

REPUBLIC OF ALBANIA
PEOPLE'S ASSEMBLY

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No. 7908, dated on 05. 04. 1995 amended by law No. 8870 date 21.3.2002

"ON FISHERY AND AQUACULTURE"

In compliance with articles 78/1 and 83/1 of the Constitution and the proposal of the Council of Ministers,
PEOPLE'S ASSEMBLY OF REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I

GENERAL PROVISIONS

Article 1

Scope of the Law

This law applies to fishery and aquaculture activities undertaken in waters and territory of the Republic of Albania.

Article 2

Intention of the Law

The provisions under this law intend to:

- a) ensure a rational and accountable exploitation of aquatic biological resources and development of aquaculture;
- 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;
- c) provide protective conservation measures in order to ensure the protection of biological water resources;
- ç) support the sustainable development of fishery and aquaculture sectors, as well as create better social-economical conditions for producers;
- d) insure consumers' demand and interests by introducing to markets, fishery products permissible for human consumption;
- dh) promote and regulate the scientific and technological research in fisheries and aquaculture sectors.
- e) to ensure the operation and management of fishing ports and landing sites'.

Article 3

Definitions

In understanding this law and relevant bylaws for its execution, the following definitions apply:

- a) "waters of Republic of Albania" means the territorial maritime waters and any other area reserved exclusively for the Republic of Albania, based on the law of international right, as well as rivers, lakes, lagoons, reservoirs, dams and other waters located in the territory of the Republic;

- b) "fishing", means every activity conducted for catching or collecting aquatic species, except those resulting from aquacultural activities irrespective of the means used and catch results;
- c) "professional fishing", means the fishing for economical purposes, and "sport fishing", means the fishing for recreational and entertainment purposes;
- ç) "aquaculture", means rearing (cultivating) of aquatic species aiming at their economical exploitation;
- d) "aquatic species", means living or dead organisms of fauna and flora, edible or inedible, having the water as their habitat, comprising fishes, crustaceans, shellfishes, corals, sponges, amphibians, aquatic reptiles, aquatic mammals, as well as eggs and spawn, larvae and fingerlings and other species, except fowls.
- dh) "navigating vessel", means any kind of ship, boat or any other floating means appropriate for navigating;
- e) "Albanian vessel", hereinafter means any navigating vessel owned by:
- any physical persons with Albanian citizenship living in Albania;
 - any juridical persons, established in Republic of Albania in conformity with legislation in force;
 - any other entity distinct from a juridical person, including exclusively physical persons with Albanian citizenship, living in Albania and registered in conformity with legislation and regulations in force;
- ë) "foreign vessel", hereinafter means any navigating vessel distinct from those defined under item "e";
- f) "foreign subject", hereinafter means any physical persons without Albanian citizenship or any juridical person established in conformity with legislation of any foreign country;
- g) "ministry" and "minister", hereinafter means respectfully the ministry and minister with the mandate for fishery and aquaculture affairs.
- 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;
- 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 Organization 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.

CHAPTER II
THE CONSULTATIVE ORGANS
Article 4

Central Consultative Commission for the Fishery and Aquaculture

1. The central consultative commission for fisheries and aquaculture is established in relation to the Ministry, as a consultative body to the minister in the fields of fishery and aquaculture.

2. It is mandatory that the recommendations of Commission, for issues regarding the analysing of fishery and aquaculture legislation and bylaws, proposals for their amendment, as well as adjustment of fishery plans, are taken into consideration (articles 8,9).

Article 5

The Composition of Central Consultative Commission for Fishery and Aquaculture

1. The Central Consultative Commission for Fishery and Aquaculture is headed by the Minister and consists of representatives of the Fishery Directorate, other directorates of the Ministry and other ministries concerned, representatives of producers and experts in fields of fisheries and aquaculture.
2. Members of Commission are nominated by the Minister for a three year term.
3. The director of Fishery Directorate at the Ministry will perform the functions of deputy chairman of the commission, and one official from this directorate will perform the function of secretary.

Article 6

Local Consultative Commissions for Fishery and Aquaculture

1. Local Consultative Commissions for Fisheries and Aquaculture shall be established in close relation to the local administrative authorities, when considered necessary.
2. Local Commissions shall give opinions on matters regarding fisheries and aquaculture in their administrative units, whenever the Minister or Central Consultative Commission considers it necessary.
3. The Minister will decide on the locations of local commissions, determine their composition and nominate the chairman of each commission.

Article 7

The Commission for Coordinating the Scientific and Technological Research

1. The Commission for Coordinating the Scientific and Technological Research applied to fisheries and aquaculture, is established in the Ministry. The Minister nominates members of commission.
2. The commission will advise on matters regarding the studying and research activities with a scientific, technical, statistical and economical interest for fishery and aquaculture.

CHAPTER III

RULES OF PROGRAMMING

Article 8

Fishery and Aquaculture Administration Plan

The Fishery and Aquaculture Administration Plan will be reviewed periodically and improved in accordance with norms of this law. The plan is prepared and elaborated by the Fishery Directorate at the Ministry, given the consent of the Central Commission for Fishery and Aquaculture and endorsed by Minister.

Article 9

Fisheries and Aquaculture Development Plan

The fishery and aquaculture development plan is a specific object of the state budget.

CHAPTER IV

SCIENTIFIC RESEARCH

Article 10

The Authorization for Research

The research activity on fisheries and aquaculture within the waters of the Republic of Albania will be carried out through authorization by the ministry based on recommendations of the Commission for Coordinating the Scientific and Technological research.

Article 11

Recognized Research Institutions

1. The ministry must recognize as Research Institutions any applying private subject, based on evidence of their qualifications and capacity.

CHAPTER V

FISHING

Article 12

The Register of Professional Fishermen

The ministry will establish a register of professional fishermen, which is managed by an assigned office. Anyone requiring to undertake professional fishing, must be qualified, registered, tested and provided with a relevant certificate.

Article 13

The Register of Fishing Vessels

1. The ministry will establish and maintain a register of fishing vessels managed by offices assigned by the ministry.
2. Any navigating vessel used for professional fishing must be registered in the register of fishing vessels.

Article 14

The Regulation of Fishing Limits

1. The maximum number of fishing and aquaculture licenses is defined every year by Ministry in accordance with the Fishery and Aquaculture Administration Plan. The maximum number of fishing and aquaculture licenses to be issued in a Co-management Area is specified in the applicable Co-management Plan.
2. The Minister can modify the number of licenses even when contrary to the fishery and aquaculture administration plan on the basis of specified and rational reasons.

Article 15

The Licensing of Fishing Vessels

1. Every navigating vessel used for professional fishing, as well as any other entity exerting professional fishing without using any vessels, must get a license for professional fishing, except in a Co-management Area in which case licenses will be issued in accordance with the applicable Co-management Plan
2. The license of professional fishing is issued by the Minister after approval of the Fishery Board, basing on the request of the owner or any other persons seeking to exert professional fishing with or without navigating vessels.
3. Owning of fishing vessels will not be considered as a sufficient condition for gaining the professional fishing license.

Article 16

Conditions and Validity Time Duration of License

1. When issuing and renewing professional fishing licences, the Ministry may impose conditions regarding the following items:
 - a) area of exerting the activity;
 - b) fishing gears that will be used;
 - c) presenting of information and statistical data;
 - ç) obligation to allow observers, assigned by Ministry, on board for collecting certain data on fishing.
2. The professional fishing licence has a specified period of validity, determined under several bylaws for execution of this law. The period of validity must be written on the license.
3. Fishing outside of waters of the Republic of Albania can only be carried out by special authorisation.
4. Professional fishing licences valid under the existing legal provisions will remain valid until their expiry date even after this law enters into force.
5. Albanian fishing vessels, with a professional fishing license must employ crews of Albanian citizens. The presence of foreign experts on the board of fishing vessel must be authorised by the Ministry.

Article 17

Licences for Activities Related with Fishing

Any persons wishing to undertake activities related with fishing such as transportation, supplying of fish and other aquatic species, as well as other services for fishing vessels, excepting freight passing through waters of Republic of Albania, treatment or processing of fishery products, must have a relevant licence for the activity. This licence will be issued by Ministry or other authorized institution.

Article 18

Agreements on Fishing

1. The Government of Republic of Albania will settle agreements with governments of other countries or international organisations in the field of fishing. The agreements contain indexes controlling fishing licenses or other activities related to fishing.
2. Agreements on the basis of this article will determine the obligations of other parties respecting fishing norms in force in the Republic of Albania.

Article 19

Licensing of Fishing or Other Activities Related with Fishing for the Foreign Vessels and Subjects

1. The Ministry exclusively may issue licences for fishing, or other activities related with fishing, for the foreign vessels or subjects:
 - a) on the basis of international agreements in force with the country to which the foreign vessel or subjects belongs; or
 - b) in cases when the issuing of license is:
 - considered necessary for the economy of Republic of Albania and especially when the applicant undertakes beneficial investments for the fishery sector in Republic of Albania in line with policies and strategies formulated for the development of this sector;

- necessary for sustainable use of resources, considering the national capacity for fishing and its development;
 - in compliance with the policy of the Republic of Albania regarding the foreign investments and especially with the future goals and objectives of fishery and aquaculture administration plan.
2. The holder of a licence issued on the basis of this law, is subject to, and protected by fishery legislation and regulations that are in force in Republic of Albania.
 3. The holder of a licence issued on the basis of this law, must be previously recognized by a relevant government and the government of Albania as juridical person.
 4. A fishing license shall not be issued in a Co-management Area unless this is expressly provided for in the applicable Co-management Plan

Article 20

The issuing of licenses is prohibited for foreign vessels applying for bottom fishing with trawls and fishing and/or collection of bivalve molluscs.

Article 21

The Obligation to Return in an Albanian Harbour

Every Albanian or foreign vessel, provided with licence for professional fishing in waters of Republic of Albania, must return to an Albanian harbour after fishing and before possible exporting of aquatic species caught, for provision of requirements stipulated under legislation in force.

Article 22

Fishing of Corals and Sponges

1. The fishing of corals and sponges is prohibited. The minister may issue special authorization for research purposes.

Article 23

Sport Fishing

1. The sport fishing in the absence of navigating vessels is allowed without license. The Minister will issue the license for sport fishing when using navigating vessels.
2. The sport fishing is prohibited:
 - a) when using navigating vessels distinct from those as determined through bylaws for the execution of this law;
 - b) when using gears of typical professional fishing, or distinct from those as determined through bylaws for the execution of this law;
 - c) in restricted areas for sport fishing through bylaws for the execution of this law;
 - ç) when using spear guns in a distance less than 50 metres from professional fishing gears;
 - d) when spear guns are used by persons under 16 years of age.
 - e) when using spear guns with a self contained underwater breathing apparatus;
 - f) in the marine protected areas

Article 24

Prohibitions

1. It is prohibited to:
 - a) fish,
 - in areas and periods restricted through bylaws for the execution of this law;

- by using navigating vessels, fixed or movable gears which are forbidden through bylaws for the execution of this law;
 - for aquatic species with dimensions forbidden through bylaws for the execution of this law;
 - in quantities larger than those defined as maximum quantities through bylaws for the execution of this law;
 - for eggs and spawn, larvae and fingerlings of any water species without the relevant authorization or licence issued on the basis of bylaws for the execution of this law.
- b) use explosives, chemical and poisonous substances, electrical energy capable of shocking or killing aquatic species even in aquaculture activities;
 - c) fishing of aquatic species being a fishing object of the third parties, as well as fishing in distances smaller than those as defined under bylaws for implementation of this law using fishing gears of the third parties without the beneficiaries consent according to the law;
 - ç) maintaining, transportation and marketing of aquatic species obtained contrary to this law and ensuing relevant bylaws;
 - d) change the quality of waters and direction of their flows so as to damage the environment of aquatic species or aquaculture structures, except in cases when authorized according to the law.
2. The above-mentioned prohibitions are not valid in cases defined under bylaws for the scientific research.

Article 25

The Obligation for Presenting the Data

The holder of a professional or sport fishing license as well as those operating aquaculture activities are obliged to present and declare with a full responsibility the statistical data on activities carried out, according to criteria and ways as defined through bylaws for the execution of this law.

Article 26

The Authorization for Introducing Aquatic Species and exporting/importing of Juveniles

1. Any persons requiring to introduce aquatic species to waters of the Republic of Albania, must acquire a special authorization from the Ministry, except in cases when this is authorized in the aquaculture authorization issued by the Ministry.
2. Any persons requiring to import or export eggs, larvae and fingerlings of any water species, must have a special authorization from the Ministry.

CHAPTER VI

THE UNDERTAKING OF AQUACULTURE ACTIVITIES

Article 27

Aquaculture Licences

1. The undertaking of aquaculture activities is permitted by the relevant license issued by the Ministry.
2. The licence is issued subject to projects not causing harm to the environment and to their support in development of the Albanian economy. The Board for issuing aquaculture licences is constituted by representatives of the Committee of Environmental Protection and other ministries concerned.

3. The planning in the field of aquaculture is done on the basis of an integrated management of economical and environmental interests with other sectors concerned being a subject of procedures for evaluating environmental effects.
4. The right to use private land for undertaking aquaculture activities is given through special procedures, in conformity with legislation in force.
5. The right to use state controlled lands for undertaking aquaculture activities is permitted by the same licence, taking into consideration recommendations and the consent of local competent authorities of the proposed area.
6. The right to use waters of Republic of Albania for undertaking aquaculture is determined through the same aquaculture licence.
- 6.1 The water surfaces of Albania Republic have to be hired to the physical and juridical subjects, in intensive aquaculture activity exercising, by the purpose exploitation of those surfaces on the sustainable development bases.
The procedures and the bill of hire, according the water categories, have to be determinate by the Council of Ministers Decision.
For the approval of the water surface, determined from Ministry of Agriculture and Food, to hire as above mentioned, has to take the opinion of the Tourism Development Committee, of National Environment Agency as well as of the Secretariat of Water National Council.
7. In cases as defined under items 5 and 6, the licence must indicate the tenancy conditions, except in cases when this is stipulated under legislation in force. State controlled land for aquaculture purposes is classified in the same classes with agricultural land according to legislation in force.

Article 28

Conditions for Issuing the Aquaculture License

1. When issuing or renewing an aquaculture license, the ministry must impose conditions regarding the following items:
 - a) structure, equipments and maintenance of plants and installations;
 - b) area where activity will be undertaken;
 - c) quantity and quality of feeds to be used;
 - ç) use of chemical substances;
 - d) keeping of registers and provision of information;
 - dh) announcement on diseases noticed;
 - e) quantity, quality and type of juveniles introduced and reared;
 - ë) disposal of any material from the plants;
 - f) quality control of water;
 - g) transporting of fish;
 - gj) necessity for a special license for activities related with aquaculture;
 - h) limitations of the area where activities will be exerted;
 - i) obligatory insurance.
2. In any case, the Ministry must be assured that subjects applying for licence present adequate warranties in order to identify their activities.

Article 29

Duration of Licence

1. The duration of an aquaculture licence will be for 20 years and can thereafter be renewed.

2. The deadlines for starting and completing structures for exerting activities, are defined in licences. In any case, the facilities must be completed within three years from the time when licence is issued.

Article 30

Modifications

Any modification of structures, equipment and maintenance of plants and installations must have prior authorization of the ministry.

CHAPTER VII

MANAGEMENT OF LAGOONS AND OTHER ESTUARINE WATERS

Article 31

Agreements on Management

1. The ministry executes agreements with public organisations, private entities or individuals for the management of lagoons or other waters of Republic of Albania, and eventually for the estuarine waters aiming at protection of ecological balance and sustainable use of fishery resources in these areas. 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.

2. Agreements will be prepared with the administration plan attached for the relevant area, specifying the status of resources and objectives intended to be achieved through the administration plan as well as relevant conditions for its implementation, especially:

- a) determination and definition of aquatic or limitrophe areas, that parties have agreed upon;
- b) duration of agreement;
- c) definition of obligations undertaken by contracting party, such as construction of infrastructures, modification of existing installations and annual payments;
- ç) warranties provided by contractual party for fulfilling its obligations;
- d) the rights obtained by contractual party concerning the access to resources in the area such as fishery and fauna resources as well as the right for exerting aquaculture activities;
- dh) measures for ensuring the compliance with the rights for fishing and other activities that are traditionally exerted in area;
- e) commitments of the Ministry concerning the administration of the specific area;
- ë) consequences in case of transgressing of provisions under the agreement by each party.

3. The text of an agreement, based on this article, must be published and made known to residents and local authorities through posters in public places, the press and other means of information in order that subjects concerned can express their opinions and objections.

4. The deadline of publication must not be less than 30 days before it comes into effect.

5. The objections presented by any subject concerning the draft agreement must be reviewed and considered by Ministry before approving the agreement. The final decision must be published.

CHAPTER VIII/

FISHERIES MANAGEMENT ORGANISATIONS

Article 31/1

Fisheries Management Organisations

1. A Fisheries Management Organization 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 Organization for fulfillment 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 Organization, 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 Organization 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 Organizations is voluntary and comprises Owner Members and Non-owner Members.
2. The holder of a professional fishing license relating to a vessel that is registered has the right to become an Owner Member of that Organization. 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 Organization.
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 Organization

Each Organization 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 Organization 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 Organization
 - 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 Organization

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 Organization and consists of a minimum of three persons, at least one of who must be a Non-owner Member of the Organization.
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 Organization.
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 Organization 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 Organization;
 - h) ensuring that the Organization'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 Organization members including their rights to vote and fees payable by Organization 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 Organizations
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

A Monitoring Board, with no more than 7 members, civil servants in the Ministry, is established within the Ministry, to follow the performance of Organizations 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

Each Organization 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.

When the Monitoring Board finds evidence of financial malpractice or that the Organization 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 Organizations

1. A Register of Organizations 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 Organization;
- c) the number of members of each Organization;
- d) the names, addresses and telephone numbers of the members of the Administrative Council and the Chairman of each Organization; 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 Organizations

1. An Organization 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 Organization has avoided the aim of establishment or is unable to practically fulfill its tasks.

2. The Minister shall give sixty days notice to an Organization before exercising his power under sub-article 1b). Every decision to dissolve an Organization is published in the Government Gazette.

3. Following a decision to dissolve an Organization, the Organization 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/II

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 Organization at its request.
2. The transfer of a fishing port or a landing site to a Fisheries Management Organization 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 Organizations

An Organization 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 Organization is obliged to permit:
 - a) a navigating vessel that is owned or operated by a person who is not a member of the Organization to use the fishing port or landing site that has been transferred to the Organization;

- b) persons who are not members of the Organization 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 Organization and who is not a member of that Organization complies with the regulations of that Organization 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 Organization 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 Organization, 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 Organization 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 utilization 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 Organization 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 realized 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 Organizations will be involved shall specify the detailed mechanisms for co-operation between such Organizations.

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 Organization;
 - b) no person may undertake fishing activities using specified gears or techniques unless that person is a member of a Relevant Co-management Organization.
2. In cases specified in sub-article 1:
 - a) existing professional fishing license 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 Organization or cease undertaking such fishing activities in the co-management area; and
 - b) prospective new Owner Members who are not professional fishing license holders will be admitted to the Organization 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 Organization is to be involved in issuing and enforcing the licenses.

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.

CHAPTER VIII

OTHER RESPONSIBILITIES OF MINISTRY

Article 32

Regulations

The Ministry shall compile, modify and endorse regulations for implementation of this law comprising:

- a) the structure, function and special tasks of consultative organs established in conformity with articles 4, 5 and 6 of this law;
- b) the forms of requirement, authorizations and licences as stipulated by this law;
- c) the conditions for issuing and renewing research authorizations;
- ç) criteria and ways for recognising research entities as defined by article 10 of this law;
- d) conditions, requirements and ways of registering fishermen as stipulated under article 12 of this law, as well as the form of register and standards for keeping records;
- dh) training and professional titles of recruited staff in fishery and aquaculture as well as criteria and ways of their registration;
- e) conditions, requirements and means of registering fishing vessels as defined by article 16 of this law;
- ë) conditions for issuing and renewal professional and sport-fishing licences;
- f) establishment of a registry of fishery and aquaculture licences in the ministry;
- g) commitments and ways of presenting relevant reports by the authorised research entities;
- gj) commitments and means of presenting information and statistical data on fishing and aquaculture, as well as on economical exploitation of fishery and aquaculture products;
- h) restrictions on fishing as defined under article 24 or other prohibitions, foreseeing relevant sanctions based on the law;
- i) cessation, cancellation and renewal or rejection of licenses and authorizations defined by this law;

- j) sport fishing and especially types, gears, areas, periods of fishing in inland waters, the use of navigating means, issuing of licences by sport associations and other institutions, conditions for using the spear guns;
- k) hygiene and health conditions of aquatic species caught or produced through aquaculture rearing;
- l) hygiene and conditions of water species obtained by fishing or rearing;
- ll) definition of minimal annual amounts of catches for subjects as condition for renewing the licence;
- m) aquaculture rearing, and especially:
 - structures, equipments, installations and maintenance;
 - rearing methods;
 - data collection on aquaculture;
 - the control of installations and environment;
 - supporting credits;
 - the export and import of juveniles;
 - rent tariffs for use of waters of the Republic of Albania and other conditions;
 - rent tariffs for the land of the Republic of Albania and other conditions;
- n) organization of fish markets and especially the commitment for providing statistical data on fishing;
- nj) the authorised administrative organs or other institutions for issuing licences as defined under this law;
- o) nomination or/and competency of fisheries inspectors;
- p) editing of reports by fishery inspectors and related forms.
- q) the procedure for establishing Organizations including the models and contents of the statutes;
- r) the books, records to be maintained by Organizations 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 Organizations

Article 33

Professional Training

1. The Ministry will present its recommendations for modifying and implementing programmes focused on disciplines of fishery and aquaculture, undertaken in schools and various training courses.
2. The Ministry, in collaboration with Commission for Coordinating the Scientific and Technological research, will organize courses in the field of fisheries and aquaculture, aiming at updating the professional skills and knowledge.

CHAPTER IX

INSPECTION

Article 34

Inspection Organisations

The Inspection for enforcement of this law and relevant ensuing regulations are undertaken by the Fishery Inspectorate, according to article 36 of this law. The Fishery Inspectorate will cooperate with the Inspectorate of Environmental Protection, public and financial police, harbour offices, military forces and any other organs as directed by the government.

Article 35

The Coordination

The Ministry is responsible for coordination of fishery and aquaculture inspection activities.

Article 36

The Fishery Inspectorate

1. The Fishery Inspectorate is the responsible and competent body for executing this law and relevant bylaws.
2. The Fishery Inspectorate is established in the ministry as a division within the fishery Directorate and has separate offices, when necessary, to ensure the implementation of this law and relevant bylaws.
3. The structure and organisation of Fishery Inspectorate is determined by Council of Ministers, based on the proposal submitted by Ministry.
4. The fishery inspectors are nominated by the minister, based on the proposal submitted by the Fishery Directorate.
5. Competencies of fishery inspectors are defined by the decision of the Council of Ministers.
6. The minister may authorize officers of the Fishery Directorate to act as fishery inspectors.

Article 37

Duties and Rights of Fishery Inspectors

The Fishery Inspectors, when encountering transgressions of this law and ensuing bylaws, have the duty and the right to:

- a) arrest the violator and eventually seize the vessel, on which the violations are evidenced contesting the violation;
- b) obtain general information about the violators;
- c) compile a report which includes general information on the violators, provisions violated, means and gears seized according to item "f", the licence or authorization ceased according to item "g" immediately or not later than 15 days from the violation;
- d) send immediately to the nearest police station the arrested persons when they refuse to give their general information or when information is doubtful, as well as cases when the violation is a subject to penal prosecution;
- e) report in judicial organs in cases when violations constitute a case for penal prosecution;
- f) seize the gears used in causing the violation, according to legal provisions on seizures until the decision of Commission is taken (article 43);
- g) cancel licences or authorization issued based on this law, until the decision of Commission on the violation is taken.

Article 38

Inspection and Inquiring of Information

1. The Fishery Inspectors can inspect at any time vessels, plants, establishments, fishery and aquaculture farms, places for storage, sale and transporting fish products, means and fishing gears to obtain the relevant information on these and ensure observance of fishery and aquaculture regulations.
2. The Fishery Inspectors can require in any time the licence or authorization issued based on this law and ensue bylaws, from any subject exerting an activity, for which the licence and authorization is mandatory according to this law.

CHAPTER X

CONTRAVENTIONS, SANCTIONS AND RESPONSIBILITIES

Article 39

Administrative Contraventions

(A)

1. Any subject undertaking research activities without authorization as defined under article 10, or contrary to conditions defined in the authorization, will be fined an amount from 100 thousand to 300 thousand Lek.
2. Any subject undertaking professional fishing who is not recorded in the fisherman's register as defined under article 12, will be fined an amount between 10 thousand to 50 thousand Lek.
3. When a vessel will be used for professional fishing is not registered in the register of fishing vessels as defined under article 13, the vessels' owner or captain will be fined an amount between 50 thousand to 200 thousand Lek.
4. Anyone, undertaking professional fishing without a navigating vessel and licence as defined under article 15, will be fined an amount from 100 thousand to 1 million Lek.
5. When an Albanian fishing machine is used for professional fishing using artisanal methods without a licence as defined under article 15, the vessel's owner or captain will be fined an amount between 100 thousand to 1 million Lek.
6. When an Albanian vessel is used for professional fishing using industrial methods without a licence as defined under article 18, the vessel's owner or captain will be fined an amount between 5 million to 10 million Lek.
7. Any subject exerting professional fishing contrary to conditions as stipulated in the licence will be fined an amount between 500 thousand to 1 million Lek.
8. Any subject fishing:
 - a) in areas and periods restricted through bylaws for implementation of this law;
 - b) by using vessels, fixed or movable gears, restricted through bylaws for implementation of this law;
 - c) restricted aquatic species through bylaws for implementation of this law;
 - ç) aquatic species of restricted sizes through bylaws for implementation of this law;
 - d) amounts of catch exceeding those defined through bylaws for implementation of this law;
 - dh) using prohibited gears,– will be fined from 100 thousand to 3 million Lek.

9. Any subject fishing larvae, juveniles and eggs of various aquatic species without authorization will be fined an amount from 100 thousand to 2 million Lek.
10. Any subject embezzling the fishing products of the third parties or violating provisions under article 24, item "c", will be fined from 5 thousand to 10 thousand Lek.
11. Any subject storing, transporting and marketing aquatic species obtained contrary to this law and bylaws for its execution, will be fined from 10 thousand to 100 thousand Lek.
12. Any subject who changes the quality of waters or their flow direction damaging the environment of aquatic species, except when authorised according to the law, will be fined from 100 thousand to 2 million Lek.
13. Any subject fishing corals and sponges, will be fined from 15 million to 20 million Lek and the vessel is seized.
14. Any subject undertaking sport fishing using a vessel without licence or contrary to article 23, will be fined from 5 thousand to 10 thousand Lek.
15. Anyone giving a spear gun to persons under 16 years of age for fishing, will be fined from 5 thousand to 10 thousand Lek.
16. Every holder of a professional or sport fishing licence failing to present information required based on this law and ensuing bylaws, or presenting fallacious information, will be fined from 10 thousand to 50 thousand Lek.
17. Any subject running an aquaculture activity without licence or contrary to conditions as stipulated under the licence, will be fined from 100 thousand to 500 thousand Lek.
18. When a foreign vessel fishes in the waters of the Republic of Albania without a licence as defined under article 19, contrary to condition of the licence, the vessel's owner or captain will be fined from 25 million to 40 million Lek.
19. Any subject exerting activities related to fishing without the relevant authorization will be fined an amount from 100 thousand to 5 million Lek. When using a vessel for these activities the vessel's owner or captain will be subject to this fine.
20. Any subject refusing or obstructing inspection bodies according to article 34 or failing to present to inspection bodies the licences or authorizations required based on this law and its bylaws will be fined from 100 thousand to 500 thousand Lek.

(B)

Any subject using explosive, poisonous substances, electrical energy capable to shock or kill aquatic species even in aquaculture activities, as well as collecting, transporting and marketing these products, is a subject to penal prosecution.

Article 40

Additional Sanctions

For the above mentioned violations the following additional penalties are applied:

- a) seizure of catches, except in cases when this has been required by beneficiary according to the law;
- b) seizure of gears and means used in contrary with provisions of this law and ensuing bylaws, as well as confiscation of the vessel;
- c) cancellation of the licence or authorization issued based on this law and ensuing bylaws, for a period not longer than 6 months and in case of recidivity the licence is forever;
- ç) cancellation from the register of fishermen for a period not longer than 6 months, and in case of recidivity the violator is cancelled forever;

- d) in case of recognized research institutes, their status as recognized institution is cancelled.

Article 41

The Indemnity

1. The right for indemnifying the damage caused in cases of violations of this law is defined on the basis of legislation in force.
2. For contravention defined under this law, the government represented by the minister, has the right to require the indemnity of damage.

Article 42

Civil Responsibility

Vessel's owners, captains, entrepreneurs or the prosecutor of the fishery or aquaculture, are personally and legally responsible for the fines and administrative penalties given to their assistants and subordinates for the violations of this law.

Article 43

Reviewing of Administrative Contravention

1. The minister will establish a permanent commission associated with the ministry for taking decisions for reviewing of administrative contravention according to article 39 and additional penalties according to article 40.
2. The commission will be composed by an odd number of persons and will take decisions by majority of votes, after reviewing the administrative contravention according to this law or bylaws for its implementation.
3. The commission calls, through a preliminary notice, the persons found as guilty for the contravention basing on the report as defined by article 37. The judgement procedure will be carried out in compliance with the law "On administrative Contravention".

Article 44

Submission of Grievances to the Tribunal

Subjects can present their objections in the tribunal against the penalties given by commission according to article 43.

CHAPTER XI

LAST PROVISIONS

Article 45

Abrogations

The law no. 6071, dated on 25/12/1979 "On the fish farms" is abrogated as well as any other provisions contrary to this law.

Article 46

Interim Provisions

The Ministry must issue the regulations for implementation of this law within three months from the date this law has entered into force.

Article 47

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

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