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Technical Assistance for Institution Building of the Ministry of Environment in Enforcing Environmental and Climate Acquis

(EuropeAid/135700/DH/SER/AL)

Draft 3 Law on “Environmental Crime”

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**REPUBLIC OF ALBANIA
THE ASSEMBLY**

**DRAFT LAW¹
No. ...dated2017**

Draft 3-version 1
20 June 2018

**SOME AMENDMENTS TO LAW NO. 7895, DATED 27/01/1995
"CRIMINAL CODE OF THE REPUBLIC OF ALBANIA", AMENDED**

Pursuant to article 81, paragraph 2, sub-paragraph "d" and article 83, paragraph 1 of the Constitution upon the proposal of Council of Ministers,

**THE ASSEMBLY
OF
REPUBLIC OF ALBANIA**

D E C I D E D:

In law no. 7895, dated 27.1.1995 "Criminal Code of the Republic of Albania "amended, the following additions and changes are made:

Article 1

Chapter IV "Criminal offences against environment", articles 201, 202 and 203 are replaced as follows:

¹DIRECTIVE 2008/99/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008 on the protection of the environment through criminal law

Article 201

Discharges, emissions, introduction of materials or ionising radiation into environmental media

The discharge, emission or introduction of a quantity of materials or ionising radiation into air, soil or water, infringing the requirements of specific legislation or environmental permit, and which is likely to cause serious damage to the quality of air, the quality of soil or the quality of water, or to animals or plants or likely to cause serious injury to health or death of any person, is punished with fine or imprisonment from 1 - 4 years.

When the offence in paragraph 1 causes substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants is punished with fine or imprisonment from 2 - 5 years.

When the offence in paragraph 1 causes serious injury or death to any person is punished with imprisonment from 5– 15 years.

When the offence under paragraph 1 is committed through negligence is punished with fine or imprisonment up to two years.

Article 201/a

Waste management

The collection, transport, recovery or disposal of waste, including the supervision of such operations and the after-care of disposal sites, and including action taken as a dealer or a broker (waste management), infringing the requirements of specific legislation or environmental permit, and which is likely to cause substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants or is likely to cause serious injury to health or death of any person is punished with fine or imprisonment from 1 - 4 years.

When the offence in paragraph 1 causes substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants is punished with fine or imprisonment from 2 - 5 years.

When the offence in paragraph 1 causes serious injury or death to any person is punished with imprisonment from 5 – 15 years.

When the offence under paragraph 1 is committed through negligence is punished with fine or imprisonment up to two years.

Article 201/b

Shipment of Waste

Shipment of waste into, from or through the territory of the RoA, undertaken in a non-negligible quantity, whether executed in a single shipment or in several shipments which appear to be linked, infringing the requirements of specific legislation or export or transit authorization, is punished with fine or imprisonment from 2 to 5 years.

Article 201/c

Dangerous activities

The operation of a plant in which a dangerous activity is carried out or in which dangerous substances or preparations are stored or used, infringing the requirements of specific legislation or environmental permit, and which outside the plant is likely to cause substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants or is likely to cause serious injury to health or death of any person is punished with fine or imprisonment from 1-5 years.

When the offence in paragraph 1 causes substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants is punished with fine or imprisonment from 2 - 8 years.

When the offence in paragraph 1 causes serious injury or death to any person is punished with imprisonment from 5 - 15 years.

When the offence in paragraph 1 is committed through negligence is punished with fine or imprisonment up to 5 years.

Article 201/d

Nuclear materials and hazardous radioactive substances

Production, processing, handling, use, holding, storage, transport, import, export or disposal of nuclear materials or other hazardous radioactive substances, infringing the requirements of specific legislation or relevant permit/authorisation, and which, is likely to cause substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants or is likely to cause serious injury to health or death of any person is punished with fine or imprisonment from 1 - 5 years.

When the offence in paragraph 1 causes substantial damage to the quality of air, the quality of soil or the quality of water, or to animals or plants is punished with fine or imprisonment from 2 – 5 years.

When the offence in paragraph 1 causes serious injury or death to any person is punished with imprisonment from 15 – 20 years.

When the offence in paragraph 1 is committed through negligence is punished with fine or imprisonment from 1 - 4 years.

Article 202

Damage to the protected wild fauna and flora species

The killing, destruction, possession, taking or trading in specimens of protected wild fauna or flora species or parts or derivatives thereof, infringing the requirements of specific legislation or relevant permit, except for cases where the conduct concerns a negligible quantity of such specimens and has a negligible impact on the conservation status of the species, is punished with fine or imprisonment from 2 - 7 years.

Article 202/a

Habitats in protected sites

The conduct infringing the requirements of specific legislation or the relevant authorisation, and which causes the significant deterioration of a habitat within a protected site is punished with fine or imprisonment from 2 - 5 years.

Article 203

Ozone Depleting Substances

The production, importation, exportation, placing on the market or use of ozone-depleting substances, infringing the requirements of specific legislation or the relevant authorization, is punished with fine or imprisonment 3 - 7 years.

Article 2

In article 282

- a) The title is amended as follows: "Breach of rules on explosive and inflammable substances"
- b) The phrase "or radioactive substances" in paragraph 1 is deleted.
- c) the comma after the word "explosives" is replaced by the word "or";

Article 3

In article 282/a

- a) The title is amended as follows: "Trafficking of explosive, inflammable and poisoning substances"
- b) the phrase "and radioactive substances" in paragraph 1 is deleted.
- c) the comma after the word "inflammable" in paragraph 1 is replaced by the word "or"