non-owner Members.
2. The holder of a professional fishing licence relating to a vessel that is registered has the right to become an Owner Member of that Organisation. Every active captain, engineer and crewmember with more than two years experience in fisheries has the right to become a Non-owner member of that Organisation.
3. Three fifths of the total number of votes are allocated for Owner Members, the rest for non-owner members

Article 31/3
Organs of an Organisation

Each Organisation has a General Assembly and Administrative Council. The statute may provide other organs, as necessary

Article 31/4
General Assembly

1. The General Assembly is the principal decision making body of an Organisation and meets at least once a year at an Annual General Meeting
2. Extraordinary meetings of the General Assembly can be called by the Administrative Council at its discretion and must be called by the Administrative Council on the written request of the holders of at least 10% of the total number of votes or as specified in the statute
3. The General Assembly has the exclusive competence to deal with the following matters:
 - a) approval of the accounts, annual report, the budget and the operation and maintenance

- plan,
- b) approve any proposed amendments to the statute as well as internal regulations and penalties for breaking of such regulations
 - c) the election of the Administrative Council;
 - d) decisions regarding the dissolution of the Organisation
 - e) other matters specified in the model statute
4. In the case of Owner Members who own more than one navigating vessel, the statute provides that no such person is to hold more than two fifths of the total number of votes allocated to Owner Members.
 5. A member only has the right to vote at a meeting of the General Assembly if he has paid all due charges, fees and penalties owed to the Organisation

Article 31/5

Administrative Council

1. The Administrative Council is the responsible body for the management of the Organization and its members are members of the Organization. The Administrative Council reports to the General Assembly for supervising the operation of the Organisation and consists of a minimum of three persons, at least one of who must be a Non-owner Member of the Organisation.
2. Members of the Administrative Council are elected by secret ballot at the General Assembly for a period of up to four years. A retiring member of the Administrative Council may stand once for re-election. No person will be eligible to stand for election to the Administrative Council if that person has out standing financial obligations to the Organisation.
3. The tasks of the Administrative Council include:
 - a) calling of meetings of the General Assembly;
 - b) the preparation of draft budget, work-plan and operation and maintenance plan for approval by the General Assembly;
 - c) concluding contracts in accordance with the approved budget, work-plan and operation and maintenance plan;
 - d) hiring and dismissing Organisation employees;
 - e) preparing the agenda for the meetings of the General Assembly;
 - f) the making of internal regulations of FMO;
 - g) monitoring the operation of the Organisation;
 - h) ensuring that the Organisation's financial and accounting procedures are followed; and
 - i) such other matters as may be specified in the statute.
4. Regular meetings of the Administrative Council take place each month or as otherwise specified in the statute or as required by the Chairman or one third of the members of the Administrative Council.
5. If the Administrative Council is suspended in accordance with the article 31/7 para. 3 of this law, the Minister assigns a temporary manager to run the Organization until the new Administrative Council is elected by the next meeting of General Assembly.
6. The temporary manager, besides the general tasks described in paragraph 3 of this article, calls the meeting of General Assembly.

Article 31/6

Statute

1. The statute of the Organization should contain at least:

- a) Name and Organization principal office;
 - b) Operational rules of the General Assembly and Administrative Council, or other organs;
 - c) The rights and duties of the Organisation members including their rights to vote and fees payable by Organisation Members;
 - d) Auditing of the activities of Organization
 - e) Resignation and Expulsion of Members and sanctions for breaking the statute
 - f) The way of Dissolution and Liquidation of Organisations
2. The statute may have other provisions, specifically for every Organization, but in every case, without over-passing the objectives decided by law.
3. For further changes in the statute is followed the same procedure as for the approval of the statute.

Article 31/7 Monitoring Board

1. A Monitoring Board, with no more than 7 members, civil servants in the Ministry, is established within the Ministry, to follow the performance of Organisations and their activities of management of fisheries ports and co-management of resources. The way of board functioning will be specified by Ministerial regulation. This board reports to the Minister
2. Each Organisation files the balance sheets and financial registers, in compliance with the legislation in power, and deposits copies at the Monitoring Board within 60 days of the end of its financial year.
3. When the Monitoring Board finds evidence of financial malpractice or that the Organisation has not been operating in accordance with the provisions of this law, informs the Administrative Council, who calls immediately a meeting of the General Assembly where the Monitoring Board's findings can be presented. If the Administrative Council fails to call a meeting of the General Assembly within 30 days, the Monitoring Board may suspend the Administrative Council and call such a meeting itself.

Article 31/8 Register of Organisations

1. A Register of Organisations is established at the Ministry and maintained by the Monitoring Board. The Minister decides the rules for register maintaining and public examination
2. The register contains the following details:
 - a) the name of each Organization;
 - b) the principal office of each Organisation;
 - c) the number of members of each Organisation;
 - d) the names, addresses and telephone numbers of the members of the Administrative Council and the Chairman of each Organisation; and
 - e) the date of filing of the most recent annual return together with a copy of each return.

Article 31/9 Auditing of the activities of Organization

The activities of Organization and its documentation are subject of audit from specialized organs of the Ministry and other bodies as provided by the legislation into power.

Article 31/10
Dissolution of Organisations

1. An Organisation may be dissolved by a decision of the Minister, in the following cases:
 - a) following a resolution of the General Assembly by a two thirds majority of votes;
 - b) where in the opinion of the auditing organs the Organisation has avoided the aim of establishment or is unable to practically fulfil its tasks.
2. The Minister shall give sixty days notice to an Organisation before exercising his power under sub-article 1b). Every decision to dissolve an Organisation is published in the Government Gazette.
3. Following a decision to dissolve an Organisation, the Organisation ceases its activity, and is placed under liquidation by the commission of liquidation, which is established and acts in accordance with the respective rules in the model Statute.
4. The Organization has the right to complain against the Minister order for dissolution, within 30 days from order publishing

CHAPTER VIII/I

TRANSFER AND OPERATION OF FISHING PORTS AND LANDING SITES

Article 31/11
Transfer of fishing ports and landing sites

1. A fishing port or landing site may be transferred to an Organisation at its request.
2. The transfer of a fishing port or a landing site to a Fisheries Management Organisation will take place on the basis of the following criteria:
 - a. Keeping the destination and aim
 - b. The guarantee of using the port or landing site from the state bodies in cases of extraordinary events
 - c. Protection and securing the public interest
 - d. Protection and growth of economic value
3. The form of the agreement, together with conditions of usage of fishing ports or landing sites is approved by Decision of the Council of Ministers.
4. State bodies charged by law, have the right to inspect the infrastructure transferred in accordance with the provisions of this law as well as relevant documentation.

Article 31/12
Operation of fishing ports and landing sites by Organisations

An Organisation operates and maintains a fishing port or landing site that has been transferred to it in accordance with the following principles:

- a) the users of fishing port or landing site bear the costs of its operation and maintenance;

- b) the fishing port or landing site is operated in an equitable manner so as to promote and protect the interests of all of those who use it; and;
- c) the fishing port or landing site is operated in a rational manner in compliance with relevant legislation and so as to promote the protection of the environment and to promote sustainable development.

Article 31/13

Use of port or landing site by non-members

1. An Organisation is obliged to permit:
 - a) a navigating vessel that is owned or operated by a person who is not a member of the Organisation to use the fishing port or landing site that has been transferred to the Organization;
 - b) persons who are not members of the Organisation to have access to the fishing port or landing site.
2. Every person who enters or uses a fishing port or landing site that has been transferred to an Organisation and who is not a member of that Organisation complies with the regulations of that Organisation and other normative acts.
3. Service charges of the Organization in respect of a vessel that is owned or operated by a person who is not an Organisation member, are at a rate that is higher than that charged to vessels of its members, except that the level of such charges will not exceed twice the equivalent amount charged to members.
4. The rate of charges is proposed by the Organization and approved by the Minister

CHAPTER VII/III

FISHERIES CO-MANAGEMENT

Article 31/14

Designation of a Co-management Area

1. On the written request of the Organisation, the Minister designates any defined geographical part of the waters of the Republic of Albania to be a Fisheries Co-management Area. The Co-Management Area applies to all fishing activities within its boundaries or only to fishing activities using specified gears or techniques and/or during certain specified times of year.
2. Fisheries Management Organisation relating to the Relevant Co-management Area will be involved in the preparation and implementation of the Co-management Plan

Article 31/15

Co-management Plans

1. Each Co-management Plan will last for a maximum period of ten years and will aim:
 - a) to promote the utilisation of fishery resources based on the sustainable development while ensuring that they are maintained at levels which meet the needs of present and future generations;
 - b) to maintain the quality and biological diversity of fisheries resources;
 - c) to encourage the use of appropriate fisheries technology; and
 - d) to avoid the creation of excess fishing capacity

2. Within twelve months of the designation of a Co-management Area, a Fisheries Co-Management Plan must be jointly prepared for that Co-management Area by the Relevant Organisation and the Directorate of Fisheries and approved by the Minister.
3. The Directorate of Fisheries and the Relevant Organisation in accordance with regulations to be issued by the Ministry, which shall also require the Ministry of the Environment and the Local Consultative Commissions for Fishery and aquaculture, shall elaborate draft Co-management Plans jointly.
4. A notice confirming the endorsement of each Co-management Plan will be published in the Government Gazette and a newspaper circulating in or near to the Co-management Area.

Article 31/16

Contents of Co-Management Plans

1. Every Co-management Plan must:
 - a) contain an analysis of the current state of the fisheries to which the Co-management Area applies;
 - b) identify the short, medium and long term objectives to be realised in order to ensure the sustainable and effective management of the fisheries to which the Co-management Area applies;
 - c) define the recommended management measures and development strategies necessary to achieve such objectives;
 - d) identify sources of funding for the costs of implementing and enforcing those management measures;
 - e) contain measurable performance indicators and formal review mechanisms to enable its implementation, arrangements and effectiveness to be assessed; and
 - f) comply with any national fisheries management plan in force.
2. A Co-management Plan that relates to a Co-management Area in which two or more Organisations will be involved shall specify the detailed mechanisms for co-operation between such Organisations.

Article 31/17

Fishing activities within Co-management Areas

1. Where it is necessary to promote effect fisheries management, a Co-management Plan may provide that:
 - a) no person may undertake any fishing or professional fishing activities within a Co-management Area unless that person is a member of a Relevant Co-management Organisation;
 - b) no person may undertake fishing activities using specified gears or techniques unless that person is a member of a Relevant Co-management Organisation.
2. In cases specified in sub-article 1:
 - a) existing professional fishing licence holders will continue to have the right to engage in fishing activities for a period of one year from the date of entry into force of the Co-management Plan, following which they must either become an Owner Member of the Organisation or cease undertaking such fishing activities in the co-management area; and

- b) prospective new Owner Members who are not professional fishing licence holders will be admitted to the Organisation according to the foreseen capacity and the Co-management Plan.

Article 31/18

Licensing within Co-management Areas

A Co-management Plan may provide that the provisions of article 15 apply within the Co-management Area to which it relates and shall also specify how the Relevant Organisation is to be involved in issuing and enforcing the licences.

Article 31/19

Monitoring and review

1. The Coordination Committee for Scientific and Technological Research may at any time request a formal review of the implementation of any Fisheries Management Plan on the grounds that:
 - a) it is not being correctly or effectively implemented; and/or;
 - b) the actual implementation of the plan poses a serious or irreversible threat to fisheries resources within the Co-management Area.
 - c) Generates serious conflicts amongst members
2. The Minister, when he is of the opinion that there is a risk of harm to fish stocks and/or habitats:
 - a) Orders the modification an existing Co-management Plan and/or the manner in which it is implemented and/or enforced; or;
 - b) Orders the undertaking of specific measures regarding the implementation or enforcement of the existing Co-management Plan
 - c) Suspends an existing Co-management Plan
 - d) Cancels an existing Co-management Plan
3. In the event that a Co-management Plan is suspended or cancelled, the Minister shall at the same time specify the management regime applicable to the relevant fisheries and shall issue implementing regulations as appropriate.

ARTICLE 9

Article 32 is amended by the insertion of the following sub-clauses after the existing sub-clause p:

- q) the procedure for establishing Organisations including the models and contents of the statutes;
- r) the books, records to be maintained by Organisations and the accounting procedures to be followed
- s) The operation of Monitoring Board and auditing procedures
- t) the establishment and operation of the Monitoring board, including the book-keeping and auditing procedures to be followed
- u) the operation and management of fishing ports or landing sites that have been transferred to Organisations

ARTICLE 10

This law enters into force fifteen days after its publication in the Government Gazette.

Proclaimed by Decree no. 3285, dated on 6.4.2002 by the President of Republic of Albania Rexhep Meidani