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ACCESSION OF ALBANIA

Communication from Albania

The following unofficial translation of the Law on State Enterprises<sup>1</sup>, reproduced hereunder, has been received from the Ministry of Industry, Transport and Trade of the Republic of Albania.

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ACCESSION DE L'ALBANIE

Communication de l'Albanie

Le Ministère de l'industrie, des transports et du commerce de la République d'Albanie a fait parvenir au Secrétariat la traduction non officielle reproduite ci-après de la Loi sur les entreprises d'Etat.<sup>1</sup>

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ADHESIÓN DE ALBANIA

Comunicación de Albania

Se ha recibido del Ministerio de Industria, Transporte y Comercio de la República de Albania la siguiente traducción no oficial de la Ley de Empresas del Estado.<sup>1</sup>

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<sup>1</sup>English only/anglais seulement/inglés solamente.

## LAW ON STATE ENTERPRISES

(Non official translation)

On the base of Article 16 of the Law Number 7491 dated 29 April 1991 "On main constitutional provisions", with proposal of the Council of Ministers

### PEOPLES ASSEMBLY OF THE REPUBLIC OF ALBANIA DECIDED:

#### CHAPTER 1

#### GENERAL PROVISIONS

##### Article 1

This law determines the juridical regime of the State enterprises which, in conformity with the object foreseen in their establishment act; exercise the activity of production, commercial or service having as an aim the realization of the profit and increase of the wealth.

##### Article 2

State enterprises are economic bodies and have juridical personality. The State is the only owner of the capitals of these enterprises and consequently exercises its own rights as owner in accordance with the legislation in force and the provisions of the present law.

##### Article 3

1. State enterprises are established by the decision of State administrative organs, central or local.
2. State enterprises profit juridical personality after registration in the Court (commercial register) and in financial entity of the jurisdiction where they have their headquarters, according to general rules.

##### Article 4

State enterprises can create branches which have juridical personality and exercise out their activity under the enterprise control.

##### Article 5

State enterprises, except the cases when by special provisions is foreseen in a different way, exercise their activity under the same conditions as the other enterprises, in accordance with the legislation and the provisions of this law.

They act under the conditions of free and legal competition way, and they do not enjoy any privileges or rights which demolish the condition of this competition.

##### Article 6

1. State enterprises determine themselves the economic and financial program and take decisions for its fulfilment respecting the legislation in force.
2. State enterprises determine freely the prices of goods or services, on the base of the offer and demand, with exception of such cases which are determined by special provisions.

3. State enterprises through their activity provide the financial balance by selling productions, goods or services in the local or foreign market.

#### Article 7

State enterprises which put into exploitation national wealths of a special importance in their economic and financial programs take into consideration also the tasks which come from the general programs of the State for the development of the economy or its special branches. The Council of Ministers may foresee for these enterprises other forms of organization, including economic communities, as well as special status, without deteriorating the general terms of this law.

#### Article 8

State enterprises keep their balance sheet, prepare and present annual accounts and report periodically the figures and statistical data, according to juridical provisions in force.

#### Article 9

1. Annual accounts of State enterprises are verified and approved by one or several external accountants, the professional and personal conditions of whom are foreseen by special provisions. Such a check is independent of the checks foreseen by other juridical provisions and does not substitute them.
2. Accountants of the accounts are nominated for a period of four years by the organ of the State administration, which also nominates the Managing Board of the enterprise.

#### Article 10

1. Director of the enterprise represents periodically and obligatory at the end of each year, report for the economic and financial activity of the enterprise.
2. Annual report of the activity after the approval by the Managing Board of the enterprise, is sent to the respective organ of State administration together with annual accounts certified according to the criteria stipulated in Article 9 of the present law.
3. Annual report of the economic and financial activity of the enterprise, through representatives or syndicates, is made known also to the employees of the enterprise.

#### Article 11

1. State enterprises use the amount of annual profit realized, after subtraction of tax, for the aims and in the following sequence:
  - for creation of reserve of capital;
  - for creation of reserve for development;
  - for creation of reserve for social assistance;
  - for creation of reserve for additional remuneration of the employees;
  - for creation of other reserves.
2. The State does not take from the State enterprise parts of the profit, except the obligations which comes from the taxation legislation.

#### Article 12

The reserve of the capital in the State enterprises is created every year until its amount achieves not less than one tenth of the amount of the capital. It is calculated not less than five per cent of the

amount of annual profit, which remains after subtraction of the losses forwarded from the year or previous years, if there are such losses.

#### Article 13

1. The reserve for additional remuneration of the employees is calculated on the same amount of the profits as in Article 12 and is not more than 15 per cent.
2. State enterprises may distribute additional remunerations for employees only when they possess respective reserve and not more than two monthly salaries in a year for each employee.

#### Article 14

1. The enterprises afford the occurred losses during the exercise of annual activity by means of the reserve of the capital. If such a reserve is missing or is insufficient the amount of uncovered loss is carried forward in the successor year.
2. The State does not finance the losses of the State enterprises, except by law, with the exception of special cases when it has to do with the subsidies of the controlled prices according the approval of the Council of Ministers.

#### Article 15

1. A State enterprise guarantees and is responsible with its own wealth for all its obligations towards third parties.
2. The State is not responsible for the obligations of the State enterprises towards third parties.

#### Article 16

State enterprises are subject to the procedures of bankruptcy in cases and in the way foreseen by the respective legislation.

### CHAPTER II

#### ORGANIZATION AND FUNCTIONING

#### Article 17

A State enterprise is organized and functions in conformity with the provisions of the present law.

#### Article 18

1. The managing body of the State enterprise is the Managing Board.
2. The Managing Board is a collegial body which realizes the management of the activity of the State enterprise.

#### Article 19

1. The Managing Board is composed of not less than five members and not more than seven members.
2. The Managing Board Members, and among them the director, are nominated for a four year period by the minister, the director of an other central institution or from the local authority organ who have the right to dismiss by a motivated decision. They can be renominated.

3. The Managing Board Members as a rule also exercise the managing technical functions of the enterprise.
4. The wages and modalities for the additional remuneration of the Managing Board Members are stipulated by the provisions of the Council of Ministers.

#### Article 20

The Managing Board has all attributes to act on behalf of and for the account of the enterprise. It exercises his rights respecting legal provisions in force.

#### Article 21

1. The Managing Board gathers at any time the interest of the enterprise needs, but as a rule not less than once in a month.
2. The right to ask for a meeting of the Managing Board is held by its director, or is by the request of the majority of the members of the board.
3. The ways of calling of the Managing Board, as well as the procedures of the meeting are included in the regulation of the State enterprise.

#### Article 22

The Managing Board examines different matters only in cases when not less than half of its members are present.

It takes decisions by majority of votes of its members.

If the votes are divided in equal parts, the vote of director is determining. The Managing Board keeps the book of decisions and proces-verbal which are undersigned by all its members.

#### Article 23

The Managing Board of the State enterprise takes collective decisions in conformity with legal provisions in force for the following important matters:

1. for the establishment, dismissal, joining or division of the branches;
2. for the participation of the State enterprise in the capital of other enterprises and other companies local or foreign;
3. for stipulation of the work salaries, the increase of salaries and additional remuneration of the workers;
4. for the stipulation of general criteria of employment and dismissal from the job of employees;
5. for the discharge from technical functions of one member of the Managing Board by proposal of only of the director of the enterprise;
6. for the sale and renting of the main means of the enterprise;
7. for the conclusion of leasing contracts;
8. for the conclusion of leasing contracts in local or international markets;
9. for internal regulation of the functioning of the enterprise and social matters which are connected with general conditions of the work;
10. for the approval of yearly accounts and annual report of the economic and financial activity of the enterprise.

#### Article 24

1. The Director of the State enterprise represents the enterprise in all its legal and administrative relationship. He also signs under his responsibility, among others, the contracts which are concluded by the enterprise.
2. The Director of the enterprise has the right to give orders and instructions and to put sanctions in conformity with legislation in force.
3. The Director of the enterprise may authorize the right of the signature to one of the members of the Managing Board. This right can be revoked any time.

#### Article 25

Any contract or agreement between the enterprise in one part and the members of the Managing Board or other employees of the enterprise, on the other part, is prohibited, with the exception of the cases foreseen by law.

#### Article 26

The Director of the enterprise and other the members of the Managing Board, according to the case, are individually or jointly responsible toward the State, toward the enterprise and toward any other third person for any infringement that they carry out to legislation in force, to provisions of this law, as well as for the damages which they may cause to the enterprise as a consequence of the management by their part.

#### Article 27

The employees of the enterprise are represented in the Managing Board by a delegate who is chosen by the trade union which has the biggest number of the members of the enterprise. He participates during the examination of the matters by the Managing Board. He does not have the right to vote.

#### Article 28

The Managing Board of the State enterprise cannot take a decision without first consulting with the representatives of the trade union in the enterprise, for matters foreseen in points 3, 4 and 9 of Article 23 of the present law.

### CHAPTER III

#### MERGER, DIVISION AND LIQUIDATION OF THE ENTERPRISE

#### Article 29

The transformation of the State enterprises in a shareholder company or in other forms of companies is carried out in conformity with legislation and regulations in force.

#### Article 30

The State entity which nominates the Managing Board of the enterprise may decide, with the proposal of the Managing Board or after consultation with it, the division of the enterprise or its partial or total liquidation, merging it with one or several other State enterprises.

Article 31

In case of bankruptcy, the liquidation of the State enterprise is carried out in conformity with the legislation and regulations in force. After the liquidation, the remaining part is returned to the State.

CHAPTER IVFINAL PROVISIONSArticle 32

This law is applied for all State enterprises which have their seat in the territory of the Republic of Albania, whether they have been established before or after entering into force of this law.

Article 33

The Council of Ministers stipulates detailed regulations for implementation of this law.

Article 34

The law number 7523 dated 6 November 1991 "On State Enterprises" and number 7565 dated 20 May 1992 " For some changes in the law number 7523 dated 6 November 991 "On State Enterprises" as well as any act which is in contradiction with this law, are abrogated.

Article 35

This law enters into force one month after its declaration.

Tirana, 13 July 1992

Number of the law: 7582

Promulgated by decree number 252, dated 17 July 1992 of the President of the Republic of Albania, Sali Berisha.