



*Technical Assistance for Strengthening the Capacity of the Ministry of Environment,
Forests and Water Administration in Albania for Law Drafting and Enforcement of
National Environmental Legislation*

DRAFT

DCM

**“ON THE RULES FOR THE ORGANIZATION AND FUNCTIONING OF THE NATIONAL ENVIRONMENT AGENCY
AND REGIONAL ENVIRONMENT AGENCIES”**

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100 Vjet Pavarësi

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REPUBLIC OF ALBANIA

COUNCIL OF MINISTERS

DRAFT DECISION

NO. _____, DATE _____

**“ON THE RULES FOR THE ORGANIZATION AND FUNCTIONING OF THE NATIONAL ENVIRONMENT AGENCY
AND REGIONAL ENVIRONMENT AGENCIES”**

Pursuant to article 100 of the Constitution, article 59/4 and 60 of the law no. 10431, dated 9.6.2011 “On environmental protection”, upon the proposal of the Minister of Environment, Forestry and Water Administration, the Council of Ministers,

DECIDED:

I. SCOPE

1. This Decision defines the detailed rules on the organization and functioning of the National Environmental Agency and the Regional Environment Agencies, the division and organization of work, the status of the employees and its relations with other institutions.

II. DEFINITIONS

2. The following definitions means:

- a) “Minister” is the Minister responsible for protection of environment;
- b) “Ministry” is the Ministry responsible for protection of environment;
- c) “NEA” is the National Environmental Agency in accordance to the Law No.10431, dated 9.6.2011 “On Environmental Protection”;
- d) “REA” are the regional environmental agencies in accordance to the Law No.10431, dated 9.6.2011 “On Environment Protection”;
- e) “BAT” shall have the same meaning as provided by Law No.10448 of 14.7.2011 "On Environmental Permits";

- f) "BEP" shall mean the Best Environmental Practice;
- g) Law "On Environment Impact Assessment" shall mean Law no. 10440, dated 7.7.2011" On Environment Impact Assessment";
- h) Law "On environmental protection" shall mean the Law No. 10431 dated 09.06.2011, "On Environmental Protection";
- i) Law "On Environmental Permitting" shall mean the Law No. 10448, dated 14.7.2011"On Environmental Permitting";
- j) Law "On status of civil servants" shall mean the Law no. Nr.8549, dated 11.11.1999 "On status of civil servants";
- k) "Labor Code" shall mean the Law no. 7961, dated 12.07.1995 "Labor Code of the Republic of Albania";
- l) "Civil Code" shall mean the Law no. 7850, dated 29.7.1994 "Civil Code of the Republic of Albania" as amended;
- m) "Local government units" shall have the same meaning as provided by the Law No. 8652, date 31.7.2000 "On organization and functioning of local government units";
- n) "Operator" shall have the same meaning as provided in Law No.10431 dated 09.06.2011"On Environment Protection".

III. ESTABLISHMENT OF NEA

- 3. NEA is established as a public, central institution sub-ordinate to the Minister.
- 4. NEA shall perform the functions given by Law "On environmental protection", Law "On Environmental Permitting", Law "On Environment Impact Assessment", this Decision and any other relevant legislation.
- 5. The NEA has independence in its decision making and the performance of its functions.
- 6. NEA exerts its jurisdiction in the whole territory of the Republic of Albania through its central office and REA's.
- 7. NEA's civil servants are the employees who exercise management tasks, organizational, supervising or executive functions. Civil servants shall be recruited in accordance to the Law "On status of civil servants".
- 8. For employees of NEA that perform support tasks the Labor Code shall be applied.

IV. GENERAL DIRECTOR OF NEA

- 9. The head of the NEA is entitled the General Director.
- 10. The Council of Ministers, upon proposal of the Minister appoints the General Director.
- 11. The General Director appoints the Directors of the REA's, as foreseen in the Prime Minister Order.
- 12. The General Director appoints the Deputy General Director out of one of the Directors of the NEA.
- 13. Deputy Director General shall perform all duties and responsibilities according to this decision and shall exercise all competences delegated by the General Director.

14. The General Director of NEA shall:

- a) represent NEA to the third parties and is responsible for the organization and coordination on NEA activities;
- b) has the right and authority to make agreements based on Albanian legislation in order to fulfill the NEA's scope of work;
- c) appoint and dismiss from the duty staff of NEA in accordance with the applicable legislation;
- d) administer the approved budget of the NEA, in accordance with applicable legislation;
- e) prepares the draft annual budget of the NEA for the next year, and proposes it to the Minister;
- f) issue orders and instructions to defines the procedures, duties, rights, responsibilities for NEA;
- g) Coordinate NEA's activities with central and local government institutions and other public entities.

V. CENTRAL OFFICE, EMBLEM AND OFFICIAL SEAL OF NEA

15. NEA has its central office in Tirana and regional branches in qarks (REAs).

16. NEA has the emblem and its official seal. The emblem of the NEA shall be produced in accordance with the requirements set to DCM no.474, dated 10.07.2003 "On the manner of using the emblem of the Republic and its measures".

17. In NEA official Seal is written by capital letters "NATIONAL ENVIRONMENTAL AGENCY", while in the official seal of REA's is written by capital letters: "NATIONAL ENVIRONMENTAL AGENCY, REGIONAL ENVIRONMENTAL AGENCY (relevant name of Qark)".

VI. FUNCTIONS OF THE NEA

18. The NEA shall perform the following functions through its central office and REA's:

- a) Carry out the regulatory functions for environmental permitting in accordance with the provisions of the relevant legislation;
- b) Monitor and assess the state of the environment and prepare the National Environmental Monitoring Program;
- c) Prepare and publish the Report on State of Environment and other publications related to environment ;
- d) Carry out environmental scientific research or any other research on innovation and technology development;
- e) Prepare BEP and BAT reference notes;
- f) Collaborate with the European Environment Agency, any other environmental international organization and fulfill the relevant reporting obligations;
- g) Create and manage the Environmental Information System;
- h) Create and manage the Pollutant Release and Transfer Register;
- i) Provide environmental information to the public on environmental matters;
- j) Ensure the implementation of environmental liability principle;
- k) Carry out the management of forest data system;
- l) Prepare and supervise the Forests National Inventory;
- m) Develop the Forest Management Plans;
- n) Monitor forests in relation to implementation of national and international obligations;

- o) Ensure the development and transfer of technologies related to forests;
- p) Proposes to the Minister requests for technical assistance projects financed by state budget and international donors;
- q) Provide arrangements for public access to information;
- r) Process applications on environmental impact assessment;
- s) Advise and collaborate with the State Inspectorate of Environment, Forest, Water and Fisheries and other inspectorates related to implementation of environmental legislation including incident, accidents or emergency situation in environment;
- t) Prepares standard format of the request, the information that should be included in the request, and the format of environmental permits and proposes it to the Minister for approval;
- u) Prepares annual administrative report on the activity performed; and
- v) Other functions as may be provided by other specific legislation.

19. In carrying out its functions, NEA shall:

- a) keep itself informed of the policies and objectives of public authorities whose functions have, or may have, a bearing on matters covered by Agency;
- b) have regard to the need for a high standard of environmental protection and the need to promote sustainable and environmentally sound development, processes or operations;
- c) take measures for precaution in relation to the potentially harmful effect of emissions, where there are, in her opinion reasonable grounds for believing that such emissions could cause significant environmental pollution;
- d) implement, insofar as it is feasible, to the 'polluter pays' principle and other principles as set out by law "On environment protection";
- e) Ensure, in so far as is practicable, that a proper balance is achieved between the need to protect the environment (respective costs) and the need for economic development.

20. NEA performs advisory functions, on its own initiative or at the request of the Minister, as follows:

- a) Give recommendations to the Minister to make proposals for the drafting of new acts, legislative changes, or on any other policy issues related to drafting and implementation of environmental protection policies;
- b) Prepare information on different environmental issues to the Minister, the central and local government bodies, upon their request;
- c) Organizes conferences, seminars, training in its field of activity;
- d) Prepare for the Minister information on evaluation of effects that may result from the proposals for approval or legislative changes in the national or international level.

VII. CONTRACTS AND AGREEMENTS

21. NEA:

- a) make agreement and cooperate with local government units pursuant to the Law "On organization and functioning of local government units" and environmental legislation;
- b) have the right to contract consultants for the implementation of its functions. Any fees due to contracted consultant will be covered by relevant financial resources;
- c) Implement civil contracts foreseen by the Civil Code;
- d) Includes in annual administrative report information on agreements and contracts mentioned above;

VIII. BUDGET AND ACCOUNTS

22. NEA budget is financed by the State Budget.
23. NEA generates incomes through its services made to the other parties. Tariffs of these services are defined according to relevant legislation in force;
24. NEA administers incomes from the state budget and from their services to other parties.
25. NEA prepares the Annual Budget Project based on the proposed work programme for that year.

IX. TRANSITIONAL AND FINAL PROVISIONS

26. The Minister within 1 month of the entry into force of this decision shall take measures to submit:
 - a) to the Council of Ministers the proposal on the appointment of General Director of NEA;
 - b) to the Prime Minister the proposal for the structure and organigrama of NEA.
27. The General Director of NEA approves the specific requirements for each position in NEA.
28. Employees who are currently appointed to the Agency of Environment and Forestry and which meet the requirements foreseen in paragraph 27 of this decision will be transferred to the new position of NEA according to the Order of Prime Minister on approval of structure and organigrame.
29. In any case, the employment procedures shall be made in compliance with the law "On status of civil servants ", as amended, "Labor Code" and other relevant legal provisions.
30. Within three months from the entry into force of this decision the Minister shall determines the redistribution of work means and premises and take appropriate measures to finance NEA budget funds for the budget year 2013.
31. NEA is responsible for implementation of this decision.

X. REPEAL

After this decision comes into force the Council of Minister Decision no.599, date 20.12.1993 "On establishment of Regional Agencies on Environment Protection" is repealed.

Any provision of the Council of Minister Decision no. 579, date 23.8.2006 "On establishment of Agency of Environment and Forestry" which is inconsistent with this decision shall be repealed.

Any provision or other act inconsistent with this decision shall be repealed.

This decision shall enter into force on _____, after publication in the "Official Gazette".

PRIME MINISTER

SALI BERISHA