

## Albania

### **Summary of the New Albanian Laws on Not-for-Profit Organizations by Eralda Methasani\*** **Introduction**

This country report contains a summary of the most important issues affecting NGOs, which are regulated by the recently passed laws concerning the not-for-profit sector in Albania. The package of laws affecting not-for-profit organizations (NPOs) consists of Law [No. 8781, dated 3.5.2001, "For some additions and amendments to Law No. 7580, dated 29.7.1994; 'The Civil Code of the Republic of Albania'; Law No. 8788, dated 7.5.2001 "For the Non-Profit Organizations;"](#) and [Law No.8789, dated 7.5.2001 "For the registration of nonprofit organizations."](#)<sup>[1]</sup>

### **General Comments**

The package of the NPO laws and the Albanian Civil Code regulate issues related to NPOs, such as their establishment, registration, activities, transformation, merger, interruption of activity, or dissolution. According to these laws, NPOs are associations, foundations, and centers. Foundations and centers are NPOs without membership created by one or more persons or by testament, while associations are NPOs with membership, established by the free will of at least five physical persons or two juridical entities, i.e. persons created by law, such as NPOs or companies.

NPOs are independent from the state, although the law provides for the support and facilitation of NPO activities from the state. The laws provide for the establishment of both formal and informal unregistered NPOs, thus implementing the constitutional right of everyone to associate. The right to create an NPO, to be a member of an NPO, or to participate in the governing organs of an NPO belongs to every person, including juridical entities and foreigners. Both NPOs created as Albanian legal entities, and foreign NPOs are permitted to carry out their activities in Albania.

The Tirana District Court registers the NPOs in Albania. The permission of the competent state organ, which is the organ of the state acting in a similar field as the field of activity of the NPO, is required for the registration of foreign NPOs.

The laws stipulate special rules about the re-registration of existing NPOs. It is the duty of the district courts where these NPOs are registered to transfer all the registration documents for foundations and associations as well as accompanying documentation to the Tirana District Court. This transfer process lasts for three months starting from the date the law on registration and the law on NPOs entered into force, i.e. 22 June 2001. In addition, if the existing activities of existing NPOs are not in compliance with the new laws, they must deposit their amended governing documents with the Tirana District Court within one year from 22 June 2001. Foreign NPOs with branches in Albania not registered according to the Albanian law may continue their activity. However, within one year from 22 June 2001 they must register with the court, otherwise they lose their status and their activity will be considered illegal. Foreign NPOs with a temporary activity in Albania, which are NPOs operating in Albania for no less than 30 consecutive days and no more than 6 months, must present a request for approval with the competent state organ that exercises the activity in the same or approximate field as that of the NPO field activity. The request must be presented within six months from 22 June 2001; otherwise they have to interrupt their activity in Albania.

### **Provisions in detail**

#### Where to register

The Court of Tirana is the place where the NPOs, both Albanian and branches of foreign ones, are registered. A single judge is responsible for the registration. The decisions related to the registration of NPOs are appealable to the Appellate Court of Tirana. However, foreign NPOs with a temporary activity in Albania simply need to notify and obtain permission of the state organ acting in the same or similar field as that of the NPO, (for example Ministry of Education has this competence if the NPO will operate in the field of education).

#### Documents to submit

*Local NPOs, registered as Albanian legal persons must submit the following documents:*

1. A request for registration that contains the following information:
  - a. form and aim of NPO
  - b. object of activity
  - c. identity of founders and leaders
  - d. structure of governing bodies
  - e. headquarters of the NPO
  - f. identity of its legal representatives;
2. The establishment act of the NPO, which is a decision of the members or of the testament in case of a foundation; and
3. The charter, which provides for a detailed regulation of the organization, functioning and activity of the NPO.

*Foreign NPO's with temporary activity must submit the following documents:*

1. A request to the competent governmental organ;
2. Documents that verify their existence as legal persons in their country of origin (translated into Albanian and notarized); and
3. Declaration from the foreign organization that its activity is in compliance with the aims of the organization and the legislation.

*Branches of foreign NPOs must submit the following documents:*

1. The request for registration (see above);
2. The establishment act;
3. The charter; and
4. The decision of the NPO's competent organ to open a branch in Albania (all the acts must be in the Albanian language and notarized).

#### Permitted Purposes and Activities

NPOs are organizations that carry out purposes for the good and in the interest of the public. Nevertheless, in contrast to foundations which are only permitted to carry out activities that serve a public interest, associations may carry out activities in the interest of their members. The laws provide for a definition of activities for the public good and in the public interest, meaning, for example, activities that support and develop humanitarian values, protect human life or health, secure and realize public and social services, as well as any other activities for the public good and in the public interest. NPOs have the right to exercise any kind of lawful activity to carry out their purposes and objects. However, there might be cases when the exercise of an activity is subject to the need to obtain a license or permission, for example when an NPO opens a social care center for children in need. In these cases the NPOs submit a request to the competent state organ, which provides the respective license or permission.

#### Governing organs

The highest decision-making organ of an NPO is respectively:

- a. for NPOs without membership, board of directors which can also have a different designation;
- b. for those with membership, the general assembly of the members.

The highest executive organ for an NPO might be either individual or collective and may be called executive director, president, executive council, and so forth. The highest decision-making organ of the NPO may create other decision-making, executive or advisory bodies when the Charter expressly permits or does not expressly prohibit it.

#### Fundraising Activities

In general, NPOs have the right to carry out activities to collect funds to be used for meeting the purposes and objects for which they were organized. Funds may also be collected to support the activities and purposes of other NPOs.

### Economic Activities

The NPO may carry out economic activities for the realization of the purpose and objects for which they were organized. All the profits made through the exercise of such economic activities must be used to accomplish the purposes specified in the Charter and the Establishment Act. An economic activity must:

1. be in conformity with the purposes of the NPO;
2. have been declared as one of the sources of income; and
3. not be the primary purpose or activity of the organization.

### Income or Profits Tax Exemption for NPOs

The following exemptions are provided to NPOs:

- a. Exemptions from tax on revenues realized from donations and membership dues;
- b. Donations are exempt from income tax law;
- c. Relief and exemptions from tax and customs obligations.

Other laws specifically set out the exemptions provided in item b and c.

### NPO-government partnerships

NPOs have the right to take part in government projects, tendering for and procuring grants, contracting and purchases and sales by state organs of public services, public properties and goods, as well as the transfer of public services and the related properties from the public sector to them.

### Supervision of NPOs

The competent state organs have the right to supervise NPOs regarding the implementation of tax and customs legislation, social insurance legislation, licensing of economic activity, contracting for the exercise of public and social services, and for the fulfillment of their activities with funds from the State Budget. The supervising state organs are those organs that work in the above-mentioned fields.

### Termination, Dissolution, and Liquidation of NPOs

NPOs are entitled to be *transformed and merge*, upon the decision of the competent organ and as provided in the basic act of the NPO. In addition, such a transformation or merger must be contemplated in its charter in the case of a non-membership NPO. Nevertheless, transformations and merger are not permitted in the following cases:

- a. foundations and centers may not merge or transform into associations;
- b. and associations may not merge or transform into foundations.

An NPO may be *dissolved*:

- a. upon its own initiative;
- b. by a court decision upon the request of the members of the NPO, decision-taking organs of the NPO, or the competent state organ permitted to decide upon the dissolution of the NPO.

The court can take the decision to dissolve the NPO only in cases such as:

- a. the activity of the NPO was against the Constitution;
- b. the NPO preformed an illegal activity;
- c. the NPO was not created in compliance with the law; and
- d. the NPO is bankrupt.

The *liquidation* of an NPO is done according to its Charter after the dissolution is determined and accomplished by the NPO. If the court requires the dissolution, it also requires the liquidation of the NPO.

### **Conclusion**

This paper has described the new regulatory order facing NPOs in Albania. It is intended to provide a brief guide to those who are interested in registering such entities under Albanian law. The text of all the laws discussed in this article is available in ICNL's Database and Online Library.

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[1] Law No. 8788 and Law No.8789 are published in the Official Journal no. 28, dated 7 June 2001 and entered into force on 22 June 2001. Law No. 8781 was published in the Official Journal no. 24, dated 20 May 2001 and entered into force on 4 June 2001.