

### Issue 04/09

To keep you up-to-date with the latest economic and financial developments, this bulletin provides information that may affect the operation of your business in Albania.

#### **New Rules on Procedures of Business Activities Licensing**

Recently, the Albanian Parliament and Council of Ministers have adopted the following legal framework regarding the procedures of licensing of specific activities:

- Law no. 10081, dated 23.02.2009 “On Licenses, Authorizations and Permits in the Republic of Albania” (hereinafter referred to as the “Licensing Law”).
- Decision of Council of Ministers no. 538, dated 26.05.2009 “On Licenses and Permits issued by or through the National Licensing Center and other sub-legal regulations” (hereinafter referred to as the “Licensing Decision”).
- Law no. 10137, dated 11.05.2009 “On Amendments to the legislation on licenses, authorizations and permits in the Republic of Albania”.

The general principle established by the Licensing Law is that business activities in Albania are freely conducted and not subject to licensing, authorization, or permit, unless required by applicable law.

The Licensing Law sets out the principles for (i) determining the activities that will be subject to license, authorization and permit, (ii) requirements and procedures, (iii) terms of validity of the license/authorization/permit, and (iv) procedures on their revocation.

Under the Licensing Law, any license/permit issued by the central or independent institutions should be registered with the National Register of Licenses and Permits (the “Register”) kept by the National Licensing Center, established upon Decision of Council of Minister no. 1697, dated 24.12.2008 and operative since 09.06.2009.

As a general rule, licenses and permits shall become effective only upon publication in the Register, unless the deed approving such license or permit shall enter into force upon publication in the Official Gazette.

The Register is electronic and serves to publish information on licenses, permits and authorizations granted for conducting a specific activity. It also serves as an official electronic archive, assuring the transparency in the licensing process.

The Register is structured in three sections:

*A. Register of legal initiatives on licensing*

It contains all draft laws and regulations proposed to improve the legal framework as well as relevant opinion of the National Licensing Center.

*B. Informative Register*

It contains legal and sub-legal framework in force on categories of licenses, authorizations and permits, criteria, documents, application forms, instructions on requests, procedures on application, examination and decision making.

*C. Register on applications*

It contains any application to obtain or amend license/permit, decisions on final approval or refusal of a request and any decision concerning validity of a license or permit.

The Licensing Law empowers the National Licensing Center as the authorized body to examine and approve applications for licenses and permits as provided in the Licensing Law and Licensing Decision (**see Annex 1**).

Depending to their nature and requirements to which they are subject, not all licenses and permits are subject to the examination by the National Licensing Center. The Licensing Decision determines those categories of activities, for which the application for obtaining the license or permit is not subject to examination by the National Licensing Center (**see Annex 2**).

As a general rule, applications for obtaining an authorization are examined directly by the competent public authorities without intervention of the National Licensing Center. Nevertheless, in specific cases, the National Licensing Center may be entitled to examine or consider such applications, provided that an agreement between the National Licensing Center and the competent authority is in place.

## **Examination of applications by the National Licensing Center**

The Law sets out three category groups of licenses, permits and authorizations depending to the activities to be performed by the entities.

GROUP I - includes those categories and subcategories for which evaluation criteria are based on applicant self declaration, only.

GROUP II - includes those categories and subcategories for which evaluation criteria, apart from applicant self declarations, is also based on supporting documents as submitted by the applicant.

GROUP III - includes those categories and subcategories for which evaluation criteria, apart from applicant self declarations and supporting documents (e.g. requirements for Group I and II) is also based on the performance of an inspection process likewise testing, interview, hearing or any other methods of evaluation.

The licenses, permits or authorizations under GROUP I are issued by the National Licensing Center within 2 working days from the application date and those under GROUP II are issued within 4 working days from the application date.

Issuance of licenses, permits and authorizations under GROUP III is subject to involvement of the competent public institution for examining whether licensing legal requirements are met. In this context, the Licensing Decision sets out that the Council of Ministers defines the term within which the examination should be completed.

## **‘Tacit approval’**

As a general rule, in case the National Licensing Center fails to publish the approval or refusal of the license, permit, authorization within the specific deadline, the application is considered as approved. The same is applicable in the event the conclusions of the examination of applications for licenses or permits under Group III, are not published by the examining authorities within the legal term.

Nevertheless, there are cases where, depending on the nature of activity subject to licensing/permitting, the ‘tacit approval’ is not applicable. In this case, reference should be made to the applicable law governing the activity subject to licensing procedures.

## **Other mandatory filings with the National Licensing Center**

The license or permit issued to the applicant contains some specific information such as the holder identification data, place where the activity is performed or type of activity. Any changes occurred to the information indicated in the license or permit must be notified to the National Licensing Center within 30 days.

Should the change relate to the criteria of licensing or permitting of the specific activity, the holder of the license/permit should notify both the National Licensing Center and the relevant authority involved with the issuing of the license or permit.

In the event the change affects the said criteria, the holder of the license/permit has to suspend its activity at its own initiative until completion of the examination of the said change by the relevant authorities.

## **Transitory period**

Licenses, permits, authorizations issued from central institutions before entry into force of the Licensing Law remain in force for their entire validity. In addition, all applications already filed with the respective institutions, for which the examination has not been finalized until 31.05.2009, will continue to be examined by these institutions in pursuance with the procedure applicable before entry into force of the Licensing Law. The applicant may decide to withdraw its application and submit it to the National Licensing Center.

The Licensing Decision provides also for the commencement date of licensing from the National Licensing Center for each case of categories or sub-categories of licenses/permits.

## ANNEX 1

No.	Number of field/category	Type of category	Area/Category of activities and/or of public goods and/or categories of use of public goods
	<b>Area I</b>		<b>National Security, Public Order and Civil Protection</b>
1	1.	License	Production and/or trade of goods (weapons, ammunition, substances, equipment, technology etc.), military and/or for dual-use
2	2.	License	Expertise and/or professional services of civil protection
3	3.	License	Services of safeguarding and/or physical security
	<b>Area II</b>		<b>Food and Health</b>
4	1.	License	Production and/or trade of food
5	2.	License	Services of reproduction, race creation or veterinarian services
6	3.	License	Increase and/or trade of livestock
7	4.	License	Production and/or trade of seeds and/or sapling
8	5.	License	Production and/or trade of Products of plants protection, fertilizers and/or tobacco products
9	6.	License	Primary medical services, hospital or stomatology services
10	7.	License	Production and/or trade of medicaments for humans or animals
11	8.	License	Other health and/or hygienic services
	<b>Area III</b>		<b>Environment and basic environmental services</b>
12	1.	Permit	On environmental impact
13	2.	License	Expertise and/or professional service with regard to environmental impact
14	3.	License	Imports of waste intended for recycling, processing and/or use or import of ozone-diluent substances
15	4.	Permit	Exploitation and/or flora cultivation (terrestrial and/or aquatic)
16	5.	Permit	Exploitation and/or fauna breeding (terrestrial and/or aquatic)
17	6.	Permit	Exploitation of waters (surface and/or underground) and/or exploitation of reservoirs and their material
18	7.	License	Expertise and/or professional services with regard to basic environmental sources
	<b>Area IV</b>		<b>Mining, Hydrocarbon and Energy Sources</b>
19	1.	Permit	Mining or Hydrocarbon
20	2.	Permit	For each case deriving from concession legislation
21	3.	Permit	Other cases/types of use of energy sources
22	4.	License	Expertise and/or professional services with regard to sources of this area

	<b>Area V</b>		<b>Territory and Construction</b>
23	1.	License	Expertise and/or professional services with regard to development and/or construction of territory
24	2.	Permit	Territorial and/or construction development
	<b>Area VI</b>		<b>Cultural Heritage</b>
25	1.	License	Expertise and/or professional services with regard to cultural heritage
26	2.	Permit	Restoration and/or revival of cultural heritage monuments
27	3.	License	Collective management of intellectual property
	<b>Area VII</b>		<b>Transport</b>
28	1.	License	International road transport of passengers
29	2.	License	International transport of goods for third parties
30	3.	License	Expertise and/or professional services with regard to road transport
31	4.	License	International maritime transport of vehicles and/or passengers
32	5.	License	For port services
33	6.	License	For railroad services
34	7.	License	For airport services
	<b>Area VIII</b>		<b>Industry and Other Services</b>
35	1.	License	Production, storage, transport, use and/or trade products and/or materials or other dangerous equipment
	<b>Area IX</b>		<b>Education and Science</b>
36	1.	License	Pre-university education
37	2.	License	Higher education
	<b>Area X</b>		<b>Social Care and Employment</b>
38	1.	License	Social care services
39	2.	License	Mediation services in the labor market and/or professional training
	<b>Area XI</b>		<b>Justice and Law</b>
40	1.	License	Notaries service
41	2.	License	Bailiff service
42	3.	License	Other expertise and/or professional services with regard to civil and/or penal law
	<b>Area XII</b>		<b>Public Finance</b>
43	1.	License	For fiscal and/or customs preferential treatment
44	2.	License	Expertise and/or professional services with regard to public finances
45	3.	License	Gambling

## ANNEX 2

## Categories of licenses/permits which are not examined through or by NLC

No.	Number of field/category	Type of category	Code of Sub-category	Area/Category of activities and/or of public goods and/or categories of use of public goods
	<b>Area I</b>			<b>National Security, Public Order and Civil Protection</b>
1	1.	License		Production and/or trade of goods (weapons, ammunition, substances, equipment, technology etc.), military and/or for dual-use
	<b>Area III</b>			<b>Environment and basic environmental services</b>
15	4.	Permit		Exploitation and/or flora cultivation (terrestrial and/or aquatic)
16	5.	Permit		Exploitation and/or fauna breeding (terrestrial and/or aquatic)
			A	Fishing and other forms of exploitation of wild aquatic fauna
			2	Any other use of sub-category A
			B	Exploitation use and/or breeding of land wild fauna
			C	Organized sport and tourist hunting (granting in use of parts of hunting fund)
17	6.	Permit		Exploitation of waters (surface and/or underground) and/or exploitation of reservoirs and their materials
	<b>Area IV</b>			<b>Mining, Hydrocarbon and Energy Sources</b>
19	1.	Permit		Mining or Hydrocarbon
			B	Hydrocarbons
20	2.	Permit		For each case deriving from concession legislation
21	3.	Permit		Other cases/types of use of energy sources
	<b>Area V</b>			<b>Territory and Construction</b>
23	1.	License		Expertise and/or professional services with regard to development and/or construction of territory
24	2.	Permit		Territorial and/or construction development
	<b>Area VI</b>			<b>Cultural Heritage</b>
25	1.	License		Expertise and/or professional services with regard to cultural heritage
26	2.	Permit		Restoration and/or revival of cultural heritage monuments
27	3.	License		Collective management of intellectual property
	<b>Area VII</b>			<b>Transport</b>
30	3.	License		Expertise and/or professional services with

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				regard to road transport
			A	Driving school
31	4.	License		International maritime transport of vehicles and/or passengers
32	5.	License		For port services
33	6.	License		For railroad services
34	7.	License		For airport services
	<b>Area VIII</b>			<b>Industry and Other Services</b>
35	1.	License		Production, storage, transport, use and/or trade products and/or materials or other dangerous equipment
			B	Activity related to ionizing radiation sources
	<b>Area IX</b>			<b>Education and Science</b>
36	1.	License		Pre-university education
			C	Religious and/or foreigner language pre-university education
37	2.	License		Higher education
	<b>Area X</b>			<b>Social Care and Employment</b>
	<b>Area XI</b>			<b>Justice and Law</b>
40	1.	License		Notaries
42	3.	License		Other expertise and/or professional services with regard to civil and/or penal law
	<b>Area XII</b>			<b>Public Finance</b>
43	1.	License		For fiscal and/or customs preferential treatment
44	2.	License		Expertise and/or professional services with regard to public finances
45	3.	License		Gambling

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