

**LAW no. 8102,
Dated March 28, 1996**

**ON THE REGULATORY FRAMEWORK OF THE WATER SUPPLY SECTOR
AND THE SECTOR OF THE DRAINAGE AND PROCESSING OF CONTAMINATED
WATER (amended on 2005)**

Amended on:

- **Law nr. 9352, dated 03.03.2005**
- **Law nr. 9585, dated 17.07.2006 (amended with law nr. 9845, dated 17.12.2007)**
- **Law nr. 9915, dated 12.05.2008**

Based on Article 16 of Law no. 7491, dated April 29, 1991, “On the Main Constitutional Provisions”, By proposal of the Council of Ministers,

**PARLIAMENT
OF THE REPUBLIC OF ALBANIA**

D E C I D E D:

**CHAPTER I
GENERAL INFORMATION**

**Article 1
Purpose of this law**

The purpose of this law is the establishment of a regulatory framework and an Independent Regulatory Agency for water supply, and drainage and processing of contaminated water. This Law defines the functions, competencies, procedures, and standards by which the Regulatory Agency will operate.

An important objective of this Law is to guarantee and protect the public interest, and to create a transparent legal and regulatory environment that will encourage private investments in this sector.

**Article 2
Definitions**

1. “Law” means the law on the regulatory framework of water supply sector, and the sector of drainage and processing of contaminated water (waterworks, channels).

2. “Regulatory Agency” means the agency for the regulation of water supply sector, and the sector for drainage and processing of contaminated water.
3. “Commission” means the National Regulatory Commission that heads the Regulatory Agency.
4. “The Ministry” is the responsible ministry which runs the policies in the water supply sector, sewerage and waste water treatment.”
5. “Water reserves” are all of the superficial and underground water resources located within the borders of the Republic of Albania.
6. “Contaminated water” means water used for industrial and sanitary purposes, when their collection, processing, and drainage is ordered for the protection of public health.
7. “Water supply sector” means all the activities regarding the collection, management, and distribution of water resources for public purposes.
8. “Water production” means all the natural sources of water within the territory of the Republic of Albania, including underground aqueous stratum and all superficial and underground sources of water.
9. “Water collection” refers to activities with the following structures: dikes, wells, water deposits, cisterns, channels, water-works, pipes, drainage channels, and sewage channels that collect or distribute water for public purposes.
10. “Distribution of water” refers to activities that distribute, transport, and pump water from one place to another, for public interests.
11. “Water strategy” refers to methods and means, e.g., chemical, mechanical, electrical, etc., that are used to clean water for public interests.
12. “Operators” are the licensed entities, which operate the systems of water supply, sewerage and waste water treatment.
13. “Regulation fees” are annual fees, stipulated by the Regulatory Entity, binding to the operators.”

Article 3 **Sphere of law operation**

This law operates in all private and state activities of the sector of water-works and channels, including but not limited to the rights of physical and juridical persons, and those of local and central **Council of Ministers** agencies.

CHAPTER II **ESTABLISHMENT OF REGULATORY AGENCY**

Article 4 **Composition of the Agency**

1. When this law comes into power, the **Council of Ministers** shall appoint an independent regulatory commission, called the National Regulatory Commission of Water Supply Sector and Drainage and Processing of Contaminated Water (“Commission”), which has the competencies and functions indicated by this Law.
2. The Agency is a juridical person with all the rights and duties according to the legislation in force.

3. The Commission consists of five members that are appointed by the **Council of Ministers**, from the persons selected by the Selecting Team.

The list includes:

a. Two qualified professional members with university degrees and at least 10 years of experience in construction engineering, hydrology, urban planning, health, epidemiology, microbiology, or other similar disciplines; their mandate is respectively 4 years and 1 year since the date of the establishment of the Commission.

b. Two qualified professional members with university degrees and at least 10 years of experience in economy, business, trade, monetary system, statistics, justice, public administration and other similar disciplines; their mandate is respectively 3 years and 2 years, since the date of the establishment of the Commission.

c. One member who is the Head of the Commission. The Head must be an outstanding individual with at least 15 years of experience in one or more of the disciplines mentioned in items a. and b. above. The head shall be appointed for a five (5) year mandate from the date of the establishment of the Commission.

d. When the mandate of the previous members of the Commission expires, as described at the above items a., b., and c., the future members are to be appointed for a four (4) year mandate. When a member leaves or dies before the mandate expires, the substituting person has that position until the mandate expires.

e. No member has the right to be appointed in the Commission for more than two (2) full mandates.

f. Members shall notify the **Council of Ministers** before their appointment and they shall resign from other positions, employment, or consulting. Members must also sell and liquidate any financial interest they might have in any business, company, or group of persons that exercise their activities under the jurisdiction of the Regulatory Agency.

4. The Selecting Team:

a. Meets when necessary but no later than three (3) months prior to the date of expiration of the mandate of any member of the Commission.

b. Consists of three members: one of them appointed from the Parliament, one from the **Council of Ministers** and one from the Ministry. The Selecting Team shall identify and voice their opinions about the candidates who are being considered for membership in the Commission, and who meet the minimum requirements of item 7 of this Article.

The Selecting Team will work quickly for two months from the date of establishment, will identify and give opinions about qualified candidates, and will appoint the best candidates through the majority of votes; these candidates will promise to accomplish the functions, tasks, and competencies of members of Commission, as indicated in this law. During the selection of candidates, the Selecting Team will also consider the skills, qualities, and experience of the existing members of Commission, to ensure that they still meet the qualifications and qualities indicated in item 7 of this Article.

5. The Selecting Team shall promptly present the **Council of Ministers** with the list of Commission candidates. Within 30 days from this notification the **Council of Ministers** shall appointment the commission members, selected from the list drafted by the Selecting Team.

6. The appointed Commission members will, during their mandate, work according to the highest standards of public service while avoiding conflicts of interests, their main purpose being the protection of public interests.

7. A person cannot be a member of the Commission if that person:

- a. is a deputy of the Parliament or has another position, elected or appointed, in the local or central **Council of Ministers**;
- b. has familial or marital ties with members of the **Council of Ministers**, thus causing conflicts of interests;
- c. has been sentenced for theft, corruption, fraudulence, or other non-political crimes;
- d. has financial interests in a corporation that is subject to the regulatory framework of the Agency;
- e. is prevented from taking state or public positions according to Laws or legal provisions that are in force.

Article 5

Dismissal of Commission members

1. The Council of Ministers can dismiss any member of the Commission who:
 - a. has problems of mental disability or when their physical status prevents them from accomplishing the requisite tasks of members of the Commission;
 - b. is penalized for fraudulence, corruption, theft, or other crimes committed during the mandate;
 - c. secures or attempts to secure a position in state administration, as deputy of Peoples' Assembly, or any other appointment or election except for membership in professional or political associations;
 - d. refuses to accomplish a task or is incapable to work for a period of six (6) months or more without a reasonable excuse;
 - e. is disqualified by one of the provisions of item 7, Article 4 of this Law.
2. When a member resigns or is dismissed under item 1 of this Article, the **Council of Ministers** shall appoint substituting persons from a list of candidates presented by the Selecting Team, as indicated in item 4b of Article 4.
3. Any member dismissed according to this Law does not have the right to be re-elected to the Commission.

Article 6

Procedures of the Regulatory Agency

1. Headquarters of the Regulatory Agency will be in Tirana. However, the Regulatory Agency can organize work sessions and consultation throughout the entire Republic of Albania.
2. The Regulatory Agency issues regulations and procedures in order for its tasks to be met according to this Law. Regulations, procedures, standards, orders, and formal acts of the Regulatory Agency shall be published or be open for the public. The final orders of the Regulatory Agency will be in written form and shall include details of the decisions of the Regulatory Agency.
3. The Regulatory Agency can inquire into any facts, terms, practices, or questions necessary:
 - a. to decide whether a person has violated this Law, or regulations based on this Law;
 - b. to help the implementation of provisions of this Law or regulations based on this Law.

Article 7

Role of the Head of Commission

1. The Head of Commission is the main executive leader of the Regulatory Agency.
2. One member of the commission shall be the vice-head, who shall exercise the competencies of the head when the latter is absent. The first vice-head shall be one of the members appointed by the head and will have a one (1) year mandate. The rest of the members will be rotated in to the position of vice-head every year.

Article 8
Awards and terms of awards

(abrogated)

Article 9
Organizational structure of the Regulatory Agency

1. The Commission is entitled to elect, appoint, promote, including the right to dismiss and re-appoint the members of the professional staff, as well as to determine their tasks, for the performing of the functions of the Regulatory Entity.
2. The Commission shall determine the regulations for hiring professional staff and define the organizational structure of the staff according to the legislation in force.

Article 10
Funding of Regulatory Agency

1. Operations of the Regulatory Agency are funded by:
 - a) the funding sources of the Regulatory Entity consist of the regulation fees, set by the Entity itself for the operators, which operate the systems of water supply , sewerage and waste water treatment, license fees and of various donations as well;”.
 - b. (repealed)
2. Funds of the Regulatory Agency shall be administered through accounts opened in Albanian banks approved by the Council of Ministers.

Article 11
The budget and financial accounts of the Regulatory Agency

1. The Regulatory Agency shall establish a fund for operative expenses and seek the approval of the Council of Ministers no later than three (3) months prior to the ensuing fiscal year.
2. The Regulatory Agency shall keep full and accurate records of expenses according to Albanian financial legislation.
3. Extra money from the Regulatory Agency will go to the state budget.

CHAPTER III
REGULATION OF WATER SUPPLY SECTOR

Article 12

Responsibility and Powers of the Council of Ministers

The Council of Ministers adopts the national policies and strategies in the sector of water supply and sewerage and waste water treatment.

Article 13

General tasks of the Regulatory Agency

1. The Regulatory Agency operates and exercises its functions and competencies according to this law, in a way that will:
 - a. encourage licensed persons to use water effectively and safely;
 - b. enable licensed persons to fund the activities authorized by the license;
 - c. meet reasonable requirements for the water supply within economical limits;
 - d. guarantee that licensed persons can work according to the terms of their licenses and to protect consumer interests in terms of: (i) prices, tariffs, and terms of service; (ii) quality, efficiency, continuity, and guarantee of service;
 - e. encourage competition when possible;
 - f. conduct activities transparently;
 - g. reach an even balance among the interests of consumers, Council of Ministers, public, investors, and participants in the water supply sector.
 - h. to participate as an advisor in the drafting of national policies and strategies in the sector of water supply and sewerage and treatment of waste water as well

Article 14

Main competencies of the commission

1. The Commission shall have the following competencies in order to exercise its mandate according to the law:
 - a. issue licenses to commercial agencies that are engaged to supply the population with water;
 - b. to adopt the water prices and fees, both wholesale and retail ones, the fees for the waste water and its treatment, schedules and service conditions, offered by the operators providing water for public consuming, even in the cases when the water supply and sewerage systems have been transferred under the management or property of local government units;
 - c. to set the standards of the investment programs and the selling out of the assets by the licensed entities in the water supply and sewerage sector, even in the cases when the water supply and sewerage systems have been transferred under the management or property of local government units
 - d. establish and guarantee the implementation of work standards for licensed subjects;
 - e. encourage rules and standards for the entire sector;
 - f. to draw up reports on the state of the sector for the Council of Ministers and to collect the relevant information by the licensed entities
 - g. determine tariffs applicable for licenses;
 - h. set administrative and monetary sanctions;
 - i. formulate regulations to help exercise the competencies and functions indicated in this Law;
 - j. exercise any other function that derives from the above-mentioned functions.

Article 15

1. 1. Natural or legal persons, dealing with the activities of the collection, distribution, sewerage and treatment of water, for public benefits, shall be provided with licenses by the Water Regulatory Entity.
2. When disagreements and conflicts of ideas exist regarding the functions mentioned in item 1 of this Article, the question is sent to the commission, whose order is final.

Article 16

Terms for license issuance

1. Any juridical or physical person may request a license if the Commission decides that person has met the following requirements:
 - a. (i) professional and technical ability;
 - (ii) financial ability, necessary to meet the requirements for the license the subject is applying for;
 - b. expertise in water-works and channels necessary to accomplish the tasks that the license offers;
 - c. personal qualities, credibility and seriousness;
 - d. maintains a permanent residence in the Republic of Albania and a representative in order to communicate with the Commission and other state agencies regarding the licensed activities.
2. The Commission shall request data and information in support of a request for license; the Commission can refuse to issue a license if the records presented from the applicant violate items 1a, 1b, 1c, or 1d of this Article.

Article 17

Issuance of licenses from the commission

1. The Commission, after receipt of the application and the respective tariff may issue the license that authorizes qualified persons to:
 - a. collect and preserve water in water plants;
 - b. distribute water for public use;
 - c. drain and process contaminated water.
2. License categories and application procedures are defined through an order by the Council of Ministers.
3. The Commission has the right to modify or make changes in the licenses, but the Commission shall allow the applicant to give their own opinion regarding these modifications.

Article 18

Amendment and revocation of licenses

1. The Commission has the right to modify or revoke a license when the licensed subject does not respect the terms of the license or for other reasonable purposes.

2. The Commission defines the procedures regarding amendments to the revocation of licenses including proper notification to the licensed subject giving the subject an opportunity to answer prior to any action by the commission.

Article 19 Restrictions, licenses, and licensed subjects

1. Licensed subjects do not have the right to buy or appropriate the license of another licensed subject whose activity deals with water distribution, without the written approval of the commission.
2. Licensed subjects do not have the right to transfer license through sale, mortgage, lease, or exchange without the written approval of the commission.
3. Unless prohibited by the terms of license, a license holder may agree to sell or buy water with:
 - a. the possessor of a distribution license that enables the holder to supply with water other subjects licensed to distribute water, and;
 - b. any person approved by the commission.
4. Commission approval is required for any agreement regarding the transactions described in items 1 and 2 of this Article.

Article 20 Annual balance records of the licensed subjects

Licensed subjects shall prepare and present to the commission the statistical tables of the business and any business units, detailed according to the terms of the contract, unless formulated differently in the terms of the contract. The control and publication of these statistical calculations shall be made part of the terms of license.

CHAPTER IV WATER TARIFFS

Article 21 Standards and tariffs

1. The Regulatory Entity, through the complete framework of the adopted regulations, stipulates the minimal national procedures and standards for the setting of the fees, as well as the service schedules and conditions for every activity performed by the operators in the sector of water supply and sewerage and treatment of waste water.

2. The Regulatory Agency shall define the prices for water distribution according to item 1 of this Article, in order to:
 - a. protect consumers from the monopoly of prices;
 - b. give licensed subjects the opportunity to recuperate reasonable costs for effective services, including the opportunity to make profits from their investments;
 - c. encourage efficiency in interior operations, increase the financial gains of licensed subjects, increase net incomes and reduce service costs once the licensed person meets the requirements for the license and other requirements that are applied;

- d. encourage the economic efficiency of the sector by setting accurate prices regarding the reduced or increased supply;
- e. clearly present **Council of Ministers** subventions;
- f. present modifications in costs and other aspects of clients and services, depending on subventions that are applied;
- g. provide licensed subjects with the opportunity to respect the laws of environmental protection.

Article 22

Procedures on Tariff Setting

1. The Regulatory Entity stipulates the methodology of the calculating of both wholesale and retail fees of the public consuming water, the fees of waste water and its treatment, pursuant to the provisions of this law.
2. The procedure of the fee begins with the proposal submitted by the licensee, opinion giving by the local government units and ends with the final approval of the fees by the Regulatory Entity.
3. No tariff or part of it can be changed more frequently than once in a year period.
4. The Regulatory Entity sets for every operator the regulation fee, notifies the operator about the duty to be paid and enters into a contract with the operator in question within 30 days from the notification date. In case the operator fails to comply with his/her contractual obligations, he/she shall be subjected to sanctions, in accordance with item 1 of article 32 of this law.

CHAPTER V

MISCELLANEOUS

Article 23

The guarantee for the implementation of law

1. When the Regulatory Agency finds that a licensed subject has violated the terms of their license or the provisions of this Law, the commission shall issue an order to guarantee their implementation.
2. When the Commission decides to issue an order it shall notify the licensed subject:
 - a. that it is preparing to issue an order;
 - b. of the request through which they intend to guarantee implementation of the law, of the action that has violated the terms, and justification of the issuance of the Commissions order;
 - c. of the specific period of time the licensed subject may present objections against the proposed order; this period of time must be more than 5 days from the date of notification.
3. The Commission shall give the licensed subject an opportunity to defend themselves against the accusations; they shall study the objections and explanations according to item 2c of this Article; they shall then issues an order, which can be modified based on the objections presented, at any time after the time period mentioned in item 2c of this article, if:
 - a. the Commission has strong reasons to believe that the licensed who was issued the order has violated the terms or conditions;
 - b. the issuance of the law is beneficial in order to avoid a violation of terms or conditions of the licensed subject.
4. After the order is issued, the commission shall:

- a. give a copy to the person who was issued the order;
- b. publish the order in such a way as to attract the attention of the person;
- c) begin any administrative actions based on the order.

5. The local government units, owners of the systems of water supply and sewerage and treatment of waste water as well, are entitled to inspect the licensed entities regarding the implementation of this law, the observing on their part of the license conditions as well as the compliance with the fees of the public consuming water, set by the Regulatory Entity

Article 24

Availability and effects of the order

If the recipient of an order doubts the validity of the order, or believes that the issuance of the order and the sanctions are not within competence of the commission according to Article 23, or believes that the commission does not give a good reason for the order, then that person may file a complaint to a court of proper jurisdiction.

Article 25

Technical conditions and standards

1. The Regulatory Agency shall encourage by all means the establishment of work standards and technical conditions for all sectors throughout Albania. These rules and standards shall include:

- a planning, safety, and efficiency criteria
- b. practices and standards of construction;
- c. practices and procedures for systems use;
- d. terms of maintenance;
- e. standardization and specifications of materials and equipments;
- f. health standards.
- g. environmental protection.

CHAPTER VI

PROCEDURES AND ADMINISTRATION

Article 26

Regulatory framework

1. Regulations that are published by the Regulatory Agency are mandatory. The regulatory framework can be modified.
2. Once per year the Commission shall prepare a detailed report informing the **Council of Ministers** of the work it has been engaged in regarding the completion of a regulatory framework and other tasks described in this Law.

Article 27

Inquiries

The Regulatory Agency has the right to investigate any evidence, conditions, practices, and questions it considers necessary for the purpose of ascertaining whether a person has violated any of the provisions of this law, or to help implement those provisions and the regulatory framework.

Article 28 **Sub-legal acts**

Orders, decisions, and rules of the Agency shall:

1. Be in written form;
2. Specify:
 - a. the members of the commission, including the head, who voted in favor of the order, decision, or rule;
 - b. votes of every member.
3. Display the list of members or people that participated in the committee when an order or decision is made by special committee appointed by the Commission;
4. Explain in writing the reasons for the establishment of the special committee.

Article 29 **Procedures**

1. The Regulatory Entity adopts the procedural regulations which it shall use in performing the functions stipulated in this law. These regulations comprise:

- a. public notification regarding:
 - (i) the purpose Commissions investigations and the issuance of rules;
 - (ii) the filing of applications, complaints, and other requests presented to the commission;
 - b. options for public comments including comments of the **Council of Ministers**.
2. Based on instructions, the head shall organizes all public sessions of the commission.

Article 30 **Complaints**

Persons interested in presenting a written complaint to the commission against a licensed person they believe has violated provisions of this Law or any order, rule, license, or instruction resulting from this law, may do so. The commission shall notify the licensed subject immediately, in writing, about the complaint and give to the licensed person an opportunity to answer in writing.

The appealing procedures are made in accordance with the Administrative Procedure Code.

Article 31 **Collection of reports and information**

1. The Agency shall present to the Council of Ministers and Parliament;
 - a. the following materials, at the end of each fiscal year, but no later than last day of January:
 - (i) an annual report describing the work of the Agency during the prior year, and what they anticipate for new year;

- (ii) a report regarding the situation of the sector of water-works and channels in Albania, including but not limited to;
1. ownership, use, and control of water-works,
 2. actual capacity of management and distribution of water, and requests for the future use of water,
 3. cost of service for water supplies,
 4. application of these questions relative to the standards of life in Albania,
 5. recommendations regarding any actions the **Council of Ministers** should take;
- b. whenever it is requested by the Council of Ministers or Parliament:
- (i) any form, table, calculation, statistics, or information regarding questions under the investigation of the commission;
 - (ii) reports about this question;
 - (iii) copies of documents stored by the commission.
2. Based on the regulatory framework of the Commission, persons licensed according to this law are obligated to provide the Commission with reports, financial tables, and any other information the Commission needs for the safe and guaranteed operations of the national water supply system and for the efficient operation of the Regulatory Agency.

Article 32 Public filing

1. All document that the Agency files are open to the public during the work hours. These files include the respective information stored and indexed according to instructions, procedures, and standards of the Agency. This process shall undergo procedures for secret keeping as defined by the Commission.

Article 32/1

Administrative infractions

1. The following violations, when they do not constitute a criminal offence, are considered as administrative infractions and are punished by the Regulatory Entity as follows:
 - a. failure to pay the financial obligations to the Regulatory Entity, within the time limits set by this Entity, is punishable by a fine of the amount of 100 000 lek;
 - b. failure to execute the decisions of the Regulatory Entity on tariffs (fees), is punishable by a fine up to the amount of 100 000 lek;
 - c. failure to comply with the license conditions is punishable by a fine of the amount of 50 000 lek;
 - ç. performing of the activity without having been provided with a license is punishable by a fine of the amount of 300 000 lek;
2. The fine is an executive title which is paid in the State Budget.
3. The bailiff's offices are in charge of the execution of fines.
4. Reviewing of administrative infractions, appealing and execution of the decisions is made in accordance with the Civil Procedure Code.”

Article 33
Reports to other laws

1. Legal provisions that violate this law are invalid.
2. This Law is the only authority to define tariffs and prices of the water work sector in the Republic of Albania.

Article 34

This law comes into force 15 days after publication in the Official Journal.

Albanian Presidential Decree no. 1467, date 18.04.1996 Sali Berisha