

THE LAWS AFFECTING WATER POLICY AND WATER – ENVIRONMENT ISSUES IN ALBANIA

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Abstract: The water resources constitute an important natural resource for Albania, which compared with other European Countries is considered as one of the richest. Thus, the mean annual precipitation are 1485 mm and the mean annual runoff 891 mm.

Several sectors, organisations, institutions and legal structures have been developed over the years dealing with water from its own perspective (drinking water, sewerage, irrigation, nature protection, fishing, etc.).

Currently there are three laws affecting water policy and protection in Albania. The aim of this paper is to propagate the current assignment of responsibilities under these laws and to describe some of water-environment issues coming of the overlapping competencies defined by the three laws. Parliamentary actions are recommended in order to enforce the current water legislation in Albania.

Keywords: Water law, water policy, overlapping competencies, institutional improvements, National Water Strategy, parliamentary action.

LEGISLATION : CURRENT SITUATION

Currently there are three laws affecting water policy and protection in Albania. The oldest is the Law on Environmental Protection of 1993 (the LEP), which is a framework law establishing a basic structure for environmental impact assessment, permitting of land development and industrial operations, nature protection and environmental monitoring under the authority of the Ministry of Health and Environment (MHE), through the National Agency of Environment (NAE).

The other two laws were adopted on 28 March 1996. The Water Resources Law (WRL) establishes a framework for the regulation of all water resources in Albania under the direction of the National Water Council (NWC) - a committee of ministers of the national government. The NWC was set up by a decision of the Council of Ministers in 1994.

The Water Supply and Sanitation Regulation (WSSR) establishes a control structure for the soon-to-be privatised sector of waterworks, sewerage, and waste water treatment facilities under the direction of an independent National Water Supply and Sanitation Regulatory Commission (the Commission). At this time, the water works and sewerage systems are run by the municipalities. There is no wastewater treatment, but at least nine projects to build waste water treatment plants are known to have started.

Each law assigns competency to manage or to protect Albanian water resources to its set of institutions. So far, the only one to have a functioning implementing structure is the LEP, but NEA and the Environmental Inspectorates are weak in terms of staffing, resources, experience, and regulatory structure. Permitting and control actions are taken on an *ad hoc* basis, (in theory) after consideration of relevant European Union and western national standards and requirements.

It should be noted that the Public Health Directorate of MHE also has authority over drinking water quality, and the Ministry of Agriculture and Food has authority over irrigation waters and activities. In contrast to the new water legislation, the offices

responsible for these activities have been in existence for a considerable time and are functioning with a reasonable number of staff. However, perhaps because they feel secure in their long-standing positions of sole competency in their areas of authority, they have not yet become involved in the discussion over competencies for water use and protection under the newer legislation.

The WRL's claim to automatically abrogate any previous laws which contradict its text is unlikely to be enforceable, as it is too vague and can inadvertently put too many holes in other regulatory systems without providing a replacement.

The WRL and the WSSR will set up new institutions independent of Government ministries to make and implement water policy. The WRL follows a traditional approach of setting up a "political committee" of ministers, chaired by the Prime Minister, to be jointly responsible for the definition and implementation of policy. In practice, implementation would probably be delegated to the Technical Secretariat.

Broad water policy would be adopted by the NWC, upon a proposal of the Technical Secretariat.

The WSSR sets up an independent, professionally qualified regulatory Commission following the American model. The Commission would both make and implement policy within the framework of the management structure and basic regulations which are to be adopted by the Council of Ministers.

The LEP was adopted earlier, and uses the normal ministry structure to define policy which would be implemented by the hierarchy of the MHE, NEA and the regional environmental Inspectorates, or by the local authorities, depending on the issue. Broad environmental policy would be adopted by the Council of Ministers, with more specific action plans and environmental policies adopted by the MHE.

Table 1 Institutional Responsibilities defined by the three Laws

WRL	LEP	Min. Agriculture	WSSL
<ul style="list-style-type: none"> • NWC Is the only institution with overall authority to decide water protection and management strategy • Is the only institution with authority to control well-drilling, land management for water protection, banks and shorelines • Competing authority for “permitting” sewerage and treatment works, discharges to water and land, water use • Competing authority to regulate irrigation • Lacks staff, budget and political authority to carry out these responsibilities 	<ul style="list-style-type: none"> • MHE/NEA has overall authority to protect the environment • Has authority to compel EIA for activities “having a strong impact on the environment and which are particularly dangerous to human health” • Competing authority for regulating and issuing permits for activities which “have an impact on the environment” (e.g. discharges to water, air and land) • Has authority to supervise environmental monitoring, collect and process data • Has structure and staff, but lacks training and equipment to carry out these responsibilities 	<ul style="list-style-type: none"> • Min.Agr. has competing authority to regulate irrigation • Has structure, staff and enthusiastic co-operation of water users groups in carrying out its responsibilities 	<ul style="list-style-type: none"> • Commission has focused authority to regulate water supply and sanitation services to the public • Competing authority (with NWC) to regulate water supply and sanitation services to the public • Potentially competing authority with MHE/NEA to regulate discharges from WW plants • Currently lacks staff, budget and political authority, but this is expected to change within a year

OVERLAPPING OF THE COMPETENCIES AND ITS IMPLICATIONS

The positive side of the equation is that Albania has three laws which give the Government adequate and extensive authority to regulate and protect water resources, and has created a structure to define and implement a comprehensive national water management and protection strategy. Theoretically, each system could operate independently within the framework of the National Water Strategy, with conflicts between competencies sorted out through an agreement of the responsible Ministers and institutions, all of whom are on the NWC.

Regarding the regulation of private water uses and discharges, an applicant would need one or multiple “permits” to carry out their intentions, depending on the type of activity. Well-drilling requires only a permit from the NWC; construction and operation of a waste water treatment plant would need at least three permits: operation permits under the WSSR; discharge permits (and concession?) under the WRL and LEP. A leather processing plant would need an environmental permit under the LEP and under the WRL for its discharges to surface water and for any discharges to land which might endanger the groundwater.

Each institution would be responsible for monitoring compliance with, controlling and enforcing its own permits. Each would establish a fee structure which would support the administration necessary to implement the permitting system.

At a very general level, the critical overlapping competencies may be summarised as follows:

- All three laws authorise their institutions to establish regulatory structures for water: the WRL for all aspects of water management, the LEP for water protection; the WSSR for water supply and treatment systems.
- The WSSR's scope is entirely within the scope of the WRL.
- The LEP's water permitting authority overlaps substantially with the scope of the WRL, and also overlaps with the WSSR's regulation of waste water treatment facilities.

At the moment, two regulatory structures exist:

- NEA and its regional environmental inspectorates, and the local authorities (municipalities and districts) who are responsible for permitting land development and industrial facilities and discharges;
- and the (embryonic) NWC, which has a Technical Secretariat staff.
- WSSR will receive a staff of experts. A USAID team is currently preparing implementing regulations and developing a pricing structure for the WSSR and is prepared to do the same for the WRL. The WSSR is being driven forward by the twin forces of privatisation of the water industry and the existing nine or more major foreign aid projects in the water sector, plus further projects in the pipeline.¹

The WRL is designed to create a new, powerful, centralised structure at the highest political level to decide policy and manage Albania's largely pure and abundant water resources. The policy of the management had been developed through Phare Project 95-1145.00 *National Water Strategy for Albania*.

The implications of the present situation for the future are the following:

- The WRL and the National Water Strategy remain empty shells, due to the lack of commitment and action by the Prime Minister, the Minister of Public Works and Transport, and the Minister of Health and Environment to convene the NWC and to provide the intended staff and budget.
- The occasional permit for mining or dredging operations might be issued in the name of the NWC, but the TS will not be in a position to develop or implement policies.
- The WSSR will receive the necessary staff and funding because it is linked to privatisation of the water sector - an important priority of the Government and of foreign aid institutions.
- The Ministry of Agriculture will continue to regulate irrigation, and may become active in prosecuting polluters of irrigation networks. However, it has only administrative, not civil or criminal prosecution authority.
- The EIA and industrial permitting systems set up under the LEP will continue to hobble on, due to a combination of a lack of personnel, funds, equipment, training, information and no clear commitment in the Government to strengthen the permitting systems.²

¹ E.g. Phare investment funds of ECU 20 million in the water sector are foreseen.

² E.g., the Phare environment projects were completed and no subsequent Phare environment programmes is planned.

- There will be no clear water management policy. The quality of Albania's waters will decline as new industrial and agricultural activities are introduced.³. Today, no clear knowledge about the present water quality (surface or groundwater) exist, due to the "collapse" of the monitoring institutes.
- There will be a very preliminary *de facto* division of regulatory authority between four bodies:
- The Ministry of Agriculture will continue to manage irrigation works and water distribution, using the considerable budget and institutions retained from the past, and now revitalised through the World Bank project for seven districts.
- The Commission will regulate water works and waste water treatment facilities. (Pressure from donors and the impetus of privatisation will ensure that it receives a budget and staff.)
- The NWC's Technical Secretariat will have some influence on mining, hydropower and other developments affecting water resources, but this influence will be minimal, as its staff is still insufficient. The Water Basin Authorities will not be established until 1999, at the earliest, because initially it will be necessary and practical to centralise control in the national Government.
- The overburdened LEP industrial permitting system will capture a few industrial establishments, but most will escape regulation and can be expected to produce discharges which will damage the quality of Albania's surface and groundwater. A further threat could come from the growing prosperity of farmers, who become able to buy pesticides and fertilisers, thus producing run-off which can infiltrate groundwater and pollute surface waters and would not be subject to any permit regime.

Conclusions

Analysing the three laws affecting water policy and protection it is clear that some confusions and conflicts exist, mainly due to the overlapping of the competencies of water institutions defined by different laws.

For this reason, two alternative parliamentary actions are recommended :

- Review the three laws in order to avoid the overlaps and also the conflicts through an agreement of the responsible Ministers and institutions, all of whom are on National Water Council.
- Adopt a new integral law concerning water policy and protection, which also should improve the water institutions.

REFERENCES

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4. National Water Strategy for Albania - Final Report, BCEOM French Engineering Consultant, Tirana 1996.
5. Hydrology of Albania, Publication of Academy of Sciences of Albania, Tirana 1984.

³ Tanneries are operating near Gjirokaster above the unpolluted Drinos River, and near Tirana above agricultural fields; it is not clear whether or not they have applied for a permit and obtained it.