

LAW
No 8102, of 28 March 1996

**ON THE REGULATORY FRAMEWORK OF THE WATER SUPPLY AND
WASTEWATER DISPOSAL AND TREATMENT SECTOR**

As amended by:

- *Law No 9352, of 03 March 2005*
- *Law No 9584, of 17 July 2006 (as amended by Law No 9845, of 17 December 2007)*
- *Law No 9915, of 12 May 2008*

Pursuant to Article 16 of Law No 7491, of 29 April 1991 “On the Main Constitutional Provisions”, upon the proposal of the Council of Ministers,

**THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA**

HAS DECIDED:

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose of this Law**

The purpose of this Law is to establish a regulatory framework and an independent Regulatory Authority for the water supply and wastewater disposal and treatment sector. This Law lays down the functions, competencies, procedures and standards of operation of the Regulatory Authority.

An important objective of this Law is to safeguard and protect the public interests on the one hand, and to establish a transparent legal and regulatory environment encouraging private investments on the other hand.

**Article 2
Definitions**

- 1) “Law” means the law on the regulatory framework of the water supply and wastewater disposal and treatment sector (water supply and sewage).
- 2) “Regulatory Authority” refers to the institution in charge of regulating the water supply and wastewater disposal and treatment sector.
- 3) “Commission” refers to the National Regulatory Commission heading the Regulatory Authority.
- 4) “Ministry” refers to the ministry responsible for and in charge of policies in the field of water supply and wastewater disposal and treatment.
- 5) “Water resources” mean all the surface and underground water resources located within the boundaries of the Republic of Albania.
- 6) “Wastewater” means the water used for sanitary and industrial purposes, for which

collection, treatment and disposal is ordered to ensure public health and comfort.

7) “Water supply sector” means all the activities related to the collection, treatment and distribution of water resources for public purposes.

8) “Water production” refers to all the natural water resources within the territory of the Republic of Albania, including underground water layers (aquifers) and all the other underground and surface water sources.

9) “Water collection” means all those activities, which, via such mechanisms or structures as dams, wells, water tanks, cisterns, channels, water supply systems, pipelines, drainage pipes and sewerage systems collect, canalize, change the direction or extract water for public use.

10) “Water distribution” means all the operations used to pump, transport and distribute water from one place to another for public use.

11) “Water treatment” means all methods and means, be them chemical, mechanical, electric or other, used for cleaning or changing the condition of water for public use.

12) “Operators” refers to the licensed entities, which operate water supply and wastewater disposal and treatment systems.

13) “Regulatory fees” mean annual fees set by the Regulatory Authority, which are compulsory for the operators.

Article 3 **Scope of Action**

This Law shall be applicable to all private and public activities in the water supply and wastewater disposal and treatment sector, including, but not being limited to, the rights of physical and legal persons, as well as central and local government structures.

CHAPTER II **ESTABLISHMENT OF THE REGULATORY AUTHORITY**

Article 4 **Composition of the Authority**

1) Upon entry of this Law in force, the Council of Ministers names an independent regulatory Commission, called the National Regulatory Commission of the Water Supply and Wastewater Disposal and Treatment Sector (hereafter “the Commission”), holding the competencies and functions laid down in this Law.

2) The Regulatory Authority is a legal person exercising the rights and obligations referred to in the legislation in force.

3) The Commission is composed of five members who are to be appointed by the Council of Ministers among the individuals elected by the Selection Team.

The list includes:

- a) Two qualified professionals, holding a university degree and work experience of at least ten years in construction engineering, hydrology, urban planning, health, epidemiology, microbiology or other similar disciplines, for a mandate of respectively four years and one year from the establishment of the Commission.

b) Two qualified professionals holding a university degree and work experience of at least ten years in economics, business, trade, banking, accounting, law, public administration or other similar disciplines for a mandate of respectively three years and two years from the establishment of the Commission.

c) One member becomes the Chair of the Commission. The Chair is an outstanding person, holding a work experience of at least fifteen years in one or more of the disciplines referred to in paragraph a) and b). He is appointed for a mandate of five years from the establishment of the Commission.

d) Upon conclusion of the mandates of the first members of the Commission, as per the stipulations of paragraph a), b), c) above, the successive members are appointed for a four-year mandate. In case of death or withdrawal of any of the members, the person replacing him/her shall stay in office until the end of the uncompleted mandate.

e) No member is entitled to serve in the Commission for more than two full mandates.

f) Each member, prior to his/her nomination, notifies the Council of Ministers and resigns from any other office, job or consultancy work. He/she sells or liquidates every financial interest he/she might have in a company, group of individuals or businesses exercising commercial activities under the jurisdiction of the Regulatory Authority.

4) The Selection Team:

a) meets as need arises, but no later than three months before the end of the mandate of a member of the Commission;

b) is composed of three members, of who one is chosen by the Parliament, one by the Council of Ministers and one by the Ministry. The Selection Team identifies and assesses the suitable candidates for the Commission, who shall at least meet the requirements referred to in paragraph 7) of this Article. The Selection Team acts speedily within two months from its establishment, identifies and assesses the qualified candidates and, at a majority of votes, appoints the best candidates appropriate to exercise the functions, tasks and competencies of a Commission member as laid down in this Law. In the process of choosing the candidates, the Selection Team focuses on the capacities, qualities, and the experience of the previous members of the Commission, so as to achieve a balance of qualities and capacities referred to in paragraph 7) of this Article.

5) The Selection Team immediately notifies the Council of Ministers on the list of candidates chosen for the Commission. No later than 30 days from this notification, the Council of Ministers appoints the Commission members from the list of candidates submitted by the Selection Team.

6) The appointed Commission members work in conformity with the highest standards of public service, rigorously avoiding all conflicts of interest, factual or not, and act in a way as to protect the best public interest.

7) A person cannot be a Commission member if he/she:

a) is an MP, holds other offices, either elected or not, at the central or local government level;

b) has close blood, marriage relations with members of the Council of Ministers, whose office might cause a conflict of interest for the Commission member;

c) is sentenced for fraud, corruption, theft or other non-political crimes;

- d) has financial interests in a corporation or company subject to the regulatory framework of the Authority;
- e) is excluded from holding public/state posts by laws or other legal provisions in force.

Article 5

Dismissal of Commission Members

- 1) The Council of Ministers can dismiss or discharge any member of the Commission from office, if the later:
 - a) has mental disabilities or if his/her physical situation disables him from carrying out the work as a Commission member;
 - b) is condemned for fraud, corruption, theft or other crimes committed while in office;
 - c) becomes or seeks to become a state administration staff, a Member of Parliament, or any other election or appointment, except for the membership in professional or political associations and in tasks related to them;
 - d) refuses to carry out his/her duty because of unreasonable causes, or is incapable to act for a period of six or more months;
 - e) is involved in one of the provisions of paragraph 7) of Article 4 of this Law.
- 2) If a Commission member leaves office, as referred to in paragraph 1) of this Article, the substitute is appointed by the Council of Ministers from a candidate list prepared and submitted by the Selection Team, as provided for in paragraph 4)b) of Article 4.
- 3) Each member dismissed from office according to the provisions of this Law, is not entitled to re-election into the Commission.

Article 6

Procedures of the Regulatory Authority

- 1) The Regulatory Authority's is headquartered in Tirana. Nonetheless, the Regulatory Authority can organize working sessions, consultations and assessments in every place of the Republic of Albania.
- 2) The Regulatory Authority issues its own procedures and rules to guarantee a proper exercising of its tasks, as assigned by this Law. Regulations, procedures, standards, rules, proceedings and other official acts of the Regulatory Authority are either published or are accessible for the public. All the final orders of the Regulatory Authority are issued in writing and include an explanation of the action undertaken by the Regulatory Authority.
- 3) The Regulatory Authority can investigate on facts, conditions, practices or other issues, which can be either necessary or appropriate: 1) to define whether a person has violated or is violating this Law or other rules deriving from this Law; 2) to help in the implementation of the provisions of this Law, or of other rules deriving from this Law.

Article 7

Role of the Commission Chair

- 1) The Chair is the executive director of the Regulatory Authority.
- 2) One of the members becomes the Deputy Chair. The Deputy Chair fulfils the tasks and

exercises the competencies of the Chair in the absence of the later. The first Deputy Chair is one of the members appointed by the Chair and serves for a mandate of one year. Thereafter, each member of the Commission becomes a Deputy Chair by annual rotation.

Article 8
Remuneration and Terms of Remuneration
(Abrogated)

Article 9
Organizational Structure of the Regulatory Authority

- 1) The structure, organigramme and categorization of positions of the Regulatory Authority are approved by a decision of the Assembly. The Commission is entitled to chose, appoint, promote, including the right to dismissal and re-appointment in office, and to set the duties of the professional staff executing the functions of the Regulatory Authority.
- 2) The Commission sets the rules for employment of its professional staff, compliant to the laws in force, and decides on the organization of its professional staff.

Article 10
Funding of the Regulatory Authority

- 1) Operations of the Regulatory Authority shall be funded by:
 - a) funding resources of the Regulatory Authority, composed of the regulatory fees set by the Regulatory Authority for the operators active in the water supply and wastewater disposal and treatment sector, of licensing fees and various donations;
 - b) *(abrogated)*
- 2) The funds of the Regulatory Authority are administered through accounts in Albanian banks, which are approved by the Council of Ministers.

Article 11
Budget and Financial Accounts of the Regulatory Authority

- 1) No later than three months from the start of each fiscal year, the Regulatory Authority drafts an operational expenditure, which it submits for approval to the Council of Ministers.
- 2) The Regulatory Authority keeps full and accurate accounts, compliant to the Albanian laws on accounting.
- 3) All the surplus incomes over the expenditures of the Regulatory Authority are transferred to the state budget.

CHAPTER III
REGULATION OF THE WATER SUPPLY SECTOR

Article 12
Responsibility and Authority of the Council of Ministers

The Council of Ministers approves national policies and strategies in the water supply and wastewater disposal and treatment sector.

Article 13
General Tasks of the Regulatory Authority

- 1) While exercising its functions and authority, the Regulatory Authority acts so as to:
- a) encourage efficiency and safety of services by the licensee and the efficient use of water;
 - b) enable the licensee to fund the activities authorized by the license received;
 - c) enable fulfilment of all reasonable requirements for water supply within the limits of economic sustainability;
 - d) make sure that the licensee acts in compliance with the license conditions and protect the consumer interests on:
 - (i) prices, tariffs and other service conditions;
 - (ii) quality, efficiency, continuity and safety of service;
 - e) encourage competition when possible and feasible;
 - f) conduct activities transparently;
 - g) find a fair balance between the consumer interests, the Council of Ministers, the public, investors and stakeholders in the water supply sector;
 - h) participate as adviser in the drafting of national strategies and policies in the water-supply and wastewater disposal and treatment sector.

Article 14
General Competences of the Commission

- 1) To fulfil its mandate, as referred to in this Law, the Commission holds the following competencies:
- a) issues licenses for commercial entities engaged in providing water supply service to the benefit of the population;
 - b) approves water sale prices and tariffs, both wholesale and retail, tariffs for wastewater and its treatment, schedules and conditions for the service offered by the operators, who provide water for public consumption. This also applies in cases where the water supply and sewage systems have been transferred to the administration or ownership of local government units;
 - c) sets standards for investment programmes and asset sale from the licensees in the water supply and sewage sector. This also applies in cases where water supply and sewage systems have been transferred to the administration or ownership of local government units;
 - d) establishes and guarantees the implementation of work standards for the licensee;
 - e) encourages uniform standards and rules for the entire sector;
 - f) prepares reports on the status of the sector for the Council of Ministers and collects relevant information from the licensees;
 - g) sets applicable tariffs for licenses;

- h) issues administrative and monetary sanctions;
- i) issues rules that support the execution of the competencies and functions laid down in this Law;
- j) exercises any other function deriving from the above-mentioned functions.

Article 15

- 1) Any physical or legal person dealing with the collection, distribution, disposal and treatment of water for public use is required to hold a license from the Regulatory Authority.
- 2) Whenever a disagreement or disproportionate opinion on whether a person fulfils or does not fulfil functions referred to in paragraph 1 of this Article, the case is submitted for consideration to the Commission, which takes a final decision.

Article 16

Conditions for License Issuance

- 1) Every physical or legal person can apply for a license and be considered capable to hold a license if the Commission decides that this person meets the following conditions:
 - a) (i) professional technical capacities;
 - (ii) sufficient financial capacity to meet the conditions of the license he/she is applying for;
 - b) sufficient water supply and sewage sector experience to assume the tasks and responsibilities of the license;
 - c) personal qualities, such as credibility and seriousness;
 - d) a permanent residence in the Republic of Albania and a representative who is in charge of communicating with the Commission and with other state bodies on issues related to the licensed activities.
- 2) The Commission may request data and testimonies supporting the candidate request for a license, and the Commission can refuse issuance of the license, if the conditions submitted by the applicant are in breach with paragraphs a), b), c) and d) of this Article.

Article 17

Issuance of Licenses by the Commission

- 1) The Commission, following the submission of application in the required format and upon payment of the application tariff, issues the license, which authorizes a qualified person to:
 - a) collect and treat water in its plants;
 - b) distribute water for public consumption;
 - c) dispose of and treat wastewater.
- 2) License categories and application procedures are laid down in a special order by the Council of Ministers.
- 3) The Commission is entitled to modify or amend licenses, always allowing the licensee the opportunity to express his/her opinion on these amendments.

Article 18
License Amendment and Revocation

- 1) The Commission can make amendments on or revoke a license issued in case the licensee given on the conditions of the “material failure” by the licensee, in order to ensure compliance with the license conditions, or for any other reasonable cause.
- 2) The Commission decides on procedures related to the amendments and revoking of licenses, while such procedures include timely notification of the licensee and giving him/her the possibility to react before the Commission acts.

Article 19
Limitations, Licenses and Licensees

- 1) No licensee is entitled to buy, or otherwise appropriate the license of another licensee operating in the area of water treatment and distribution, without prior written approval by the Commission.
- 2) The licensee has no right to transfer the license or his/her undertaking via selling, mortgaging, renting, exchanging or any other form, without prior written approval by the Commission. This written approval is not subject to unreasonable refusal or delay by the Commission.
- 3) The license holder can, unless otherwise expressly prohibited in the license conditions, enter into agreements for the selling and buying of water with:
 - a) the holder of a distribution license, which allows this holder to provide water to other licensees for distribution;
 - b) every person if the Commission approves.
- 4) Every agreement related to the transactions of the nature referred to in paragraph 1 and 2 of this Article is invalid without the Commission approval.

Article 20
Annual Accounts of the Licensee

Every licensee, unless otherwise excluded from this obligation in the license conditions, prepares and submits to the Commission, before or in the date specified in the license, the financial statements of his/her undertaking and of each separate business unit in the same form and level of detail as specified in the license. A condition of the license is auditing and publication of these accounts.

CHAPTER IV
WATER TARIFFS

Article 21
Standards and Tariffs

- 1) The Regulatory Authority, through the full framework of approved rules, sets the national minimal procedures and standards on tariff setting, as well as the service conditions for each activity exercised by the water supply and waste water disposal and treatment sector.
- 2) Through other standards the Regulatory Entity can decide upon pursuant to paragraph 1) of

this Article, prices for water treatment and distribution:

- a) protect consumers from the monopoly prices;
- b) enable the license holder to recover reasonable costs for providing an effective service, including the possibility to ensure a profit on the investment that is sufficient for capital investments and other constructions;
- c) encourage efficiency in internal operations, enabling a higher financial profit of the licensee via growth of gross incomes from non-technical loss reduction, or reduction of service costs, on the condition that the licensee meets all the requests of his/her license vis-à-vis service provision and quality and other applicable contractual requirements;
- d) encourage economic efficiency in the sector, giving accurate signals of prices about the surplus or limited demand;
- e) openly and clearly reflect the subsidies provided by the Council of Ministers;
- f) reflect changes in costs and in other aspects between the classes of clients and kinds of service, depending on subsidies to be applied;
- g) give possibilities to licensees to abide by environmental protection laws.

Article 22 Tariff Setting Procedures

- 1) The Regulatory Authority decides on the tariff setting methodology for calculating the wholesale and retail tariffs of the water used for public consumption, tariffs for the water and its treatment, according to the provisions of this Law.
- 2) The tariff setting procedure starts with the proposal of the licensee, is followed by the opinion of the local government units, and ends with the final tariff approval by the Regulatory Authority.
- 3) No tariff, or part of it, is subject to change more than once per annum.
- 4) The Regulatory Authority sets, for each operator, the regulatory tariff, notifies the operator on what it has to pay and signs an agreement with it no later than 30 days from the day of its notification. If the operator ceases to meet the contractual obligations, it becomes subject of the sanctions referred to in paragraph 1) of Article 32 of this Law.

CHAPTER V GENERALITIES

Article 23 Guaranteeing of Law Enforcement

- 1) In those cases when the Regulatory Authority is of the opinion that the licensee is acting in breach of the license conditions, or of provisions of this Law, the Commission issues an order to guarantee enforcement of license conditions or of this Law.
- 2) If the Commission decides to issue an order, it notifies the licensee:
 - a) that it is preparing for issuing this order;
 - b) declares the condition or the relevant requirement aimed at ensuring enforcement of

the law, act or action which, according to the opinion of the Commission composes a violation of the declared condition and other facts justifying issuance of this order;

c) specifies the deadline (that is not less than five day from the notification time) for the licensee to object the proposed order.

3) Once the licensee is given the possibility to submit the problem and defend himself/herself from the accusations, after considering the objections (if any) and the explanations of the licensee, the Commission, compliant to the deadlines referred to in paragraph 2)c) of this Law, issues an order (which can be modified based on the licensee explanations and objections) at any time after the deadline referred to in paragraph 2)c) of the same Article, if:

a) the Commission has serious reasons to believe that the licensee for who an order is issued has objected or violated a certain condition or requirement;

b) issuing of an order is useful for avoiding a potential violation of a condition or requirement by the licensee.

4) Upon issuance of the order, the Commission:

a) gives a copy of the order to the licensee;

b) publishes the final order in the form it judges suitable for attracting the opinion of persons that might have the potential of violating it;

c) initiates administrative actions pursuant to this order.

5) The local government units owning the water supply and waste water disposal and treatment services are entitled to the right of controlling the licensed entities to make sure that the current Law is enforced, that the conditions of the license met and that water tariffs for public consumption are applied as set by the Regulatory Authority.

Article 24

Validity and Effect of the Order

1) If the licensee receiving the order questions its validity claiming that issuance of this Order and concurring sanctions according to Article 23 are not a competence of the Commission, or that the Commission has failed in giving sufficient reasons for its order, the licensee is entitled to access the competent court of law.

Article 25

Technical Standards and Conditions

1) The Regulatory Authority, encourages, by all means it deems reasonable, the establishment of working standards for the entire sector, and technical conditions that shall be equally applied all over Albania. These standards and rules include:

a) the criteria on safety planning, warrant and effectiveness of the cost of the system;

b) construction practices and standards;

c) practices and procedures on utilization of the system;

d) maintenance terms;

e) standardization and specifications of the materials and equipment;

f) health standards;

g) environmental protection.

CHAPTER VI ADMINISTRATION AND PROCEDURES

Article 26 Regulatory Framework

- 1) The Regulations drafted by the Regulatory Authority shall be published and are binding in nature. The regulatory framework can be amended as frequently as deemed appropriate by the Commission.
- 2) Ever year, the Commission, starting after the first year of its establishment, shall submit to the Council of Ministers a detailed report that describes the progress made by the Commission in finalizing the regulatory framework and the other tasks, as required by this Law.

Article 27 Investigations

- 1) The Regulatory Authority is entitled to investigating any fact, condition, practice or issue it deems appropriate to establish whether a person has violated any of the provisions of this Law, or to help in a better enforcement of the provisions of this Law and of the regulatory framework.

Article 28 Normative acts

All the orders, decisions and regulations of the Regulatory Authority:

- 1) are issued in writing.
- 2) refer to:
 - a) the Commission members (including the Chair) voting for the said order, decision or regulation;
 - b) the vote of each member;
- 3) disclose, in case of an order or of a decision taken by an ad-hoc committee mandated by the Commission, the member of the Commission or the staff taking part in that committee;
- 4) include a short explanation in writing of the reasons for establishing the special committee referred to in paragraph 3) above.

Article 29 Procedures

- 1) The Regulatory Authority approves the procedural rules to be applied for fulfilling the functions recognised by the current Law. These rules include:
 - a) public notification for
 - (i) the aim of the commission to initiate investigations or issue orders; and
 - (ii) filing of applications, complaints and other requests addressed to the Commission;
 - b) possibility for public debates, involving the comment from the Council of Ministers.

2) Any time deemed reasonable by the Chair and according to his/her instructions, the Commission organizes a Public Hearing.

Article 30 Complaints

Each interested person can lodge a written complaint about the licensee with the Commission if he/she is of the opinion that the licensee has breached the provisions of this Law, or an order, rule or license issued according to this Law. The Commission immediately notifies the licensee via a written notification and gives him/her the possibility of answering in writing. The complaint procedures are made compliant to the Administrative Procedure Code.

Article 31 Gathering of Information and Reporting

1) The Regulatory Authority shall provide to the Council of Ministers and the Assembly:

a) immediately after the end of the fiscal year, but no later than the last day of January, the following materials:

(i) the annual report describing the annual activity of the Regulatory Authority and the predictions of development for the successive year;

(ii) a water supply and sewage sector report on a national level, including, but not limited to

1. ownership, exploitation and control of the water supply;
2. current treatment and distribution capacity and the prediction for the water demand in the future;
3. cost of the water supply services;
4. connection of these issues with the living standard in Albania;
5. recommendations for necessary actions to be taken by the Council of Ministers.

b) any time requested by the Council of Ministers, or the Assembly:

(i) any form, statement, figure, statistic or other information related with any issue under the Commission control;

(ii) reports on this case;

(iii) a copy of each document kept by the Commission.

2) Pursuant to the regulatory framework established by the Commission, according to this Law, each licensee is obliged to provide the Commission with any type of report, financial statement deemed absolutely necessary by the Commission for the guarantee, safe and efficient operation of the national water supply system and the efficient functioning of the Regulator.

Article 32 Public Scrutiny

1) The documentation filed by the Regulatory Authority shall be open to supervision by the wide public for a certain period within the official deadline. The files contain relevant information, which shall be preserved and indexed according to instructions, procedures and

standards of the Entity. The entire process shall undergo any type of procedure for maintaining the principle of confidentiality that might be set by the Commission.

Article 32/1 **Administrative Contraventions**

- 1) The following violations, when not composing a criminal offence, are administrative contraventions and are subject of penalties by the Regulatory Authority as follows:
 - a) failure to pay financial obligations to the Regulatory Authority within deadlines provided for by the Regulatory Authority is sanctioned with a penalty of up to Albanian Lek 100,000;
 - b) failure to apply the Regulatory Authority decisions on tariffs is sanctioned with a penalty of up to Albanian Lek 100,000;
 - c) failure to meet license conditions is sanctioned with a penalty of Albanian Lek 50,000;
 - d) operation without license is sanctioned with a penalty of Albanian Lek 300,000.
- 2) The penalty is an executive title and is paid in the State Budget.
- 3) Bailiff offices are charged with the execution of such executive titles.
- 4) Examination of the administrative contraventions, and execution of decisions is made compliant to the Civil Procedure Code provisions.

Article 33 **Relation with Other Laws**

- 1) Each legal provision running contrary to this Law is abrogated.
- 2) This Law is the only ground of authority for setting the tariffs and prices of the water-supply sector in the Republic of Albania.

Article 34

This Law enters into force 15 days after its publication in the Official Journal.

Proclaimed at the Decree no 1467, of 18 April 1996 of the President of the Republic of Albania, Sali Berisha