

LEGAL FRAMEWORK for REVISED ALBANIAN FISHERIES LAW

Commentary

A table is given below which outlines what should be the basic legislation for fisheries in Albania and in relation to absorption of the fisheries acquis. It is stressed that the table is given in outline form only. This document forms the basis for a discussion document

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
PART I: GENERAL PROVISIONS			
1. Scope of act	Purpose of legislation	Covers marine and freshwaters	ALB/Art. 1
2. Establish area of jurisdiction	Make clear baseline capable of being used for prosecuting offences in territorial sea	Define baselines as low water mark or as established by minister	UNCLOS ALB/Art.3 a)
	Definition of boundaries	Cite legal authority	UNCLOS ratification
		Include: offshore, coastal and transitional waters	Dir. 60 of 2000
		Allow for Parliament to declare any of the above by proclamation	
3. Application of law	Coverage outside EEZ	Operations of Albanian flagged vessels outside EEZ	
4. Definitions	Consistency with EU legislative terms.	Marine Zone	ALB/Art. 3 a)
	Additional definitions provided in attached list of EU legal definitions	Precautionary Principle	R2371 of 2002 Art. 3 (i)
		Biodiversity	Biodiversity Action Plan for Fisheries

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
			(COM(2001)162 Vol IV).
		Fisher	R.1198 of 2006. Art. 3 (b)
		Fishing vessel	R.1198 of 2006. Art. 3 (c)
		'Fishery Development Area' equivalent to 'Fishery Area'	R1198 of 2006 (European Fisheries Fund)
		Fishery	R. 768 of 2005 Art. 2 (f)
		Sustainable exploitation	R.2371 of 2002 Art. 3 (e)
		Aquaculture	R.1198 of 2006. Art. 3 (d)
		Coastal waters	D60 of 2000. Art 2. 7
		'Transitional waters' viz.	D 60 of 2000. Art 2.6 (Water Directive)
		Small –scale (coastal) fishing	R.2792 of 1999. Art. 11.1
		Fishing capacity	R.2371 of 2002 Art. 3 (n)
		Vessel detection system NB allow for non-satellite location detection	R.1224 of 2009 Art. 4.12
		Exportation and re-exportation	R.1005 of 2008, Art. 2.13 &14
		sighting	R.1005 of 2008, Art. 2.17
		Control observer	R1224 of 2009
		IUU vessel list	R1005 of 2008,

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
			Art. 2.25
		IUU definitions: illegal, unreported, unregulated	R1005 of 2008 , Art. 2.2-4
		Co-management area	ALB/Art.3. k
		Co-management plan	ALB/Art.3. l)
		Port / Landing site	ALB/Art.3 i & j)
		Distinguish between 'recreational' and 'sport' fishing. Sport implies 'put & take'	
PART II: MANAGEMENT OF LIVING MARINE RESOURCES			
Enable sustainable use of aquatic resources	Objectives and principles	Commitment of Albania to protection of marine environment and the biodiversity of its natural resources	R 2371 of 2002 , Art.2 ALB/Art.2
	Consistency with international practice	Precautionary Principle required to be applied to any use of marine environment and its associated eco-systems	R2371 of 2002 Art. 3 (i)
	Consistency with Common Fisheries Policy (CFP)	Albanian Waters are subject to sustainable use regime.	R2371 of 2002 R 1005 of 2009
		Minister to require National Strategic Plan for fishery sector	R1198 of 2006 ALB/Art.8
		Financing	ALB/Art.9
		May require operational plans to be developed for sector	R1198 of 2006 R2508 of 2000
		May require annual control programme	R391 of 2007
		No fish to be taken that is not subject to an approved FMP	R.1005 of 2008
		No MARINE fish to be landed that is not subject to an approved FMP	R.1005 of 2008
		Minister may create designated fisheries	ALB/Art. 31
Minister may assign management of designated fishery to a named competent authority			
Fisheries Management Plans	R2371 of 2002		

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
			R1967 of 2006 ALB/Art. 31/15
		All fisheries shall be managed at biologically sustainable levels through multi-annual Fishery Management Plans	R2371 of 2002
		Fishery Management Plans capable of regime change from stock-based plans to eco-system based plans, subject to direction of Minister	R2371 of 2002
		Minister may institute Emergency Management Plans to protect identified stocks which are in danger. Minister may order re-stocking	R2371 of 2002
		Fisheries Management Plans shall be made with participation of resource-users representatives	R2371 of 2002 R1198 of 2006 D43 of 1992 ALB/Art. 31/14-19
	Enable refuge areas and 'no-catch' zones	Creation of Marine Protected Areas (MPAs) by proclamation of Parliament Minister to report sites	R1967 of 2006
Species protection	Comply with agreement	Minister has power to protect listed species	R1967 of 2006 ALB/Art.24
Juvenile protection	Minimum sizes	Use of gear sizes	ALB/Art. 24
Closed areas/seasons	Protect breeding animals	Juveniles, sizes, spawning stock protection	R1967 of 2006 ALB/Art.24
Closed areas	Protect environment	Prohibit fishing (except scientific) in stated areas	ALB/Art. 24 R1967 of 2006
Exemptions	Scientific research	Minister may exempt scientific bodies from any of above	ALB/Art.22 ALB/Art.24.2
Stock protection	Stock protection	Fish aggregating devices (FADs) control	R1967 of 2006
	Ghost fishing	Minister may require recovery of lost gear	R1224 of 2009
		Minister may require gear to be marked	R1224 of 2009
		Minister shall maintain register of gear	

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
		Requirement to report transfer, loss, destruction	
PART III: MANAGEMENT OF LIVING FRESHWATER RESOURCES			
Sustainable use regime	Management control of FW	Precautionary Principle required to be applied to any use of freshwater environment and its associated eco-systems	
		Minister may designate any water body or area containing water bodies to be subject to a sustainable fisheries management regime	ALB/Art.31
		Creation of Protected Aquatic Habitats (PAHs) by proclamation of Parliament Minister to report sites	
		Minister has power to protect listed species	
		Juveniles, sizes, spawning stock protection	
	Allow commercial and/or recreational/sport* fishing development	Minister may authorise any person or public or private corporation to manage a designated water body or PAH	
		Any such scheme shall be subject to public consultation	
Any such scheme shall be subject to biological and financial audit			
	*See definition of 'sport'		
PART IV: CONTROL OF MARINE & FRESHWATER FISHERIES – ADMINISTRATIVE			
Establish control body	Competent Authority to manage and control fisheries	Ministry	Alb/3 (g) R1198 of 2006 R1224 of 2009
		Budget	ALB/Art.9
		Scientific research Training	ALB/Art.10-11 ALB/Art.33
		Responsible for licensing	R1224 of 2009 ALB/Art.32
		Responsible for enforcement of fishing	R1224 of 2009

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
			ALB/Art.32, 34
		Responsible for environmental monitoring and enforcement in territorial and offshore waters	R1224 of 2009
		Competent Authority for Environment Liability	D35 of 2004
		Responsible for collection and transmission of statistical data to Minister and any other organisation that he directs	R1639 of 2001 R1967 of 2006 R1543 of 2000 R1921 of 2006
		Maintain register of infringements	R1224 of 2009
		Other functions	ALB/Art.32
Establish inspectorate	Control officers	Authorised powers of officers	Arts 24/28 of R2372/2002 ALB/Art. 36
		Powers of fisheries inspectors	R2847 of 1998 ALB/Art. 37-38
		Powers of inspectors capable of transference to other officials	R1447 of 1999
		Powers of fisheries inspectors to enforce international agreements	R1224 of 2009
	Observers	<ul style="list-style-type: none"> • Minister may appoint observers on FVs in Albanian waters • Accept control observers from other bodies 	R1224 of 2009 R2371 of 2002 R678 of 2005 R1224 of 2009
	Effort control	Minister may take action to control the exit and entry of Albanian fishing vessels or other catching units into the fishery.	R2371 of 2002
PART V: CONTROL OF MARINE FISHERIES – LICENSING			
National control of fisheries	Control	No vessel to fish without a fishing licence	ALB/Art.15 R1005 of 2008
	Categorise / control vessels	Details of capacity	ALB/Art. 14
	Vessel registration	Registration of boats	R26 of 2004 R1967 of 2006

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
		Register of fishing vessels to be maintained	ALB/Art.13 R2390 of 1986 R2090 of 1998 R1381 of 1987
Issue permits	Fishing activities controlled	Allow minister to issue permit/licence details including proof of non –inclusion on ‘IUU’ FV list]	ALB/Art.19/20 R27 of 2005 Art. 19
	Permit administration	Public notice	
	Control	General conditions of issue	ALB/Art. 16
	IUU control	No Albanian-owned vessel to be permitted to be re-registered as a fishing vessel in a country which is ‘non-cooperative’ in respect of IUU fishing	R1005 of 2005
	Renewal	Renewal of licence subject to non-infringement	R1005 of 2008 R1224 of 2009 ALB/
	Appeal	Refusal of licence subject to appeal	
Market/food control	First time buying & selling	Registration of buyers & sellers of fish or shellfish	R2371 of 2002
		Designation of places of 1 st time sale/landing	R2371 of 2002 R1224 of 2009
		Registration of professional fishermen to be made by responsible [local/professional] body	ALB/Art.12
		All recreational fishing to be licensed Permit for recreation/sport fishing for non-Albanians Conditions	ALB/Art. 23 R1224 of 2009 Art.55
		Conditions for commercial licence	ALB/Art. 24 R1967 of 2006 R26 of 2005
PART VI: CONTROL OF FFVs AND INTERNATIONAL RELATIONS			
Regulation of international			

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
agreements		NO FFV to be licensed to fish unless it is on charter for exploratory fishing on behalf of the government or a recognised scientific institution which has been exempted for the specific purpose	ALB/Art.19 ALB/Art.20 ALB/Art.21
	Regulation of international or 3 rd country agreements	Allow 3 rd country vessels to land fish in Albania, which has been caught outside Albania	R1224 of 2009 ALB/Art.18
		Determination of FFV by court	R1005 of 2008
		Port state measures	UNCLOS R1005 of 2008 R1224 of 2009
		Flag state measures	UNCLOS R1005 of 2008 R1224 of 2009
		No IUU vessel to be permitted to land fish or re-provisioned or change crew (see exceptions)	R1005 of 2008 Arts. 37 & 38
		Flagging of FVs	R2371 of 2002
		Control of Albanian vessels outside zone	R26 of 2004 R27 of 2005
Transhipment	Transhipment	Prior notification of arrival	R1224 of 2009
		Transhipment rules	R1224 of 2009
		No fish to be transhipped outside port, except pair trawlers	R 1224 of 2009 Art 20
PART VII: MONITORING AND SURVEILLANCE		National fisheries statistics	ALB/Art.32
Statistics	Ownership of information	Ownership of information	
	data confidentiality	data confidentiality	R322 of 1997 R768 of 1966 R1996 of 2006 R1224 of 2009
	Statistics	• Statistics	R1967 of 2006 R2846 of 1998

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
		<ul style="list-style-type: none"> • Use and reporting of electronic data 	ALB/Art.32 R1966 of 2006
		Approved fishing logbooks to be maintained in national or international or in the waters of any 3 rd country	R2945 of 1995 R1005 of 2005 ALB/Art.
		Requirement to record and report fisheries activities and landings including marine recreational fisheries	R1224 of 2009 R1005 of 2008
		Electronic data recording and reporting	R1224 of 2009
		Catch data for fish landed directly in Albania, landed directly in third countries or transhipped to third country vessels	R2737 of 1999 R2104 of /1993
		No fish to be traded that is not subject to first-time sale notes	R2371 of 2002 R1224 of 2009
		Market sales notes to be issued in a form subject to regulation	R1224 of 2009
		No fish to be transhipped or exported or re-exported that is caught illegally or unregulated or unreported [create offence]	R1005 of 2008 R1224 of 2009
Monitoring	VMS	Authorise use of VMS	R1489 of 1997 R1224 of 2009
		Classification by order of Minister to include 12m vessels	R1224 of 2009 Art 9.2
		Placement on vessels by order of Minister	
		Designated machines to include automatic ID	R1224 of 2009
	Surveillance	Surveillance reports	R1224 of 2009
		IUU responsibilities	R5001 of 2001
		Duty to report <i>sightings</i> of illegal activity	R1005 of 2008
PART VIII: MARKET ORGANISATION AND SECTOR REPRESENTATION			
Consultation	Representative bodies	Central Consultative committee (CCC)	R1198 of 2006

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
		Local consultative committee Scientific committee	ALB/Art.s 4-7
Access to support funds	Support area designation	Declaration of 'Fishery Development Area'	R1198 of 2006
Market organisation	Common organisation of market for fish/fish products	Minister shall take into account views of any producer organisation or inter-branch organisation established in law	R104 of 2000 R1198 of 2006
Management options	Contract management of fisheries, ports, state assets or designated fisheries	On the advice of the CCC, Minister may enter into contracts to manage designated fisheries and/or any state assets associated with them.	
		Options are:	
		<ul style="list-style-type: none"> • Private or public companies or corporations • Producer Organisations • FMOs/User group management • Approved NGO or • Or any 	
Fisheries Management Organisations <u>NB This section may be removed or altered</u>	<i>Organisational control of PO/User group FMO</i>	<i>Fisheries Management Organisations (FMOs)</i>	<i>ALB/Art. 31/1</i>
		<i>Membership and organisation</i>	<i>ALB/Art. 31/2-6</i>
		<i>Monitoring board</i>	<i>ALB/Art. 31/7</i>
		<i>Register of FMOs</i>	<i>ALB/Art. 31/8</i>
		<i>Audit</i>	<i>ALB/Art. 31/9</i>
		<i>Dissolution</i>	<i>ALB/Art. 31/10</i>
		<i>Transfer and operations of ports</i>	<i>ALB/Art. 31/11-12</i>
PART IX: JUDICIAL MATTERS			
Presumptions		Presumptions as to validity of statements	
Liability	Corporate liability	Owners also responsible	ALB/ Art.
	Operator liability	Include all persons	
		Liability for loss of things in custody	
		Liability for environmental/physical damage	ALB/Art. 41

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
Protect officers	Exempt officers from liability	Protect from civil/criminal liability	
Evidence	Evidence by certificate	Evidence by certificate	
		Certificate as to location of vessel	
		Photographic evidence	
		Validity of certificates for VMS etc	
		Destruction of evidence	
		Security for release of vessel, vehicle or aircraft	
		Certification for PM reports – explosives etc	
Forfeiture	Forfeiture orders by court	Forfeiture orders by court	
		Treatment of things detained	
		Disposal of seizures and forfeiture orders	
		Removal from custody	
Admissibility of evidence	Non-Albanian evidence	Minister may certify that foreign evidence is admissible	R1224 of 2009 Art.77 Art 1005 of 2008 Art 10
Penal mechanisms		Minister may establish a points system for infringements	R1224 of 2009 Art. 92
	Imprisonment of non citizens	No imprisonment of non-citizens	UNCLOS, Art. 73.3
	Licence cancellation	Cancellation of licence resulting from conviction	ALB/Art. 40
	Banning order	Ban convicted person from commercial fishing	ALB/Art. 40
	Administrative penalties	Commission and appeals	ALB/Art. 43-44
Offences	Offences	Offences	ALB/Art.24
Penalties	Penalties	Penalties	R1447 of 1999 ALB/Art. 39
		Category 1. Summary fines	
		Category 2: level established by Act, raised automatically every 3 years by published rate of inflation. New rate officially notified.	
		Category 3: level established by Act raised automatically every 3 years by published rate of	

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE	
		inflation. New rate officially notified.		
		Category 4: level established by Act, raised automatically every 3 years by published rate of inflation. New rate officially notified.		
		Confiscation of either catch or gear or both – to added to any of above		
		Confiscation of vessel		
		Establishment of register of defaulters		
		Establish infringements required to be registered	R1224 of 2009	
PART X: REGULATIONS				
Regulations	Make regulations to meet CFP requirements	Registration of fishing vessels Marking of fishing boats	R2930 of 1986/R26 of 2004 R356 of 2005	
		Details / Information of permits and licences	R700 of 2000	
		Control of fishing gear Recovery of gear	R1967 of 2006 R1639 of 2001 R1224 of 2009	
		<ul style="list-style-type: none"> • Catch and market reporting • Electronic reporting • Weighing and conversion factors 	R5001 of 2001 R1489 of 1997 R1967 of 2006 R1966 of 2006 R1224 of 2009	
			Position reporting	R2244 of 2003
			Fish and market hygiene	R178 of 2002 R853 of 2004
			Fish exporting	R 178 of 2002 R104 of 2000 R2369 of 2002
			Fisheries planning	R2371 of 2002
			Fisheries sector support	R1198 of 2002 R861 of 2006

ACTION	PURPOSE	DETAIL	LEGISLATION REFERENCE
		Area and season regulations	R1967 of 2006
		Marine Protected Areas	D43 of 1992
		Vessel Monitoring Systems (+ tampering rules)	R2244 of 2003
		Gear measurement rules	R2108 of 1984
		LISTED BELOW ARE ALL ITEMS TO BE REGULATED	
		<i>Schedule 1: Licence details</i>	<i>ALB/Art.</i>
		<i>Schedule 2: Logbook format</i>	<i>R 1224 of 2009</i>
		<i>Schedule 3: Simple catch return</i>	<i>R 1224 of 2009</i>
		<i>Schedule 4: Catch/re-export certificate</i>	<i>R1005 of 2008</i>
		<i>Schedule 5: Transport details</i>	<i>R1005 of 2008</i>
		<i>Schedule 6: IUU statement of origin</i>	<i>R1005 of 2008</i>
		<i>Schedule 7: list of prohibited fishing gear</i>	<i>R 1967 of 2006</i>
		<i>Schedule 8: Protected species</i>	<i>R 1967 of 2006</i>
		<i>Schedule 9: Protected sites and habitats</i>	<i>R1967 of 2006</i>
		<i>Schedule 10: Areas for fishing from shore</i>	<i>R1967 of 2006</i>
		<i>Schedule 11: Minimum size limits for species</i>	<i>R1967 of 2006</i>
PART XI: TEMPORARY AND FINAL PROVISIONS			
Transitional measures			
Illegal fishing prohibitions	Control mechanism	Poisons, explosives, underwater gear	R1967 of 2006 ALB/Art. 39
		Allowance of above for scientific fishing	ALB/Art.
		Recovery of damage costs	ALB/Art. 41 EU Treaty Art 174

R – EU Council Regulation) as R2371 of 2002

D - EU Directive as D60 of 2000

UNCLOS – United Nations Convention of the Law of the Sea, 1982

FV – fishing vessel

FFV – foreign fishing vessel

EFF – European Fisheries Fund

CFP – Common Fisheries Policy

ALB/Art1. – Albania Fisheries and Aquaculture Law, 1995 (as amended) [Article No.]

MEFWA – [Albanian] Ministry of Environment, Forestry and Water Administration

NGO – Non-governmental organisation