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# LOCAL GOVERNMENT BORROWING MANUAL



APRIL 2009

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## **DISCLAIMER**

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government

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## Acronyms

LGU	Local Governance Unit
LGUC	Local Governance Unit Council
CG	Central Government
MF	Ministry of Finance
OS	Own Sources
USAD	United States Agency for International Development
LGPA	Local Governance Program in Albania

# Local Government Borrowing Manual

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## I. Executive summary

The purpose of this manual is to facilitate the work of finance specialists and all actors included within the Local Government Unit (LGU) on the evaluation of the needs to finance a project through a loan; the analysis of the financial market; the approval procedures; the planning of the funds to be borrowed and the repayment schedule; the preparation of bankable projects.

The USAID Local Governance Program in Albania (LGPA) intends to, amongst other, support selected municipalities in the process of borrowing in the financial market, inform them on the new Law on Borrowing, as well as fuel the capacities of the municipalities to make sure they implement this Law. This document is a detailed breakdown of the Law and the deriving sublegal acts as well as a method to evaluate the legal framework on the Local Government Borrowing and their financial power to endure a certain loan.

In this process, LGPA noticed that the Local Units, not only were unclear how to react in the process of financing their projects, but also that the majority of the financial institutions capable of lending to the Local Units don't have a good source of information for the evaluation of the financial capabilities. Usually, the methods used by the banks are designed to evaluate the private companies but not the Local Government Units and the lack of such information makes the borrowing process more complicated. This manual is a step toward the improvement of this information for both sides (the LGU-s and the financial institutions).

The manual gives us a first impression on the evaluation of the credibility of the Local Units, using simple financial markers, and the writer intends to make it as simple and clear as possible to the clerk of the finance office and any other actors involved in the process. To further make it easier, certain readily available formats like Excel are used for the finance tables and the formulas for the evaluation of different indicators, which are also found in the attached CD. Complex and analytic analysis could be performed by the experts of the Local Units, while one cannot be confined by this helpful manual

The actual Law on 'Local Government Borrowing' is a first step forward towards the expansion of LGU financial capabilities so it can undertake investment projects otherwise impossible, to be successfully completed through the annual budget of the Local Unit. This new financial 'instrument' is not yet tested, and it's unknown what applications will it find and what issues will arise, but the idea of the Law is such, that makes it appear a conservative Law (determining the legal limitations around borrowing and LGU debt level, amongst the lowest compared to other countries), and as a result the expected risk of LGUs failing to be able to pay the loan is low. However, we recommend that prior to deciding to apply for a loan to finance big projects, all other finance resources be exhausted like, application for competitive grants from Central Government, donations from different donators, public-private cooperation agreements etc.

## II. The Legal and Institutional Framework

The LGUs, since February 2008 have in their possession a new financial tool, the possibility of borrowing in the financial market in order to meet their financial needs to finance their own existing, separate or delegated functions. The Law No. 9869 of February 4, 2008 'On Local Government Borrowing' clearly determines the boundaries of borrowing on the part of LGU: the guarantees, procedures and reporting requested by the Ministry of Finance.

Other Laws that can be referenced in designing the procedures of taking, using and reporting the local loans are: the Law on the Organization and Functioning of the Local Government<sup>1</sup>; the Law on Managing the Budget System in the Republic of Albania<sup>2</sup>; the Law on the Local Taxation System<sup>3</sup>; the Law on Immovable State Properties; the Law on the Transfer of Immovable State Assets onto the Local Government<sup>4</sup>; the Law on the Banking and Financial Activities, the titles and the collaterals; the Law on Accounting and Financial Statements; the Law on State Borrowing, State Debt and the State Guarantees on Loans in the Republic of Albania.<sup>5</sup>

Today, self financing still occupies a modest level<sup>6</sup> in the State budget in Albania, despite the strong growth inflicted by the process of decentralization during these last years, which has strengthened the financial capabilities of the LGUs. Understandably, compared to the small budget of the Local Units, the investment funds are still modest when dealing with big investment projects. The new Law on Local Government Borrowing offers a very important instrument as to the possibilities it creates for the Local Units to undertake projects of priority for the community, although, inheriting a certain degree of conservatism, it doesn't fully satisfy the demand of the local government units for funding of big investment projects. However, if we were to see it in the light of monetary value in real terms of the Local Units budget structure, this new financial instrument is a very powerful lever for what it can actually accomplish. Based on an analysis on the new financial capacities this Law offers, taking into consideration that the maximum amount of debt a Local Unit can receive at a certain moment, is 1.3 times its revenues generated the last budget year, this would mean that, in more realistic relative terms, compared to the level of the investments, the debt the Local Unit can receive, can increase the level of local investments which are completed within one budget year to more than 32 times compared to the normal funds provided on the same budget year, without the instrument of the loan.

## III. The Procedures and the role of the Local Government Unit in regard to the preparation of project proposals (the role of the Municipality and the Municipal Council).

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<sup>1</sup> Law No 8652, of 31.07.2000

<sup>2</sup> Law No 9936, of 26.06.2008

<sup>3</sup> Law No 9632, of 30.10.2006 Amended

<sup>4</sup> Law No 8743, of 22.2.2001, "On the Immovable state property", Law No 8744, of 22.2.2001, "On the Transfer of Immovable Property onto the Local governance"

<sup>5</sup> Law No 9965, of 18.12.2006, "On the State Borrowing, State debt and guarantees in the Republic of Albania" <sup>6</sup> In 2008 the sum of all LGU budgets accounted for 11% of the total state budget

The Local Government Unit can borrow from the domestic and/or international financial markets to satisfy its short or long term needs. Based on the debt maturation terms, two types of procedures emerge:

- (a) Procedures for the long term loan and
- (b) Procedures for the short term loan

### A. Procedures for the Long Term Loan

The Law No. 9869, of 4.02.2008 'On Local Government Borrowing' Article 7, paragraph 7 of which says that the Loan 'does not constitute a guaranty nor an obligation on the part of the Republic of Albania for the repayment of it', it is only an obligation on the part of the LGU (article 9, paragraph 5 of the Law quote: "...the nature of obligation in repaying the loan of the LGU creates a valid responsibility and executable responsibility for this unit, obligatory in nature on the existing and future authorities of this LGU"). The Law clearly says that this is a responsibility of the LGU, therefore all procedures in regards to taking and managing the loan must be well thought as to successfully make all the installments until the full repayment of this loan.

#### Why obtaining a long term loan/ what could be financed with a long term loan?

- **Important investments for the LGU**

The LGU, after evaluating the investment priorities and the financial resources available or those expected to become available, can take into consideration undertaking investments financed by a long term loan. The LGU investments (capital expenditures) are carried out to fulfill its functions, which sometimes are equal to those fulfilled by the Central Government and other times delegated from the Central Government to the LGU.

- **Refinancing a previous loan**

A new long term loan can be taken to refinance an existing long term loan. The decision to refinance with a long term loan is taken in case when the interest rates in the financial market bring a reduction of the service on the existing debt (being refinanced).

- **Release of Guaranties for third parties**

The LGU can release guaranties on long term loans taken from a juridical entity separate from the Local Unit itself, when the LGU controls more than 50% of the stocks of the juridical entity whom it is guaranteeing.

The long term loan repayment period cannot extend beyond the useful life of the capital investment financed through the loan.

#### How much long term debt can be taken?<sup>7</sup>

LGUs can obtain a maximum-level long term loan in order for the final stock of the long term debt not to exceed the ratio of 1.3:1 of the total operative revenues from its own resources, the shared taxes and the unconditional transfers to the LGU.

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<sup>7</sup> The details on calculating the legal limits for the long term debt will be provided in item V of this manual "Financial Analysis"

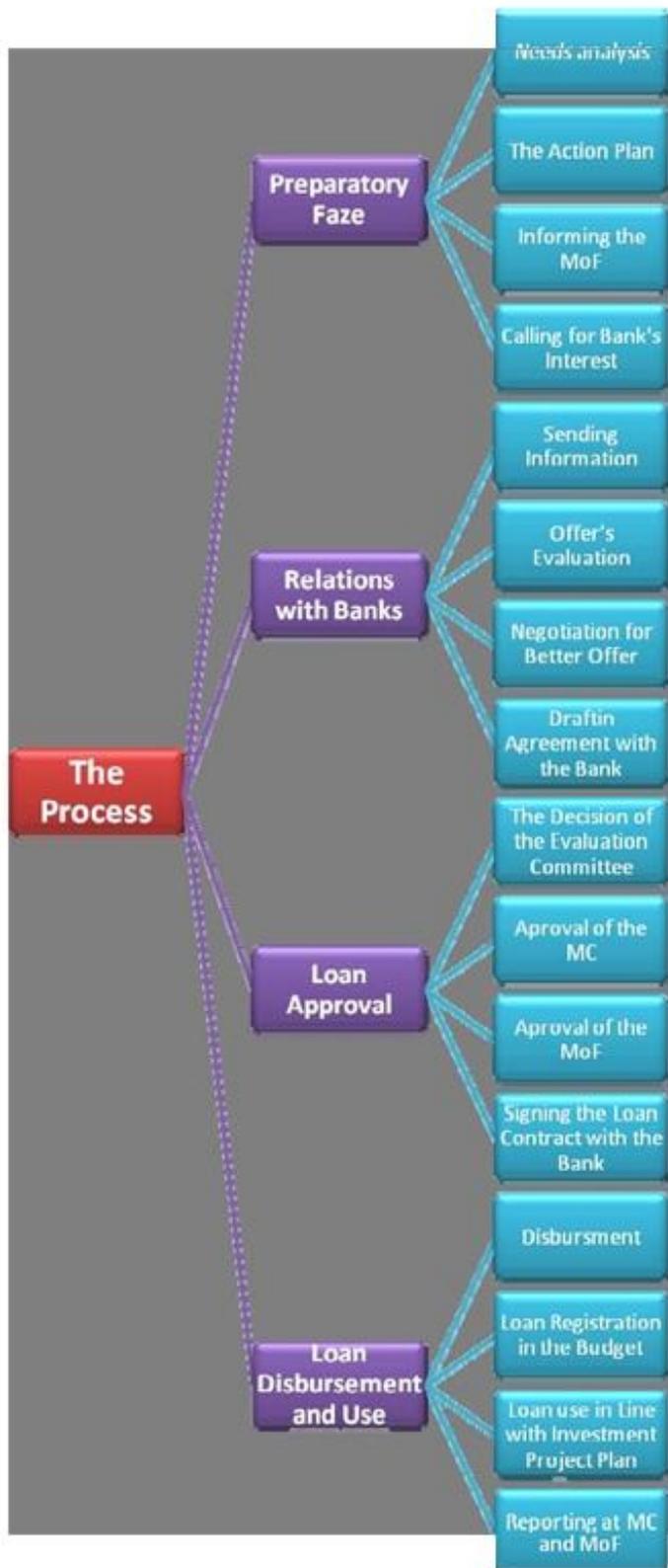
The LGU must respect two more restrictions when talking about the annual debt service which are:

- The ratio between the operative surplus of the previous year (calculated as the difference between the the operative revenues, from its own sources, the divided taxes and unconditional transfers and the LGU unconditional operative expenditures) and the debt service due in any year of all the long term, must be no less than 1.4: 1.
- The amount debt service due in each year of the long term loan cannot exceed 20% of the average total actual revenues of the local government from the unconditional transfer, shared taxes, and local taxes and fees of the previous three fiscal years.

### Recommended steps

In general, the LGUs have midterm work plans, or mid or long term development strategies or mid-term or long term budget plans for capital investments. However, in their absence, the LGUs prepare mid-term budget drafts (for the next three years, that nowadays are mandatory, requested by the Ministry of Finance). Along this process, the LGU analyzes its own financial capabilities in order to prioritize these plans / or the mid or long term strategies. Generally, the analysis will reveal that the financial capabilities are smaller than the figures needed for investments. This is normal because the Local Unit Budgets are still very modest to take on important projects (that request generous financial means to be completed). One way to satisfy the needs for finances in order to complete these projects is by borrowing long term funds domestically or abroad.

If the LGU (usually the Municipality) experiences in developing the budget with the participation of the community and all the groups of interest (also known as 'participatory budgeting'), it is recommended that the plan of financing these project by means of a long term loan, be presented during this process. The directive of the Finance Minister No. 35, of 5.11.2008 'On the application of the Law No. 9869, of 4.02.2008, 'On the Local Government Borrowing' in Article 3, paragraph 4 of which anticipates: 'The Head of the LGU and any other person authorized by her/him, takes all the necessary steps or measures related to the loan...'. It is suggested that the LGU adheres to the following scheme. A more detailed explanation of the steps of this scheme will be provided subsequently.



This diagram distinguishes four columns of this process: (i) the Preliminary Phase; (ii) Relations with the Banks; (iii) Procedures for the Loan Approval (iv) The Use of the Loan and the Reporting. Next, you'll be given all steps of the diagram, chronologically assorted.

- **Prepare an action plan** toward obtaining the loan, the schedule and the persons in charge of implementing it.

- **Inform the Ministry of Finance** about the loan, in works to be approved before December 31 of the current year<sup>8</sup>.

After the team of technical experts within the LGU has decided on the necessity of the long term loan; has identified and prepared in detail the project to be financed; has calculated the cost of the project and has completed an analysis on the feasibility, the Chairman of the LGU must inform the Ministry of Finance that it intends to obtain a long term loan and the respective amount. This information helps the Ministry of Finance to forecast the total public debt.

- **Open the process of requesting the expression of interest by the financial institutions** domestically and/or abroad.

It is advised that, in order to maximize the number of offers from the financial market, if the LGU is going to finance its projects with loans obtained domestically, the LGU should contact all banks currently active in the banking market. This is because in small administrative units, for example small Municipalities, there are few bank branches, whereas in Communes the banking institutions are nearly nonexistent. To contact them, it is suggested an official letter addressed to all the addresses that can be obtained from the official webpage of the Bank of Albania<sup>9</sup> or the official webpage of the Albanian Banks Association.

The letter sent out to request the expression of interest must describe the purpose for which the long term loan is intended as well as the amount. We emphasize that this letter must contain the deadlines for the presentation of the expression of interest by the banks to the the LGUs.

The LGU can look to request the expression of interest from financial institutions abroad, in this case, for the expression of interest it is recommended that the unit contact the representatives of well established financial institutions located in Tirana like EBRD; BEI; CEB<sup>10</sup> and at the same time identify other foreign banks and contact them while depositing in its protocol all relevant correspondence.

- **Assemble the Commission in charge of the evaluation of the Offers**

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<sup>8</sup> Anticipated in Law No 9869, of 4.02.2008, Article 7 item 4, last paragraph: "...before December 31 of each year, each LGU must notify the Ministry of Finance on her plans to borrow in the next fiscal year"

<sup>9</sup> The official website of the Bank of Albania: <http://www.bankofalbania.org> and that of Albanian Banks Association <http://www.aaba.al/banetare.asp>

<sup>10</sup> The financial institutions initials come from abbreviations in English, but in Albanias they are EBRD = EBRD is the European Bank for Reconstruction and Development; BEI = EIB is the European Investment Bank and CEB = Bank of Council of Europe

Members of this Commission could be: the Chair of the LGU (Mayor or Chairman of the Commune); the Finance Director; the Head of Tax Department; the Director of Urban Planning (almost all investment projects require the input from the Urban Planning specialists); the Deputy Mayor of the LGU covering the finances or investments etc.

- **Send the official statement** containing detailed financial data from the Municipality and a detailed description of the project, to the banks/financial institutions that have expressed interest to offer the Municipality a long term loan. The Chair of the LGU sends an official statement where very clearly he reveals all the deadlines for submitting a technical offer on the loan, to all the banks/financial institutions having expressed an interest to finance via a loan the proposed project. This statement must include detailed financial information of the LGU last three years of fiscal activity, the current year (the plan, the fact and the projected end date of completion) as well as a prediction for at least the next three fiscal years. It is important that the financial table demonstrate how to calculate the limits of the debt the LGU can receive, as well as that of the debt service for each and every year, according to all the provisions of the Law<sup>11</sup>.

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<sup>11</sup> A model of the respective financial table is found in Annex B. Formats of Financial Tables

Table 1. The LGU Financial Data

Municipality/Commune/Region	Period									
	Actual local budget*	Actual local budget	Actual local budget	Approved local budget (plan)	Actual execution of local budget**	Local budget forecast**	Local budget forecast	Local budget forecast	Local budget forecast	Local budget forecast
	Year-3	Year-2	Year-1	Yearn	Yearn	Yearn	Yearn+1	Yearn+2	Yearn+3	Yearn+...
<b>BUDGET DATA</b>										
Total municipal/commune revenues	-	-	-	-	-	-	-	-	-	-
Total of own source revenues	-	-	-	-	-	-	-	-	-	-
<b>1. Local taxes</b>	-	-	-	-	-	-	-	-	-	-
Property tax										
Small business tax										
Tax on impact of constructions b infrastructure										
Tax on turnover of restaurants, hotels etc.										
Temporary taxes										
Other taxes										
<b>2. Local Fees</b>	-	-	-	-	-	-	-	-	-	-
Cleaning service fee										
Public spaces fee										
Toll fees										
Street lights fee										
Green areas fee										
Business registration fee										
Admission fee										
Parking fee										
Fees for the services Administration										
Fees for registration/education (primary schools, universities etc.)										
Other										
<b>3. Current non-tax revenues</b>	-	-	-	-	-	-	-	-	-	-
Other										
<b>4. UNCONDITIONED TRANSFER</b>	-	-	-	-	-	-	-	-	-	-
<b>5. Taxes from national sources (or administration)</b>	-	-	-	-	-	-	-	-	-	-
Vehicle Registration Tax										
Tax on value added on immovable properties										
Other										
<b>6. EXPENSES FROM UNCONDITIONED SOURCES</b>	-	-	-	-	-	-	-	-	-	-
Operational expenses including										
Capital public expenditure (administrative)										
Public services										
Public transport management (road transport)										
Industrial and urban planning										
Water and wastewater										
Education										
Social services										
Health										
Culture sports										
Research and development										
Others services										
Debt service limitations										
Limitation on debt stock										
* Factual data of budget execution in previous year										
** Factual data of budget execution for the coming months after the submission of the request										
Mayor/Head of Commune	Head of France Department									

**Note!**

The Year n is the current budget year (the year of budget execution); the year n-1 is the last budget year; the year n-2 is the budget year before the last and the year n-3 is the third last budget year before the current budget year. In other words: if we are actually in the year 2009 then the year n is the year 2009; the year n-1 is the year 2008; the year n-2 is the year 2007 and the year n-3 is the year 2006.

In the creation of this financial table, certain aspects must be taken into consideration e.g.<sup>12</sup>:

- ② The unconditional transfer refers to the amount of the unconditional transfer supported by the Law of Annual State Budget to the LGUs, including the Transfers A and B provided in this Law;

<sup>12</sup> Trying not to repeat the definitions of calculating the basic indicators used in the calculation of the limits, please refer to Article 2 of the Directive of the Minister of Finance No 35 of 5.11.2008 "On Implementing the Law No 9869, of 4.02.2008"

- 1. The revenues originating from taxes and local tariffs and other sources deposited (collected) during the fiscal year and certified by the Treasury Branch (by annual reconciliation statement) in the respective branch where the LGU exercises its functions;
- 2. The current revenues from own resources include the taxes and fees established in the Law; the revenues other than current taxable activities and the unconditional transfer of the LGU;
- 3. Not included in this table are the revenues from the Government unconditional transfer; the nonfiscal revenues deriving from Asset disposal (e.g., sale of Assets from LGU) income from donations; sponsorships and presents; income from fines and penalties and confiscated property and any other income that is not recurring in an annual basis.

- **The head of LGU notifies formally about submitting the financial/technical offer to the banks/financial institutions that have expressed interest in offering the LGU a loan.**

By the deadline set by the LGU for submitting the offers by banks/financial institutions, the Head of LGU notifies the banks that have deposited an official offer, to submit the technical and financial offer on the loan the LGU plans to get. Part of this official statement is the detailed description of the project being financed as well as the openness on the side of the LGU to any other piece of information that may be required by the banks/financial institutions. In this statement, a deadline is set for submitting the technical and financial offer from the banks/financial institutions that are interested.

- **The analysis of the technical and financial offers received by the banks/financial institutions**

Past the deadline set for the banks/financial institutions to submit the technical and financial offers to finance the LGU projects by lending funds in the form of a loan, the Chairman assembles the commission for the evaluation of offers. The Evaluation Commission produces an analysis of all the offers received, classifies them from the best to the worst, and investigates if the method of repaying the annual loan (monthly payment = principal + interest) falls within the annual limits of debt service calculated by the finance staff<sup>13</sup>.

The Directive No 35, of 5.11.2008 'On Implementation of Law No. 9869', of 4.02.2008 'On Local Government Borrowing', Article 3, paragraph 4 provides that: '...The choice of the kind of loan and the provider of the funds from the LGU is accomplished through respect for the principles of economy and efficiency in using the public resources'

If all the offers result to be out of the limits of the debt service calculated by the LGU, it is recommended that the banks be requested to submit a second offer. In this instance, it is advised that direct communication with the banks/financial institutions, not through official papers or statements, is the more efficient mode to explain why a review of the offers is necessary.

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<sup>13</sup> In detail, the analysis of the offers from banks / financial institutions are given in point V. of this manual "Financial Analysis".

- **Negotiation with the bank/financial institution which has submitted the best technical/financial offer**

At this stage, the negotiations are very technical. The Municipality staff must be certain it has fully understood every element of the offer made by the bank/financial institution e.g, the annual interest, the banking fees (administrative fees, and engagement fees, etc.); penalties; collaterals (guaranties required by the bank); the predetermined mode of repayment and other estimates like the grace period etc.<sup>14</sup>

- **The announcement for the next Council of the LGU meeting<sup>15</sup>**

The Council meeting to assess the loan draft agreement is open to the public. The meeting announcement must be published in, at least, one newspaper of considerable size as well as in the LGU official webpage (provided there is one), at least 15 days before the meeting date.

If the LGU is of a small size (third category Municipality or Commune), where there is only one or no newspaper, and as a result it's circulation rate is low, it is recommended that the announcement for the Council meeting is made through local television/best rated television/alternative ways used by the LGU for the announcements of important Council meetings.

This announcement must briefly point out the essential information on the loan according to Article 7.2 of Law No. 9869, of 4.02.2008 'On the Local Government Borrowing' that are:

- The project being financed through the loan;
- The amount of the principal (the total amount that will be borrowed);
- The interest rate;
- The type of loan;
- The maturation and the conditions of the repayment;
- Guarantees for repayment, including the description of the assets set aside as collaterals if there are such;
- The description of the obligation to respect the debt legal restrictions, the useful life of the assets financed by the Law.

- **Drafting of the loan draft agreement with the bank/financial institution**

Upon completion of all negotiations on the technical details of the loan agreement, the LGU team (the Chairman and the team appointed by him, with the participation and assistance of the lawyer, who could be the LGU lawyer or a contracted legal consultant) writes the loan draft agreement. Initially, the selected Bank/Financial Institution is asked to submit a draft agreement and later the lawyer and the finance specialist that are part of the team, work on the details.

- **Presenting the loan for approval before the Council of the LGU<sup>16</sup>**

The LGU can only borrow funds upon approval of the request to borrow from its Council. This decision passes after getting the majority of the votes from the members of the Council (the

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<sup>14</sup> The elements of the bank technical and financial offer will be discussed in more details on the project financial analysis summary and on the offer assessment, economic efficiency wise, in point V of this manual

<sup>15</sup> According to the Directive of the Finance Minister No 35, of 5.11.2008, Article 3, item 6

<sup>16</sup> Article 7, items 1 and 2 of the Law and Article 3 item 7 of the Directive.

minimum being 50% +1 vote from the members of the Council). The decision must at least contain these clauses:

- The purpose of the Loan (a rough description of the project being financed)
- The amount of the principal
- The interest rate (the interest rate, the basis of its calculation etc)
- The type of the Loan (title, bank loan or other types of loans)
- The maturation period and the terms of repayment (the period to complete repayment, the grace period if there is one)
- The guarantee on the return of the loan (if there are specific ones, e.g., being a physical guarantee or in the form of income; otherwise a general duty Loan)
- A description of obligations to Loan restrictions
- The useful life of the assets financed through this loan.

The appointed team in charge of realizing the Loan contract from the financial market, created by the Chairman of the LGU (please refer to the above mentioned steps), presents the whole process it has gone through to accomplish the Loan contract, and an analysis of all the offers received and the selection criteria (while respecting the principles of the economy and efficiency in using the public assets - the cost of borrowing over time).

In this meeting, the Council of LGU approves the Loan contract. It also approves the amendment of the LGU annual budget or, if the meeting occurs before the annual budget approval, the Council passed the annual budget which should have dedicated the necessary funds to cover for the amount of debt service according to the terms of the agreement.

- **Notification of the Ministry of Finance on the Loan.**

The approval of the Loan agreement in the financial market from the Council of the LGU, does not give the Chairman the right to sign the agreement with the financial institution.

For this to happen, first the approved agreement by the Council must go to the Ministry of Finance.<sup>17</sup> The Chairman of LGU **within 10 days** from the council's decision notifies officially the Ministry of Finance on the Loan. The official correspondence must include:

- A copy of the Council's decision to approve the Loan (authorizing the Loan)<sup>18</sup>;
- The Loan draft agreement with the financial institution selected to be the loan provider;
- The income and operative expenses from the previous fiscal year;
- The cost of debt service on the current fiscal year, including the cost planned for the new Loan

- **Approval of the Loan agreement from the Ministry of Finance<sup>19</sup>**

There are two distinct procedures for the assessment of the Loan agreement from the Ministry of H+Finance:

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<sup>17</sup> Article 7, item 4 of the Law and Article 3, item 8 of the Directive

<sup>18</sup> The Copy of CMD that attaches to the application for Loan approval, presented at the MF, includes all specifications above when explaining the process of Loan Approval at the CLGU.

<sup>19</sup> Refers to Article 7, items 5 and 6 of the Law, Article 3, items 9, 10 and 11 of the Directive

- One; the Loan originates from institutions of the Albanian financial market (domestic sources) and
- Two; the Loan is coming from the International market (abroad)

**Borrowing domestically** - In this case, the Ministry of Finance verifies the harmony between the terms of the contract and the legal restrictions: whether the above mentioned procedures are respected and whether the Loan agreement takes into account all the legal financial boundaries governing the amount of debt the LGU can carry and the annual debt service.

The Ministry of Finance must reply within **20 days** from the day it received notification. If the Ministry of Finance has not replied within this time frame, it is deemed that it agrees that the Loan abides by the limitations established in the Law.

Upon confirmation from the Ministry of Finance that all aspects of the contract are founded in Law, or upon completion of the 20 day period from the reception of the notification, the Loan contract takes automatically effect (the Chairman of the LGU signs the contract with the lender, the bank or the financial institution).

**Borrowing internationally** - In this case, the Ministry of Finance verifies the harmony between the terms of the contract and the legal restrictions, as well as a reevaluation of the increased risk of borrowing.

The Loan agreement comes into effect only after approval from the Ministry of Finance.

When the MoF does not approve the Loan contract, the Loan contract does not come into effect and cannot be signed by the interested parties (Chairman of the LGU and the financial institution lending the funds). The MoF is obliged to give explanations on why the Loan contract was not approved. It is recommended that when the Loan comes from International sources, the LGU in the early phases of negotiations with the lender must obtain a preliminary approval from the MoF. We underline that securing this preliminary approval from the MoF does not translate into a guarantee the final approval from the MF, but it acts as a guideline giving the LGU more insight in order not to fail in the successive phases of the agreement approval. When a preliminary approval from the MF is mandatory, other than the notification, the official correspondence directed to the Ministry, should contain enough information for the latter to use in evaluating the terms of the Loan. Such data could be: the indicators of the potential Loan (the potential lender, the amount, the maturation period which could be a multiplier of five, e.g., 10 years, 15 years) and the calculation of the debt limits according to all the legal criteria.

The same procedure as for the one used when borrowing internationally is followed even when the LGU borrows:

- to refinance a previously taken loan and
- when the LGU has gone through financial difficulties the last five fiscal years

- **Signing the contract with the Bank/Financial Institution**

The Loan agreement could be signed between parties (the Chairman and the loaner/financial institution) only after all the abovementioned criteria have been met.

It is recommended that the agreement be signed in three copies (on copy for each party, and one copy for the Regional Treasury Branch - if the agreement provides for the monitoring of the Loan)

- **The release of funds from the bank/financial institution to the loanee (LGU)**

All the financial transactions related to the loan the LGU has received like: the deposit of the money, the usage of the money, and the monthly payments (principal plus interest) go through the Treasury unified account.

The Law provides three special scenarios of financial transactions in loans, to work with the account tied to that Loan:

- Transactions with the partial Treasury system
- Transactions through a reserve fund
- Transactions that don't require the creation of a reserve fund

**The Unique Treasury account** - If the LGU Loan was contracted internationally, the release of the funds can go (if the LGU suggests) through the partial Treasury system. In this case, the Chairman of the LGU asks the Finance Minister to approve the opening of the financial transactions with this method. The LGU must wait for approval from the Minister and execute the transactions in tune with the Loan agreement and the Directive from the Minister of Finance in application of the Law No. 9936 of 26.06.2008 'On managing the Budgetary System in the Republic of Albania'.

**Foundation of the reserve fund** - When the Loan contract between the two sides requires the establishment of a reserve fund, the first transaction goes to a deposit account Commercial Bank. The LGU Chair asks the Minister of Finance to approve the opening of such deposit account in a Commercial Bank, as well as designate the authorized persons that have access into the account.

The Minister of Finances approves the creation of the deposit account and notifies the Bank on the authorized persons that will execute transactions from this account into the district Treasury Branch revenues account and to the LGU as a final destination.

If the funds come in foreign currency, the transfer from the foreign currency account into the unique treasury account is executed in Lekë, using for the exchange the rates of the National Bank on the day the transactions takes place.

If the Loan agreement indicates that the interest accumulated on the unused funds be credited back into the deposit account, the bank interests generated, according to the agreement, are transferred into the Treasury account, with the Municipality as final destination (under bank account / LGU revenues) therefore becoming part of its budget.

Upon cessation of the Reserve account function, the Finance Minister, with the initiative from the LGU orders the account at the Commercial bank closed.

**Attention!** The account for the reserve funds is opened only if the bank selected for the Loan contract demands that such account be created. We recommend that the LGU, during negotiations with the bank on the technical terms of the draft agreement, ask not to include such obligation into the draft, if for the bank is not very important the creation of the reserve account. This is for different reasons: first, the creation of the reserve account is one more step in the process of borrowing that holds back the release of the funds until the Minister of Finance has approved the release of such funds. Second, a reserve account means freezing part of the funds, example around 20% of the total. To the LGU this means increased costs; if this unit would have had this amount available for use, it could have been used to finance other projects for the community; or it (the LGU) would need to borrow less funds, therefore less debt interest.

**Financial transactions that require the creation of a reserve fund** - When the Loan contract between sides does not anticipate any of the abovementioned mechanisms (using the partial Treasury system or creating a reserve fund), the funds are directly transferred into the LGU deposit account, in the District Treasury Branch (within which the LGU operates). The transfer is called: 'Loan Transfer for the LGU...' All transactions, from the money deposit to the usage of funds are identified in the budgetary structure that reflects the loan.

- **Reporting the progress the funds usage and the repayment the loan**

As soon as the Loan contract takes effect, the LGU creates the debt annex in its budget; reports periodically to the Ministry of Finances

**The Debt Annex** should include:

- The type of debt (bank/other financial institution loan, securities - bonds etc);
- The date of issue of the debt (date when the agreement was signed);
- The purpose of the Loan (the capital project financed through the Loan);
- The Bank/Financial Institution that has provided the loan;
- The type of guarantee on the loan, if it is a general type guarantee or a specific guarantee, which must be identified);
- The amount of the principal borrowed, or the emitted debt (in instances of financial securities) and the total amount of the interest that will have to be paid;
- The term (maturation) of the Loan/security;
- The currency in which the loan is released and the exchange rate at the time of loan was released, and on January 1 of the respective budget year;
- The interest rates and the type of interest (variable or invariable). For the invariable interest, there is information on the reference index, on which the interest rate was calculated;
- The payment schedule (calendar), whether it is once a year, once every three months, once a month, or whether there is a grace period;
- The amount deposited at the reserve funds - if there is any;
- The outstanding Principal and the interest remaining on January 1 of the actual budget year;
- The debt service for the current budget year, while identifying separately the amount going to the principal and the amount going to the interest in the current fiscal year, including all other debt service related costs, if any;
- The debt service limit as provided by the applicable legislation;
- The outstanding principal and interest on December 31 of the respective fiscal year.

**Periodic reporting to the Department of Debt, Ministry of Finance.** Along the duration of the Loan contract, the LGU that uses and repays the loan must report to the Department of Debt within the Ministry of Finance every three months, no later than the 20-th of the month following the reporting quarter (if a report is due for the first quarter January-March, the report must be submitted no later than the 20-th of April of the same year).

The summary includes monthly surveys and demonstrates the amount going for the debt service for that quarter; the release of funds toward the loanee, other data linked to the loan (submitted in format A attached to the Directives of the Minister of Finance, No. 35, of 5.11.2008).

## B. Procedures for the Short Term Loan

### Why applying for a short term loan / What could be financed with a short term loan

The Law No. 9869, of 4.02.2008 grants the LGU the right to borrow a term loan<sup>20</sup>, which matures and is totally repayed **on or before the last day of the month of November of the same fiscal year**, and cannot be object of refinance or extension of the maturation period beyond this date.

It is well known the issue of the shortage of liquidities all LGUs have. This is usually a result of the uncoordinated scheduling these units make of the influx of income and expenses. Until today, the LGUs used to deal with the shortage by requesting additional funds from the unconditional funds the Ministry of Finance puts aside for them, upon approval from the Ministry.

By means of a short term loan, the LGU can get a loan to cover the temporary shortage of liquidity to a maximum of 10% of the actual revenues collected from taxes, local dues and revenues from shared taxes from the last fiscal year.

### The steps recommended to follow to get a short term loan

During the planning for the annual budget for the next fiscal year, the Directory (unit) of Finance analyses the influx of revenues and expenses (cash flow) the LGU has in one year. After making a detailed projection of this flux, it is recommended to study how many times in the last three fiscal years, the LGU has needed and requested additional funds from the Ministry of Finance.

- **Planning of the short term loan in the budget**

In an effort to cautiously plan the next fiscal year budget, in the final annual budget document, the LGU plans for a short term loan, specifying the total amount and the period it will be taken. It is advisable to schedule the plan over time in months (e.g., the total amount of the Loan borrowed domestically is 6 million lekë; stretched in time, the Municipality will receive: (i) 1 million lekë in February; (ii) 3 million lekë in August and (iii) 2 million lekë in September. This entire amount must be fully repayed on or before the 30-th of November of 2009 along with the interest accumulated and derived from the calculations).

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<sup>20</sup> According to Article 5, item 3 of Law No. 9869, of 4.02.2008

If the LGU hasn't been very careful in planning and has not included the short term loan in the agenda of the annual budget, then the LGU must prepare to amend the annual budget by adding the clause of the short term loan in the amendment.

- **Approval in principle from the Council of LGU to get a short term loan.**

The short term loan gets approved **in principle** by the Council of LGU, in the final annual budget document<sup>21</sup>. In the budget decision, the council authorizes the Chairman of the LGU to decide on the amount of the short term loan that could be requested during the budget year. This authorization does not require further endorsement from the Council after the loan has taken effect.

Please keep in mind that the Council can impose restrictions other than those established in the Law when dealing with the amount of loan or the repayment from the LGU (or 10% of its revenues on or before November 30 of the current budget year).

In case during the budget year, the LGU will need to contract a short term loan of a higher value than that approved by its Council (although still within the legal limit of 10% of its revenues from taxes and other dues), the LGU should seek specific approval for this loan (the approval in principle by the Council is not sufficient to include the short term loan in LGU annual budget).

- **Asking the Ministry of Finance for a short term loan**

Although the LGU has approved through a Council decision the request for a loan from the banking system, in all instances when it meets a shortage of liquidity, the LGU should first contact the General Directorate of Treasury within the Ministry of Finance<sup>22</sup>. The Ministry of Finance could offer the LGU a short term loan with or without interest.

If the Ministry of Finance approves the LGU request, then a Loan agreement is signed with the General Directorate of the Treasury; this agreement includes all terms and conditions like the length of Loan, the repayment, the amount and the interest.

It happens that the Ministry of Finance might refuse to grant the short term Loan, but in the meantime it also suggests that the issue of the liquidity shortage be resolved by rearranging the unconditional transfer for this LGU. This instrument renders the need for a short term loan pointless.

- **The negotiation and the contract with the banking market**

The Ministry of Finance can refuse a short term loan, or might not approve the reallocation of the unconditional transfer (otherwise known as fund advancement), or doesn't reply within the 10 day period from receiving the request from the LGU.

In this case, the Chairman of the LGU opens the negotiations with the Commercial Banks for a short term Loan.

Knowing that the whole procedure to get a short term Loan takes long while the need for liquidity is immediate, it is recommended that the Chairman of the LGU start the negotiations with potential lenders immediately after being notified by the Finance Department (Directorate

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<sup>21</sup> As per Article 6 of Law 9869, of 4.02.2008

<sup>22</sup> Anticipated in Article 6, item 2 of Law No 9869, of 4.02.2008 and Article 4, item 3 of Directive No 35, of 5.11.2008 of the Finance Minister

or Sector) on this issue, and when the Finance Department suggests as a solution the redistribution of the grant from the Ministry of Finance or a short term Loan contract.

The Chairman in this scenario should express interest via correspondence to all the banks active with the LGU or other national banks.

In contrast with the long term Loan contract, immediately after receiving the banks offers, the Chairman or his envoy should initiate the negotiations with the interested banks. The increase in pace is to facilitate the immediate needs the short term loan is aiming to satisfy.

- **The loan contract with the second level bank**

The Chair of the LGU and the finance office examine all offers submitted by the second level banks. The criterion on which the analysis is based is the efficiency in using the funds (the cost of the money, in other words how much more over the principal will the LGU end up paying to fully repay the whole debt).

The Chair of the LGU signs the agreement with the Commercial bank, after the bank has been certified by the LGU lawyer.

The loan comes into effect and the LGU covers its needs for liquidity.

- **Notification of the short term loan agreement signing**

- The Chairman of LGU notifies the Ministry of Finance within 10 days from the release of the funds. This information includes legal boundaries on the short term loan and the calendar of the payments, as well as the specific restrictions that may be fitted in by the Council of the LGU.

- The Chair reports before the Council on the first coming Council meeting on the need for this loan; the amount borrowed; the legal obligations and other specific boundaries or restrictions put in place by the Council, if there are any; and the calendar of the payments.

- **Periodic report to the Directorate of Debt - Ministry of Finance.** During the period the LGU uses and repays the loan, it is obliged to report to the Directorate of Debt within the Ministry of Finance every three months, on or before the 20-th of the month following the reporting period (e.g., if one is reporting for the first quarter of the year, January through March, the deadline for the report is the 20-th of April of the same year).

- The report is organized in monthly modules which demonstrate the amount of debt service paid during that period; the release of funds to the borrower, other data related to the loan (use format A attached to the Manual).

## **IV. The operative analysis for the preparation of the Project feasibility**

After having decided on the need to implement the priority projects of the current budget year or the consecutive year, whether being projects financed by the municipal budget or through funds drawn from the Central Government or from a partner agreement between private and public sector, the LGU should prepare a study on the feasibility of the project.

The determination of feasibility is a study executed to understand the necessity to implement a project and to document the planning; the arrangement and management of the finance resources, which helps in the successful implementation of the main purpose of the project as well as the other objectives linked to it. The study of feasibility is performed in the initial phase of a project and is completed before large financial means are engaged in an investment. The results of such study are used to help the decision making whether or not to finance one project. Such study could also cover different scenarios, offering alternative solutions to problems that arise, what would increase the chances of success. One feasibility study usually contains technical and economic data pertaining to the project.

Initially the team of experts presents the technical project to be implemented, based on the assessment of the community needs. The technical project includes also an estimate of the cost of the implementation. Further, the technical project is analyzed to determine the impact it will have on the community e.g., the improvement of the life of citizens, the boost of local business etc.

Generally the LGU investment projects do not bring direct revenues from the investment (like for the personal investments and business investments - where the investment generates revenues directly for the investor), but its impact provides direct gains for the community and direct or indirect gains for the business community, and as a result, if it affects the latter, in the long or midterm could generate revenues for the LGU (more fiscal revenues from an improved and increased business activity that are assisted by the investment of the proposed project).

Even though the investment projects are not expected to generate extra income into the budget, the study of feasibility<sup>23</sup> must analyze the income, or more specifically, the added value it will bring into the community.

Example, if we have an infrastructure project (construction of a road), we should analyze how will the traffic increase, how will the flux change (percent change for the heavy machinery vs. light duty machinery); provide an estimate how much will the number of road accidents decrease (therefore the quality of life will improve); how much will the number of new private businesses will increase in both sides of the new road; whether the new road will lower the cost of doing business for those using it or not; and other such features.

## **V. The financial analysis**

### **The amount of debt the LGU can carry**

After the LGU has calculated how much funds it needs to finance the investment project, it needs to compare the need for funds (the estimate for the project) with the amount of Loan it expects to receive in accordance with the legal boundaries governing the debt stock, as well as plan how much annual debt service it can make, in order to repay the due amount.

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<sup>23</sup> For a clearer idea on the contents of a feasibility study, please refer to examples given in the Anex. The cases are not tailored to evaluate a certain loan, but give a broad idea on the contents of a feasibility study for funding purposes.

## Calculating the maximum amount allowed for both long and short term loans

The finance office takes into account the legal boundaries controlling the maximum amount of debt the LGU can carry. According to the law on Local Government Borrowing, the upper limits of the Loan either for the short term Loan or for the long term Loan are calculated.

### Calculating the legal limits of the short term loan

The LGU can borrow funds to finance its projects, when it experiences a shortage of liquidity. The maximum amount of short term debt (debt stock) can be up to 10% of the real revenues, commin from local taxes and dues, and the portion of taxes and income taxes from the previous fiscal year.

Each new short term Loan that is approved takes into consideration the previous short term debt as the total debt cannot exceed the 10% limit mentioned above. This is calculated by subtracting the actual short term debt stock the LGU has from the maximum legal limit of short term Loan the LGU can approve.

### The rationale of calculating the legal limits of the short term Loan

1. Local taxes: revenues from local taxes, like the small business tax; immovable property tax; hotel tax; tax of impact on infrastructure for new constructions; tax on the transfer of the immovable property rights; annual vehicle registration tax; tax on usage, occupation of public spaces; tax on visible signs; tax on temporary usage as provided by Law No. 9632, of 30.10.2006 'On the Local Tax System' amended and any other local taxes nominated as such from the actual legislation.
2. The revenues from local tariffs, including all tariffs the LGU collects to facilitate its public services; the tariff on social/education services that are offered from the LGU; the administrative tariff for the Licences, documents, etc., as provided in the Article 16, item 3 of Law No. 8652, of 31.01.2003 'On Organization and function of the LGU' and the amended Law No. 9632.
3. Revenues originating from the tax share, including the income from one or more taxes that, by Law, are shared among the Central and Local Governments.

Table 2. Basis of calculating the short term Loan<sup>24</sup>

	Actual local budget Year n-1	Approved local budget (plan) Year n	Actual execution of local budget** Year n	Local budget forecast*** Year n
<b>I. BUDGET DATA</b>				
8 Total municipal/commune revenues				
9 Total of own source unconditioned revenues	=B11+B19+B32	=C11+C19+C32		
10 including				
11 1. Local taxes	=SUM(B12:B18)	=SUM(C12:C18)		
12 Property tax				
13 Small business tax				
14 Tax on impact of constructions to infrastructure				
15 Hotel tax				
16 Tax on turnover of restaurants, hotels etc.				
17 Temporary taxes				
18 Other taxes				
19 2. Local Fees	=SUM(B20:B31)	=SUM(C20:C31)		
20 Cleaning service fee				
21 Public spaces fee				
22 Table fee				
23 Street lights fee				
24 Green areas fee				
25 Business registration fee				
26 Advertisement fee				
27 Parking fee				
28 Fees for other services/administrative				
29 Fees for social services/education (preliminary schools, dormitories etc.)				
30 Culture/sports				
31 Other				
32 3. Taxes from national sources (or administration)	=SUM(B33:B35)	=SUM(C33:C35)		
33 Vehicle Registration Tax				
34 Tax on transaction of immovable properties				
35 Other				
36				
37				
<b>II. Short term debt related data</b>				
41 Limitation on debt stock		=B9*1.1	=C9*1.1	=D9*1.1

### Calculating the legal limits for the long term Loan

The LGU can receive a long term debt to finance its capital projects (investments) or to refinance another long term Loan. The maturation period of this Loan cannot exceed the useful life of the assets being financed through this loan.

<sup>24</sup> This table was written in Excel, and in the Yellow Cells you find the formula for calculating that cell. To access these data, please refer to the CD attached to this manual.

## *The rationale for calculating the legal limits for the long term Loan*

### **The rationale for calculating the debt stock**

First, one calculates how much debt can be carried (based in the criteria of debt stock) According to Law No. 9869, of 4.02.2008 'On Local Government Borrowing', Article 18.2 is mandatory that the ratio between the debt stock and the operative income, including, its own resources, shared taxes and unconditional transfers, cannot be higher than 1,3:1.

The total of self generated operative revenues, otherwise called unconditional revenues, is:

1. Revenues from LGU local taxes
2. Revenues from local tariffs
3. Revenues from current non-tax related incomes (like income from rent, etc.)
4. Unconditional transfer from the Central Government
5. Other income from the Central Government like the tax from national resources or administration (e.g., tax shares returned to the LGU, Vehicle Registration Tax, tax on the sale of the immovable property etc).

Refer to the previous fiscal year to calculate the stock (in the table following, n-1 is the previous fiscal year)

The sum of all five items listed above is also known as the unconditional revenues of the LGU. After learning the total figure for the LGU unconditional transfer, we calculate the maximal debt limit the LGU can carry in the year n, which is 1.3 times the total from the unconditional income of the year n-1.

When the LGU during year n is still paying back a loan from previous years e.g., the year n-3, and is up-to-date with the payments (principal plus interest), and needs to refinance its projects with a new loan, before calculating the amount needed, it needs to discover how much unpaid debt stock remains in the year n of the loan from year n-3. The difference is calculated by subtracting from the debt from year n-3 the amount of principal paid each following year (the year n-3, n-2, and n-1). Then we calculate the limit of debt stock the LGU can take in the year n following the above mentioned formula, 1.3 times the unconditional income. To learn the new debt the LGU can receive, we must subtract from the maximum allowed amount of debt, the existing debt stock (the unpaid debt from a previous loan). The calculations of the legal limits of the debt stock are given in the table below<sup>25</sup>.

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<sup>25</sup>This table was written in Excel, and in the Yellow Cells you find the formula for calculating that cell. To access these data, please refer to the CD attached to this manual.

Table 3. Baza e Përllogaritjes së Kufizimeve Ligjore për Stokun e borxhit (Huasë maksimale që mund të merret)

1	Municipality/Commune/Region	B	C	D	E
2	EXTRACT ON FINANCIAL DATA OF THE LOCAL BUDGET				
3	For purposes of calculating the debt limitations prior to contracting the new loan (debt stock)				
4		Actual local budget	Approved local budget (plan)	Actual execution of local budget**	Local budget forecast***
5		Year n-1	Year n	Year n	Year n
6	<b>I. BUDGET DATA</b>				
7	Current revenues including:				
8	<b>1. Local taxes</b>	=SUM(B9:B15)			
9	Property tax				
10	Small business tax				
11	Tax on impact of constructions to infrastructure				
12	Hotel tax				
13	Tax on turnover of restaurants, hotels etc.				
14	Temporary taxes				
15	Other taxes				
16	<b>2. Local Fees</b>	=SUM(B17:B26)			
17	Cleaning service fee				
18	Public spaces fee				
19	Table fee				
20	Street lights fee				
21	Green areas fee				
22	Business registration fee				
23	Advertisement fee				
24	Parking fee				
25	Fees for other services/administrative				
26	Fees for social services/education (preliminary schools, dormitories etc.)				
27	Culture/sports				
28	Other				
29	<b>3. Current non-tax revenues</b>	=SUM(B30:B31)			
30	Leases				
31	Other				
32	<b>4. UNCONDITIONED TRANSFER</b>				
33	<b>5. Taxes from national sources (or administration)</b>	=SUM(B34:B36)			
34	Vehicle Registration Tax				
35	Tax on transaction of immovable properties				
36	Other				
37	<b>II. Debt related data</b>				
38	Limitation on debt stock		=1.3*SUM(B8+B16+B29+B32+B33)		
39	Existing debt service				
40	Principal				
41	Interests				
42	Commissions, other costs				
43	Existing stock (unpaid)				
44	New stock				
45	New allowed stock		=C38-C43		
46	*Factual data of budget execution in previous years				
47	** Factual data of budget execution for the coming months after the submission of the request				

After finding out the maximum allowed of the new Loan the LGU can contract during the current fiscal year (year n in the table), we must ensure (compare) the amount requested to finance a certain project is less than or equal to the legal maximum of the stock we have calculated using Table 3.

#### The basis of calculating the long term Loan service

After we have calculated the maximal limit of the debt the LGU can carry in the current year, year n, we must compute the legal limits of the maximal annual service we can do for the debt we will carry.

By annual debt service, we mean the annual payments toward the debt (established by the contract with the loaner), payments that include the principal, the interests and bank commissions if there are such.

The Law 9869, of 4.02.2008 Article 18 on the restrictions of the long term Loan, proposes two criteria to be referred to, when calculating the maximal annual limit of the debt the LGU can apply for.

- a. Criterion of the operative surplus - establishes that the ratio between the operative surplus of the previous fiscal year and the debt service, due each year of the long term debt, is no less than 1,4: 1
- b. The debt service that is due each year of the long term Loan - cannot exceed 20% (twenty per cent) of the budget coming from the compound amount of the unconditional transfer, portion of shared taxes and fees collected from the Central Government and redistributed to the LGUs, local taxes and fees of the last three fiscal years of the LGU.

**Calculating the debt service based on the criterion a - which is based on the operative surplus ratio:**

The basis of determining this ratio is the operative surplus. This surplus is equal to the difference between the operative income from individual sources, shared taxes and the unconditional transfer otherwise known as the total of the unconditional revenues of LGU, and the total unconditional operative expenses of this LGU.

After calculating the operative surplus, then the total annual debt service is calculated, based on criterion (a) for year n. This service is 0.714 times the operative surplus of LGU for year n-1 (or the operative surplus divided by 1.4).

Please refer to the following table.

Table 4. Calculating the Debt Service using criterion (a)

Municipality/Comune/Region	EXTRACT ON FINANCIAL DATA OF THE LOCAL BUDGET For purposes of calculating the debt limitations - criterion a			Period
	Actual local budget Year n-1	Approved local budget (plan) Year n	Actual execution of local budget** Year n	Local budget forecast*** Year n
<b>1. BUDGET DATA</b>				
<b>1. Local taxes</b>	=SUM(B9:B15)	=SUM(C9:C15)		
Property tax				
Small business tax				
Tax on impact of constructions to infrastructure				
Hotel tax				
Tax on turnover of restaurants, hotels etc.				
Temporary taxes				
Other taxes				
<b>2. Local Fees</b>	=SUM(B17:B28)	=SUM(C17:C28)		
Cleaning service fee				
Public spaces fee				
Table fee				
Street lights fee				
Green areas fee				
Business registration fee				
Advertisement fee				
Parking fee				
Fees for other services/administrative				
Fees for social services/education (preliminary schools, dormitories etc.)				
Culture/sports				
Other				
<b>3. Current non-tax revenues</b>	=SUM(B30:B31)	=SUM(C30:C31)		
Leases				
Other				
<b>4. UNCONDITIONED TRANSFER</b>				
<b>5. Taxes from national sources (or administration)</b>	=SUM(B34:B35)	=SUM(C34:C35)		
Vehicle Registration Tax				
Tax on transaction of immovable properties				
Other				
<b>6. EXPENSES FROM UNCONDITIONED SOURCES</b>				
Operational expenses including	=SUM(B40:B50)	=SUM(C40:C50)		
General public expenditures (administration)				
Public services				
Public Transport, management of road transport				
Housing and urban planning				
Water and waste water				
Education				
Social care				
Health				
Culture/sports				
Tourism and other economic services				
Other services				
<b>II. Debt related data</b>				
<b>Limitation on debt service</b>				
Limitation on debt service: (1-2-3+4-5-6)/14 for the year n-1		=SUM(B9-B16-B29-B32-B33-B39)Y14		
** Factual data of budget execution in previous years				
*** Factual data of budget execution for the coming months after the submission of the request				

**Calculating the debt service based on criterion (b):**

The rationale for calculating this parameter is the arithmetic average of the revenues of the last three fiscal years.

Initially, we start with the creation of the table that demonstrates the financial activity of LGU for the last three fiscal years. Then we calculate the total revenues LGU has (including: income from local taxes and fees, shared tariffs including those from central administration like the Vehicle Registration Fee; immovable properties transaction fee etc., the unconditional transfer from the Central Government).

Now we can calculate the arithmetic average of the annual total revenues for the last three fiscal years (the year n-3; n-2 and n-1). The maximal debt service for the year n is calculated by multiplying the arithmetic average of the unconditional revenues for the last three year, by 20% or 0.2. Please refer to the table below:

Table 5. Calculating the Debt Service using the Criterion (b)

The debt service must be calculated for each year of the Loan e.g., if the Loan is estimated to be 5 years long, then the debt service will be calculated for the years n, n+1, n+2, n+3, and n+4. When calculating the debt service the arithmetic average always is calculated taking the last three fiscal years. Therefore, if we calculate the debt service for the year n+3, then we use the data from the years n+2, n+1 and n; then we calculate the arithmetic average of the revenues from taxes and unconditional transfer, multiplied by 20% or 0.2.

To calculate the estimate income for the future years, until the maturation of the Loan, follow a specifically designed Directive of the Finance Minister No. 35, of 5.11.2008, that recommends the application of an annual growth rate of 7% for each item in the revenue sheet like the taxes, fees, tariffs and the unconditional transfer. If the LGU estimates growth rates higher than 7%, it must prove it through a study of actual data.

After having calculated the limits of the debt (the amount of annual debt service the LGU can carry) based in criteria (a) dhe (b), we calculate the maximal service the LGU can meet, by selecting the smaller figure that results from the calculations (a) and (b). The smaller amount will be the annual maximal debt service the LGU will have to pay. Attention! Different years have different maximal debt service, respectively for criterion (a) and (b). It is recommended the creation of a table which help selecting the

smaller of the two figures calculated annually for the debt service (the figure using criterion (a) and the figure using criterion (b)).

Tabela 6. Summary of Calculated Criteria for the Total Debt and Debt Service

Municipality/Commune/Region	Period									
	EXTRACT ON FINANCIAL DATA OF THE LOCAL BUDGET									
	For purposes of calculating the debt limitations prior to contracting the new loan									
	Actual local budget	Actual local budget	Actual local budget	Approved local budget (plan)	Actual execution of local budget	Local budget forecast				
	Vit n-3	Year n-2	Year n-1	Year n	Year n	Year n	Year n+1	Year n+2	Year n+3	Year n+...
II. Debt related data										
53 Limitation on debt service				=B54:E55		=B54:H55	=B54:I55	=B54:J55	=B54:K55	
54 Debt service limit: 29% of the average of the amount (1+2+4+5) for the years n-3, n-2, n-1										
55 Limitation on debt service: (1+2+3+4+5)/5 for the year n-1										
56 Limitation on debt stock										
57 Existing debt service										
58 Principal										
59 Interest										
60 Commissions, other costs										
61 Existing stock (unpaid)										
62 New stock				=I56-E61		=H56-H01	=I56-I1	=J56-J1	=K56-K1	
63 New allowed stock										
64 New debt service										
65 Allowed new debt service				=I53-E57		=H53-H57	=I53-I57	=J53-J57	=K53-K57	

**Attention!** - Certify that the summation of debt service for the whole period the loan contract extends, is greater than the debt being received (because it is the summation of principal and interest due until total repayment) and falls within the offer estimate of the bank/financial institution of the summary of all installments (principal + interest)

### Selection of the Bank/Financial Institution and calculation of the cost of borrowing

After the announcement from the LGU transmitting the interest to finance an investment project by means of a loan, the banks/financial institutions present their technical and financial offers to the LGU.

A bank offer usually contains data on:

- **The total amount of the Loan** (otherwise the principal)
- **The duration of the Loan** - the term to maturation in years or months
- **The annual interest rate** - it could be a fixed or variable rate.  
When the interest rate of the loan the banks/financial institutions have offered is variable, the rate reflects the prime rate. If the Loan is in Lekë, it refers the prime rate of the Treasury Bonds issued by the government, in 12 or 6 month terms. If the Loan is in Euro, the rate reflects the EUROBOR and if it is in USD, it reflects the prime rate offered in the US market (L). On the prime rate gets added a constant number of point percentages.
- **Banking commissions** - there are several types:
  - Administration commission - commission of a set percentage (from 1 per 1000 or 0.001 to 1% or 0.01) of the amount of Loan, which is paid immediately by the borrower when the Loan gets activated by the bank/financial institution.

- Engagement commission / Commission of a certain percentage of the unused funds, remaining in the bank/financial institution. Knowing the LGU will eventually use these funds for investments executed by third parties hired by it through a tendering process, a process that recognizes the payments of the installments according to the status of the project execution, it's worthy the LGU pays more attention during negotiations of this commission with the bank/financial institutions. Usually, in the Albanian market, this commission varies from 0% to 1% of the inactive amount.
- **Penalties** - the banks/financial institutions use penalties when the periodic payments are not made in due time and the schedule is not followed (one payment includes the principal and the interest). The penalty usually is applied as a percentage of the overdue payment. In the Albanian market, these penalties vary from 0 to 5% of the overdue payment.
- **The Loan guarantees** - referred to as collateral.  
Selection of the type of collateral on the Loan is object of negotiations and agreements between the lender and the borrowing unit.  
The LGU can offer guarantees in assets (immovable properties) if it has any, or offer guarantees in revenues like: general obligation debt; specific revenue guarantees; financing interception; real property guarantees; other type guarantees<sup>26</sup>. Recommended the LGU take all necessary measures to secure the titles of all immovable assets it plans to use as real property guarantees (immovable properties).
- **The loan repayment method** - is the schedule the payments are executed in:
  - Equal installments until maturation of the Loan.
  - Monthly or quarterly or annually instalments or just one payment in the end.
  - Variable instalments that could be either constantly increasing or constantly decreasing until the maturation of the Loan.

The Instructions of the Finance Minister No. 35, of 5.11.2008 'On the implementation of the Law on Local Government Borrowing' recommends scheduling the payments in equal instalments spread throughout the length of the Loan contract (until maturation) or in decreasing instalments spread throughout the Loan period<sup>27</sup>.

- **Other provisions** - the bank/financial institution offer can include a grace period or other conditions related to the implementation of the loan contract.  
When the loan contract contains a grace period, the LGU might, by special Council decision, create a reserve fund in its budget to cover the future costs of debt service. This suggestion can make it easier for the Loan contract to get the Council approval because the existence in the contract of the grace period means a Loan can be taken today and used for important community investments, which the Chairman takes advantage off, while the responsibility to total repayment will fall on the subsequent Chairman of the LGU.

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<sup>26</sup> All types of guarantees a LGU can offer are specified in Articles 12, 13, 14, 15 and 16 of Law No 9869, of 4.02.2008 "On Local Government Borrowing"

<sup>27</sup> The Article 7, item 4 says quote: "annual debt service of the financing agreement, as a rule is structured in such way to allow the yearly payments to be almost equal or progressively decreasing during the maturation period; except when the economic cycle of assets funded by the loan justifies a different structuring."

## Analysis of the offers from banks/financial institutions

The team in charge to assess the offers, analyses all offers received, by initially making all offers comparable (calibrates all received offers by classifying them in an all inclusive matrix). E.g., the Municipality FK has initiated the process of drawing offers from the commercial banks to finance through a loan the construction of the northern ring road of the city. After sending the official announcement to 16 active banks in the market, it has received interest back from only three banks. These three banks (Bank A; Bank B and Bank C) are then asked to present a technical - financial proposal within a preset deadline. As a result, within that period, all three banks have presented their technical - financial proposals, which concisely are displayed in the table below:

Table 7. Offers received by the banks

Banks interested to borrow to FK Municipality	Principal / Loan	Tenor	Annual interest	Bank Commissions	Penalties	Collaterals	Repayment method	Other options
Bank A	140 million Leke	7 years	TB 1 year + 3.685 %	Administration commission = 1/100 of the loan amount and engagement commission = 1 % of the unused funds	5% on the interest for late payment of the instalment	Municipal revenue account/ Finance intercepting	monthly	
Bank B	140 million Leke	10 years	TB 6 months+ 3.4 %	Administrative costs = 0.5 %	NA	To be negotiated	monthly	
Bank C	140 million Leke	7 years	12%	Administration tax = 0.5 % on the loan amount and payable in advance	penalty on the unpaid amount = 3 % on the real rate of interest	To be negotiated	60 monthly installments of 3,114,222,68 leke	2 years grace period

Following, the team transforms all variable elements into one general format, that can be clear to anyone. E.g., it transforms the interest rate of different banks in a unique format legible to anyone (if bank A has offered an annual interest rate in Lekë of 12% and bank B has offered an annual interest rate of TB 12M + 3.685% and bank C has offered an annual interest rate of TB 6M + 3.4% then all the three types should be unified into one format. To achieve that, information is gathered from the banking system, on the last treasury bonds auction with maturation periods of 12 and 6 months. This information can be found in the official website of the Bank of Albania ([www.bankofalbania.org](http://www.bankofalbania.org)) under **markets and rates**. Look for the information on **treasury bond auctions**. Example, in January 14, 2009 date when the bank proposal assessment team should have performed this analysis, the information extracted from the website is as follows. Also, this information can be found in the official website of the Ministry of Finance ([www.minfin.gov.al](http://www.minfin.gov.al)) under **Treasury Bonds and Bills Auctions**.

**Attention!** You must refer to the last Treasury Bond Auction, in our example, if the evaluation is executed on January 14, according to the records of the Bank of Albania; the last Auction took place in January 13, 2009.<sup>28</sup>.

<sup>28</sup> At the moment, the Bank of Albania holds Treasury Bond Auctions on behalf of the Ministry of Finance every Tuesday.

Rezultatet e Ankandevë - Windows Internet Explorer

http://www.bankofalbania.org/web/Rezultatet\_e\_Ankandevë\_2015\_1.php?evn=shiko\_detaje&evb=bonothesar\_ar...

Rezultatet e Ankandevë

**BANKA E SHQIPËRISË**

English Përshytye Registrim Kontakte harta e faqes

Home Bankës Politika monetare Statistika Stabiliteti financiar Paraja Legjislatoni Mbrojtëqyrja Sisteme i pagesave Publikime Qendira e shqyrt

26 Shkurt 2009 | 13:12 Faqja Kryesore » Politika monetare » Tregjet dhe kursi » Ankandet e bonove të thesarit Printo Mail Kërko

**Politika monetare**

Raportet periodike

Instrumentet politikës monetare

Vendimet e politikës monetare

**Tregjet dhe kursi**

Kursi zyrtar i këmbimit

Akiva e kursit të këmbimit

**Ankandet e bonove të thesarit**

Ankandet e ardhshme të bonove të thesarit

Ankandet e obligacioneve

Ankandet e ardhshme të obligacioneve

**Rezultatet e ankandevë të Bonove të Thesarit**

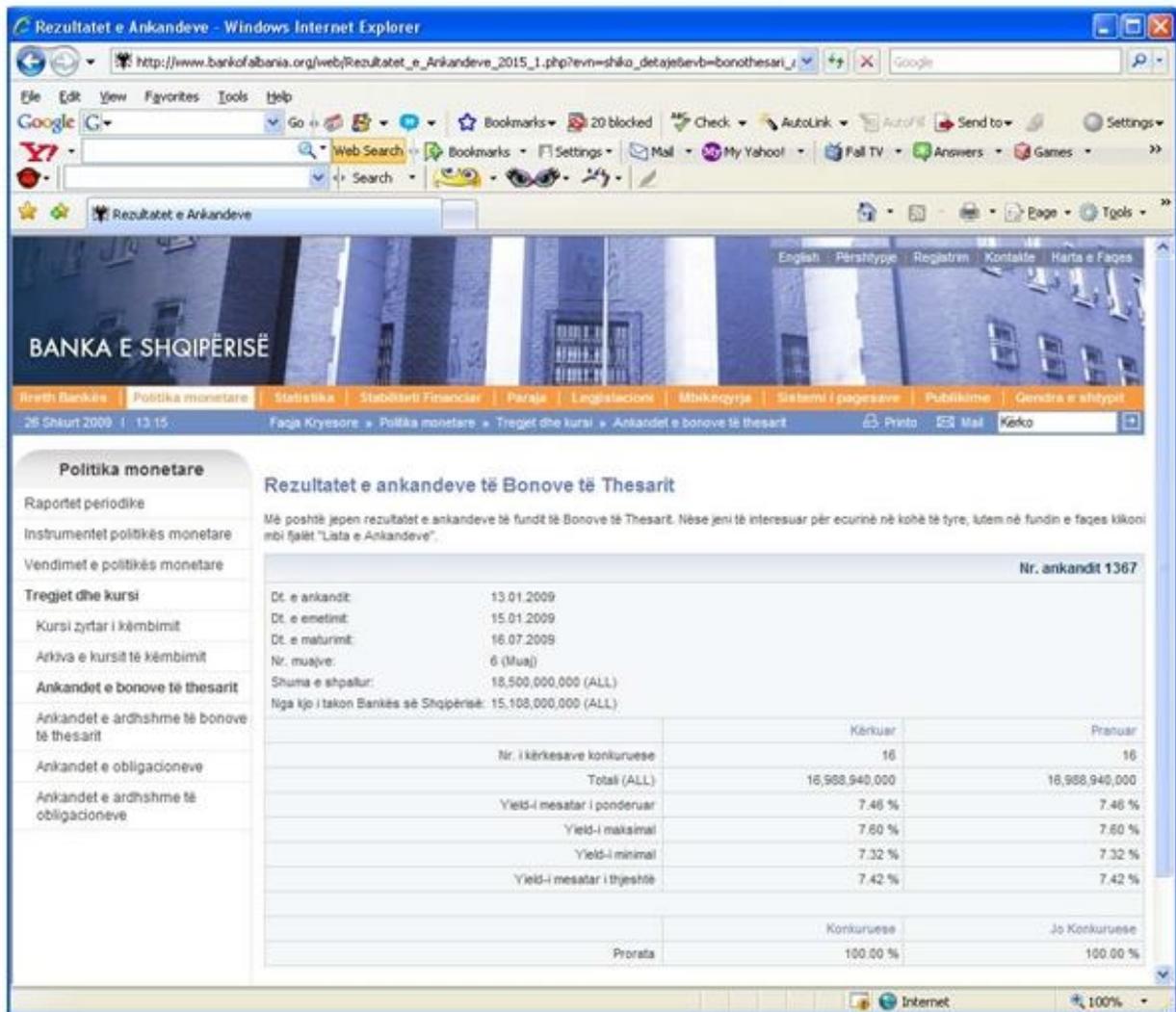
Më poshtë jepen rezultatet e ankandevë të fundit të Bonove të Thesarit. Nëse jeni të interesuar për ecurinë në kohë të tyre, lutem në fundin e faqes klikoni mbi fjalët "Lista e Ankandevë".

**Nr. ankandit 1368**

Dt. e ankandit:	13.01.2009		
Dt. e emetimit:	15.01.2009		
Dt. e maturimit:	14.01.2010		
Nr. muajve:	12 (Muaj)		
Shuma e shpallur:	6,700,000,000 (ALL)		
Nga kjo i takon Bankës së Shqipërisë: 0 (ALL)			
		Kërkuar	Pranuar
	Nr. i kërkesave konkurruese	20	20
	Totali (ALL)	5,882,720,000	5,882,720,000
	Yield-i mesatar i ponderuar	8.86 %	8.86 %
	Yield-i maksimal	8.96 %	8.96 %
	Yield-i minimal	8.50 %	8.50 %
	Yield-i mesatar i thjeshtë	8.77 %	8.77 %
		Konkuruese	Jo Konkurruese
	Prorata	100.00 %	100.00 %

Lista e ankandevë

Internet 100%



In continuation of this information, the table below demonstrates all elements of the offers arranged in one unique format, making them comparable to each other.

Table 8. Yearly interest for each bank offer

Banks interested to borrow to FK Municipality	TB rate	Annual interest	Real interest in the first year (commissions included)
Bank A	12 months = 8.86 %	12.545	12.55
Bank B	6 months = 7.46 %	10.86	10.91
Bank C		12	12.05

At first glance, it is obvious that the best offer is the one from Bank B, which offers the lowest annual interest on the Loan the Municipality of FK wants to get.

The Municipality must evaluate what is the cost of borrowing for each single bid. Helpful in this analysis is not only the detection of the comparable interest rates but also the calculation of all installments (the sum of principal and interest) the Unit will have to pay until the end or the maturation of the Loan.

To document this process we will need a schedule that demonstrates all the installments, until the Loan is fully repayed, therefore we create the following three tables<sup>29</sup>:

Table 9. The cost of Borrowing according to offer A

<b>Formula for calculation of the bank interest is</b>						
<b>(Amount of loan*no. of days used*interest%)/360</b>						
Amount at beginning of the period	Paid principal	Interest	Tenor (years)			
140,000,000	20,000,000	12.55	7			
				1 year TB auction = 8.86		
<b>Bank A</b>						
Vitet	Debt Stock	Principal	Interest	Annual instalment	Admin. Commission	Total payment in years
1	140,000,000	20,000,000	17,563,000	37,563,000	<b>140,000</b>	37,703,000
2	120,000,000	20,000,000	15,054,000	35,054,000		35,054,000
3	100,000,000	20,000,000	12,545,000	32,545,000		32,545,000
4	80,000,000	20,000,000	10,036,000	30,036,000		30,036,000
5	60,000,000	20,000,000	7,527,000	27,527,000		27,527,000
6	40,000,000	20,000,000	5,018,000	25,018,000		25,018,000
7	20,000,000	20,000,000	2,509,000	22,509,000		22,509,000
		<b>140,000,000</b>	<b>70,252,000</b>	<b>210,252,000</b>		<b>210,392,000</b>
					<b>Debt cost</b>	<b>150.3%</b>

<sup>29</sup> The classic scheme of repayment at the bank is that of dividing the principal in equals that are distributed throughout the maturation period and calculating the interest on the remaining principal for each period. Recommended that the evaluation team requests from each bank to, along with the main points of the offer, submit its strategy on loan amortization, as there are several ones, and each one has a different impact from the other.

Table 10. The cost of Loan from offer B

**Formula for calculation of the bank interest is**

(Amount of loan\*no. of days used\*interest%)/360

Amount at beginning of the period	Paid principal	Interest	Tenor (years)
140,000,000	14,000,000	10.86	10
		6 months TB auction = 7.45	

BankB	Years	Debt Stock	Principal	Interest	Annual installment	Admin. Commission	Total payment in years
	1	140,000,000	14,000,000	15,204,000	29,204,000	700,000	29,904,000
	2	126,000,000	14,000,000	13,683,600	27,683,600		27,683,600
	3	112,000,000	14,000,000	12,163,200	26,163,200		26,163,200
	4	98,000,000	14,000,000	10,642,800	24,642,800		24,642,800
	5	84,000,000	14,000,000	9,122,400	23,122,400		23,122,400
	6	70,000,000	14,000,000	7,602,000	21,602,000		21,602,000
	7	56,000,000	14,000,000	6,081,600	20,081,600		20,081,600
	8	42,000,000	14,000,000	4,561,200	18,561,200		18,561,200
	9	28,000,000	14,000,000	3,040,800	17,040,800		17,040,800
	10	14,000,000	14,000,000	1,520,400	15,520,400		15,520,400
			<b>40,000,000</b>	<b>83,622,000</b>	<b>223,622,000</b>		<b>224,322,000</b>
					<b>Debt cost</b>		<b>160.2%</b>

Table 11. The loan cost from offer C

Formula for calculation of the bank interest is					
(Amount of loan*no of days used*interest%)/360					
Amount at beginning of the period	Paid principal	Interest	Tenor (months)	7 years	
140,000,000	2,333,333	12.00	60		
<b>Bank C</b>					
Months	Debt Stock	Annual instalment	Admin. Commission	Total payment in years	
1	140,000,000	1,400,000	700,000		
2		1,400,000			
3		1,400,000			
4		1,400,000			
5		1,400,000			
6		1,400,000			
7		1,400,000			
8		1,400,000			
9		1,400,000			
10		1,400,000			
11		1,400,000			
12		1,400,000		17,500,000	
13		1,400,000			
14		1,400,000			
15		1,400,000			
16		1,400,000			
17		1,400,000			
18		1,400,000			
19		1,400,000			
20		1,400,000			
21		1,400,000			
22		1,400,000			
23		1,400,000			
24		1,400,000		16,800,000	
25		3,114,223			
26		3,114,223			
27		3,114,223			
28		3,114,223			
29		3,114,223			
30		3,114,223			
31		3,114,223			
32		3,114,223			
33		3,114,223			
34		3,114,223			
35		3,114,223			
36		3,114,223		37,370,672	
37		3,114,223			
38		3,114,223			
39		3,114,223			
40		3,114,223			
41		3,114,223			
42		3,114,223			
43		3,114,223			
44		3,114,223			
45		3,114,223			
46		3,114,223			
47		3,114,223			
48		3,114,223		37,370,672	
49		3,114,223			
50		3,114,223			
51		3,114,223			
52		3,114,223			
53		3,114,223			
54		3,114,223			
55		3,114,223			
56		3,114,223			
57		3,114,223			
58		3,114,223			
59		3,114,223			
60		3,114,223		37,370,672	
61		3,114,223			
62		3,114,223			
63		3,114,223			
64		3,114,223			
65		3,114,223			
66		3,114,223			
67		3,114,223			
68		3,114,223			
69		3,114,223			
70		3,114,223			
71		3,114,223			
72		3,114,223		37,370,672	
73		3,114,223			
74		3,114,223			
75		3,114,223			
76		3,114,223			
77		3,114,223			
78		3,114,223			
79		3,114,223			
80		3,114,223			
81		3,114,223			
82		3,114,223			
83		3,114,223			
84		3,114,223		37,370,672	
		<b>220,453,361</b>		<b>221,153,361</b>	<b>158.0%</b>
			<b>Debt cost</b>		

During this analysis process, it results that the cost of borrowing according to the received offers is as follows:

Bank A = 150.3%

Bank B = 160.2%

Bank C = 158.0%

Bank A, which had the highest interest rate, has offered the **cheapest loan** (if we were to refer to the total amount of debt the municipality will pay until the end of the maturation period). Normally, based in this initial assessment, it is obvious the Bank A has offered the cheapest Loan and it must be the preferable bank to sign the Loan contract with the Municipality.

To evaluate the real cost of borrowing, the Actual Value of the Loan must be used. In other words, it means to evaluate how much costs the total amount of Loan (the total ammount due until maturation). There are several methods available (or evaluation systems) to do that, and all those share in principle the actual value of the Loan.

According to this method, we must calculate the present value of the future cash-flows. The future cash flow is considered the annual installments of the loan, that abide by the amortization scheme each banc presents on the offer of municipality.

The following is the formula of the present value:

$$PV = \frac{C1}{(1+r)^1} + \frac{C2}{(1+r)^2} + \dots + \frac{Ct}{(1+r)^t}$$

Where **PV** is the present value due to be reimbursed, for each bank by the municipality.

**C1** is the installment the Municipality, according to the amortization scheme is obliget to pay the first year.

**C2** is the installment the Municipality, according to the amortization scheme is obliged to pay the second year; and so forth for all installments for as many years as the bank offer stands (t = the last year, the year when the Loan matures)

r is the rate of discount.

The inconvenience in implementing this method stands in the application of a true discount rate. We recommend that for the Loans from the domestic banking system (in Lekë) be used as discount rate the interest rate of the government bills of a maturation term close to the Loan's maturation term.

Therefore, if the Loan maturation term of a bank is 5 or 6 years, it is recommended that the discount rate applied for this bank be the interest rat of the government bills of a 5 year maturation term,

whereas for loans of a maturation term of 7, 8, 10 or more years, the discount rate applied would be the interest rate of government bills of a 7 year maturation term<sup>30</sup>.

Lets go back to our example to illustrate this method:

First, we find what the discount rate is. We refer again to the Bank of Albania official website, just like for the Treasury Bonds. We look up the bills interest rate in the last auction.

Because the maturation terms of the offers received from the three banks are respectively 7; 10 dhe 10 vjet it's recommended we refer to the interest rates for government bills of a 7 year maturation term. After having found this information, we work on the table below, to find out the interest rate will be **10.25%**

The screenshot shows the 'Ankandet e Obligacionit' page on the Bank of Albania website. It features a search form and a table of government bills. The table has the following columns: Nr. i ankandit, Dt. e ankandit, Dt. e emetimit, Dt. e maturimit, Lloji i Obligacionit, Shuma e shpallur, and Kuponi Indikativ. The last row in the table shows a bill with a 7-year maturity and a 10.25% interest rate.

Nr. i ankandit	Dt. e ankandit	Dt. e emetimit	Dt. e maturimit	Lloji i Obligacionit	Shuma e shpallur	Kuponi Indikativ
2	06.11.2007	08.11.2007	08.11.2012	FX 5(vj.)	202,000,000 ALL	9.85%
2	01.07.2005	05.07.2005	05.07.2008	FX 3(vj.)	2,000,000,000 ALL	8.10%
2	14.11.2002	18.11.2002	18.11.2004	FX 2(vj.)	300,000,000 ALL	14.30%
2	07.02.2007	09.02.2007	09.02.2012	VAR 5(vj.)	4,000,000,000 ALL	
1	01.04.2005	05.04.2005	05.04.2008	FX 3(vj.)	2,000,000,000 ALL	8.40%
1	16.10.2002	18.10.2002	09.10.2004	FX 2(vj.)	300,000,000 ALL	14.50%
1	06.08.2007	08.07.2007	08.08.2012	FX 5(vj.)	2,500,000,000 ALL	9.70%
1	06.11.2006	08.11.2006	08.01.2011	VAR 5(vj.)	6,500,000,000 ALL	
1	05.12.2007	07.12.2007	07.12.2014	FX 7(vj.)	12,000,000,000 ALL	10.25%

<sup>30</sup> This is because at the moment, the maximal maturation term on government bills is 7 years, por kjo mund të ndryshojë me kohë, pasi Ministria e Financave mund të vendosë që të presë obligadone me afate më të gjata sesa 7 vjet.

We start to calculate the actual values for all installments of the respective bank offers, by working on the following table:

**Table 12. Calculation of the Present Value by installments of received offers**

<b>Present Value of the received offers</b>					
<b>Years</b>	<b>Period</b>	<b>discount rate (1+r)<sup>n</sup></b>	<b>PV of bank A instalments</b>	<b>PV of bank B instalments</b>	<b>PV of bank C instalments</b>
1	2008				
2	2009	1.125	33,513,778	26,581,333	15,555,556
3	2010	1.265625	27,696,988	21,873,462	13,274,074
4	2011	1.423828125	22,857,394	18,375,252	26,246,617
5	2012	1.601806641	18,751,327	15,384,379	23,330,327
6	2013	1.802032471	15,275,529	12,831,289	20,738,068
7	2014	2.02728653	12,340,633	10,655,623	18,433,838
8	2015	2.280697346	9,869,350	8,805,026	16,385,634
9	2016	2.565784514		7,234,123	
10	2017	2.886507578		5,903,605	
	2018	3.247321025		4,779,447	
<b>Total</b>			<b>140,304,999</b>	<b>132,423,538</b>	<b>133,964,114</b>
<b>Rate of interest Obl 7 years</b>			<b>10.25</b>	<b>10.25</b>	<b>10.25</b>

Based on the results of this table, it is clear that the best offer received from these three banks is the one from Bank B, where the real debt value until the end of the maturation term is the smallest of the three. Subsequently, this must be the winning bank with the Loan contract should be signed with (actually, if we were to review the information above, we remind you that this was the bank with the lowest interest rate). The end result from this offer, is better than the outcome from the previous method (just the comparison of the total debt due to be returned by the end of the maturation term, because this bank has offered the lowest interest rate amongst the interested banks and also has offered a maturation term longer, and those two elements combined are very attractive to the LGU; the cost of borrowing is increased on that, because it increases the number of years to maturation; but at the end, this renders easier the debt service for this bank).

However this is not the final step in determining which offer we should select. The next step is the calculation of the annual restrictions of the debt service that the Municipality FK can make.

Based on the reasoning above on the calculation of the restrictions on the debt service and its annual service, we create the following table

Table 13. Calculation of the debt stock limit and the annual service for the Municipality FK

FK Municipality		Period 2005 - 2008														
EXTRACT ON FINANCIAL DATA OF THE LOCAL BUDGET		For purposes of calculating the debt limit and the annual service														
	2005	2006	2007	2008	2008	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
<b>BUDGET DATA</b>																
Total municipal revenues	87,888	118,892	177,998	140,082	177,530	140,082	168,274	146,494	168,718	151,170	160,058	165,588	171,833	177,458	183,616	190,480
Total of own source revenues	27,557	58,770	66,960	66,960	54,511	66,614	88,600	70,500	72,550	76,127	79,310	83,990	88,138	92,611	97,345	102,352
Local taxes	21,658	45,777	51,732	58,890	44,472	59,218	77,400	58,350	59,890	62,838	66,144	69,388	72,922	76,629	80,588	84,738
Gasoline tax	4,824	49,454	10,242	22,200	12,422	22,200	22,200	22,200	24,000	24,000	25,200	26,400	27,600	28,800	29,950	31,100
Small business tax	7,900	5,621	6,638	8,000	5,938	7,000	9,000	10,000	10,800	11,538	12,365	13,231	14,157	15,148	16,208	17,342
Taxes on profit of construction infrastructure	2,468	24,800	10,182	20,000	16,142	20,000	20,000	20,000	21,000	22,000	23,000	24,000	25,000	26,000	27,000	28,000
Hotel tax	-	-	3	21	3	3	3	3	3	3	3	3	3	3	3	3
Taxes on turnover of restaurant, hotels and temporary stays	-	885	8,302	4,200	4,100	4,200	4,200	4,200	4,200	4,200	4,200	4,200	4,200	4,200	4,200	4,200
Other taxes	212	207	305	4,440	2,028	2,782	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
Local fees	6,827	8,893	9,222	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
Construction fee	4,000	3,000	3,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
Public works fee	120	200	31	100	36	37	100	100	100	100	100	100	100	100	100	100
Patrol fee	84	400	42	600	258	240	260	260	260	260	260	260	260	260	260	260
Construction fee	-	-	-	400	18	18	18	18	18	18	18	18	18	18	18	18
Business registration fee	280	280	340	500	410	410	410	410	410	410	410	410	410	410	410	410
Business registration fee	-	-	-	300	80	80	80	80	80	80	80	80	80	80	80	80
Construction fee	-	-	-	53	23	23	23	23	23	23	23	23	23	23	23	23
Fee for other services (administration)	768	300	208	240	60	64	260	300	320	30	320	360	360	372	384	394
Fees for social services/education (primary schools, kindergartens)	614	434	62	634	60	64	64	64	64	64	64	64	64	64	64	64
Other	212	600	4,000	400	400	400	400	400	400	400	400	400	400	400	400	400
Other municipal revenues	87	394	43	81	124	128	80	70	70	70	70	70	70	70	70	70
Other	80	-	-	18	8	80	80	80	80	80	80	80	80	80	80	80
Revenues from CO (municipalities)	60,332	69,120	69,452	75,132	79,068	79,472	77,274	76,994	77,168	76,666	76,446	76,490	76,446	76,446	76,446	76,446
<b>UNCONDITIONED TRANSFER</b>	57,330	57,420	64,924	71,082	71,082	71,082	71,724	72,482	73,718	75,119	76,638	78,230	79,783	81,300	82,816	84,328
Taxes from national sources (radio installation)	2,992	3,000	3,216	3,040	2,988	3,380	3,400	3,500	3,450	3,450	3,450	3,450	3,450	3,450	3,450	3,450
Vehicle Registration Tax	2,992	2,754	3,172	3,000	2,968	3,360	3,400	3,400	3,400	3,400	3,400	3,400	3,400	3,400	3,400	3,400
Revenue from other municipal revenues	-	246	30	80	68	68	68	68	68	68	68	68	68	68	68	68
<b>EXPENSES FROM UNCONDITIONED TRANSFER</b>	60,000	60,000	74,800	79,624	79,624	80,000	80,440	80,440	80,440	80,440	80,440	80,440	80,440	80,440	80,440	80,440
General public expenditures (administration)	30,490	38,105	39,897	39,650	34,233	36,233	38,760	42,634	46,895							
Public services	6,000	16,000	10,000	15,000	10,000	14,000	8,500	10,460	10,000							
Public transport (management of road transport)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Public transport (urban district)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Water and wastewater	3,233	3,777	2,538	4,045	4,045	4,045	4,212	4,458	4,682							
Education	5,037	5,123	9,465	7,115	7,115	7,115	7,628	8,602	9,470							
Social care	4,000	2,000	1,200	300	300	300	300	300	300							
Culture/sport	4,500	2,288	5,311	4,601	4,601	4,601	5,061	5,560	6,124							
Revenues from other municipal revenues	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>II. Debt related data</b>																
Debt service/limitations				22,284		25,732	27,397	28,623	29,209	30,035	30,940	3,998	31,291	26,513	21,033	
Debt service/limitations: 20% of the average of the amount (1+2+4+5) for the years n-2, n-1				22,284		25,732	27,397	28,623	29,209	30,035	30,940	3,998	33,105	34,265	35,480	
Debt service/limitations: (1+2+3+4+5+6)/1.4 in year n-1				40,109		58,449	50,629	47,906	44,703	42,086	39,015	3,998	31,291	26,513	21,033	
Limitation on debt stock				166,384		18,996	186,152	190,327	194,520	201,097	207,969	215,162	222,694	230,583	238,853	
Existing debt service																
Principal interest																
Commissions, other costs																
Existing stock (unpaid)																
New stock				166,384		18,996	186,152	190,327	194,520	201,097	207,969	215,162	222,694	230,583	238,853	
New stock allowed																
New debt service																
Allowed new debt service				22,284		25,732	27,397	28,623	29,209	30,035	30,940	3,998	31,291	26,513	21,033	

\* Factual data of budget execution in previous years  
 \*\* Factual data of budget execution for the coming months after the submission of the request  
 \*\*\* The annual growth for each item cannot be forecasted above the ratio of 7% per year. If higher growth is forecasted, it should be justified with analytical data.

The Municipality FK has borrowed a loan of 140 Million Lekë for the construction of a segment of the city's ring road. The amount of 140 Million Lekë falls within the debt service stock (which for a Loan signed in the year 2009 is circa 182 Million lekë.

Now we refer to the maximal annual service this Municipality can make, so we create the following table:

Table 14. The annual debt service and the annual installments for each bank offer

Years	Period	Debt Service Limitation	Installments by bank A	Installments by bank B	Installments by bank C
1	2008	22,283,667			
2	2009	25,731,667	37,703,000	29,904,000	17,500,000
3	2010	27,396,733	35,054,000	27,683,600	16,800,000
4	2011	28,622,733	32,545,000	26,163,200	37,370,672
5	2012	29,269,133	30,036,000	24,642,800	37,370,672
6	2013	30,034,851	27,527,000	23,122,400	37,370,672
7	2014	30,939,582	25,018,000	21,602,000	37,370,672
8	2015	31,997,669	22,509,000	20,081,600	37,370,672
9	2016	31,290,969		18,561,200	
10	2017	26,513,140		17,040,800	
	2018	21,033,197		15,520,400	
<b>Total</b>		<b>305,113,341</b>	<b>210,392,000</b>	<b>224,322,000</b>	<b>221,153,361</b>

It is obvious that all the offers don't abide by the legal restrictions on the maximal debt service the Municipality RK can make (the colored cells).

In this case, it is recommended the LGU negotiate the loan with all three banks, explaining them the reasoning why it requires a second, amended offer by the banks (if they remain interested), in order to get a debt service that falls within the legal restrictions, and why not, even lower interest rates (lower Loan cost).

As a result of the negotiations with these banks, the Municipality has received three new offers, which we will present in the table below:

Table 15. The new bank offers after negotiations with them

Banks interested to borrow to FK Municipality	Principal /Loan	Tenor	Annual interest	Bank Commissions	Penalties	Collaterals	Repayment method
Bank A	140 million Leke	7 years	TB 6months+ 3.2%	Administration commission = 1/1000 of the loan amount and engagement commission = 1% of the unused funds	5% on the interest for late payment of the installment	Municipal revenue account / Finance intercepting	monthly
Bank B	140 million Leke	10 years	TB 6months+ 3.4%	Administrative costs = 0.5%	NA	To be negotiated	monthly
Bank C	140 million Leke	8 years	11.75%	Administration tax= 0.5% on the loan amount and payable in advance	penalty on the unpaid amount = 3% on the real rate of interest	To be negotiated	96 monthly installments of 2,256,211 leke

Banks interested to borrow to FK Municipality	TB rate	Annual interest	Real interest in the first year (commissions included)
Bank A	6 months= 7.48%	10.66	10.66
Bank B	6 months= 7.46%	10.86	10.91
Bank C		11.75	11.80

After formatting the above information in an integrated diagram, we calculate the monthly or yearly installments (the principal plus interest) that the Municipality would have to make for each of these three banks.

Next we update the table 13 by using the new information that we found out by recalculating the installments. The results are as follow:

Table 16. Limits of debt yearly service and installments after renegotiation

Years	Period	Debt Service Limitation	Installments by bank A	Installments by bank B	Installments by bank C
	2008	22,283,667			
1	2009	25,731,667	35,064,000	29,904,000	23,262,112
2	2010	27,396,733	32,792,000	27,683,600	27,074,534
3	2011	28,622,733	30,660,000	26,163,200	27,074,534
4	2012	29,269,133	28,528,000	24,642,800	27,074,534
5	2013	30,034,851	26,396,000	23,122,400	27,074,534
6	2014	30,939,582	24,264,000	21,602,000	27,074,534
7	2015	31,997,669	22,132,000	20,081,600	27,074,534
8	2016	31,290,969		18,561,200	27,074,534
9	2017	26,513,140		17,040,800	4,512,422
10	2018	21,033,197		15,520,400	
<b>Total</b>		<b>305,113,341</b>	<b>199,836,000</b>	<b>224,322,000</b>	<b>217,296,270</b>

As you can see, the offer from Bank C falls within the legal limits of the debt service (while the other two banks fall out in several years). This way, the Municipality, not only has succeeded in finding an offer that abides by all legal restrictions (as provided by the Law on Local Government Borrowing) but also has decreased the cost of this Loan, compared to the offer received from this bank (3,857,000 less lekë, or it will have to pay back 155% out of 158% of the principal initially established). Unfortunately, bank B, which had offered the best deal, based on the above assessment (based on the real value method), did not adjust its previous stand. Therefore, between the two remaining banks, Bank A and Bank C, despite the debt cost based on the Actual Value method, the LGU is obliged to choose Bank C to be the winner, as the only Bank whose offer falls within the legal debt restrictions. If we would have another hypothetical scenario, with two or all banks presenting second offers that fell within the annual limits of debt service, we would have to recompute our calculations using the real value method, and based on the results, go with the bank with the lowest rate (best value).

In our case, the winning bank, selected by the evaluation team, is **Bank C** which will be invited to sign the Loan contract with the Municipality FK.

#### The debt and the repayment plan involving the LGU budget.

All this analysis becomes part of the accompanying report that the LGU technical staff attaches to the Loan draft agreement with the bank selected (Bank C), which then must be passed by the Council of LGU.

In the draft budget for the fiscal year 2009 the LGU anticipates this Loan's annual service for 2009. The total debt service projected on the draft budget (in our example 23,262,112 lekë), can be found under capital expenses / debt service in the banking system (again we get two items; the principal plus the interest = total debt service). For the future years (in our example of Municipality FK, the Loan term is from 2010 to 2017), until the maturation, the LGU anticipates the installments (far right column in Table 16, otherwise the installments to be paid to the winning Bank C).

The report on the debt and the schedule of repayments is created, reviewed in a regular basis, according to specifications made in Chapter III A of this manual and is presented to Directorate of Debt within the Ministry of Finance. The approved Form of the installment schedule is presented below:

Table 17. Data on level of public local debt and repayment schedule

Municipality/Commune/Region	Data on the level of public local debt										Period
	Viti										
	n-3	n-2	n-1	n (aktual)	n+1	n+2	n+3			n+	
<b>A Debt service</b>											
1 Existing debt service (for previously contracted loans)	0	0	0	0	0	0	0	0	0	0	
a Principal											
b Interests											
c Commissions, etc											
2 Debt service for the loan to be contracted				0	0	0	0	0	0	0	
a Principal											
b Interests											
c Commissions, etc											
3 Total debt service (inclusive of the new loan)	0	0	0	0	0	0	0	0	0	0	
a Principal											
b Interests											
c Commissions, etc											
<b>B Debt stock</b>											
Existing debt stock (for previously contracted loans)											
New debt stock (for the loan to be contracted)											
Total debt stock											

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This form need to be completed for each new loan or issuing of a new guarantee on behalf of third parties. The table presents a projection of payments for each year. When the loan is contracted in foreign currency the applicable exchange rate shall be the exchange rate notified by the Bank of Albania at the time of report.

This Form can be used for every new Loan, or when releasing a guarantee to third parties. The Table also presents the changes in the yearly schedule of the installments. When the Loan is issued in foreign currency, the exchange rate used is the one offered by the Bank of Albania at time of issue.

In case there is already one active Loan (the loan taken from the Municipality FK, when there is an existing debt inherited from before on which it is still making debt service) the situation is presented in the following table:

Table 18. Municipality FK, the state of debt stock and its annual service

Municipality of FK	Data on the level of public local debt													Period 2009 - 2017
	Viti													
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	
<b>A Debt service</b>														
1 Existing debt service (for previously contracted loans)	0	0	0	0	0	0	0	0	0	0	0	0	0	
a Principal														
b Interests														
c Commissions, etc														
2 Debt service for the loan to be contracted				23,292,112	27,074,534	27,074,534	27,074,534	27,074,534	27,074,534	27,074,534	27,074,534	27,074,534	4,512,422	
a Principal				14,585,333	17,500,000	17,500,000	17,500,000	17,500,000	17,500,000	17,500,000	17,500,000	17,500,000	2,916,667	
b Interests				7,978,778	9,574,534	9,574,534	9,574,534	9,574,534	9,574,534	9,574,534	9,574,534	9,574,534	1,595,756	
c Commissions, etc				700,000										
3 Total debt service (inclusive of the new loan)	0	0	0	23,292,112	27,074,534	27,074,534	27,074,534	27,074,534	27,074,534	27,074,534	27,074,534	27,074,534	4,512,422	
a Principal				14,585,333	17,500,000	17,500,000	17,500,000	17,500,000	17,500,000	17,500,000	17,500,000	17,500,000	2,916,667	
b Interests				7,978,778	9,574,534	9,574,534	9,574,534	9,574,534	9,574,534	9,574,534	9,574,534	9,574,534	1,595,756	
c Commissions, etc				700,000										
<b>B Debt stock</b>														
Existing debt stock (for previously contracted loans)					125,416,667	107,916,667	90,416,667	72,916,667	55,416,667	37,916,667	20,416,667	2,916,667	0	
New debt stock (for the loan to be contracted)				140,000,000										
Total debt stock				140,000,000	125,416,667	107,916,667	90,416,667	72,916,667	55,416,667	37,916,667	20,416,667	2,916,667	0	

CHAIRMAN

Head of Finance Department

This form need to be completed for each new loan or issuing of a new guarantee on behalf of third parties. The table presents a projection of payments for each year. When the loan is contracted in foreign currency the applicable exchange rate shall be the exchange rate notified by the Bank of Albania at the time of report.

**Attention!** The figures in the table are subject of further change, because those depend on the Loan interest rates as established in the contract, which can be variable (as in the case of the other two banks, A and B which reflected the base interest rates of the Treasury Bonds of 6 and 12 month

maturation) depending on the base interest rates which could be the one of treasury bonds, Eurobor or Libor etc. Furthermore, this figure can change in tune with the exchange rate if the Loan was issued in foreign currency (and as a result the payments are made in such currency; while the LGU revenues are in Lekë and as such are subject to exchange rates, at times higher, at times lower. If the figures in the table are subjected to change in tune with the interest rate or exchange rate fluctuations, the table is updated everytime there are changes for reasons mentioned above.

### **The debt service and the annual LGU budget**

When, during the budget year, as a result of the fluctuations of the loan interest rate (if it is variable; as in the case of the two offers in our example that fluctuate in tune with the Treasury Bonds rates) or the fluctuations of the exchange rate (as in the case when the Loan is issued in foreign currency and the interest rate refers to the exchange rate in Euro or USD) the debt service the LGU is obliged to pay the bank is greater than the one expected in the annual budget of the LGU. A question that may come up is 'What happens to this obligation and how to abide by it'?

The increase in debt service from the level anticipated in the LGU annual budget, does not alter the obligation of LGU to fulfill this service, but implies a review of the budget to fully accomplish the obligations of the received debt, according to the terms of the contract. For this, the LGU (exactly the finance office) must take measures like:

### **The Analysis of the budgetary situation**

- All the income and expenses are subject to analysis, as part of the approved budget and the actual budget state (we refer to the period in which the change in debt service is noticed; e.g., in May of the current budget year);
- Make recommendations for the improvement of the administration income, reduce the expenses, and prepare the appropriate changes in the budget - which then must be passed by the Council of LGU.

A very important part of this analysis and this recommendation package is the plan of the cash flow for the LGU.

### **Restructure of management and organization of services through:**

- Reducing the general expenses; and
- Increasing the amount of revenue under the control of the LGU

### **Financial management and the control systems employed to improve the efficiency and distribution of services.**

After having prepared this package, that will eventually dictate the creation of a new budgetary plan for the remaining budget year, the LGU must present for approval the new budget before the Council of LGU. The local Council, when assessing the new budget, must ensure the completion of basic services in public health, security and social assistance. In addition, it cannot leave unattended the applications for privatization or concessions if those can bring higher income, or can be charged extra fees, as well as

ensure that the LGU is not abusing with the rights identified and requested by individuals, businesses, and other levels of the public administration.

## **VI. Preparation of project proposals, likely to be financed**

The preparation of a project proposal to be financed by the bank/financial institution, donators, Central Government or a partnership agreement with the privat sector, is the key to achieving a finance agreement. The process starts with the conversion of the project idea into a formal application file, to be presented and advertised to the banks, financial institutions and other interested actors.

The project proposal funding body (the investor and/or the lender) initially deals with the assessment of the potential risk LGU carries. The risk inherited could be observed from the Rating agencies, and from regulatory bodies like National Bank, Ministry of Finance, other public agencies etc. For this reason, the preparation of the project proposals should include an analysis of the possible risks inherited in the project, along with a rationalization about the risk being nonexistent or very minimal, in an effort to try and sell the project in the best possible way.

What should the LGU specialist writing this material, keep in mind?! First, the LGU measures (assesses) its own risk (general fiscal performance) and the risk inherited in the project, and on this basis it works to improve the credibility in front of the potential lender.

### **The assessment of LGU risk and improvement of credibility**

One LGU is deemed credible when the risk of the Loan it wants to achieve matches the risk the lender agrees to carry. When the banks / financial institutions have to calculate the general risk on the Loans for Local Governments they refer to the BIS ratios<sup>31</sup>. In their calculations, the financial institutions take into account different risk factors, weighing in the risk inflicted by the type (sector) of the project. Therefore, the loans to the Central Government projects have a weighed risk of zero; because the Central Government inherits no risks (full payment is guaranteed). The loans to the business sector are weighed by 1.0, whereas the risk inherited by the LGUs is between 0 and 1. This is very important when presenting the project and later during negotiations on the Loan with the financial institution (it is obvious that the LGU is more credible than certain business, and therefore the loan terms and conditions must be more forgiving/ because less risk translates into lower interest rates and preferential Loan terms.

### **Measuring the risk**

**Three potential risks** of the Loan the LGU can carry are identified:

- The risk of LGU fiscal performance
- The risk of the interest rates (loans with a variable interest rate)
- The risk of the exchange rates (when the loan is in foreign currency).

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<sup>31</sup> BIS ratio / from English the Bank of International Settlements in Basle ratio. Otherwise known as rate of capital sufficiency for commercial banks. In Albania, this marker has a minimum of 12% compared to 8% for the EC countries).

The last two risks vary on the performance of the financial market (the level of the prime interest rate, TRBor or EuroBor and the exchange rate performance of the currency the loan contract is on), while the **risk of the LGU fiscal performance** is dependant on a whole set of internal and external factors of LGU, like:

- ***The fiscal intergovernmental dependability and the risk inherited in the fiscal / legal framework***

The LGUs in Albania, like in the majority of the developing countries, depend on the fiscal intergovernmental traffic (unconditional transfers in the form of grants, competing grants, tax revenues and sometimes specific reimbursements between the Central and Local Government). The unconditional transfer remains an important source of income into the LGU budget. If we refer to the budget for 2009 (passed by the parliament) the unconditional transfer accounts for 50% of the total income of LGUs (considering all LGUs together)<sup>32</sup>, which is as much as the revenues the LGU generates.

Other than a very important source of income, the unconditional transfer (Central Government Grant for LGUs) has played different roles in the LGU budget, year after year. In the year 2008, this grant accounted for 55% of the total budget for all LGUs combined, whereas in the year 2009, it is projected that this grant account for around 50% of the local budget, while in 2007, it accounted for 60% of the local budget. This instability of such an important source of budget funding causes the prospective of Loan repayment in the future years to be a bit shaky. The Law No. 8652, of 31.07.2000 'On the Organization and Function of the Local Government', Articles 16 and 17, provide that income from shared taxes and fees to be a source of income for LGU from resources administered by the Central Government and transferred to the LGU (as a percentage of the personal income tax and tax on profit from economic subjects). This financial instrument is not yet applied in Albania.

When the Central Government decides to apply this type of income for the LGUs, the degree fiscal dependability of LGUs from the Central Government will change.

It is well known that during the last decade, very important reforms have taken place in an effort to decentralize the local governance in Albania.

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<sup>32</sup> For the Commune of Farka, District of Tirana, the Grant from Central Government represents only 5% of total budget, while for the Commune Shllak, District of Shkodër this grant accounts for nearly 100% of total budget.

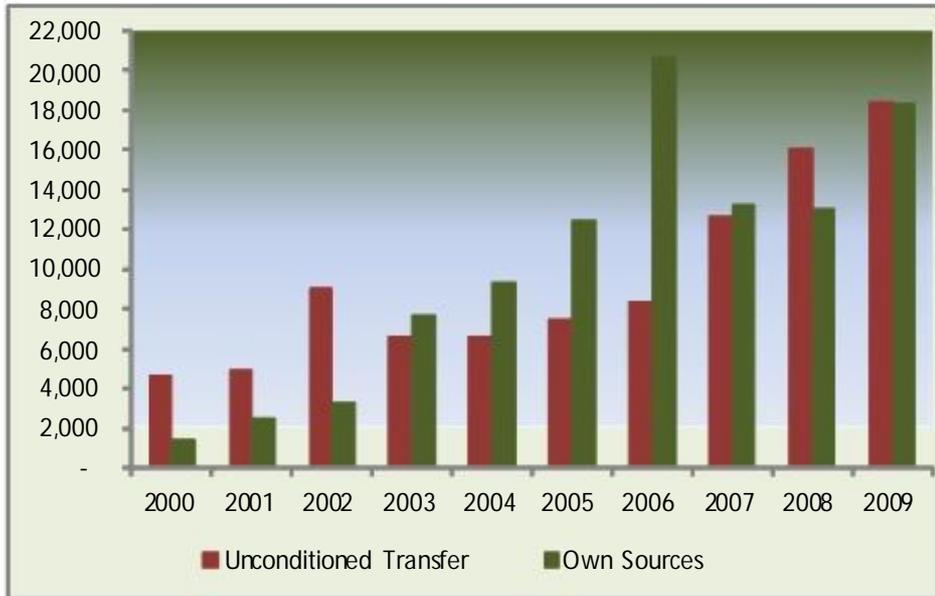


Figure 1. The progress of revenues from LGU taxes and dues and the unconditional transfer from the Central Government (grants)

Source of information: the Ministry of finance / the Office of Macroeconomy

The Local Units, more and more over the years have taken charge of collecting and administering directly certain important taxes; as a result their income has seen a dramatic change (luckily the reform of transferring the new fiscal instruments has been generally positive), although, the fact that Albania is still in the middle of a decentralization process, and the Central Government still does the economic and fiscal politics, makes the LGUs vulnerable to changes in the legal and fiscal framework which the LGUs use, and therefore, makes the basis for fiscal capacity calculation uncertain for the future (up to 10-15 years or as long as the maturation term on the Loans taken to finance different projects) as well as the obligation to expenditures towards basic services that the LGU must provide.

On this subject, another very important matter that can determine the risk of revenue planning for LGUs is the progress of the decentralization process in Albania. It is well known that the Central Government is in the midst of transferring other functions onto the LGU. We must wait and see if this passing of the functions goes in parallel with the transfer of sufficient funds to cover the costs of performing those functions by the LGU. Until recently this process has been very debatable, because the Central Government along with the function, transfers the monetary funds to cover for them, based on the cost to fulfil that function from the last fiscal year, adding or not a percentage to the funds to be transferred in the current year, while the local government claims the transfer of functions is not properly matched by the transfer of sufficient funds to cover for them.

Table 19. Structure of LGU revenues (income from own sources and Government grant)

LGU Structure in Percents	2004	2005	2006	2007	2008	2009
Unconditional Revenues from the CG (in % to total)	33	40	36	49	55	50
Own Source Revenues	67	60	64	51	45	50

Source of Information: The Ministry of Finance / Official website [www.mirfin.gov.al](http://www.mirfin.gov.al)

- **Changes in the LGU economic status**

Alike the international economy, the national economy and the local economy is constantly changing. The changes could be big or small, up or down.

The ability of LGU to repay the Loan (debt) is very dependable on the state of the economy. The risk the economy poses is correlated to the structure of revenues and expenses the LGU has. Usually the LGUs that root their budget on the revenues they collect locally from taxes and tariffs are very vulnerable to the health of the national economy, at least at a greater degree compared to those depending on the unconditional transfer and other funding from the Central Government. The LGUs that depend on shared the taxes and fees are less vulnerable to the health of national economy, yet more vulnerable to the general trends of the national economy.

- **Accurate budget planning and collection of the revenues**

If the difference between the anticipation of revenues and the level of achievement of these revenues becomes smaller each successive year, the banks or the financial institutions expose the good performing LGUs to a lesser risk. A smart planning of the revenues means a good operational plan that accounts for the expenses of the LGU.

Table 20. The performance rapport between Plan / Fact of revenues of LGU in years

Years	Local Government Revenues							
	Local Taxes		Tax on small business		Total revenues of the LGU			Achievement in %
	Fact	Plan	Fact	Plan	Fact	Plan		
2000	1,315	1,250	1,641	1,750	2,957	3,000	98.6	
2001	2,038	1,600	1,974	2,300	4,012	3,900	102.9	
2002	2,676	3,000	2,548	2,900	5,224	5,900	88.5	
2003	4,979	5,000	2,944	3,054	7,923	8,054	98.4	
2004	5,553	7,300	4,060	4,044	9,613	11,344	84.7	
2005	8,226	6,455	3,793	3,900	12,019	10,355	116.1	
2006	8,486	8,600	2,626	2,500	11,112	11,100	100.1	
2007	7,134	10,649	2,232	2,690	9,366	13,339	70.2	
2008	8,723	10,123	2,584	2,959	11,307	13,082	86.4	

Source of Information: The Ministry of Finance / Department of Macroeconomy

As you can see from Table 20, of all the Local Government Units in Albania (taken as a whole), only in three of the last nine years have met, or exceeded their expenses plan. This is the general picture of the LGUs, but if we analyzed individual LGU, we would see there are Units with a huge difference between what's available and what's spent, and sometimes we find Local Unit that have never, since the start of the decentralization process, met their total expenses figures.

Table 21. The ratio plan/fact of the revenues in some LGUs

Million Lekë LGU	Local Government Revenues		
	2006	2007	2008
<b>Shkodër Municipality</b>			
Fact	293.1	276.4	434.5
Plan	253.3	295.4	375.1
<b>Achievement in %</b>	<b>115.7</b>	<b>93.6</b>	<b>115.8</b>
<b>Librazhd Municipality</b>			
Fact	38.1	38.0	43.5
Plan	43.5	45.5	50.9
<b>Achievement in %</b>	<b>87.6</b>	<b>83.4</b>	<b>85.4</b>
<b>Pogradec Municipality</b>			
Fact	46.2	74.5	91.1
Plan	66.6	109.7	117.9
<b>Achievement in %</b>	<b>69.3</b>	<b>67.9</b>	<b>77.3</b>
<b>Gramsh Municipality</b>			
Fact	10.4	20.6	21.3
Plan	10.7	22.7	22.3
<b>Achievement in %</b>	<b>96.9</b>	<b>90.6</b>	<b>95.5</b>
<b>Korçë Municipality</b>			
Fact	277.5	275.9	335.1
Plan	289.9	309.2	356.8
<b>Achievement in %</b>	<b>95.7</b>	<b>89.2</b>	<b>93.9</b>

Source of Information: the LGU cited in the table / the Tax Offices

As you can see from this table, the performance of these Units is so different from each other, when it comes to meeting their plan. Our scope is not to point out which one of these units is working well and which is not; because the reasons why the expectations aren't met are numerous; starting from bad planning in high ranks of the LGU (over estimated in some and under estimated in others to easily achieve their objective) to the amendment of the legislation during the year<sup>33</sup>, to the good or the bad administration of local taxes and tariffs by the LGUs.

- **Legal procedures to follow in case LGU fails to make the instalments in time**

<sup>33</sup> E.g., amendments in the legal framework Law No 10 075, of 9.02.2009 "For an addition to the Law No 9632, of 30.10.2006, "On local taxes", "Amended" changed from 2-4% in 0.1% the level of the Tax on Impact on Infrastructure of New Buildings. If this change doesn't have an effect on the majority of LGUs, for other it has an important impact in their budget.

The LGU, in contrast with another borrower, cannot go bankrupt like another business could. This is why the lender would rather negotiate with the LGU to try and find ways to solve the difficult financial situation the LGU might be in, anticipating for example the rescheduling of the instalments rather than recognizing and declaring the bankruptcy.

It is a fact that the Law on the Local Government Borrowing, in Article 25, 'Insolvency', item 2 of which says quote 'the process of dealing with the insolvency and the related procedures are regulated by a special law', while such Law doesn't exist yet for this case.

### **Improvement of the LGU Credibility**

When preparing the file for application at the financial institutions after having determined the risk, much attention should be paid to improving the credibility of the LGU. Very important indicators that demonstrate the credibility of the LGU before the lender / financial institutions are:

- **The ability to pay**

The LGUs must have enough resources to suffice for a complete return of the debt to the investors / lenders, and must be able to demonstrate to the potential investors that these resources are carefully and correctly planned.

The application file contains detailed information on the LGU revenues, expenses for at least last three fiscal years, and the anticipated expenses for the next three years (it is wise if the estimate study covered the whole period until the end of the maturation of the Loan).

All the financial information offered to the financial institutions must be signed (officially) by the Chairman and the finance manager of the Unit, what makes the information even more credible.

The Law on Local Government Borrowing creates very strict limits (very rigid) regulating the amount that can be borrowed and the annual maximum of debt service that can be made. This is a very important element and it must stand out in the final application file.

For example, the Law anticipates that when calculating the criterion b<sup>34</sup> for debt service limits, the LGU shouldn't take into account a yearly growth of each item in the category of the unconditional revenues, of more than 7%.

Taking this clause into consideration, if during the years of performance of the LGU revenues, there are years with a yearly growth of more than 7%, it must emphasize this fact (this is evidence that the Local Unit could see growth of more than 7% yearly, but this figure is only taken into consideration to determine the legal limits of the debt service).

Moreover, on the same topic, the technical staff in charge of creating the file for application, must prove it's been very careful in the planning of the revenues for the future years (by not using the 7% limit that the Law requires, instead using a lesser figure like 3 - 4% yearly increase), always if such move has been found reasonable, as this is not obligatory by Law.

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<sup>34</sup> Criterion b of the annual debt service, limits the debt service to a max. 20% of the arithmetic average of the unconditional revenues to the LGU for the last three fiscal years.

Table 22. Yearly growth of Revenues for Municipality FK

FK Municipality Period 2005 - 2008

EXTRACT ON FINANCIAL DATA OF THE LOCAL BUDGET  
Empreendimento relativo às atividades financeiras, tendo em vista as receitas

	2005	2006	2007	2008	2008	2009	2009	2010	2010	2011	2011	2012	2012	2013	2013	2014	2014	2015	2015
	Actual local budget	Actual local budget	Actual local budget	Approved local budget (final)	Actual execution of local budget**	Local budget forecast													
<b>RUBRICAS</b>																			
Total municipal revenues	87.889	118.832	127.989	140.082	127.580	140.082	143.274	148.485	149.743	154.770	160.056	165.559	171.383	177.492	183.813	190.480			
Total of revenues from revenues	27.567	59.760	59.835	66.960	64.614	66.610	68.600	70.500	72.550	76.127	79.810	83.969	88.138	92.811	97.246	102.352			
<b>1. Local taxes</b>	20.620	53.272	51.771	58.891	54.477	55.211	57.460	59.350	59.950	62.898	65.161	68.260	72.922	76.601	81.583	84.238			
<b>2. Fees and tariffs</b>	6.947	6.488	8.064	8.069	10.137	10.400	10.140	10.150	10.600	10.230	10.650	10.650	10.650	10.650	10.650	10.650			
<b>3. Current indirect revenues</b>	87	361	6	60	208	211	140	150	151	150	150	150	150	150	150	150			
Revenues from CG (unconditional)	60.332	60.132	68.152	73.122	73.069	73.472	74.674	75.985	77.168	78.642	80.146	81.680	83.245	84.811	86.468	88.120			
<b>4. UNCONDITIONAL TRANSFERS</b>	62.238	62.132	64.022	70.082	70.082	70.082	71.274	72.885	73.218	75.192	76.666	78.220	79.296	81.261	82.018	84.628			
<b>5. Taxes from national sources (Fundo Instrução)</b>	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000	2.000			
<b>6. REVENUE FROM MUNICIPAL OWNERSHIP</b>	60.920	62.692	71.835	70.674	63.654	65.256	72.304	78.417	87.136	95.850	105.435	116.978	127.676	140.383	154.367	169.803			
<b>OPERATIONAL EXPENSES (including)</b>																			
<b>7. INVESTMENTS</b>																			
Capital	78.034	93.090	94.329	126.039	149.087	180.589	20.880	67.098	62.528										
Nonconditional revenues	48.069	56.524	62.508	70.283	42.322	74.628	70.880	67.098	62.528										
Conditional revenues	29.965	36.424	31.821	45.766	106.267	105.261	105.261												
<b>Annual growth (in percentage)</b>																			
Annual growth of total municipal revenues		35.1	7.7	8.4		38	2.1	2.7	2.7	3.4	3.4	3.1	3.5	3.5	3.6	3.6			
Annual growth of own source revenues		113.9	16.1	11.9		222	3.0	2.8	2.9	4.9	5.0	5.0	5.0	5.1	5.1	5.1			

\* Factual data of budget execution in previous years  
 \*\* Factual data of budget execution for the coming months after the submission of the request  
 \*\*\* The annual growth for each item cannot be forecasted above the ratio of 7% per year. If higher growth is forecasted, it should be justified with analytical data.

As you can see from Table 22, the Municipality FK has had a yearly growth of the total unconditional revenues for the period from 2005-2008 of 15.5%, while the prediction for the period from 2009-2018 is around 3.1%. On the item of revenues from own sources like taxes, fees and tariffs, the yearly growth for the period between 2005-2008 has been around 37.3%, whereas for the remaining period until the end of the maturation of a certain debt, the yearly growth of the fiscal revenues for the Municipality is predicted to be around 4.4% (less than the allowed 7% limit recommended by the directive of the Minister of Finance on the implementation of the Law on Local Government Borrowing

• **Repayment guarantees**

The LGU must demonstrate the will to make the installments in time, as per the contract terms, despite the potential for different political orientation in its leadership (the Chair of the Unit; the Council of the Local Unit; new elections, new representation) or in the bureaucracy (technical staff within the LGU).

The Borrowing process first must pass in principle the approval of the Council of the LGU, after that the Council passes with a majority vote (more than 50% plus 1 vote) the draft agreement between the bank and the LGU. Another element of the will to pay is the type of collateral<sup>35</sup>. The magic word the lender wishes to hear is pledges of a 'general obligation', or 'finance interception'.

**The Loan with general obligation** - intends guarantees of a general obligation by LGU, payable as prime expense from all funds legally available, that LGU has put aside not as specific guarantees for other lenders.

**Finance interception** - the Finance interception is another form of guarantee which, when the LGU falls behind in making the timely installments, authorizes the Treasury system to automatically release funds from the LGU account into the lender's account. The finance interception is possible only when this form of guarantee is included in the Loan contract signed

<sup>35</sup> All types of guarantees are explained in detail on Law No. 9869, of 4.02.2008 Artides 12, 13, 14, 15 and 16, and the Guide No 35, of 5.11.2008 in Article 12 of it. The two above mentioned guarantees that demonstrate strong credibility before the lender, are anticipated in the above mentioned Articles.

by the Local Council. A copy of this agreement must be given to the local Treasury Branch of the Municipality where the LGU extends its authority.

- **Contract promises**

The investors should be assured that the different obligations to return the debt are legal obligations for the LGU. This is achieved through a variety of promises in the contract, like heavy sanctions for the violations, or the Council writing a resolution that acknowledges the contract terms and conditions.

Another way to promote the credibility for the LGU is the **transparency of the financial reports and of the consolidated budget of the Unit**. This is achieved by sending financial reports in acknowledged formats from the central authorities out onto the lenders; the local council and the community publishes them on the official internet page or the official gazette, etc. Moreover, the LGU can audit its own financial reports by employing independent experts (not only from the internal audit or the High State Audit).

#### **The Format / the Contents of a Project Proposal**

The Project proposal must be formatted in such a way in order to:

- Transmitt clearly and briefly, by using undisputed data, the project (the LGU investment) that needs financing;
- Assess in details the cost of implementation, without leaving voids or spaces that would require reassessment (example, if the implementation would require expropriation, the assets being expropriated must have been identified; the owners identified and the owners list created, also the funds necessary to compensate each owner and the total figure for all expropriated individuals/projects);
- The need for such an investment project has risen as a result of the community demand, a direct outcome of the budget with participation, or a debate in the committee for the local economic development: anticipated in the midfuture plans of work that the LGU has prepared after consultations with the community, etc.;
- Give final solutions to an important issue for the community or a certain part of it;
- Shows that the investment will have stability; Contains sufficient financial information on the LGU budget. The information must be signed by the Chair of the LGU. The credibility increases if the financial information is audited by field experts. If there is no audit report at the time of the application, you can, at the meetings with the banks or financial institutions, point out that you are open to, if asked by the potential lender, audit and certification of the books and balances of the LGU.
- Demonstrate that the Loan requested is within the legal limits; calculate the limit of debt stock; limit of debt service (using both criteria) and show that special attention has been payed on the calculation of all the legal restrictions pertaining to the future planning until the maturation of the Loan.
- Demonstrate that the LGU and the project are feasible;

The LGU has a good performance of revenues - a positive trend in growth year after year, and has improved the management of the budgetary funds. The LGU budget structure is improving (more revenues generated locally than received by the central government). Moreover, it experiences a positive trend in the operative surplus. Such an increase in operative surplus means more opportunities for investment projects - and, as a result, more financial capabilities to make debt service.

The project in works of being financed is feasible because:

- It pays for itself (generates income - if it is of such kind);
- Improves noticeably the community life;
- Stimulates the local business;
- Has an important impact on the vulnerable layers of the community, etc.

## VI. The Registration and Report of Debt by the LGU

### Inclusion of debt in the LGU budget draft

In light of the Local Debt Anex as well as the agreements already signed or waiting to be signed (after having received approval from the Ministry of Finance) the LGU includes in the next budget draft and in the current budget planning the percentage dedicated for the capital expenses and manifests the debt service.

Under 'Debt Service' there are two analytic subcategories: i) the principal of the debt to be returned within the respective fiscal year and ii) the interests. Under a particular category are found the interests for the short term Loan, if the LGU decides to go for such Loan.

The calculations for debt service are subject of a discussion and approval for midterm and annual budgets. Therefore, these items are evidenced on the analytic tables of the budget draft, as well as on the summary tables of draft budget. In these tables, is added the category 'Long Term Debt Service' which in turn opens two subcategories called 'The Principal' and 'The Interests'. Another category is 'The Short Term Loan Interests'.

### Reporting of LGU on the Loans through periodic and annual balances

A contract includes the creation of the accounting ledger that documents all the debit and credit activity. Upon signing the contract, the LGU Department of Finance decides on the Ledger of Payments of the Contract with a financial engagement equal with the price of the contract. For each payment, the date and the price are recorded on the Ledger of the Contract and in such way it is calculated that the disbursement amount must be the difference between the initial engagement and the payments already made.

The ledger book and the data are kept in a **cash basis** and the balances are represented in Lekë.

Presently, the Treasury uses a manual system for the data and the accounting books that are executed on a **cash basis**. The Treasury's manual system is used also to create monthly or yearly reports of the expenses in cash, that later are judged against the annual budgets approved by the Parliament. The

actual manual system is used to generate reports in the approved format, if a computer system is not yet installed.

In line with the Law No. 9228, of 29.04.1993 'On Accounting and Financial Balances' Amended with the Law No. 9477, of 9.02.2006, by Decision from the Council of Ministers No. 248 of 10.04.1998, Amended with a DCM No. 25 of 20.01.2001, 'On the Approval of the Public Accounting Plan of the Local Government Departments, Central and Local State Institutions and Units that Depend on them', the LGU, by means of periodic financial balances reports to the Ministry of Finance on the debt borrowed, the installments and the balance at the end of year.

The verification and balance of the Loan amount; principal and interest, are computed in line with the above mentioned legal and sublegal acts on the Accounting of the Budgetary Institutions and LGUs.

In the 'actives' component of the accounts 16, 17, and 18 will be presented the data on long term local borrowing. The Table No. 2/1 of the Financial Balance, Investments Section Accounts (Expenses for Investments) will demonstrate the loans and debt taken from the banks, enterprises and different financial institutions or from the public via emission of public bonds. This table will be completed in an analytic manner, documenting the surplus upon opening, the yearly transactions (debit - credit), the surplus at year end closure and the progressive movements. The surplus at year's end must match with the accounts 16, 17 and 18 of the 'pasives' component of the balance sheet.

Table 2/2 of the Financial Balance, Investment Sector Accounts (revenues related to investments), documents analytically the revenues (income) from the loan by the Banks, enterprises and different financial institutions. This table will be completed analytically, documenting the surplus upon opening, the transactions during the year (debit - credit), surplus at year's end and the progressive movements.

## **VIII. The Role and the Involvement of the Council of LGU and the Public**

### **The Council Role and Involvement**

The LGU takes short or long term Loans in line with the decision in principle (for the short term Loan) and the decision dedicated for the long term Loan, from its Council<sup>36</sup>.

The Council is the decision making authority that approves the Loan, while the Chairman of the Council is the authorized person to execute the whole borrowing process (receive the bank offers / financial market offers; negotiate with them; sign the final agreement after it has obtained approval from the Council and the Ministry of Finances; use the Loan funds accordingly). This is why the role of the Council is vital in this process.

Besides the fact that the Council approves the Loan agreement, the involvement of the Council in the borrowing process is important because the obligation to make the timely installments (when dealing with a long term loan) falls on the future budgets of the LGU, and as a result the decision making should involve a broader political spectrum than the political capacity currently present in the executive of the respective LGU (might happen that in the next elections, the Chair elected comes from the opposition).

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<sup>36</sup> Please refer to the Law on Legal Borrowing, Articles 16 dhe 17 "Authorities for Borrowing..."

Perhaps this objective does not fully reflect what is intended (securing votes of the minority political force in the council) because the approval of the agreement requires a simple majority of votes of the members of the Council (the majority usually has the representation, 50% plus 1 vote), but also the discussion, the presentation of problems and the analysis of the whole borrowing process and the plan on repaying the Loan, gives the Council one more chance to justify the next Loan which will have to be paid back in the future.

### **The Role and the Involvement of the Public**

The Procedures provided in the Law on the Local Government Borrowing dictates the notification of the Council meeting, being held to analyze the local Loan, at least 15 days prior<sup>37</sup>. This announcement must be such that it can be made in a considerable size newspaper and / or other media that make possible the achievement of the purpose (the more members of the community are notified on the meeting, the better it is). The announcement also must include essential data on the Loan being requested (the amount, the longevity, the project being financed, the interest rate, the guarantees etc.). Not occasionally, it is mandatory that the Council opens up the doors to the meetings to the general public.

As recommended in Chapter III of this manual, which talks about the procedures on the long term Loan, the project being financed by this Loan should be a part of the debate of the budget with participation, if the LGU practices such thing. If the LGU does involve its community in the budget making for next year, then this project could be part of a debate in the Committee for Local Economic Development, that nowadays are found in almost all of the Municipalities around Albania; in their absence, debate in groups of different actors of the community.

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<sup>37</sup> Article 7, Law on Local government Borrowing, and Article 6 of Directive of Finance Minister for the implementation of this Law.

## **IX. Anex**

### **A. Study Cases from Albania**

1. Study on the feasibility of financing the Project of the Northern Interstate in the Municipality of Fushë-Krujë
2. Study of the feasibility of the construction of the Sports Center "Planet" in the Municipality of Korçë

### **B. Legal Framework**

1. The Law on Local Government Borrowing
  - a. *The Law No. 9869, of 4.02.2008 "On Local Government Borrowing"*
  - b. *Directive on implementation of Law No. 9869, of 4.02.2008 "On Local Government Borrowing"*
2. The Law on Managing the Budgetary System in the Republic of Albania, No. 9936, of 26.06.2008
3. The Law on Organization and Function of Local Government, No. 8652, of 31.07.2000
4. The Law on Accounting and Financial Tables No. 9228, date 29.04.2004
5. The Law on State Immovable properties, No. 8743, of 22.02.2001
6. The Law on the transfer of the Immovable State Properties onto the Local Government Ownership, No. 8744, of 22.02.2001
7. The Law on State Borrowing State Debt and State Guarantees on the Loan No. 9665, of 18.12.2006

## **ANEX A**

### **A. Study Cases from Albania**

- 1. Study of the feasibility of the construction of the Sports Center "Planet" in the Municipality of Korçë**



MUNICIPALITY OF KORÇA

# Marketing Information Brochure

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"The Sport Planet" Complex in Korça  
a Public Private Partnership Project

September 2008

# **A Prefeasibility Study for Creating a**

## **“The Sport Planet” Complex in Korça a Public Private Partnership Project**

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**Funding for the preparation of this feasibility study on developing the sport center “Sport Planet” in Korça was made possible by the United States Agency for International Development (USAID). It was**

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# The Sport Planet Complex in Korça

## A Public Private Partnership Project

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## Background

Albania is located in the southeastern part of Europe bordered by two European Union member countries, Italy and Greece, respectively on the western and southeastern borders as well as Macedonia on the eastern border and Kosovo and Montenegro on the north and northeastern border.

With an area of 28,000 km<sup>2</sup> and a coast line from south to north, Albania, which benefits from the continuous and ambitious economic reforms as well as social and political stability, today aims at becoming a member of the European Union<sup>38</sup> and NATO.<sup>39</sup>

Albania has a free market economy. To date, 80% of the production comes from the private sector and income per capita is about 20 times higher than in 1992 (considered to be the first year of transition to a market economy).

Albania's economic growth ratio during the last 15-16 years has been higher not only compared to the region but also to all Eastern and Southern European countries including those recently accepted as members of the European Community. The GDP per capita is estimated at approximately 2,800 Euro with an annual growth rate of 6%. An annual inflation rate of 2-4% and an average unemployment of 13% combined with fiscal policies aimed at reducing the fiscal burden and simplifying business related procedures, make Albania a very attractive country to foreign investors.

Due to its geographic position, human capacities and natural resources, Albania has great development potential and offers competitive advantages. The proximity to European markets and favorable climatic conditions are a positive factor for the development of the agriculture and tourism sectors. In addition, being part of the transnational transport corridor makes Albania an important factor in the development of regional commercial activity. Albania is also an attractive tourist destination due to its beautiful nature and the rich cultural inheritance.

## Project Overview

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<sup>38</sup> In June 2006, Albania signed in Luxembourg the Stabilization and Association Agreement with the EU and on December 1, 2006 the Temporary Agreement on Trade and Related Issues became effective.

<sup>39</sup> In 2008, in the Bucharest Summit, Albania received an invitation to become a member of NATO

Albania is currently lacking a complex sports centre which can offer sport activities and comprehensive physiotherapeutic services. This situation is due in part to the fact that during the last 15 years sports and culture has not been a priority for government policy makers.

Fortunately, the city of Korça has inherited a sports complex, the only one in the country. The complex was constructed from 1975 to 1980, but currently it is non-functional and unusable.

The proposed initiative to revitalize this complex and bring it to totally new and modern levels has come from the Municipality of Korça in cooperation with the Albanian Sports Federation. (The Municipality is currently in the process of receiving real public assets from the Central Government into municipal ownership including this sports complex. The sports complex is currently managed by the Albanian Sports Federation). This initiative is consistent with the mid and long-term vision of the municipality to make Korça an important urban and academic center of Southeastern Albania based on its historical and cultural tradition harmonized with contemporary developments in the country.

The sports complex has an area of 162,946 m<sup>2</sup> of which the municipality owns 60% and the other 40% is owned by several individual private owners. The municipality is currently working, with the assistance of several international donors, to identify the most effective formula of a public/private partnership to implement this project.

The municipality, with financial assistance from the United States Agency for International Development (USAID), has completed an urban plan for this area which provides for the construction of several athletic sport fields; an Olympic-size football stadium; an athletics stadium; several gymnasiums for gymnastics, basketball, volleyball, and weightlifting, a covered swimming pool, two physiotherapeutic centers, a hotel with 126 rooms and two conference rooms which will offer services to sports' players and fans, as well as many other facilities and services including restaurants, sport shops, parking areas, green areas, etc.



This sports complex is located only 500 m distance from the center of Korça City, which has very favourable connections to the capital and the major cities of the country as well as to the neighbouring countries of Greece and Macedonia.

## Geographic Position of the City and its Social-Economic Development



The region of Korça is located in the Southeastern part of Albania and bordered by Greece and Macedonia. It is one of the major cities of the country inhabited by about 10% of the Albanian population and it administers about 12% of the country's territory.

Korça, the major city of the Southeastern region of Albania is located 869 meters above sea level. It is characterized by a continental climate with cold winters and relatively hot summers. The average annual temperature is 10,6°C. These climatic features and the close proximity to Lake Ohrid bring to the city many visitors for its clean and fresh air.

The city is an important connection node for well-known Balkan centers. It has very good connections to the major cities of the country such as Tirana, Durrës and Elbasan as well as to the major border crossings of the country such as Kapshtica, Qafëthana and Tushemisht (to Greece and Macedonia).

Korça has very good infrastructure including newly renovated potable water supply, waste water system, telecommunication and power distribution system, while efforts continue to implement a project focused on establishing a modern trash collection and processing system.

The city of Korça is undoubtedly known as the center of education in Albania. For centuries, Korça has been considered an important center of education, art and religion. As everywhere in Albania, it is an example of religious harmony and understanding.

Prior to the political and economic changes of the 1990s, Korça had a very well developed industry including food processing, beer and other alcoholic drinks production, light industry, clothes production, mechanic industry and other sectors. However, agriculture and agroprocessing were the major activity of the region. After the changes in 1990, many of the local industries were destroyed and the city experienced a period of recession. The state companies were privatized and new enterprises were created. Because of the economic recession and the immigration/migration phenomena, the population in Korça has experienced several fluctuations and only during the previous years it stabilized and begun to show a low positive increase. Currently, the city has 57,758 inhabitants and it is an urban center of a region with about 360,000 inhabitants.

At present, there are 1,800 registered businesses in the city out of a total of 4,000 businesses registered throughout the region. The production of garments constitutes the major part of these businesses. The agroprocessing industry is also one of the sectors that has grown substantially. The majority of these businesses are small and medium enterprises with 1-10 employees and very few of them have 10-50 employees.

The construction sector in Korça has not grown at the same rate compared to the rest of Albania. However, as a result of increasing demand from immigrants who want to return to Korça and invest in their city, the demand for the development of immovable properties in the city has also increased. The lack of development pressures in the past has saved the city from many mistakes that several cities in the country have committed.

The municipality has already developed urban technical projects for several urban areas (i.e. sports & recreation, residences, trade and business centers) and in the short to medium-term plans to do the same for the other areas. The municipality has made a strong effort to combine these urban intervention projects with the general regulatory plan of the city which will be soon completed with the technical assistance of the World Bank. During the process of support mobilization and initiation of the development of the regulatory plan, the municipality has already undertaken several projects that will later be included in the regulatory plan. One of these projects is the establishment of a Sports Center.

In response to the business sector's interest in urban development and to smooth the way for private investment, the municipality has established two new municipal offices: (i) the Directorate of Spatial Planning and Projects (responsible for the development of urban projects) and (ii) the Directorate of Urban Development Control (responsible for construction permitting and monitoring).

However, with an unemployment rate of 13%, the city is facing the challenge of promoting its economic growth. In 2005 the city developed a Strategic Plan for Local Economic Development, which defines the city as "...an important academic center, which promotes local and regional economic development..." In line with its long tradition in education, in 1992 Fan S. Noli University was opened in Korça. To date, the university, through its business and agriculture faculties, has become an important asset to the city. In addition, the Municipality of Korça will facilitate the opening of the first American private university in Albania, Utica College, with three branches in marketing, psychology and physiotherapy, the three fields for which the University is best known in the US. The city is looking forward to maximizing this tool to promote economic growth. With the aim of retaining the big businesses in the city and exploring new business and investment opportunities, the municipality is working to improve the business climate and to stimulate public-private partnership (PPP) schemes.

Some PPPs are expected to emerge through the re-development of former industrial zones or other available areas which currently are or will come under the ownership of the municipality including the Instruments Factory in Korça with an area of about 20,000 m<sup>2</sup>, the Agriculture Mechanic Factory with 5,000m<sup>2</sup>, an unoccupied land plot of 20,000m<sup>2</sup>, as well as the sport complex with a total area of about 163 thousand m<sup>2</sup>. The municipality will develop these areas as soon as possible as they are important assets to attract private local and foreign investments.

## **Technical Description of the Project "SPORT PLANET in Korça"**

### **The current status of the Sports Complex**

The sports center "Sport Planet" is located in an ideal geographic position in the city. From the northeast it is bordered by the university area; from the east by the pine forest of the "Rinia" city park; from the

northwest by arable land and from the southwest by one-story buildings (characteristic and traditional constructions of the city).

Currently, the city has inherited the sports complex, which originally was intended for most types of sports, but the actual physical status of the complex does not offer optimal conditions for the organization of sport activities. In addition, green areas are unattended and need to be improved. The project idea for this complex provides for the total renovation of the existing objects and the enlargement of several others. Existing objects include:

- An Olympic size sports' palace (3,000 seats)
- Olympic size stadium (5,000 seats)
- Olympic size athletic field (8 lanes)
- Olympic size open swimming pool (49m by 23 m, 4 m deep)
- Closed stadium (uncompleted)
- Children open waterpool (20m by 30 m, 80 cm deep)
- Three football fields (two of them close to each other with the same size of 75 m by 102 m and another smaller one of 60 m by 80 m)
- Shooting facility
- Tennis courts

Figure 2. Views of the Existing Sports Complex



The existing potable water supply system and the wastewater collection system are fully operational; the power supply system is the same as for the rest of the city.

### Description of objects planned for construction and renovation; size and capacities

The sports complex "Sport Planet" in Korça has a total area of 162,945 m<sup>2</sup>, out of which 52,000 m<sup>2</sup> are green areas. The renovated complex is designed to have:

- A hotel with a total area of 6,480 m<sup>2</sup> with a capacity of 126 rooms (new construction)

- A restaurant, sports shop, two conference rooms (with respectively 126 and 94 seats) (new construction)
- Athletics fields with an area of 7,000 m<sup>2</sup> (renovation)
- Four volleyball and basketball fields with a total area of 1,680 m<sup>2</sup> (4 x 420 m<sup>2</sup>) (renovation)
- Four tennis fields with a total area of 1,040 m<sup>2</sup> (4 x 260 m<sup>2</sup>) (renovation)
- Three mini-football fields with a total area of 2,400 m<sup>2</sup> (3 x 800 m<sup>2</sup>) (renovation)
- A gymnastics' gym with a total area of 1,484 m<sup>2</sup> and capacity of 300 seats (renovation)
- A facility for hand games with a total area of 1,484 m<sup>2</sup> and capacity of 300 seats (renovation)
- Two physiotherapy centers with a total area of 920 m<sup>2</sup> (2 x 460 m<sup>2</sup>) (new construction)
- A shooting facility with a total area of 2,121 m<sup>2</sup> (renovation)
- A stadium with a total area of 22,123 m<sup>2</sup> and supporting facilities of 1200m<sup>2</sup> and a capacity of 9,500seats (renovation and expansion)
- An athletics stadium with a total area of 14,530 m<sup>2</sup> (renovation)
- An indoor waterpool with a total area of 4,365 m<sup>2</sup> and capacity of 1,330 seats (new construction)
- A weightlifting gymnasium with a total area of 2,832 m<sup>2</sup> and capacity of 1,220 seats (renovation)
- An administration building with a total area of 4,117 m<sup>2</sup> (new construction)
- Three parking areas (one on the ground floor, a second one underground and a third one for the hotel) with a total area of 7,090 m<sup>2</sup> and a total capacity of 1,526 seats (new construction)

### The estimated costs of the project

Based on the technical data provided by the architectural designer of the sports center "Sport Planet," the preliminary cost for the construction of this sport center is estimated to be over **47 milion Euro**. The table below presents a detailed analysis of each component of this complex. The architectural design of this center and the detailed projection of the investment for each object and the related components provides a good basis for interested investors who wish to develop the area.

**Table 23. Estimation of Required Investment in SPORT PLANET**

<b>Estimated Costs of the sport complex "Sport Planet"</b>		
<b>Object</b>	<b>Size</b>	<b>Investment Value</b>
<b>A Entrance</b>		
1 Ticket	80	4,000
2 Restaurant	235	17,500
3 Sport Shop	310	08,500
4 Underground supporting facilities	520	61,200
		<b>411,200</b>
<b>B Hotel</b>		
1 indoor pool	785	86,700
2 ground floor	2,160	1,944,000
3 first floor	2,160	1,944,000
4 second floor	2,160	1,944,000
5 third floor	2,160	1,944,000
6 underground parking	7,090	1,772,500
		<b>0,035,200</b>
<b>C Conference room</b>		
1 room - 1	165	9,500
2 room - 2	156	6,800
3 underground workshop room	210	3,500
4 underground supporting facilities	285	8,350
		<b>258,150</b>
<b>D sport constructions</b>		
1 running field	7,000	1,260,000
2 volleyball/basketball fields (4 fields)	1,680	35,200
3 tennis fields (4 fields)	1,040	56,000
4 mini-football fields (3 fields)	2,400	24,000
5 gym nastics gym	1,484	49,080
6 hand-game gym	1,484	49,080
7 shooting center	2,121	90,820
8 athletics stadium	14,530	4,431,650
9 indoor pool	4,365	2,706,300
10 weightlifting gym	2,832	1,019,520
11 enlargement and reconstruction of existing stadium	22,123	6,636,900
12 enlargement and reconstruction of existing sport palace	2,410	47,100
		<b>9,505,650</b>
<b>E Supporting constructions for the sport facilities</b>		
1 service facilities for the gym s technical facilities for air conditioning and underground	708	69,040
2 installations	4,060	1,259,840
3 physiotherapy center	920	31,200
4 canteen and kitchen	575	01,250
5 bar and internet	198	5,240
6 hall	170	8,000
7 covered corridor	835	08,750
8 supporting facilities for the existing stadium	1,200	60,000
9 administrative facilities	4,117	1,235,100
10 ground floor parking	8,347	33,880
11 underground parking	21,800	5,450,000
		<b>9,792,300</b>
<b>F Territory arrangements</b>		
1 streets and squares	41,638	2,498,280
2 stone-tile streets	10,165	06,600
3 reflecting pool	630	5,600
4 greening	54,731	1,641,930
5 peripheral pavement of the zone	3,100	39,500
6 lighting of the territory	155,000	2,325,000
		<b>7,086,910</b>
<b>Total amount of investment</b>		<b>7,089,410</b>

The urban and architectural design of this sports center is an effort to expand the facilities and surpass the previous service levels. It will be a modern center intended for all types of sports and where the athletes and spectators are offered all types of services (restaurants, hotels, shops, parking, etc.).

Figure 3. The Design of Sport Planet in Korça



## Potential Revenues from the Sport Planet Project

Korça has a strong tradition in several sporting activities. The location is ideal for athletic training and local and international sporting events,

Taking into consideration the geographic position of the city, located very close to Greece and Macedonia and the related four border crossing points, the Sport Planet is easily accessible. This project is closely linked with the tourist areas in the region including the winter tourist villages of Dardha; Voskopoja; Mthkuqi; Bozdoveci and Morava and the summer tourist area of Lake Ohrid; the Kamenica dhe Selca archeologic center and the active cultural and artistic activities organized by the city of Korça including the International Congress of Sculptors, the International Colony of Painters, the Traditional Instruments Festival, several performances at the A. Z. Cajupi Theatre, vocal and instrumental concerts, recitals, painting and sculpture exhibitions organized by the V. Mio Center, as well as many events and celebrations organized by the City (e.g. Pottery Fair, Korça Carnival, the Week of Music, the Week of Cinema, etc.)

## Targeted users groups of the sport facilities, hotel and rehabilitation center

Currently this sport center is frequented by the city sport clubs and it is managed by the local government, which has demonstrated that good management of this sports center is part of its objectives. However, the investment feasibility assessment assumes that this center will be used by other cities in the framework of national and regional events. In addition, this center will be enriched with other services including physiotherapy and swimming. Furthermore, amateurs of winter sports who are currently using the tourist centers located around the city of Korça, can also utilize the planned hotel. Current users of the existing sports complex include:

### Sports Teams

The sport activities in Korça are organized around two sports clubs:

- The multi-sports club Skënderbeu, which includes all hand-sports and other individual sports;;
- The football club Skënderbeu, which consists of the city's young athletes and children (in Albania, football is the most popular sport therefore there is a great number of young athletes involved with this sport).

The following are the sport teams of the city:

#### *Football*

The city is represented by 11 football teams: (i) major team; (ii) junior; (iii) pre-junior - 2 teams; (iv) children team - 3 teams; and 4 children's private teams.

The total number of football players is about 270. These teams use the fields of the sport complex for training purposes. In addition, there are also a substantial number of amateur football players, which play with their school teams (11 schools has its own team and coach that participate in the local championship of the city).

The local schools' championship is organized in two annual seasons; in spring with the elementary schools and in autumn with the city high schools.

#### *Basketball*

Albanian citizens and sport fans consider basketball as the second most attractive sport after football. The city of Korça has 5 basketball teams: (i) the major male team with 15 players and two coaches; (ii) the major female team with 12 players and 1 coach; (iii) the junior male team with 15 players and 1 coach; (iv) the junior female team with 12 players and 1 coach; and (v) pre-junior team with 15 players and 1 coach. These teams use the fields and the sports complex. In addition, Korça has a sport class established since 1973 in one of the elementary schools which continues to prepare young players for

Korça Municipality teams. The basketball classes are organized since the third year of the elementary school to the completion of the ninth year cycle. This school has currently 270 young players.

### ***Volleyball***

The city of Korça has a long tradition in this sport with both male and female teams. There are 5 teams in total: (i) major male team; (ii) major female team; (iii) junior female team; (iv) junior male team and (v) pre-junior teams. The five teams have a total of 70 players and 5 coaches. In addition the same elementary school mentioned above also has volleyball classes which utilize the sports complex

### ***Athletics***

In Korça there are also 6 athletic sports teams (major teams of male and female and junior teams of male and female). In total these teams have 85 athletes and 5 coaches.

### ***Weightlifting***

This is another very attractive sport to Korça sport-fans and this is the reason the national championship is organized once a year in Korça. The city has two weightlifting teams with 20 athletes and 2 coaches.

### ***Mountain Climbing***

The mountainous city of Korça could not lack the mountain climbing sport teams. There are two teams with 10 athletes each (20 in total) and 2 coaches. The new Sport center may also provide for training facilities for these athletes.

### ***Skiing***

A Skiing Association consisting of 20 skiers of different ages is located in Korça. Despite the existence of the Skiing Association, there are no real skiing centers in Albania. In the city and the surrounding areas the skiing is at an amateur level but it is a municipal priority to promote the establishment of professional skiing centers. In this regard, the Ministry of Tourism, Culture, Youth and Sports had approved the construction of a cable car and ski runs in the well-known village of Dardha. Currently, the members of the Skiing Association are using the facilities of the sport complex for training purposes.

### ***Gymnastics***

The aerobics team has 10 senior male athletes and 1 coach.

### ***Badminton***

This is a relatively new sport attraction in the city of Korça and there are currently two junior teams (male and female) with a total number of 15 athletes and 1 coach.

## Bicycling

There is a team of 15 cyclists and one coach.

To conclude, the total number of athletes that are currently frequenting the facilities of the sport center is about 600 persons (if private teams, which are renting these facilities and the school students that are periodically frequenting the sports center are counted the total number is 1600 - 1700) out of which 540 are participating in national competitions and races.

## Additional Potential Port Planet Users

In addition to the numerous city teams, the sports center, due to its geographic position, also has a real potential for attracting tourists who prefer winter sports and are currently frequenting other winter tourist villages.



In Korça district there are at least 5 tourist winter centers (i.e. Dardha; Voskopoja; Vithkuq; Morava and Bozdoveci) and all of them are located close to this sport center.

Table 24. Winter Tourist Locations in Korça District

Winter Tourist Locations	Distance from Korça City (km)
Dardha	20
Voskopojë	20
Vithkuqi	26
Morava	8
Bozdëveci (part of the National Park of Drenova)	12

In addition, the city of Korça is also known for the great number of visitors during the weekends.

## Estimation of potential revenues

The estimation of revenues to be collected if the sport center becomes fully functional is based on actual data on the number of matches for each season and type of sport. The new services that the center will offer including physiotherapy, swimming pool, restaurant, hotel, conference rooms, and the parking areas have also been taken into consideration. For all these services and the prices for the sport matches' tickets there have been used the actual tickets' prices for each type of sport which is currently being organized at the center as well as the market service fees in Kërça and in similar cities (i.e. Shkodra; Elbasan and Pogradec).

Table 25. Revenue Estimate by Type of Sports and Service

	Unit	Number of spectators / clients	Revenues	
			Lek	EURO
Football	124 matches	1,200	0800,000.00	326,400.00
Basketball	105 matches	4,200	9,550,000.00	156,400.00
Volleyball	105 matches	2,700	2,100,000.00	96,800.00
Athletics	...	....		
Weightlifting	4 matches	400	0,000.00	640.00
Mountain climbing	na	....		
Skiing	na	....		
Aerobic Gymnastics	2 matches	200	20,000	160
Badminton	...	...		
Cycling	na	...		
Massage	10 persons/day	260 days/year	200,000.00	41,600.00
Water pools	500 lek/day/person	1,200	600,000.00	4,800.00
Tennis		15	750	3,000.00
Shooting	...			
Restaurant	2,000 leke/av. daily price	100,000	200,000,000.00	1,600,000.00
Shops	100,000 leke/monthly rent	12 months	200,000.00	9,600.00
Conference room	20,000 leke/day	25	500,000.00	4,000.00
Parking	100 leke/ticket	39,000	900,000.00	31,200.00
Hotel	1 night / person	20,656	160,248,000.00	1,281,984.00
<b>Total Annual Revenues</b>				<b>5,465,368.00</b>

The revenue estimate for some of these activities is not calculated as there are no data on the applicable service fees such as daily or monthly fees for sports like mountain climbing, cycling, shooting, badminton, and other sports (if the developers of this center would also offer these services which are currently planned for in the urban design, they would increase the aboveestimated revenues).

When completing the cash-flow analysis of the sports center, in addition to the initial investment (about 48 million Euro) and the turn-over estimated above there should also be taken into consideration the

operational expenditures related to the payment of personnel salaries that would serve at the center and the maintenance costs.

## ANEX B

### B. Legal Framework

#### 1. The Law on Local Government Borrowing

*c. The Law No. 9869, of 4.02.2008 "On Local Government Borrowing"*

*d. Directive on implementation of Law No. 9869, of 4.02.2008 "On Local Government Borrowing"*

#### 2. The Law on Organization and Function of Local Government, No. 8652, of 31.07.2000

#### 3. The Law on State Immovable properties, No. 8743, of 22.02.2001

#### 4. The Law on the transfer of the Immovable State Properties onto the Local Government Ownership, No. 8744, of 22.02.2001

#### 5. The Law on Accounting and Financial Tables, No. 9228, date 29.04.2004

**LAW**

**Nr. 9869, date 4.02.2008**

**ON LOCAL GOVERNMENT BORROWING**

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Pursuant to Articles 78 and 83, Paragraph 1 of the Constitution, upon the proposal of the Council of Ministers,

THE ASSEMBLY OF THE REPUBLIC OF ALBANIA

DECIDED:

**CHAPTER I**

**GENERAL PROVISIONS**

**Article 1**

**Scope of the law**

This law regulates the conditions upon which Local Governments may assume debt and provides for matters connected thereto.

**Article 2**

**Purpose of the law**

This law aims at expanding local autonomy through regulation of local government borrowing and creation of appropriate opportunities and rules to ensure a transparent borrowing process in compliance with overall development policies and which ensures macroeconomic stability and credibility of public institutions in financial markets.

**Article 3**

**DEFINITIONS**

**For the purposes of this law:**

1. Terms used in this law, unless otherwise defined in this article, bear the same meaning as that of the same terms set forth in the Civil Code and in the laws regulating the following:
  - a. Local government organization and functioning
  - b. Public finances: budget preparation and execution, local taxes and fees, accounting, state borrowing.
  - c. State ownership
  - d. Financial and bank activity, securities, securing charges
2. Debt - shall mean a monetary obligation or liability created by a Financing Agreement, the issuance of securities, and Guarantee to third parties.
3. Debt Service - payments to be made in each fiscal year for principal, interest, discount and other payments due on Debt, including associated expenses.
4. Financing Agreement - shall mean a written instrument that sets out the terms and conditions under which a borrower has obtained funds from a Lender, and includes provisions that govern their payment, including any loan agreement, lease, line of credit, installment purchase contract or other purchase arrangement or any other document, pursuant to which a Local Government undertakes to pay the capital cost of property, plant and equipment over time.
5. Long-Term Debt - shall mean Debt which is payable over a period of one year or more.
6. Short-Term Debt - shall mean Debt, which is payable within a period of less than one year.
7. Local Government Security - shall mean any note, bond, debenture or other evidence of indebtedness issued by a Local Government, whether in physical or dematerialized form.
8. Guaranty - is a contingent liability of a Local Government to become the obligor of a financial obligation of another legal person, in whole or in part, in the event the party having the primary responsibility for repayment of such financial obligation, has failed to make payment when due.
9. Event of Default - is the failure of a Local Government to make any payment of principal or interest on Debt, when due, or any other event which may be set forth in the terms and conditions of the Debt.
10. Ledger of Local Government Debt - is a ledger prepared by the Minister of Finance, which shall include all outstanding Local Government Debt.
11. Lender - is any person or persons that provide Debt financing to a Local Government, and includes holders of Local Government Securities or any authorized representative of such holders.
12. Useful Life - the anticipated term in years of actual use of a capital investment including usual and customary maintenance.

13. Public Debt - the debt composed of the state debt and the local debt.

Article 4

Purpose of Debt

1. A Local Government may issue Short-Term Debt to temporarily finance cash flow budget deficits.

2. A local Government may issue Long-Term Debt:

- i) To finance capital investments that serve an essential local government function, and
- ii) to refinance outstanding Long-Term indebtedness issued pursuant to i) above. Refinancing debt shall have longer maturity than the debt being refinanced.

3. A Local Government may issue a Guaranty of debt that is issued by a separate legal entity controlled by the Local Government to finance capital investments that serve an essential local government function.

Article 5

Terms of Debt

1. Debt may bear interest at either a fixed rate or a variable rate;
2. Debt may be issued in either the domestic currency or in a foreign currency. Short-term debt may be issued only in domestic currency.

3. Short-Term Debt shall mature and be payable by the last day of November of the fiscal year in which it is issued and shall not be subject to refinancing or other extension of maturity beyond such date.
4. Long-Term Debt shall not mature and be payable beyond the Useful Life of the capital investments financed with the proceeds of such Debt; and
5. Debt shall be subject to such prepayment terms as provided in the terms and conditions of its issuance,

## CHAPTER II

### AUTHORITY TO BORROW

#### **Article 6**

##### **Authority to issue short-term debt**

1. A Local Government may incur short-term debt pursuant to the decision of the local council on the budget of the actual fiscal year. Within short-term debt limitations defined in this law, the council defines the actual limit, within which the Mayor of the Local Government is authorized to issue short-term debt case by case.
2. A local government may incur short-term debt only following a negative reply by the Ministry of Finance to finance the temporary budget deficit through interest free or soft loan from the state budget. The MoF responds within ten days from every receipt of request for short-term financing. The Ministry of Finance shall be deemed to have denied the request if it has not responded within ten days and the Local Government may apply for short-term debt from other sources.
3. Within ten days from issuance of short-term debt, the Local Government shall inform the Ministry of Finance for the issuance of such debt and its terms and conditions, as well the evidence of compliance with Debt Limitation contained in Chapter 4 hereof.
4. In the nearest council meeting the Mayor shall inform the local council of the issuance of short-term debt, its terms and conditions, including the agreement with the lender, the criteria and process of selection of the lender, as well as evidence of compliance with debt limitations set by the council contained in Article 6.1 above.

#### **Article 7**

##### Authority to issue long-term debt

1. A Local Government may incur long term Debt pursuant to a Resolution duly adopted by the Council of the local government and approved by a majority of the members of such Council at a meeting of the Council that is open to the public.

2. The Resolution of the Council shall authorize the following terms of the Debt and set forth the following information and findings:

- i) the principal amount of the Debt;
- ii) interest rate;
- iii) the form of the Debt;
- iv) the maturity and repayment terms;
- v) the purpose for which the Debt is being issued;
- vi) the source of security for the payment of the Debt, including a description of any pledged revenues.
- vii) evidence of compliance with the Debt Limitation contained in Chapter 4 hereof;
- viii) the "Useful Life" of the facilities being financed from the proceeds of the Debt; and

3. Notice of the meeting at which the Resolution shall be considered for approval by the Council shall be published in a newspaper of general circulation within the Local Government not less than fifteen (15) days prior to the date of the meeting of the Council. Such Notice shall include the information as per paragraph 2 above.

4. Within ten (10) days of the adoption of the Resolution, the Local Government shall provide notice to the Ministry of Finance of the issuance of such Debt. The notice shall contain:

- the Resolution authorizing the Debt
- Operational revenues and expenditures of the previous fiscal year
- Debt service cost for the current fiscal year, including estimated cost for new debt

5. The resolution on Long-Term Debt comes into effect upon confirmation of the Ministry of Finance provided that the confirmation of the Ministry of Finance shall be limited to the validation of compliance with the procedural requirements to authorize the Debt in accordance with this Article 7 and the verification of compliance with the Debt Limitation provided in

Chapter IV. The Ministry of Finance shall be deemed to have approved the Debt if it has not responded within twenty days (20) of receipt of the notice provided of in 7.4 above.

5. Despite paragraph 5 above, Debt

- a. issued to refinance other Debt, or
- b. issued in the international market, or
- c. issued by Local Government that has been in financial distress during the past five years, shall be subject to the approval of the Ministry of Finance.

7. The approval by the Ministry of Finance set forth in (5) and (6) shall not constitute a guaranty or in any way establish any liability for the payment of the Debt.

#### Article 8

##### Local Government Securities

1. Pursuant to the Resolution of the Council for the issuance of debt, the Mayor is authorized to issue, in the name of the Local Government, Securities in book-entry or in physical form. The Mayor is further authorized to establish and maintain directly, or through an agent, a computerized system for securities issued as book-entries.
2. Securities issued in the form of entries in a Book-Entry System are obligations of the Local Government and are no different than if issued in physical form, except that the issuance, account maintenance, and transactions affecting such Securities, including redemption, are conducted electronically, utilizing interlinked computerized records held by and through intermediaries, acting as agents or custodians.
3. Local Government Securities issued in certificated, or physical, form are obligations of the Local Government, and are identified by their series of issuance, distinctive serial number, face amount, and may be in either registered or bearer form. A single Security may be issued in physical form to evidence collectively other Securities of the same description issued in book-entry form.

4. Local Government Securities may be negotiable or non-negotiable depending on the terms and conditions of issue.
5. The issuance of Local Government Securities shall be made pursuant to the law in effect that regulates issuance of and transactions with securities, as well as entities engaged in such transactions.

Article 9

Nature of the Obligation to pay the Debt

1. Local Government Debt, unless expressly guaranteed by a separate legal person, shall be the sole obligation of the Local Government to repay in accordance with its terms and conditions. Local Government Debt does not represent a direct or indirect obligation of the Republic of Albania unless the Ministry of Finance has expressly issued a guaranty in connection therewith.
2. The Local Government budget shall include the amount of Debt Service payable in such year.
3. The Financing Agreement or the Local Government Security shall set forth the sources of payment that have been pledged to the payment of the Debt, if any, in accordance with the provisions of Chapter 3 hereof.
4. Unless the Ministry of Finance has issued an express guaranty of the Debt, such Financing Agreement or Security shall contain in its terms the statement that such Debt is payable solely from the sources described in its terms and is not an obligation of the Republic of Albania. Any Debt instrument that does not contain such provision shall not be a valid and binding obligation of the Local Government.

5. All Local Government Debt authorized in accordance with the terms of this Chapter shall be valid, binding and enforceable obligations of the Local Government, enforceable in accordance with its terms and binding on the existing and all subsequent Councils.

Article 10

Proceeds of Debt

1. The proceeds of Debt shall be applied solely to the purposes authorized in the Resolution of the Council for the issuance of debt. In the event a Council desires to change the purpose of the issuance of the Debt subsequent to its issuance, the Council shall amend the Resolution to provide for the amended purpose with the same procedures that were required for the initial Resolution and obtain the consent of the Lender to such changes. In the case that the Debt has been issued in the form of Local Government Securities, the consent of the percentage of the holders of Securities that was established in the original terms and conditions of issuance of the Debt, shall be obtained.
  
2. The Resolution authorizing Debt may provide for the creation of a Reserve Fund, separate and apart from all other funds of the Local Government, and used solely to make payments on the Debt in the event the Local Government fails to make such payments, all in accordance with the terms and conditions of the Debt.

Article 11

Investment of Funds

Proceeds of Debt; funds held for the purpose of making payments on Debt, including any Reserve Fund pursuant to Article 10.2 above; and any revenues which are pledged to the payment of Debt:

- a. may be held in separate accounts
- b. may be invested only in Government Securities and time deposits of banks approved by the Minister of Finance which mature prior to the expected date of expenditure of such funds for their authorized purpose.

Any investment earnings on such funds shall be applied first, to pay expenditures being financed by the debt, and for the payment of debt service.

CHAPTER 3

Article 12

General Obligation Debt

1. All Local Government Debt shall be secured as a general obligation of the Local Government, payable as a first claim from all of the Local Government's lawfully available funds which have not otherwise been pledged to other Lenders pursuant to article 13.
2. All General Obligation Debt shall have parity and equality of status regardless of when they were incurred, and regardless of whether they are in the form of Securities or Financing Agreements.

Article 13

Additional Revenue Security

1. General Obligation Debt may be secured by all or a portion of any revenues over which the Local Government has spending discretion
2. Any such pledge of revenues shall be set forth in the Resolution authorizing the Debt.
3. Such pledged revenues shall be held separate and apart from all other funds of the Local Government;
4. Such pledged revenues shall be applied in accordance with the terms and conditions of the Debt and the Lenders shall have a priority with respect to such revenues as against all third parties
5. Any such pledge of the local government shall not in any way obligate the Central Government to make any such payments to the Local Government.

Article 14

Intercept Financing

A Local Government may provide for additionally securing its Debt with revenues pursuant to Article 13 above by entering into arrangements to provide for the payment of Debt upon an Event of Default directly from unconditional transfers or shared taxes received from the state budget that are payable to the Local Government. Such funds shall be payable to a Lender in accordance with the terms and conditions of such Debt.

Article 15

Physical Property Security.

General Obligation Debt may also be secured by non-public physical property of the local government.

Article 16

Additional Security Agreements

A Council may provide security for Debt by agreeing to:

- a) undertake to charge taxes and fees at a particular level to produce a specified amount of revenues, to the extent permitted by law;

- b) operate an enterprise or other property in accordance with the terms and conditions of the issuance of Debt;
- c) effect payment directly from monies or sources that may become available and authorize direct access to such sources to secure payment of the debt;
- d) deposit funds or pledged revenues with, or for the benefit of, a Lender;
- e) specific payment procedures to ensure exclusive or dedicated payment to Lenders, including revenue intercepts, payments into special accounts, or other payment mechanisms or procedure;
- f) restrictions on additional Debt;
- g) have disputes resolved through mediation, arbitration or other dispute resolution mechanisms; and
- h) such other arrangements as the Council may consider necessary and prudent in connection with the issuance of Debt and providing security for its payment.

CHAPTER 4

LIMITATIONS ON DEBT

Article 17

Limitations on Short-Term Debt

Short-Term Debt shall not at any one time exceed more than ten percent (10%) of total actual revenues of the local government from local taxes and fees and shared taxes of the previous fiscal year.

Article 18

Limitations on Long-Term Debt

1. The ratio of operational surplus of the previous fiscal year (calculated as the difference of total operational revenues from own sources, shared taxes and unconditional transfers with non conditional operational expenditures of the local government) to the amount of debt service due in any year on all long term debt shall be at least 1.4: 1.
  
2. The ratio of debt stock to total operational revenues from own sources, shared taxes and unconditional transfers shall not be higher than 1.3:1.
  
3. The amount of debt service due in any year on all Long-Term Debt shall not exceed twenty percent (20%) of the average total actual revenues of the local government from the unconditional transfer, shared taxes, and local taxes and fees of the previous three fiscal years.
  - a. The calculation of interest for the purpose of determining compliance with limitation of debt shall be based on the official interest rate in effect for such Debt on the date of such calculation;
  
  - b. The calculation of principal and interest due on such Debt in a currency other than the domestic currency shall be calculated at the exchange rate of the Bank of Albania in effect on the date of such calculation;
  
  - c. In the event the local government has issued a guarantee for third parties, the calculation for purposes of determining compliance with debt limitations shall consider the guaranteed debt as debt of the local government, in proportion with the terms of the guarantee;
  
  - d. Compliance with the provisions of this section shall be determined by the Local Government pursuant to a notification to be filed with the Ministry of finance at the time of issuance of any Debt and subsequent changes in the interest rate or currency exchange rate which may cause the debt service calculation to exceed the limit shall not cause this section to be violated or in any way effect the validity of the Debt that was in compliance with this section at the time of issuance.

Article 19

Limitations on line of credit

A Line of Credit shall be subject to the limitations on short term and long term debt when it is issued based on the full amount of the line of Credit, regardless of the actual amount that has been drawn. .

Article 20

Limitations on Aggregate Debt

1. The sum of short term and long term debt for all local government units is subject to limitations specified in the annual debt law, in compliance with the "The Administration of the Budgetary System Law"
2. limitation on aggregate debt of the local government, including short term and long term debt, is equal to the limitation on long-term debt set forth in Article 18 above.

CHAPTER V

JOINT POWERS AUTHORITY

Article 21

Joint Powers Authority Borrowing

**A Local Government may delegate to a joint powers authority the right to incur debt. The joint powers authority borrows and incurs debt in compliance with this law and with the agreement of its establishment. Debt limitations for any Local Government which is part of this Joint Powers Authority is calculated in proportion with its participation in this agreement.**

CHAPTER VI

REMEDIES

Article 22

Remedies

1. Upon the continuance of an Event of Default for thirty (30) days, the Local Government and the Lender shall be required to inform the Ministry of Finance within [five (5) business days] thereafter. The Ministry of Finance shall make a notation in the Ledger of Local Government Debt that identifies the Debt as being in default.
2. Upon an Event of Default, Lenders of Debt additionally secured with revenues shall be authorized to immediately take possession of any pledged revenues and to apply such revenues in accordance with the terms and conditions of the Debt or any Intercept Agreement, until all of the principal and interest on the Debt has been paid in full.
3. Upon an Event of Default Lenders shall be entitled to pursue all legally available remedies against the Local Government.
4. Upon an Event of Default, the Ministry of Finance shall request the Local Government to present a action plan to correct the situation and return to normality debt payments.

Article 23

Financial distress

1. An Event of financial Distress shall have occurred whenever:

- a. Accounts payable that are overdue by more than ninety (90) days at the end of any quarter of the fiscal year are in excess of thirty percent (30%) of the budget for such quarter; or

- b. Short-term Debt has not been paid in full prior to the last day of November of the fiscal year in which it was issued
2. The Ministry of Finance upon receipt of the notice that a financial distress event has occurred from the local government, or when it determines itself that the event has occurred, shall declare the local government in financial distress and shall make a notation in the Ledger of Local Government Debt that identifies the local government as being in default.
3. Upon the notice according to paragraph 2 of this article, the financially distressed local government unit is subject to financial oversight by the Ministry of Finance and may not:
- i. Take any decision that may lead to an increase of its financial obligations;
  - ii. Establish new public services, new public enterprises or any other institutions;
  - iii. Meet any payments obligations incurred prior to the initiation of the special procedure, except for the obligations expressly approved in the Recovery Plan for resolving the financial distress of the Local Government, in compliance with paragraph 4 of this Article;
  - iv. Borrow without the approval of the Ministry of Finance
4. Within sixty (60) business days from the Notice Event of Financial Distress, the local council shall be required to adopt a Recovery Plan, and submit it for approval to the Ministry of Finance. The Recovery Plan shall be prepared by the Mayor with assistance from the Ministry of Finance.
5. In the event the local government unit fails to submit a Recovery Plan within the deadline specified in par. 4 of this article, the Ministry of Finance shall prepare the Recovery Plan.
6. Implementation of the recovery Plan shall be mandatory for the local government unit. The local government shall submit to the Ministry of Finance detailed reports on the implementation of the measures and activities foreseen in the Recovery Plan upon request of the Ministry of finance, and at least once a month.

#### Article 1

#### Exit from Financial Distress

The Ministry of Finance shall release a Local Government from the conditions set forth in Article 23 if either:

- i. The Local Government shall not have a budget deficit for two consecutive years or
- ii. The Local Government has made a request for such release and the Ministry of Finance is satisfied that the Local Government has taken such actions that have a reasonable prospect of improving the Local Government's financial position and the elimination of conditions that have caused the financial distress event to occur; and
- iii. The Local Government shall certify that it is in compliance with the Recovery Plan and no Event of Financial Distress is in effect at such time.

Article 2

**Insolvency**

1. An Event of Insolvency shall have occurred if:

**a. A Local Government has defaulted in the payment of principal or interest on any debt obligation or financial guarantee issued and recognized by it, or subject to a binding court decree, and such default has continued for a period of sixty (60) days; and such amount in default exceeds thirty percent (30%) of the Local Governments own source revenues and unconditional transfer received in the prior fiscal year; or**

**b. A Local Government has outstanding accounts payable in an amount greater than thirty percent (30%) of its budget for a period of ninety (90) consecutive days, and there has been a material adverse impact on the essential services provided by the Local Government.**

2. The process for resolving the event of insolvency and procedures thereto shall be set forth in a special law.

CHAPTER VII

MISCELLANEOUS

Article 26

Ledger of Local Government Debt

**The Ministry of Finance shall maintain a Ledger of all outstanding Local Government Debt. The Ledger shall be continuously updated by the Ministry of Finance, and shall be published every six months.**

Article 27

Debt annex in the local budget

Every Local Government shall maintain a special ledger of its debt. The ledger shall contain the information set forth in Article 7.2, as well as, all other information related to purpose of debt and its repayment. All outstanding debt of the local government is presented in a special annex of the LGU annual budget.

Article 28

Public Information

All documentation relating to local Debt, including, but not limited to, the Resolution and any Financing Agreement, are official documents and shall be available to the public in compliance with the law on the right of information on official documents..

Article 29

Books and Records

A Local Government shall be required to keep such records and information necessary to permit the verification of the terms Debt and compliance with the terms of the Resolution, including, but not limited to, the applications of proceeds in accordance with the requirements of the Resolution. Such information shall be public information within the meaning of Article 28 above.

Article 30

Authority of Local Government Officials

The Mayor and any other Local Government officials that are authorized pursuant to the Resolution shall be authorized to take any actions necessary for, or incidental to, the issuance of Debt in connection with the terms and conditions of the Resolution.

Article 31

Tax Exemption

Interest on Local Government securities shall be subject to taxation in the same manner as securities issued by the Republic of Albania.

**Article 32**

**Obligation of debt issued before this law**

All local government debt issued before the effective date of this law shall remain in full force and effect, however debt limitations set forth in Chapter IV of this law shall apply.

**Article 33**

**Conflict of laws**

In the event of a conflict between the provisions of this Law and those of other laws previously enacted by the Republic of Albania that contain provisions on, or otherwise affect Local Government Debt, this Law shall be deemed to supersede all such prior laws.

Any local Government Debt heretofore contracted shall remain in full force and effect.

#### Article 34

##### Issuing of sub-legal acts

The Minister of Finance shall issue sub-legal acts for the following:

- a. Type of data, form and standards to be maintained in the Ledger of Local Government Debt, as well as, in the debt ledger of every individual LGU and the reporting of LG units to the MoF
- b. On the rules of application of intercept mechanism
- c. Investment of funds linked with local debt and management of accounts in second tier banks for this purpose.
- d. On the method of calculating local borrowing limits

#### Article 35

##### Transitional Provisions

1. LGU-s may start borrowing as of March 01, 2008.
2. Minister of Finance assigned to issue all sub-legal acts pursuant to this law.
3. Ministry of Finance and Ministry of Interior in collaboration with local government associations shall organize an information and capacity building campaign of local government units and of entities that operate in the credit and capital market.

##### Effective Date

This law comes into effect 15 days after it has been published in the Official Gazette.



REPUBLIC OF ALBANIA

MINISTRY OF FINANCE

MINISTER

*INSTRUCTION*

**No. 35, Dated 5/11/2008**

ON

**IMPLEMENTATION OF LAW NO. 9869,**  
**DATED 4.02.2008, “ON LOCAL**  
**GOVERNMENT BORROWING”**

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In accordance to the article 102, item 4 of the Constitution and pursuant to Law No. 9869, dated 04.02.2008, “On Local Government Borrowing”, Law No. 8652, dated 31.07.2000 “On the Organization and Functioning of the Local Government”, the Minister of Finance

**INSTRUCTS:**

**CHAPTER I**  
**GENERAL FRAMEWORK**

**Article 2**

**Object**

The object of this instruction is the rules, the procedures and documentation on local government borrowing and the transparency, cooperation with and reporting to the central government structures.

**Article 3**

**Definitions**

For purposes of the implementation of this instruction the following terms are defined:

1. ***Unconditioned current incomes*** are the current incomes from municipal own sources and current incomes from national sources as following:

***The current incomes from municipal own sources:***

- a. The incomes from local taxes such as small business tax; immovable property tax; hotel tax; tax on infrastructure impact for new constructions; tax on immovable property ownership transfer; annual vehicle registration tax; tax on occupation of public spaces; tax on commercial signs; temporary taxes as defined by Law No. 9632, dated 30.10.2006 on “Local Taxes System” as amended and any other tax defined as such by the applicable legislation.
- b. The incomes from local fees including all the fees collected by the local government for purposes of providing public services; fees for social/educational services offered by the local government units; fees for licenses, documents etc. as defined by the Article 16 item 3 of the Law No. 8652 dated 31.01.2000 on the “Organization and Functioning of the Local Government and the Law No. 9632 as amended.

- c. Current non-tax incomes such as current incomes resulting from economic activities or rent applied on land, buildings and other local assets.

***Current incomes from national sources:***

- d. The incomes from shared taxes including those incomes from one or more taxes, which by law are shared between the central and the local government.
  - e. Unconditioned transfer to the local government units including the unconditioned Transfer A and Transfer B as defined by the annual state budget law.
2. ***The incomes to the local budget which are not included in the calculation of the borrowing limits*** are the current or capital incomes resulting from national sources in the form of conditioned transfer and the capital incomes resulting from the disposal of the local government assets; incomes resulting from donations, sponsorships and gifts; incomes from penalties or confiscations and any other income which is not occurring every year.
3. ***The current expenses of the local government unit which are to be included in the calculation of the borrowing limits*** are those expenses which source of funding is unconditioned. Such are the expenses that the local government unit is carrying out of its own current sources; the shared taxes and the unconditioned transfer allocated to perform own, joint and delegated functions.
4. ***Operative surplus*** is the difference between the current unconditioned incomes (described in item 1.a to 1.e of this Article) and the operative expenses covered by these sources (item 3 of this Article).
5. ***The loan taken from international markets:*** a financing agreement with juridical of natural subjects non-residents in Albania or securities (bonds) issued outside Albania.
6. ***Loan stock*** is the total amount of unpaid nominal value of the principal of the existing loans in the form of a financing agreements and the nominal value of the securities issued by the local government.
7. ***Grace period*** is that period during which the borrower allows the borrowing entity to make no loan related payments or to make partial payments without imposing any fine or penalty.
8. ***Non-public real properties*** of the local government unit are those properties which are considered to have the juridical status of a private property as provided by Article 4 of the Law no. 8743 dated 22.2.2001 on "State immovable property".
9. ***The deposit account*** is the account opened by the Minister of Finance upon the proposal of the local government and it is solely used for purposes of transferring the funds from the borrower to the borrowing entity and further from this account to the unified treasury account for purposes of either disbursing the loan or holding the reserve fund.

10. **The unified treasury account**, is the account used for the transactions (incomes and expenditures) of all the budgetary institutions as provided by Law no. 9936, dated 26.06.2008 on the “Management of the budgetary system in the Republic of Albania”
11. **Refinancing loan** is the loan which funds are used to pay-out an existing loan and it is usually applied for purposes of benefiting from better market conditions.

## CHAPTER II

### BORROWING PROCEDURES

#### Article 4

##### Long-term borrowing procedures

1. The local government unit may take a long-term loan for purposes of:
  - a. Financing capital expenses, which serve to the local government to perform its own functions as well as joint or delegated functions. The capital expenses may include long-term investments including any expenses required to cover the costs of studies, designing projects etc.
  - b. Refinancing an existing long-term loan, mainly in cases when there is an opportunity to benefit out of alternative interest rates or borrowing terms offered by the financing market.
2. The local government may guarantee a long-term loan taken by a juridical entity other than the local government when the said local government owns more than 50% of the shares of this juridical entity.
3. Local government borrowing is authorized by the local government unit council, which defines in the budget decision or in another specific decision the need for financing through a loan and the purpose of taking the loan (the capital project to be financed) in accordance to the provisions of the Law no. 9869 on “Local government borrowing”.
4. The Chairman of the local government unit or any person designated from him/her takes all the necessary measures in connection to the loan. The Chairmen of the local government unit issues the local government unit securities, both long-term and short-term and in addition negotiates the borrowing agreements on behalf of the local government unit. The selection of the loan and the lender by the local government unit is done in a way that respects the economic principles and provides the efficiency in using the public resources.
5. The Chairman of the local government unit presents for approval to the local government unit council

the draft loan agreement. The draft loan agreement is presented to the local government unit council accompanied by an explanatory report, which gives details on the steps followed by the local administration in identifying the market offers in regard to the interest rates and other terms of the lenders as well as the selection of the best economic offer.

6. The council meeting where the draft loan agreement is discussed shall be opened to the public. The notification of such meeting shall be published for at least two weeks prior to the meeting date and in at least one newspaper of considerable distribution as well as in the official website of the local government unit (if it exists). This notification shall describe shortly the basic information on the loan in accordance to the Article 7.2 of the Law no. 9869 on “Local Government Borrowing”.
7. The decision on a long-term loan shall be made by the local government unit council with the majority of the votes of the general number of the council members. The decision shall include at least the following information:
  - ③ The amount of loan principal;
  - ③ The interest rate (including the interest rate, the basis of calculation etc.)
  - ③ Type of loan (security, bank loan or other types of loan)
  - ③ Maturity and repayment terms (repayment period, grace period if applicable)
  - ③ Purpose of loan (what project will be financed and related basic details)
  - ③ Repayment guarantees (if specific guarantees apply i.e. if a real guarantee is used or if the revenues are used as a pledge which is otherwise considered to be a general obligation loan)
  - ③ A description in regard to compliance with the calculation of the borrowing limits
  - ③ The useful life of the assets financed from the loan.
8. Upon approval of the loan agreement by the local government unit council, the local government unit submits a notification about the loan to the Ministry of Finance accompanied by a copy of the decision of the council approving the loan agreement.
9. In the case of a debt issued in the national market, the Ministry of Finance shall only verify the compliancy of the loan to the applicable requirements on the borrowing limits. The Ministry of Finance shall respond within 20 days from reception of the notification. If the Ministry of Finance does not respond within 20 days, then it shall be deemed to have confirmed that the loan respects the limits defined by law. In addition, upon expiration of the 20 days period the loan agreement becomes effective (the Chairman of the local government unit signs the loan agreement with the lender).
10. In the case of a debt issued in the international markets, the Ministry of Finance makes an assessment of the compliancy of the loan agreement to the law requirements and further an assessment of the added loan risks. The loan agreement becomes effective only upon approval by the Ministry of Finance. If the Ministry of Finance does not approve the loan, the loan agreement does not become effective and it is not signed by the parties. The disapproval by the Ministry of Finance shall be accompanied by a letter justifying the reasons for the refusal. Prior to the finalization of the negotiations with the foreign lender the local government unit may ask for a pre-approval in principal by the Ministry of Finance. This pre-approval in principal does not necessarily constitute a guarantee for the later approval of the loan agreement by the Ministry of Finance. It instead serves as an

orientation to the local government unit.

11. The procedure described in the above paragraph 10 is the same applied for cases of refinancing loans or for loans taken by local government units which have had financial distress during the previous five years, as provided by in Article 7, item 6 of the Law no. 9869 on “Local government borrowing”.

## **Article 5**

### **Short-term loan procedures**

1. A short-term loan may be taken for purposes of financing temporary lack of liquidities and in the case of an unpredicted mismatching in term of timing of the expected incomes and the need to perform expenses, provided that the loan is totally repaid by November 30 of the same fiscal year.
2. The short-term loan is authorized in principle by the local government unit council as part of the annual budget decision, as provided by the Article 6 of the Law no. 9869 on “Local government borrowing”. Under the budget decision, the council authorizes the Chairman of the local government unit in regard to the short-term loan that may be taken during the said fiscal year without further approval from the Council. The council may impose more severe limitations than those defined in the Law in regard to the short-term loan. If during the fiscal year the local government unit needs a bigger short-term loan amount than the amount authorized in principle by the council, then this shall be explicitly approved in advance by the council.
3. If the local government unit identifies the need for a short-term loan to finance expenditures, then it shall initially ask for this loan to the Unified Treasury Account at the ministry of Finance, which can offer to the local government unit a short-term loan with or at no interest. If the Treasury branch refuses to issue this loan because of lack of available funds or inability to redistribute the unconditioned transfers or does not respond within ten days from receipt of the request, then the local government unit may submit the request to other lender in the private financing market.
4. The Chairman of the local government unit signs the short-term loan agreement and within ten days from actual receipt of the loan reports to the local council in the nearest meeting as well as to the Ministry of Finance. The notification on the short-term loan is accompanied by a description of the compliance to the general legal borrowing limitations and the specific limitations imposed by the council on the short-term loan as well as the repayment schedule.

## **CHAPTER II**

### **ON THE CALCULATION OF THE LOCAL BORROWING LIMITS**

## Article 6

### **The criteria that define the borrowing limits**

Local government borrowing is subject to quantitative limitations as defined in the Chapter 4 of the Law no. 9869 and the annual limitations defined in the annual state budget law.

The maximal limit of the local government loan is calculated on the basis of the current incomes and the unconditioned expenses of the local government unit.

## Article 7

### **Calculation of the short-term borrowing limits**

Short-term loan a local government unit shall not at any one time exceed more than ten percent (10%) of total actual revenues of the local government from local taxes and fees and shared taxes of the previous fiscal year, as defined in the items 1.a, 1.b and 1.d of the Article 2 of this Instruction.

## Article 8

### **Calculation of the long-term debt service limitations**

The long-term loan is exclusively used for purposes of financing (or refinancing) long-term investments. The maturity of the long-term loan cannot exceed the utilization life of the investments.

1. The annual debt service of the long-term loan for each year shall not exceed:
  - i. The 20% of the arithmetic average of the total incomes deriving from local taxes and fees, shared taxes and unconditioned transfer of the last three previous years from the year in which the new loan is contracted. If the local government unit has an outstanding debt, the maximal allowed annual debt service for every new loan shall be equal to the difference between the allowable annual debt service as defined by the Article 18.3 of the Law no. 9869, with the annual debt service of the existing debt.

- ii. The operational surplus of the local government unit for the following fiscal year in which the new loan is contracted shall be at least 1,4 times higher than the annual payable debt service.  
If the local government unit has an outstanding debt, the maximal allowed annual debt service for every new loan shall be equal to the difference between the allowable annual debt service as defined by the Article 18.3 of the Law no. 9869, with the annual debt service of the existing debt.
2. The maximal limit allowed by the law for the annual debt service of the local government unit is equal to the lowest value calculated in the items 5.a and b (Articles 18.1 and 18.3 of the Law 9869).

The local government unit ABC receives respectively from the local taxes and fees, shared taxes and unconditioned transfer (as defined in items 1.a; 1.b; 1.c and 1.e of this Instruction) a total amount of 1100, 1200 and 1300 thousands of ALL respectively in the years n-3, n-2 and n-1 (where n is the actual year when the new loan is contracted); the operational unconditioned expenses are at the amount of 950

Criterion b: Operational surplus/debt service at least at the ratio of 1.4/1, is equal to  $(1300-950)/1.4 = 250$

The maximal allowed debt service for this unit is the lowest value between the two criteria a and b, which in this case is 240 thousands ALL per year. If the local government has an outstanding debt for which they pay an amount of 140 thousands ALL per year, then the maximal allowed debt service for every new loan is 100 thousands ALL per year.

3. In the calculation of the debt service limits in addition to the debt service of the contracted loans (the payment of the interest, principal and commissions) are also included the payments for any outstanding accounts of the local government unit which maturity date has expired (i.e. financial leasing installments; outstanding payments to suppliers and any other actual obligation of the local government unit). In this case the maximal allowed annual debt service is equal to the difference

between the debt service limits as defined by the law and the total amount of the outstanding accounts which maturity date has expired.

The local government unit ABC has also signed a service contract for the city cleaning service under which they should pay to the contractor an amount of 10,000 ALL per each quarter. The local government unit ABC has not completed the payment of the last installment of 10,000 ALL for the year n-1 and the deadline for that payment was December 15. In the meantime, for the actual year n the local government

Based on example 1, the maximal allowed debt service for ABC was 240 thousands of ALL per year. Since ABC has an outstanding account at the amount of 10,000 ALL, the maximal debt service that it can

$240,000 \text{ (debt service limit)} - 10,000 \text{ (outstanding accounts)} = 230,000 \text{ ALL per year.}$

4. By rule, the annual debt service for the financing agreements is structured in such way that the annual payments are approximately equal or declining during the loan maturity period, except for cases when the economic cycle of the assets financed through the loan justifies a different structuring.
5. When the loan agreement provides for a grace period in the loan repayment cycle, the local government unit, by a decision of the local council, can forecast in its budget a reserve fund to cover the future costs related to the debt service.

## Article 9

### Calculation of the stock limits for the long-term loan

In each year the correlation between the debt stock of the local government unit and the current unconditioned incomes (items 1.a to 1.e of the Instruction) of the following fiscal year shall not exceed the ratio of 1,3 : 1.

During the year (n-3) the local government unit ABC had a total amount of 1100 thousands ALL of

The ABC unit in (n-2) takes a loan of 1430 thousands ALL structured in a way that allows them to pay an annual debt service of 140 thousands per year, out of which 120 thousands per year are for the principal

In year n, the ABC unit is considering a new loan. The level of the current unconditioned incomes is at 1300 thousands ALL (Example 1), therefore the maximal allowed debt stock is equal to  $1300 * 1.3 = 1690$

During the previous two years the ABC unit has repaid a part of the principal of the loan taken in (n-2). For the last two years it has paid for the debt service an amount of 140 thousands ALL for each year, out of which  $2 * 120$  thousands ALL was principal repayment. Therefore in year n the ABC unit has reduced the debt stock with 240 thousands ALL and has an existing debt stock (unpaid principal) of  $1430 - 120 * 2$

For the year n this unit has an available debt stock for a new loan at the amount of  $1690 - 1190 = 500$  thousands ALL, which can be structured in a way that the annual debt service does not exceed the amount of 240 thousands ALL per year, thus resulting in an maximal annual debt service of  $240 - 140 = 100$  thousands ALL per year for the new loan.

### CHAPTER III REPORTING

## Article 10

### The debt annex in the local budget

The local government unit budget shall include a special annex for the local debt, which reflects the status of all the outstanding debts of the local government unit as of January 1<sup>st</sup> of the respective fiscal year. This annex is an integrated part of the local budget and it is published and made available to the public. The debt annex of the local budget shall include at least the following data for each outstanding debt (financing agreement or local government unit securities):

- a) Type of debt - financing agreement (i.e. bank loan etc.) or security (bonds)
- b) Date of issue of the debt (date of approval of the financing agreement / security date of issue)
- c) Purpose of the debt (the capital project financed through the loan)
- d) The lending bank or financial institution
- e) Type of loan guaranty, if it is a general obligation loan, or a specific guaranty which shall be identified
- f) Amount of principal borrowed or issued (in case of securities issued) and the total amount of payable interest
- g) Duration (maturity) of the loan/security
- h) Currency of the loan (financing agreement/security) and the exchange rate at both the time when the debt was issued and at January 1<sup>st</sup> of the respective fiscal year
- i) Loan interest rate and type (variable or fix interest rate). If a variable interest rate is applied, the report shall also include information on the reference index on which the interest rate is defined
- j) Method of payment (schedule) - (annual; quarterly; monthly or other; grace period if applicable)
- k) The amount deposited as reserve fund, if any
- l) Outstanding principal and interest at January 1<sup>st</sup> of the actual fiscal year
- m) Debt service for the actual fiscal year separating the principal payments to the interest payments for the respective fiscal year including other debt service related costs, if any
- n) Debt service limit as provided by the applicable legislation
- o) Outstanding principal and interest at December 31<sup>st</sup> of the respective fiscal year

These data is separately reported for each and any outstanding debt of the local government unit including the loan on which the unit has provided the necessary guarantees at the same time identifying the name of the entity (third party) to which the guarantee was issued. In addition the annex shall also include reports on the total amount of the outstanding principal for the total amount of the local government unit debt as well as the total amount of the debt service payable at that year.

## Article 11

### Local government reporting to the Ministry of Finance

#### 1. Reporting when taking a short-term loan

a. The local government unit that has taken a long-term loan or has guaranteed a long-term loan on behalf of a third party shall notify the Ministry of Finance within ten days from the approval date of the decision. The notification of the local government unit to the Ministry of Finance shall be accompanied by a copy of the council decision authorizing the loan and a copy of the loan agreement (financing agreement/\_\_\_ security) where are indicated the main debt related data, the purpose of the loan and the basic financial data of the local government unit which evidence the compliancy to the applicable borrowing limitations. In addition, the notification shall also include the reporting formats including budget related data for the last three fiscal years of the local government and the major forecasts for the whole duration of the loan. The estimated increase of the revenues for each year shall be reasonable and justified, however in no case they shall exceed the rate of 7% per year.

b. In the case of a short-term loan received from sources other than the Treasury system, the local government unit shall notify the Ministry of Finance within ten days from the signing of the loan agreement. The notification for the short-term loan shall include a copy of the loan agreement and a description of the compliancy to the short-term debt limitations as defined by Chapter IV of the Law no. 9869, including actual data about the local taxes and fees of the local government unit during the previous fiscal year and the loan repayment schedule.

c. Any amendment to the content of the loan agreement shall be reported to the Ministry of Finance within ten days from the date of issue of the local government unit council decision including a copy of the amended agreement and the data described at Item 1, paragraph a.

#### 2. Reporting during the loan repayment

The local government unit shall report on monthly basis to the Debt Directorate at the Ministry of Finance during the period in which the loan financing is used and the repaid. The reports shall be submitted within 20 days from the deadline of the reporting period (to the 20<sup>th</sup> of the following month).

The monthly reports submitted to the Debt Directorate at the Ministry of Finance shall include information on the amount of debt service paid during the reporting period; disbursement of the loan funds to the borrowing entity and other loan related data as described in Form A attached to this Instruction.

## Article 12

### Local government unit loan reporting through the periodic and annual accounting statements

1. The loan agreement constitutes the basic document in connection to the accounting registrations and the disbursements. Upon signing of the agreement between the lender and the Chairman of the Local Government Unit, the Finance Department of the local government unit prepares the Contract Payment Data with a financial commitment equal to the contract price. For each payment the date and the amount shall be recorded at the Contract Payment Data form thus calculating at any time the unpaid amount as a difference between the initial commitment and the total amount of payments to date.
2. The recording and the accounting of the loan amount including the principal and interest is done in accordance to the applicable laws and the related implementing provision on the accounting requirements to the budgetary institutions and the local government units.

#### **KREU IV**

### **GARANCITË DHE LLOGARITË E LIDHURA ME HUATË**

#### **Article 13**

#### **Guarantees**

The selection of the loan guarantee type is subject to negotiations between the lender and the borrowing unit.

1. **The general obligation debt**  
The short and long term loans of a local government unit constitute a general obligation of this unit payable as a primary claim from all of the Local Government's lawfully available funds which have not otherwise been pledged as specific guarantees to other lenders.

2. **Specific revenue guarantee**  
The general obligation debt may be secured by all or a portion of any revenues over which the Local Government unit has a complete spending discretion as defined in the Article 2.1 of this Instruction. This type of guarantee shall be approved by the council and shall be made and integrated part of the agreement between the parties. The pledged revenues may be separately identified in the treasury system and the lender shall have the payment priority from these revenues against any other third party.

3. **Financing interception**

The interception of financing is a form of guarantee, which in case of failure by the local government to fulfill the loan obligations authorizes the treasury system to perform an automatic disbursement of the funds from the local government unit account to the benefit of the lender. Interception of financing however, is only applicable when this form of guarantee is included in the loan agreement approved by the local Council. A copy of the agreement shall be deposited to the treasury branch of the district where the respective unit exercises its activity.

#### 4. Real property guarantee

The general obligation debt may also be guaranteed by a local government non-public real property available for disposal. When the local government loan is guaranteed by a real property, the council decision authorizing the loan shall be made with the nominative majority of the votes in accordance to the Article 33, item 4 of the Law no. 8652 on the "Organization and the functioning of the local government".

In accordance to the local borrowing law the local government units may also guarantee the loans of the juridical entities under their control such as other commercial or non-commercial enterprises that offer public goods and services, which are the responsibility of the local government. In this framework the properties of these enterprises may be used as real property guarantee for the loans.

#### 5. Other types of guarantees

The local government unit may offer other types of guarantees by deciding to:

- ⌚ Impose taxes or fees at a particular level and to the extent permitted by law for purposes of collecting a specific amount of revenues;
- ⌚ Administer an enterprise or another property in accordance to the loan terms and conditions;
- ⌚ Perform direct payments from funds or sources made available and authorize direct access to these sources for purposes of guaranteeing the loan repayment;
- ⌚ Deposit funds or revenues provided as a guarantee to or for the benefit of the lender;
- ⌚ Accept specific payment procedures to ensure exclusive or dedicated payments to the lender including revenues intercepting payments to specific accounts or other payment mechanisms or procedures;
- ⌚ Accept limitations for purposes of additional loans;
- ⌚ Terminate an agreement by means of intermediation, arbitration or other mechanism applied for the resolution of disagreements;
- ⌚ Accept other agreements considered as necessary and useful for purposes of taking the loan and providing of the payment guarantees.

## Article 13

### Loan related accounts

1. All the financial activity related to the loan of the local government unit such as cash entries and disbursements and the payment of the installments (both principal and interest) shall be performed through the unified treasury account.
2. In particular cases of borrowing in the international markets, the local government unit may propose to the Ministry of Finance the completion of the borrowing related financial transactions through the partial treasury system. In this case the financial activity is performed in accordance to the loan agreement and the provisions of the Instruction issued by the Ministry of Finance for purpose of the implementation of the Law no. 9936, dated 26.06.2008 on the "Management of the budgetary system in the Republic of Albania".
3. When the credit or the loan agreement signed between parties does not require the establishment since the beginning of a reserve fund, the procedures for the disbursement of the monetary means are completed by the lender directly to the revenues account of the local government unit at the Treasury branch of the district where the unit is located and under the transaction description "loan transfer to the local government unit". All the funds' entries and disbursements shall be identified in the budgetary structure under the loan item. In addition to the definitions provided by the local borrowing law, the currency used, the exchange rate and the loan disbursement method shall also be defined in the in the agreement between parties (lender and borrower).
4. When the credit or the loan agreement signed between parties requires the establishment of a reserve fund, the initial transfer is made to a deposit Account of a Commercial Bank opened for this purpose by the Minister of Finance upon the proposal of the local government unit. The Minister of Finance shall notify the bank in regard to the persons authorized to order the transfers from this account to the revenues Account of the Treasury district branch with the local government unit as final destination.
5. The transfer from the deposit Account in foreign currency is made to the Unique Treasury Account in Albanian Leke at the exchange rate communicated by the National Bank at the date of each transaction.
6. The bank interests generate in the deposit Account are periodically transferred to the revenue bank account of the Treasury district branch with the local government unit as the final destination and are further made part of the local budget.
7. Once the deposit Account ceases to be functional, the Minister of Finance, upon the proposal of the local government unit authorizes the closure of this account at the Commercial Bank.

This Instruction becomes effective immediately.

**Ritvan BODE**

**MINIS TER**

Anex A

Municipality / Comune of .....

Period

**EXTRACT ON FINANCIAL DATA OF THE LOCAL BUDGET**  
For purposes of calculating the debt limitations prior to contracting the new loan

	Actual local budget*	Actual local budget	Actual local budget	Approved local budget (pār)	Actual execution of local budget**	Local budget forecast***	Local budget forecast	Local budget forecast	Local budget forecast	Local budget forecast
	Year n-3	Year n-2	Year n-1	Year n	Year n	Year n	Year n+1	Year n+2	Year n+3	Year n+...
<b>I. BUDGET DATA</b>										
<i>Current revenues including:</i>										
<b>1. Local taxes</b>										
Property tax										
Small business tax										
Tax on impact of constructors to infrastructure										
Hotel tax										
Tax on turnover of restaurants, hotels etc.										
Temporary taxes										
Other taxes										
<b>2. Local Fees</b>										
Cleanings service fee										
Public spaces fee										
Table fee										
Street lights fee										
Green areas fee										
Business registration fee										
Advertisement fee										
Parking fee										
Fees for other services/administrative										
Fees for social services/education (preliminary schools/dormitories etc.)										
Culture/sports										
Other										
<b>3. Current non-tax revenues</b>										
Leases										
Other										
<b>4. UNCONDITIONED TRANSFER</b>										
<b>5. Taxes from national sources (or administration)</b>										
Vehicle Registration Tax										
Tax on transaction of immovable properties										
Other										
<b>6. EXPENSES FROM UNCONDITIONED SOURCES</b>										
<i>Operational expenses including:</i>										
General public expenditures (administration)										
Public services										
Public Transport management of road transport										
Housing and urban planning										
Water and waste water										
Education										
Social care										
Health										
Culture/sports										
Tourism and other economic services										
Other services										
<b>II. Debt related data</b>										
<b>Debt service limitations</b>										
Debt service limitation: 20% of the average of the amount (1+2+4) for the years n-3, n-2, n-1										
Debt service limitation: (1+2+3+4+5-6)/1.4 for the year n-1										
<b>Limitation on debt stock</b>										
<b>Existing debt service</b>										
Principal										
Interests										
Commissions, other costs										
<b>Existing stock (unpaid)</b>										
Stokū iri										
<b>New stock allowed</b>										
<b>New debt service</b>										
<b>Allowed new debt service</b>										

\* Factual data of budget execution in previous years

\*\* Factual data of budget execution for the coming months after the submission of the request

\*\*\* The annual growth for each item cannot be forecasted above the ratio of 7% per year. If higher growth is forecasted, it should be justified with analytical data

Chairman

Head of Finance Department

## Anex B

Municipality/Commune/Region

Data on the level of public local debt

Period

	Year								
	n-3	n-2	n-1	n (aktual)	n+1	n+2	n+3	...	n+...
<b>A Debt service</b>									
1 Existing debt service (for previously contracted loans)	0	0	0	0	0	0	0	0	0
a Principal									
b Interest									
c Commissions, etc.									
2 Debt service for the loan to be contracted					0	0	0	0	0
a Principal									
b Interest									
c Commissions, etc.									
3 Total debt service (inclusive of the new loan)	0	0	0	0	0	0	0	0	0
a Principal	0	0	0	0	0	0	0	0	0
b Interest	0	0	0	0	0	0	0	0	0
c Commissions, etc.	0	0	0	0	0	0	0	0	0
<b>B Debt stock</b>									
Existing debt stock (for previously contracted loans)									
New debt stock (for the loan to be contracted)									
Total debt stock									

CHAIRMAN

Head of Finance Department

This form need to be completed for each new loan or issuing of a new guarantee on behalf of third parties. The table presents a projection of payments for each year. When the loan is contracted in foreign currency the applicable exchange rate shall be the exchange rate notified by the Bank of Albania at the time of report.

**LAW**

**ON**

**ORGANIZATION AND FUNCTIONING OF LOCAL GOVERNMENTS**

**No. 8652, dated 31.07 2000**

On the basis of Articles 13, 81, 83 paragraph 1 and 108-115 of the Constitution of the Republic of Albania and upon the proposal of the Council of Ministers,

*THE REPUBLIC OF ALBANIA*

**ASSEMBLY**

**D E C I D E D:**

**CHAPTER I**

**GENERAL PROVISIONS**

**Article 1            Purpose of the Law**

This Law regulates the organization and functioning of local government units in the Republic of Albania, as well as sets forth their functions, powers, rights and duties and those of their respective bodies.

## Article 2                      Definitions

The following definitions shall apply to terms that are used in this Law:

1. "Function" is the field of responsibility of a certain level of government
2. "Delegated functions" are functions of central government or other central government institutions that by law or by a contractual agreement between the central government and the local government unit are assigned to a local government for performance in a manner and to a degree which is determined by the central government or other central government institutions.
3. "Shared [Joint] functions" are functions for which the local government unit has its share of responsibility, distinguished from the share of responsibility granted to central government, and the functions are accompanied proportionally with competencies, which are exercised autonomously.
4. "Exclusive functions" are functions given by law to the local government unit, for the realization of which it is responsible and has the authority to make decisions and use means for their realization, within the norms, criteria and standards generally accepted by law. Local governments shall exercise full administrative, service, investment and regulatory authority over these functions.
5. "Authority" [Competency] means authority given by law to a certain entity to carry out a certain function.
6. "Own Authority" means exclusive authority given by law to local governments to carry out their functions.
7. "Administrative authority" refers to the competence to manage structures and personnel (setting up, improvement and merging of structures as well as appointment, dismissal, transfer, training, the setting of wages, compensation ) in compliance with the legislation in force.
8. "Delegated authority" means an authority of the central government that is by law or agreement assigned to a unit of local government.
9. "Investment authority" means authority to plan, distribute and perform an investment.

10. "Regulatory authority" means authority to establish regulations and rules (issuance of licenses, opening / closing hours of local services, and imposing penalties or in general to grant rights and establish obligations) in compliance with the standards and legislation in force.
11. "Service authority" means the authority to plan, deliver and realize the maintenance of objects and perform auxiliary services.
12. "Central Government" means the Council of Ministers, Ministries and other Central state agencies.
13. "Reorganization" means a change in the administrative-territorial division.
14. "Joint Powers Authority" means a committee, entity, institution, enterprise, board or any other body created by two or more units of local government or between one or two more units of local government and central government to exercise a common power or function or satisfy an obligation which is common to them.
15. "Subsidiarity" means that whenever it is possible the services and functions should be carried out by the level of government [governance] which is closest to the citizens.

### **Article 3                      Mission of Local Governments**

The purpose of local government in the Republic of Albania is to guarantee governance, at the level closest to the residents through:

- a.        Recognition of the existence of different identities and values of the communities in Albania,
- b.        Respect and enforcement of the fundamental rights of citizens provided in the Constitution and other laws in those communities,
- c.        Opportunity for communities to make choices between different kinds of local public facilities and services,
- ç.        Efficient and effective exercise of the functions, competencies and duties of various bodies of local government,

- d. Delivery of appropriate services
- dh. Promotion of effective participation of local residents in local government.

#### **Article 4                      Fundamental Principles of the functioning of local government units**

1.        The organs of Local Government exercise their authority on the basis of local autonomy.
  
2.        The relationship between Local Government levels and Central Government, and between the local government units themselves will be based on the principle of subsidiarity and collaboration for solving mutual problems.
  
3.        In their activity local governments act in compliance with the Constitution and laws enacted in the spirit of the Constitution .
  
4.        Local governments are juridical [legal] persons.
  
5.        Any commune, municipality and region is a continuous governing entity with a heritage

## **CHAPTER II                      LOCAL GOVERNMENT UNITS**

## **Article 5                      Designation of Communes, Municipalities and Regions and Subdivisions**

- 1            Communes and municipalities comprise the basic level of local government.
  
2.           A commune is an administrative-territorial entity and the community of residents usually in a rural area but in special cases in urban areas. The territory, name and the center of each commune is set forth in a law. Sub-divisions of communes are villages and in special cases cities. The sub-divisions of communes are defined by the Commune Council.
  
3.           A municipality is an administrative-territorial entity and the community of residents usually in an urban area and in special cases in rural areas. The territory and name of each municipality is set forth in a law. Sub-divisions of municipality in urban areas are called quarters [lagje]. Upon the decision of the Municipality Council, a quarter [lagje] can not have less than 15,000 residents. When a municipality has under its jurisdiction rural areas the subdivisions are the villages. A village can not have less than 200 hundred inhabitants. A city is a residential center, which will be developed according to an approved future urban plan. City is an urban area that has been called so by law.
  
4.           Regions comprise the second level of local government.
  
5.           A region is an administrative-territorial entity that is comprised of several communes and municipalities that have geographical, traditional, economic and social ties and joint interests. The boundaries of each region should comply with the boundaries of communes and municipalities under its jurisdiction. The center of the region is located in one of the municipalities under its jurisdiction. The territory, name and center of each region is set forth in a law.
  
6.           Subdivisions of the regions are the districts. The boundaries of the districts, their name and seat shall be determined by law.
  
7.           Chapter VIII of this Law determines the organization of subdivisions for communes, municipalities and regions.

## **Article 6                      Organs of Local Government Units**

1.        The government of each commune, municipality and region shall consist of a representative body and executive organ.
  
2.        The representative body of communes and municipalities shall be the Commune Council and the Municipal Council, respectively. The head of the executive organ shall be the Chairman of the commune, for communes, and the Mayor for municipalities.
  
3.        The representative organ of region shall be the Regional Council. The executive authority of the region is vested on the Chairman and Board of the Regional Council.
  
4.        The representative and executive organs in communes and municipalities shall be elected through general, direct election and secret voting in the manner set forth in the Election Code of the Republic of Albania.
  
5.        The members of Regional Councils shall be selected from the councils of the municipalities and communes that comprise the region. The method by which they are selected shall conform to the Constitution and Chapter IX of this Law.
  
6.        The Chairman and Board of the Regional Council shall be elected by the members of its Regional Council, in the manner as set forth in Chapter IX of this Law.

## **CHAPTER III                      RIGHTS OF LOCAL GOVERNMENTS**

### **Article 7                      Exercise of Powers in the Interest of the Local Community**

1. Each local government shall have full discretion to exercise initiatives in the interest of the Local Community to any matter which is not prohibited by law or which is not exclusively granted by law to any other government organ.

2. Local government units may exercise its powers [competencies] by issuing decrees, ordinances and orders.

## **Article 8**                      **Rights of Local Governments**

1. Each commune, municipality and region shall have the following rights:

### **I**            **Right of governance**

a. Take any necessary measures for carrying out their functions and exercise their authority.

b. Based on the Constitution, laws and normative acts, and to carry out their functions and exercise powers, they can issue directives, orders and ordinances, which are obligatory for all its entities within its jurisdiction.

c. Local governments can create administrative structures to carry out their functions and exercise powers, in compliance with the laws in force.

ç. They can establish economic units and other institutions under their authority.

d. Each local government may create committees, boards, commissions as it deems necessary for exercising specific functions.

dh. Each local government may create any administrative-territorial sub-division within its jurisdiction to perform its governing functions, in the manner as set forth in this Law.

## II Property rights

- a. Local governments may exercise property rights, including the right to purchase, sell or rent its movable and immovable property or use its property, as well as to exercise other rights in the manner as set forth in the law.
- b. Local governments may exercise the right of eminent domain for the purpose of acquiring any movable and immovable property for the public interest in accordance with the procedures set forth in a special law.
- c. The property rights are exercised by the respective council, and they may not be delegated to anybody else.

## III Right to fiscal autonomy

- a. Local governments may obtain revenues and make expenditures related to the execution of their functions.
- b. Local government units have the right to set taxes and fees in compliance with the legislation in force and the interest of the community.
- c. Local governments have the right to adopt and execute their budget.

## IV Economic development rights

- a. Local governments have the right to undertake any initiative for economic development in the interest of their residents, provided that these activities do not contradict the fundamental direction of economic policies of the State.
- b. The major part of revenues from economic activities of local governments shall be used to support the execution of public functions.

- c. The economic activity of the local government units is regulated by legislation on economic activities.

## **V Right of collaboration**

- a. To carry out specific functions on behalf and in the benefit of their inhabitants, two or more units of local government may exercise any competence given to them by law, through implementation of mutual agreements or contracts, delegation of specific competencies and/or responsibilities to one or the other, or contracting a third party.
  
- b. Local governments may collaborate with similar units of local government in other countries and are represented in international organizations of local governments, in accordance with special legislation in force.
  
- c. Local government units have the right to be organized in associations in conformity with respective legislation for associations.

## **VI Rights as a juridical person**

Local governments are juridical persons and may exercise all the rights set forth in the Civil Code of the Republic of Albania and in the legislation in force:

- a. the right to enter into contracts;

- b. the right to establish other juridical persons;
- c. the right to bring a civil accusation;
- ç. the right to keep accounts;
- d. other rights to carry out functions, in compliance with the laws and normative acts.

## **VII Other rights**

- a. Local government may grant honorary titles and moral and material stimulus,
- b. Each local government may determine the denominations of territories, objects and institutions under its jurisdiction in accordance with the criteria set forth in law.

2. The local government units have their own seal and symbols.

3. The above mentioned rights are exercised by the local government organs, as set forth in this Law.

## **CHAPTER IV**

### **FUNCTIONS and competencies OF Commune,**

### **Municipality and Region**

## **Article 9**                      **Types of Functions**

Communes, municipalities and regions perform “exclusive functions,” “shared functions” and “delegated functions.”

## **Article 10**                      **Exclusive Functions of Communes and Municipalities**

1.        The commune and municipality have full administrative, service, investment and regulatory powers for their exclusive functions set forth in this Article. They exercise these functions in accordance with the schedule set forth in Chapter XI of this Law.

2.        The Communes and municipalities exercise their functions in compliance with the regional and national policies. The central government may issue national standards in relation to exclusive functions for the sole purpose of achieving a clear and specific national interest, provided that the national standard does not limit local governments’ discretion in areas of clear local interest. In those cases where a local government does not have adequate resources to meet a national standard, the central government shall provide the necessary support to enable the local government to achieve the national standard.

3.        The communes and municipalities shall assume responsibilities for the following exclusive functions:

### **I.        Infrastructure and public services**

- a.        Water supply;
- b.        Sewage and drainage system and [flood] protection canals in the residential areas;
- c.        Construction, rehabilitation and maintenance of local roads, sidewalks and squares;
- ç        Public lighting;
- d.        Public transport;
- dh.      Cemeteries and funeral services;

- e. City/Village decoration;
- ë . Parks and public spaces;
- f. Waste management;
- g. Urban planning, land management and housing according to the manner described in the law.

## II Social cultural and recreational functions

- a. Saving and promoting the local cultural and historic values, organization of activities and management of relevant institutions;
- b. Organization of recreational activities and management of relevant institutions;
- c. Social services including orphanages, day care, elderly homes, etc.

## III Local Economic development

- a. The preparation of programs for local economic development;
- b. The setting [regulation] and functioning of public market places and trade network;
- c. Small business development as well as the carrying out of promotional activities, as fairs and advertisement in public places;
- ç. Performance of services in support of the local economic development, as information, necessary structures and infrastructure;
- d. Veterinary service;
- dh. The protection and development of local forests, pastures and natural resources of local character.

## IV Civil Security

- a. The protection of public order to prevent administrative violations and enforce the implementation of commune or municipality acts;
- b. Civil security.

## **Article 11**                      **Shared Functions of Communes and Municipalities**

1. Communes and municipalities may undertake any of the following shared functions separately, or jointly with the central government, in compliance with the schedule set forth in chapter XI of this Law.

2. To the extent that the central government requires a local government to perform any shared function or meet a national standard in the performance of a shared function the central government shall provide financial support of the requirement.

3. Communes and municipalities may undertake any of the following shared functions:

- a. Pre school and pre university education;
- b. Priority health service and protection of public health;
- c. Social assistance and poverty alleviation and ensuring of the functioning of relevant institutions;
- ç. Public order and civil protection;
- d. Environmental protection;
- dh. Other shared functions as described by law.

4. Communes and municipalities may assume responsibility for any of shared functions described in this Article, and which are regulated in any case by law. The relations between the local governments and central government for functions set forth in this Law, are regulated by law and normative acts.

## **Article 12**                      **Delegated Functions of Communes and Municipalities**

1. The delegated functions and powers are mandatory and non-mandatory.

2. The mandatory functions and powers are determined by law.

2

3. The central government institutions, when allowed by law, may authorize the commune, municipality or region to undertake a function under their [central government institution] jurisdiction. The central government should describe the procedures for carrying out these functions and the manner in which it will control its provision.

4. The central government institution may authorize the commune, municipality and region to exercise one single competency for a certain function.

5. The Local Government units may be authorized to undertake other functions or competencies of the central government which are non-mandatory [optional]. This should be done solely by an agreement between the central government representative and the local government unit.

6. In any case, the central government guarantees necessary financial support to the local government units to exercise delegated functions and powers.

7. The local government units may, at their own initiative, commit their own financial resources to the performance of delegated functions in order to achieve a higher level of service in the interest of the community.

## **Article 13                      Functions of the Regions**

1. The own functions of the region are developing and implementing regional policies and their harmonization with the national policies at the regional level, as well as any other exclusive function given by law.

2. Each region may perform any functions that are assigned to it by one or more communes or municipalities within the region, according to an agreement between the parties.

3. Each region shall perform those functions delegated to it by the central government, according to the principles stipulated in article 12 of this Law.

## **Article 14 Joint Performance of Functions by Local Governments**

1. Any units of local government may delegate performance of any of its functions to another local government according to article 8 of this Law and by any of the following means:

- a. By agreement for executing jointly one or more functions;
- b. By contracting another local government unit for carrying out one or more functions, or
- c. By having more than one local government contract a third party for performance of one or more functions.

2. Any agreement shall:

- a. Describe the purpose and functions to be performed;
- b. Provide for the method by which it shall be performed;
- c. Describe the level and period of delegation of powers; and,
- ç. Set forth respective financial inputs of the local governments and the method of sharing of revenues and other profits from the activity.

3. Two or more units of local governments or units of local government and an organ of the central government may execute a joint powers agreement to create a legal entity separate from the parties to whom they assign specified powers. In the meaning of this law, this juridical person is called a "joint powers authority." For each party is defined the respective contribution: financial, service, equipment and qualified personnel, or any other contribution of other assets necessary for achieving the objectives.

4. Within thirty (30) days after its creation, the joint powers authority shall file a notice with the Prefect.

5. The official notice should contain:
  - a. The name of each unit of local government which is a party to the agreement;
  - b. The date on which the agreement became effective;
  - c. A statement of the purpose of the joint powers agreement or the power to be exercised by the joint powers authority;
  - ç. The decisions of the local government units included in the related agreement;
  - d. The contributions of parties to the joint powers agreement.
  
6. After filing notice with Prefect, the joint powers agreement becomes effective and the joint powers authority is authorized to execute the powers set forth in the agreement.

## CHAPTER V

### LOCAL GOVERNMENT FINANCE

#### Article 15                    Fundamental Principles of Local Government Finance

1. National fiscal policy shall guarantee the fiscal self-sufficiency of local governments through diversified sources of revenue.
2. The local government units are financed with the revenues from locally derived taxes and fees, funds transferred from the central government and funds derived from shared national taxes.
3. Through law, communes and municipalities are empowered with sufficient authority to obtain revenue independently to finance the exclusive functions under their jurisdiction.
4. The central government shall provide local governments with funds that are sufficient to meet the requirements for the provision of shared and delegated functions:
5. Each local government shall adopt, carry out and administer a budget each year that does not include a deficit in compliance with the Law No. 8379, dated 29.7.1998 " On the drafting and execution of the State Budget of the Republic of Albania."

#### Article 16                    Locally Derived Revenue

1. Communes and municipalities shall be authorized to derive revenues from:

- a. Local taxes and levies on the movable and immovable property, as well as on the transactions conducted on them.
  - b. Local taxes and levies on the economic activity of small businesses and on hotel residency, restaurants, bars and other services;
  - c. Local taxes and levies on the personal income derived from donations; inheritances, testaments, and from local lotteries;
  - ç. Other taxes and levies given by law
2. The law defines the tax base as well as the minimum and/or maximum rates. Communes and municipalities have the right to apply or not a local tax. In case they decide to apply the tax, they decide the tax rate, as well as the manner for collection and administration within the limits and criteria set forth in the respective law.
3. Communes and municipalities derive revenues from local fees for:
- a. public services offered by them;
  - b. the right to use local public property;
  - c. the issuance of licenses, permits, authorizations and issuance of other documentation, at the discretion of local government.
4. Communes and municipalities set the level of the local fees, determine the manner of collection of local tariffs and their administration in compliance with policies and general principles defined in the normative acts of central government.
5. Communes and municipalities shall be authorized to borrow funds for public purposes in a manner that is consistent with the conditions established by law.
6. Communes and municipalities shall be entitled to receive all revenues generated from their economic activities, rents and sale of property and from donations, interest income and penalties.

## **Article 17**                    **Revenue Derived from National Sources**

1.        Communes and municipalities shall be entitled to receive funds from national sources, including:
  - a.        Shared taxes, consisting of a portion of certain central government taxes, such as the personal income tax and the company profit tax. These taxes shall be collected and distributed to communes and municipalities by the central government on a regular basis not less than three times a year during the fiscal year. The part of the tax and levy which goes to their favor, as well as their collection and administration are determined by law for each shared tax or levy.
  - b.        Unconditional transfers from the central government to commune and municipality governments based on the ratio of exclusive and shared functions performed by the local governments and for the purpose of achieving equalization of resources among local governments.
  - c.        Conditional transfers from the central government.
2.        The central government shall cooperate with local governments, in regularly analyzing the adequacy and stability of these revenue sources during the period of drafting the budget.

## **Article 18**                    **Sources of Revenues for Regions**

1.        Regions shall obtain their financial resources from regionally derived revenues and from national sources.
2.        Regionally derived revenues include:
  - a.        Unconditional transfers, including quotas of membership from the budgets of communes and municipalities, defined in the statute and in the annual budget of the region, for the performance of own and shared functions;
  - b.        Conditional transfers for the performance of the functions and powers, delegated by municipalities and communes;

- c. Regional taxes defined by law;
  - ç. Fees for public services provided by the region as well as from other resources defined in Article 16 of this Law.
3. The criteria and norms for creation and administration of revenues from regional sources are similar to the criteria and norms described in this Law for communes and municipalities.
4. The revenues from national sources for the region are created and administered according to the manner described in Article 17 of this Law.

## **Article 19**                      **Local Government Budgets**

1. Each local government budget shall include all revenues and all expenditures, including repayment of debt, of the local government.
2. Conditional transfers from the central government, which are recorded in the local government budget, shall be used solely for the purpose for which the funds have been attributed, in the amount and according to the rules set by the central government for their use.
3. Each local government shall have full discretion in deciding how to use all other sources of revenue which are not conditional transfers. Part of these funds that have not been used during a fiscal year can be carried over to the next year.
4. The budget adoption and the dose of past year budget will be made observing the dates determined in the Law no. 8379, dated 29.7.1998 "On the drafting and execution of the Budget of the Republic of Albania."

5. The local government budget is adopted by the council. The budget adoption and the annual close of accounts will be made observing the dates determined in the Law No. 8379, dated 29.7.1998 "On the drafting and execution of the Budget of the Republic of Albania".
6. The purpose of the local government budget is :
- a. Effective use of the revenues to perform functions and exercise powers;
  - b. To set forth the exact financial situation of each unit of local government;
  - c. To provide information which will enable the residents of the local jurisdiction to understand and participate in decisions regarding the exclusive, shared and delegated functions of the local government.
7. Each local government budget shall include:
- a. All revenues and all the expenditures in the manner described below:
    - i) detailed revenues according to the classifications of Articles 16,17 18 of this Law;
    - ii) Detailed expenditures in compliance with the functional and economic classification;
    - iii) The reserve fund which must not exceed 3% of total expenditures.
  - b. Forecast of revenues and expenditures for the following two fiscal years.
  - c. Forecast of expenditures for investments with the following information:
    - i)The purpose of the investment;
    - ii)The financing plan, including the means and sources of financing;
    - iii)The annual amount of loan repayment and an estimate of additional operating expenditures the investment will require.
8. The executive organ of the Local Government unit prepares the draft budget for the new fiscal year as well as the draft closing of accounts of the past year and submits them for adoption to the respective council observing the terms set forth in the Law No. 8379, dated 29.7.1998 "On the Drafting and Execution of the Budget of the Republic of Albania."

9. The amendments to independent budget concerning the transfers and the distribution of funds and the manner how to use the reserve fund are made by the relevant council, upon the proposal of its chairman, in compliance with the criteria set forth in the Law No. 8379, dated 29.7.1998 "On the Drafting and Execution of the Budget of the Republic of Albania" and relevant normative acts.

## **Article 20 Archiving of Finance Records**

1. Each local government shall take measures for archiving, storing and administering their financial documents and is responsible for any damage or loss, in compliance with the Law on archives.

2. Each local government shall approve an internal regulation for implementing the Law on archives.

## **Article 21 Internal Financial Controls**

1. Each communal, municipal and regional council shall appoint a Finance Commission that shall act during the council mandate.

2. The Finance Commission controls the revenues and expenditures made by the executive body, in compliance with the budget adopted by the Local Council. The executive of the local government shall report to the Finance Commission regularly during the year and shall provide all documents requested by it. The executive organ of the local government or its administration may not be a member of the Finance Commission.

3. In order to perform its functions, the Finance Commission shall have full access to all accounting documents, including the tax rolls. The Finance Commission may request an external audit of the accounts be carried out by a certified accountant

## **Article 22 External Finance Controls**

1. Each unit of local government shall be subject to external control by the High State Control which is based on the principle of legality of use of financial resources.
2. Each unit of local government shall be subject to external finance control by the organs of central government, in the manner as stipulated by law.

## **CHAPTER VI**

### **COMPOSITION, ESTABLISHMENT, ORGANIZATION, AUTHORITY AND TASKS OF the municipal and communal Councils**

## **Article 23 Conduct of Municipality and Commune Council Elections**

Members of Commune and Municipality Councils shall be elected by procedures set forth in the Election Code of the Republic of Albania.

## **Article 24 Number of Councilors**

1. The number of members of Commune and Municipality Councils shall be determined according to the population of the communes and municipalities, as follows:

Communes and municipalities up to	5 000 inhabitants	13 Councilors
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"	"	5 000-10 000 inhabitants	15 Councilors
"	"	10 000-20 000 inhabitants	17 Councilors
"	"	20 000-50 000 inhabitants	25 Councilors
"	"	50 000-100 000 inhabitants	35 Councilors
"	"	100 000-200 000 inhabitants	45 Councilors
Municipality of Tirana			55 Councilors

2. In application of this article, the Prefect defines the number of the members of the council for each commune and municipality in its jurisdiction, based on the number of inhabitants according to the official statistics of the civil office as of January 1 of the year the [local] election takes place.

## **Article 25                      Incompatibility of Councilor Functions**

1. Function of councilor is incompatible:
  - a. With the function of Chairman, Deputy Chairman of Commune and Mayor or deputy Mayor of a municipality;
  - b. With the function of the Council Secretary;
  - c. With the function of employee of the executive organs of the respective commune and municipality;
  - ç. With the function of a member of Parliament.
  
2. No person can be elected at the same time in more than one Commune or Municipality Council.
  
3. No two persons who are immediate relatives as a parent, a spouse, a child, a sibling or the immediate relatives of a spouse may serve simultaneously on the same Commune or Municipality Council.



## Article 26 First Municipal or Commune Council Meeting

1. Nor later than twenty (20) days after the Central Election Commission has officially notified the local election results, each Commune and Municipality Council shall conduct its first meeting.

2. The Commune or Municipal Council Secretary shall issue the notice of the first meeting. In the absence of a Council Secretary, the local Prefect shall issue the notice.

3. In case the above mentioned subjects fail to exercise this right within the time limit stipulated in section 1 of this Article, then the council is held by its initiative within ten (10) days.

4. The first meeting of the council is official only when more than half of all of the Councilors, which have been officially notified by the Election Commission, are in attendance. Where more than half of the Councilors are not in attendance, the meeting shall be canceled and another meeting shall be called three (3) days later, but not more than three consecutive times. In case, even after these three times, there has not been the required attendance, the Council shall be dissolved.

5. The eldest councilor shall preside at the first meeting of the Council until a Chairman of the Council shall be elected.

6. In the first meeting of the Commune or Municipality Council, the following matters shall be taken up:

a. The Council shall elect the mandate commission;

b. The Council shall verify and approve mandates of Councilors;

c. Councilors shall take the oath;

ç. The Council shall elect the Chairman and deputy-chairman of the Council;

d. The Council shall elect the members that will represent the Commune or Municipality on the Regional Council and shall provide them with a mandate of representation.

7. The Commune or Municipality Council shall be constituted after more than half of its members have had their mandates verified.

## **Article 27**                      **Councilor Mandate**

1. The mandate is given [recognized] to the council member by the Council.
  
2. The recognition or the cancellation of the mandate of Councilor is adopted by the majority of the votes of all the Councilors.
  
3. No council member may vote on his or her eligibility.
  
4. The Councilor's mandate may expire earlier, with the proposal of the mandate Commission, in case of :
  - a. change of residence;
  - b. resignation from the Council;
  - c. creation of conditions of incompatibility as defined in Article 25 of this Law;
  - ç. mandate is taken by him in an irregular manner;
  - d. loss of juridical competence by a court decision;
  - dh. death;
  - e. absence from the council meetings for a period of six months;
  - ë. condemned for a penal act by a final decision of a court;
  - f. dissolution of the council by the competent organ.

## **Article 28**                      **Oath**

1. Each of the Councilors shall take the oath before the council, after verification of their mandate.

The following is the oath:

*“I pledge in the name of the voters who elected me to protect the Constitution of the Republic of Albania and all its laws. I pledge in all my activity that I will be guided by the interests of citizens of [Name of Commune or Municipality], and I will work honestly and with devotion for the development and the improvement of their welfare.”*

2. Any Councilor who refuses to take and sign the oath is considered to have given his resignation and his mandate is not given to him.

## **Article 29**                      **Rights of the Councilor**

1. A Councilor shall not be held liable in any penal or civil proceedings for any opinion expressed during the exercise of his duties.
2. A Councilor shall be paid for his work. Criteria determined by the respective Council shall be used to establish the compensation of Councilors.
3. Upon his request, the Councilor is informed or is given for his use at any time, from the administration of his commune / municipality, any kind of documents.
4. The Councilor has the right to professional training, according to the program adopted by the council. In such cases, financing is performed in compliance with the legislation and rules in force.

**Article 30**                      **Conflict of interest**

1.        The Councilor does not take part and vote in any meeting where the case being considered is of personal interest to him, his spouse, parents, children, brothers, sisters, in-laws.
  
2.        In any case of conflict of interests, the disqualifying provisions set forth in the Code of Administrative Procedures of the Republic of Albania are applied.

**Article 31**                      **Functioning of Municipal or Commune Council**

1.        The local Council shall commence exercising its function upon being constituted in accordance with Article 26 of this Law and shall continue to function until a successor Council is constituted.
  
2.        The schedule for the regular [ordinary] meetings is decided by the Council itself, but not less than one per month.
  
3.        The Council meets in extraordinary meeting in the following cases:
  - a.        Requested by the Chairman of the Commune or the Mayor of the Municipality;
  - b.        By the request of one-third (1/3) of its members;
  - c.        With the motivated request of Prefect concerning issues related to the functions of the Council.
  
4.        The meeting is called by the Chairman of the Council, and the meeting shall be notified [posted] at least five (5) days before the meeting. The notice shall state the date, time, place and agenda of the meeting.
  
5.        The agenda of each meeting should be approved by the Council
  
6.        In the period from the date of elections up to the constitution of the new Council, the previous Council can exercise only limited functions and can take decisions only in case of emergencies.
  
7.        A majority of the Council constitutes a quorum, which is necessary to conduct ordinary issues, as except for cases, when a majority of voting is required, according to article 33 of this Law.

8. Where a Council is unable to function due to a lack of a quorum for a period of three consecutive months, starting from the last meeting date, the Council is dissolved. The Secretary of the Council notifies the Prefect ten (10) days after the three months of nonfunctioning. After the dissolution, new elections must take place.

9. Minutes are held for each council meeting. The manner the minutes and meeting reports are held should be clearly stated in the internal regulation approved by the Council.

#### Article 32                      Duties and Competencies of Commune and Municipality Councils

The commune and municipality Council exercises the following duties and competencies:

- a) Adopts the statute [charter] of Commune and Municipality and the internal regulations of functioning of the Local Council.
- b) Elects and dismisses the Chairman and deputy Chairman of the Council.
- c) Appoints and dismisses the Secretary of the Communal and Municipal Council .
- c) Adopts organizational and administration structure of commune and municipality and its budgetary institutions under the authority of the commune and municipality, as well as the number of their personnel, the criteria for qualifications, salaries and criteria for compensation [bonuses] of the personnel or of the elected or appointed persons, in compliance with the legislation in force.
- d) Approves the foundation documents of the enterprises, companies and other judicial persons it establishes or co-founds.
- dh) Approve its budget and amendments to it.
- e) Approve the change of the ownership or giving in use [usufruct] to third parties of its property.
- ë) Implements and supervises the internal control of commune and municipality.
- f) Decides rates of all local taxes and tariffs [fees].
- g) Decides to credit and liquidate obligations to third parties.
- gj) Approves the setting up of joint institutions with other local government units, including the Joint Powers Authority, or with third parties.
- h) Approves any legal proceedings instituted in its name.

- i) Determines the representations of communal or municipal council in Regional Council
- j) Adopts the approval or withdrawal of the mandate of a councilor.
- k) Adopts norms, standards and criteria for the regulation and the enforcement of the functions granted to the council by law, as well as protects and guarantees the public interest.
- l) Decides emblem of commune or municipality.
- ll) Approves the names of streets, squares, territories, institutions and objects under its jurisdiction.
- m) Grants honorary titles and bonuses.
- n) Adopts regulations, procedures and manner of execution of delegated functions, in compliance with the Law through which the delegation to commune and municipality is decided.

### Article 33            Voting

1.        Voting can be by roll-call [open] or secret. The Council decides when the voting will be by secret ballot. All voting for individual affairs are by secret ballot.
  
2.        The adoption of a Council decision shall require the vote of the majority of all Council members in attendance.
  
3.        The adoption of decisions requires the vote of the majority of all the Council members for cases described in article 32 paragraphs "b", "c", "d", "dh", "g", "gj", "i", and "j" of this Law.
  
4.        Adoption of decisions requires three-fifths (3/5) of the total number of the Council members for cases described in article 32 paragraphs "e" and "f" of this Law.
  
5.        Where voting for chair, deputy chair and secretary of Council has not resulted in the required majority, the vote shall be taken again for the two candidates who received the most votes in the first round.

6. The acts [decrees, ordinances and orders] are published [notified] within ten (10) days from the date of their approval. They shall be effective ten (10) days from the date of their publication [notification]. Acts pertaining to an individual shall be effective from the date the person involved is notified.

### **Article 34 Open Meetings**

1. Meetings of council shall be open to the public. Every citizen has the right to attend Council meetings according to the regulation approved by the council.

2. The announcement of the council meeting will be made in the places assigned by the Council and in the media. The announcement contains the date, place, time, and agenda.

3. By a majority vote of all the Councilors, the Council might decide for cases when the meetings will be closed to the public.

### **Article 35 Public Hearings and the Right of the Public to be Informed**

1. In advance of discussing and approving its acts, the Council holds public hearings [panels]. The public hearings are obligatory in cases determined in Article 32, paragraphs "dh", "e", "f" and "k" of this Law.

2. The public hearings shall be organized according to the manner determined in the regulations of the Council by using but not limited to one of the following methods: such as open meetings with citizens [inhabitants], meetings with specialists [experts], institutions, or NGOs as well as taking the initiative to organize local referendums.

3. The council shall have the obligation to announce all decisions in public places within the territory of the commune or municipality and the council also uses other forms to publicize its decisions. The information to the public shall be made in compliance with the law No. 8503, dated 30.06.1999 "On the right of public to be informed about official documents", and by additional rules determined by the council.

### **Article 36 Chair of Communal and Municipal Council**

1. The chair and deputy chair are elected from among the Councilors. The proposal for discharging them from this function can not be initiated by less than one-third (1/3) of the number of the council members.

2. The chairman of the Council shall have the following duties:

- a) Calls the Council meetings in compliance with Article 31 of this Law;
- b) Presides the Council meetings according to the statute of the Council;
- c) Sign all acts and reports of the Council;
- c) [Carries out] other duties assigned by the Council.

3. Where the chair is absent, the deputy chair shall act in his/her place.

### **Article 37 Secretary of Communal and Municipal Council**

1. The council nominates or discharges the secretary of the communal and municipal Council upon the proposal of the Council chairman, with the majority vote of all the councilors. No less than one-third (1/3) of the council members can propose the discharge of the secretary.

2. A secretary of the communal or municipality council is responsible to:

- a) Maintain the official documents of the Council;
  - b) Prepare the notice and agenda of the Council meetings;
  - c) Sends the notifications for the Council meetings;
  - ç) Publish any notice and decision taken by the Council;
  - d) Prepare the public hearings with the municipality;
  - dh) Supervise the regulation of the functioning of the Council.
3. Other duties assigned to him by the Council.

#### Article 38 Dissolution of the Commune or Municipality Council

1. The Municipal or Communal Council can be dissolved by the Council of Ministers before the termination of the regular mandate in the following cases

- a) It does not meet for an uninterrupted period of three months;
- b) It is not able to adopt the budget three months after the deadline determined in Article 19 of this law;
- c) It commits serious violations of the Constitution or other laws.

2. The Communal or Municipal Council is also dissolved after a reorganization for the change of boundaries, according to Article 70 of this Law.

3. In case of dissolution of the Council, new council elections are held in the respective commune or municipality, according to the Election Code of the Republic of Albania.

## CHAPTER VII

### Mayor OF COMMUNE AND MUNICIPALITY

#### Article 39 Mayor of Commune and Municipality

1. Legal electors of a commune and municipality directly elect Mayor for a three-year term, through general, direct and secret voting, according to the manner described in the Election Code of the Republic of Albania.
2. Mayors of commune and municipality shall be supported by one or more Deputy Mayors during execution of their duties. The communal and municipal council shall determine the number of Deputy Mayors. Mayors of commune and municipality shall appoint or discharge the Deputy Mayor.

#### Article 40 Mandate of Mayor of Commune and Municipality

1. The mandate of Mayor of commune and municipality shall be verified by the court, which has jurisdiction over the municipality and commune where the Mayor was elected not later than twenty (20) days after the official elections results have been announced [notified].
2. Invalidity of the Mayor's mandate shall be declared in case the conditions of Article 45 of the Constitution and Article 10 of Election Code of the Republic of Albania are not met.
3. The notification of the validity of Mayor's mandate shall be made in the following scheduled meeting of communal or municipal Council in which the Mayor shall take and sign the oath defined in Article 28 of this Law.
4. The term of a Mayor of a commune or municipality shall begin from the date he takes and signs the oath and shall finish when newly elected Mayor shall take and sign the oath.

5. In case the municipality or communal Council is not convened within thirty (30) days from the date of announcement [notification] of election results by the Central Election Commission, the prefect organizes the oath ceremony for the municipality or commune Mayor in the premises of the municipality of commune and in the presence of the residents [inhabitants] of the respective unit.

#### **Article 41 Discharge of Mayor of Commune and Municipality**

1. The mandate of a Mayor may expire before the previously defined time limit in case of:

- a) Refusal to take the oath;
- b) Resignation;
- c) No longer resident of the commune or municipality where he is elected;
- ç) Discharged from competent organ, as specified in Article 42 of this Law;
- d) Runs or is elected as a member of Parliament ;
- dh) Loss of juridical capacity to act, upon a final court decision;
- e) Death.

2. Where a Mayor resigns he shall inform the communal and municipal council and file this notification. The secretary of the council shall inform the Prefect of the Mayor's resignation in order to follow necessary procedures.

3. Where the Mayor's term expires earlier [anticipated loss of mandate], the communal or municipal Council shall inform the Council of Ministers through the Prefect

4. Where a Mayor's term expires earlier, new elections shall be organized for the Mayor of the commune or municipality, in compliance with the provisions of the Election Code of the Republic of Albania.

5. If a Mayor's mandate expires earlier according to this Article, the duties of the Mayor shall be exercised by the Deputy Mayor until the election of the new Mayor. When there are more than one Deputy Mayors the council shall elect one of them to be the acting Mayor until the election of the new Mayor.

6. If the place of the commune or municipality Mayor remains vacant during the last 6 months of his regular mandate, the municipal council shall elect one of its members by majority voting, to exercise the functions of the Mayor until the end of regular mandate.

#### **Article 42 Dismissal of the Mayor**

1. A Mayor may be discharged by the Council of Ministers for the following reasons:
  - a) Acts in serious violation of the Constitution or other laws;
  - b) Conviction by a final decision of a court for a penal act [crime];
  - c) Proposed to be dismissed by the council due to his absence from duty for a consecutive three month period

#### **Article 43 Symbol of Mayor**

1. The distinctive symbol of the Mayor is a stripe with the colors of the national flag, 111 mm wide, divided in three sections with equal width of red-black -red color.
2. The mayor shall wear the symbol from the right shoulder.
3. The Mayor shall wear the symbol during solemn meetings, official receptions, public ceremonies and marriage ceremonies.

## **Article 44 Authority and Duties of the Mayor**

The Mayor of the municipality or commune have the following jurisdiction and duties :

- a) Exercises all competencies for the carrying out of the functions of the Commune or Municipality with the exception of those competencies that are exclusive to the Council;
- b) Implement the decisions of the Local Council;
- c) Takes measures for the preparation of materials for the meetings of the council, in compliance with the agenda of the meeting and also for topics that he is interested to discuss with the Council;
- c) Reports to the Council on the financial economic situation and on the service levels achieved every six months and more often if required by the Local Council;
- d). Reports to the Council, as required by the latter, on issues that are related to the functions of the municipality/commune;
- dh) Member of the Regional Council;
- e) Appoints and dismisses from duty the Deputy Mayors;
- è) Appoints and dismisses the managers of the enterprises and institutions under municipality or communal jurisdiction [authority];
- f) Appoints and dismisses other non-managerial employees of the agencies under the jurisdiction of the municipality or commune except as otherwise stipulated in the Law No 8549, dated 11.11.1999 on the Civil Service;
- g) Exercises all the rights and guarantees the meeting of all obligations of the local government due to its status as a juridical person;
- gj) Takes measures for qualification and training of personnel of administrative staff, personnel of education, social, cultural and sportive institutions;
- h) Has the right to only once ask the council for reconsideration of a decision of the Council that he deems harmful to the interests of the community.

## **CHAPTER VIII**

### **TERRITORIAL SUBDIVISIONS OF THE COMMUNE, MUNICIPALITY AND REGION**

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## **Article 45                      Creation of Sub-division of Commune**

1. Village is headed by village board and head of village. The board is the advisory organ of the head of village. The members of the village board are elected in meetings of the village in which no less than one-half (1/2) of residents with the right to vote participate. Where village is composed of quarters, each quarter shall elect a member to the board. The respective communal Council defines the voting rules.
  
2. Number of members village board shall be determined by communal and municipal Council (when there is a village under the jurisdiction of the municipality) based on the number of inhabitants of the villages and its constituent quarters.
  
3. Chair shall be elected from members of the board with secret voting with no less than two (2) candidates.
  
4. The election of the board and head of village shall be carried out once in three years after communal election and not later than six (6) months after this election.
  
5. Where there is any vacant place of head of village or a member of the board, the above procedures shall be followed again for the vacant place. In this case the mandate of the newly elected member shall continue until the end of remaining period of three (3) years.
  
6. The election process and the activity of the board and head of village shall be supervised by the communal and municipal Council.

## **Article 46                      The Rights and Duties of Board and Head of a Village**

1. Head of village and Board shall exercise and/or support the execution of all self-government duties in its village as well shall take care of economic development, use of mutual resources and shall ensure social harmony.
2. More detailed duties shall be defined in regulations and rules of the communal or municipal council.
3. Head of village shall have the communal seal and shall have the authority to issue certificates or verifications about facts and data for residents and/or territory of village, of which he is aware and whenever it is required by the commune or municipality, by the residents themselves or by any other institution in compliance with the law.
4. Decisions of communal and municipal organs shall be obligatory for head of village and board.
5. The compensation of the head of village and the board shall be determined by the communal and municipal council.
6. Head of village shall participate in respective communal and municipal Council meeting without the right of vote, on his own initiative or as called by council. Head of village shall have the right to express his opinion in council meeting for issues that are related to his village.

#### **Article 47                      Functions of Sub-divisions of Municipalities**

1. In municipal quarters shall be functioning the administrative organs. The Municipal Council shall determine the structure and number of employees of quarters. Administrator is in the head of executive organs. He is a civil servant and directly under the authority of the Mayor. The training of other administrative personnel of the quarter (lagje) is subject to Law No. 8549, dated 11.11.1999 on the Civil Servant.

2. Administration of a quarter shall exercise all administrative duties placed in their in charge by the Mayor and the Council, as well as shall take care of economic development, use of mutual resources and shall ensure social harmony. More detailed duties shall be defined in regulations and rules issued by the Mayor and municipal Council.

**Article 48            The Administrative Structure of the District**

In the district there will be established administrative structures of the State as described by its regulations and administrative structures of the regions as described by the decisions of the Regional Council.

**CHAPTER IX**

**ORGANIZATION OF REGIONAL COUNCIL**

**Article 49            Composition of Regional Council**

1. The Regional Council is composed of representatives of communal and municipal Councils.
2. All Mayors of communes and municipalities from the constituent members are automatically members of the Regional Council.
3. Number of members of Regional Council shall be determined according to Article 50 of this Law.
4. The function of member of Regional Council is incompatible with the function of employee of the respective regional administration.

**Article 50                      Number of Regional Councilors**

1.        Number of representatives of communal and municipal council in Regional Council shall be determined in proportion to population as follows:

Communes and municipalities up to 5 000 inhabitants	1 representa tives
"              "              5 001-10 000 inhabitants	2 representa tives
"              "              10 001-30 000 inhabitants	3 representa tives
"              "              30 001-50 000 inhabitants	4 representa tives
"              "              50 001-100 000 inhabitants	5 representa tives
over 100 000 inhabitants	5 + 1 representative for each 1-50 000 inhabitants above 100,000.

2.        Where a commune and municipality shall have only one representative, this function is executed directly by the Mayor of commune and municipality. Where a commune and municipality shall have more than one representative, additional representatives over one (1) are elected by the respective council.

3.        In application of this article, the Prefect defines the number of representatives for each commune and municipality council in its jurisdiction, based on the number of inhabitants according to the official statistics of the civil office as of January 1 of the year the [local] election takes place.

4.        The regional council sends a copy of its decisions to the Prefect within ten (10) days after they are taken.

## **Article 51                      First Meeting of the Regional Council**

1.        The Regional Council shall hold its first meeting not later than fifty (50) days after the Central Election Commission has officially declared the final election results.

2.        The Mayor of the municipality-seat of region or one-third (1/3) of the Region Council members call the first meeting of Regional Council or sends a written notification to all the regional council members at least ten (10) days before the date of the meeting.

3.        A council may hold its first meeting only when more than one-half (1/2) of Regional Councilors shall be present.

4.        The Mayor of center [capital] of the region shall preside in the first meeting of the Council until the chair of Council shall be elected.

5.        In the first meeting of the Regional Council, the following matters shall be undertaken:
- a)        Election of the mandate commission, which verifies the mandates of Regional Councilors;
  - b)        Certification of the mandates of the Regional Council members;
  - c.        Election of the chair, deputy chair and board of Regional Council.

6.        The Regional Council shall be constituted after not less than one-half (1/2) of all Councilors have had their mandates verified.

7.        Where one-half (1/2) of all the Councilors are not in attendance, the meeting shall be canceled and another meeting shall be called ten (10) days later, for as many consecutive times as necessary to obtain the presence of requested Councilors.

8.        If the Regional Council shall not be constituted until ninety (90) days after the local election results have been officially declared by the Central Election Commission, the Prefect shall execute all the functions and competencies of the Regional Council.

## **Article 52 Councilor Mandate**

1. The mandate of the regional councilor is won by all the Mayors of commune and municipality when they have obtained their own respective mandate as Mayors.
  
2. Election of Councilors among councilors of communal and municipal Councils, in accordance with Article 26 of this Law is by vote of a list of multiple candidates and the notified winners are the candidate or candidates that have received the largest of number of votes.
  
3. The councilor mandate shall expire when:
  - a. Mayors of commune and municipality lose their mandate;
  - b. The mandate is revoked by respective council;
  - c. The mandate is canceled by Regional Council upon verification that is taken in an irregular manner.
  
4. The seat made vacant due to the loss of a mandate of a member of the Regional Council are replaced by the respective commune or municipality Councils.
  
5. A seat made vacant due to the loss of a mandate of a member of the Regional Council, or by a commune or municipality Mayor in the last six (6) months of the term of his mandate, is replaced by the Chair elected by the respective communal or municipality Council.

## **Article 53 Functioning of the Regional Council**

1. The Regional Council shall exercise its function upon being constituted until the new successor council shall be constituted.

2. Each Regional Council shall hold regular meetings not less than once every three (3) months.
3. The ordinary meetings of the Regional Council shall be based on the agenda approved by the Council.
4. The Regional Council meets in extraordinary meetings with the request of:
  - a) the chair;
  - b) the Board;
  - c) one-third (1/3) of its regional councilors;
  - ç) the motivated request of the Prefect, for issues related to the functions of the Council.
5. The meeting is called by the Chairman of the Council.
6. The meeting shall be notified [posted] at least ten (10) days before the meeting. The notice shall state have the date, time, place and agenda of meeting.
7. A majority of the Council constitutes a quorum.

## **Article 54**                      **Duties of the Regional Council**

The Regional Council exercises the following competencies and duties:

- a) Adopts the statute and internal regulations of functioning of the Council;
- b) Decides on the obligatory quotas for each commune and municipality, to be transferred to the regional budget;

- c) Elects and dismisses the Chairman, Deputy Chairman and Board members;
- ç) Appoints and dismisses the Secretary of the Regional Council;
- d) Adopts organizational and administration structure and main regulations of the regional administration, of budgetary units and institutions, as well as the number of administrative staff, their qualifications, salaries and criteria for compensation [bonuses] of the personnel or of the elected or appointed persons, in compliance with the legislation in force;
- dh) Approves the foundation documents of the enterprises, as well as of those of other juridical entities, created by the Regional Council or in which it is a co-founder;
- e) Approves its budget and amendments to it;
- è) Approves change of ownership [sale, purchase, disposition] and usufruct of its immovable property to third parties;
- f) Implements and supervises the internal control of the region;
- g) Decide rates of all taxes and tariffs [fees];
- gj) Decides to credit and liquidate obligations to third parties;
- h) Approves the creation of joint institutions with other local governments units or third parties;
- i) Appoints and dismisses the heads of the enterprises and other institutions dependent on it;
- j) Approves any legal proceedings instituted in its name;
- k) Determines the incompatibility of a councilor;
- l) Adopts norms, standards and criteria for the regulation and enforcement of functions granted to the Regional Council by law, as well as protects and guarantees the public interest on a regional level;
- ll) Decides on the Region's symbols;
- m) Grants honorary titles and bonuses;
- n) Adopts regulations, procedures and manner of execution of delegated functions, in compliance with law;
- nj) Adopt and repeal the decisions of the regional board.

## Article 55

## Voting

1. The adoption of a decision, for whatever purpose shall require the vote of a majority of all council members in attendance, with the exception of cases defined in Article 54, Sections "b", "e", "ë", "g", "gj", "ll", of this Law, which requires a majority vote of all members of the Regional Council.
2. Where voting for chair, deputy chair and secretary of council has not achieved the requested majority, the vote shall be taken again between two candidates that in the first round received the most votes.
3. The acts of the Council shall be published [notified] within ten (10) days from the date of their approval and shall be effective ten (10) days from the date of their publication (notification). Acts pertaining to an individual shall be effective from the date the person involved is notified.

#### **Article 56                      Open Meetings, Public Hearings and the Right of the Public to be Informed**

Meetings of the Council shall be open to the public. The date, time, place and agenda of the Council meeting shall be public in compliance with Articles 34 and 35 of this Law..

#### **Article 57                      Conflict of Interest**

1. The Councilor does not take part and vote in any meeting where the case being considered is of personal interest to him, his spouse, parents, children, brothers, sisters, in-laws.
2. In any case of conflict of interests, the disqualifying provisions set forth in the Code of Administrative Procedures of the Republic of Albania are applied.

## **Article 58**                      **Board of the Regional Council**

1.        The Board of the Regional Council is composed of the Chair, Deputy Chair and of 5 to 9 members.
  
2.        The council shall elect or dismiss the Chair and its deputy Chair with a majority vote of the councilors in attendance. Where voting for Chair and Deputy Chair has not resulted in the required majority, the vote shall be taken again for the two candidates who received the most votes in the first round.
  
3.        The other members of the Regional Board are elected and dismissed by vote and winners are the candidates who have gained the largest number of votes.
  
4.        The Board is called into meetings by the Chair, no less than once a month.
  
5.        A Board meeting is valid when more than one-half of the members of the Board are in attendance.
  
6.        Functions of Chair and Deputy Chair and secretary of the Council are incompatible with the function of Mayors of commune and municipality.

## **Article 59**                      **Competencies of the Board of the Regional Council**

1.        The Board shall exercise all the functions and competencies of Regional Council:
  - a)        exercises all the competencies, with the exception of those which have been clearly and exclusively granted to the Regional Council;
  
  - b)        adopts the draft acts and other draft materials for the meeting of the Regional Council, in compliance with the agenda defined by the Council, as well as for other problems requested;

c) reports to the Council on the economic-financial situation no less than every six (6) months or when requested by the Council;

ç) Reports to the Council at any time as requested by the Council, on other issues related to the regional functions;

d) exercises the rights and ensures the fulfillment of all the obligations of the region as a juridical person;

2. Exercising its competencies, the Board may issue decisions which are approved by the majority of the members attending and they are effective after being published or being notified to the interested parties.

3. The decisions of the Board should be adopted in the following meeting of the Regional Council and in case they are not adopted, they lose their effectiveness from the beginning.

## **Article 60                      Chairman of the Regional Council**

1. The Chair represents the Regional Council in relations with state organs, with local government units, with Albanian or foreign physical and juridical persons and exercises the following competencies:

a) Presides the Regional Council meetings and its Board;

b) Signs all acts of council and its Board and as well as minutes of the Council meeting and its Board;

c) Ensures the enforcement of decisions of Regional Council and its Board;

ç) In compliance with the agenda of Regional Council meeting and its Board, shall prepare reports, draft-decisions and other necessary materials;

d) Manages the administration of the region and is accountable to the Regional Council for its functioning;

dh) Hires and dismisses the administrative staff of Regional Council, with the exception of the cases otherwise described in the law no. 8549, dated 11.11.1999 on The Civil Servant;

e) Guarantees the execution of functions of regions defined by law;

- e) Takes measures for the provision of functioning of all structures of council, meetings of the Regional Council and its Board;
  - f). Exercises other competencies given to him by law, by the Regional Council or by the Board.
2. The chair of the Regional Council issues orders during exercising the competencies with individual character.
  3. In the absence of the Chair, functions are performed by Deputy Chair.

#### **Article 61                      Secretary of the Regional Council**

The Secretary of the Regional Council exercises his duties similarly with those of the Secretary of Municipal or Communal Council, defined in Article 37 of this Law.

#### **Article 62                      Limitations of Regional Authority**

1. A Region shall take no action to violate the autonomy of its constituent communes and municipalities.
2. The decisions of the organs of the Region shall aim towards the equitable distribution of resources and benefits in favor of its constituent communes and municipalities.

### **CHAPTER X    REORGANIZATION OF LOCAL GOVERNMENTS**

**Article 63                      Administrative - Territorial Reorganization**

The existing administrative-territorial division can be reorganized either with or without a change in boundaries, in compliance with the local economic, social interests, tradition, culture, and other local values for the efficient provision of functions to the benefit of the local community and the implementation of local, regional and national policies.

**Article 64                      Reorganization with border change**

Reorganization with border changes can take place when:

- a) A unit of local government is divided into two or more units of local governments;
- b) Two or more units of local governments are merged to form a territory of a single unit of local government;
- c) A part of the territory of one local government unit is transferred to the territory and administration of another local government unit; or
- c) A combination of the cases listed above is necessary.

**Article 65                      Reorganization without border change**

Reorganization without changing the borders can happen in the cases of a Change of the name of the local government unit or a Change of the geographic center of a local government unit.

**Article 66                      Legal support and the initiation of the reorganization**

The reorganization of the existing territorial - administrative division with or without changing borders can be made effective only by a special law.

**Article 67**                      **Justification and documentation of the reorganization process**

The proposal for reorganization of one or more units of local governments for each case shall be submitted to the Parliament accompanied by the following facts and justifications:

- a) The economic, social, cultural, demographic, administrative reasons in favor of the need and advantages of reorganization proposed;
- b) The methods, materials or documents used to inform the public on the reorganization and the issues related to it;
- c) The opinion of the community that lives in the local units that shall be affected by the reorganization as well as the opinion "For" and "Against" expressed directly or indirectly by various interested subjects or groups in this reorganization;
- ç) The methods used to collect the opinions of the community such as public hearings, open meetings, surveys and referenda if it is possible;
- d) The administrative territorial maps, in which are reflected the changes which would result from the reorganization;
- dh) The expected economic, financial, social, demographic impacts that will result from the reorganization, as well as the civil and administrative liabilities or obligations which will result, will be inherited or will be shared;
- e) Agreements and proposals for existing liabilities and assets and the way they will be administered after the reorganization.

**Article 68**                      **The requirement to express the opinion**

1. The municipal, communal and regional Councils which are directly involved in this reorganization as well as their chairmen shall give their official opinion on the reorganization and as well, the opposing opinion of a part of the councilors.
2. The Council of Ministers, when it has not made the proposal and other state institutions which are not under the jurisdiction of the Council of Ministers, but are interested in the specific reorganization, shall also express the opinion in favor or against the reorganization.
3. The above mentioned organs should give their opinion no later than sixty days after the receipt of the request for an expression of opinion by the initiator.

#### **Article 69 Rights and obligations of the reorganized units**

1. In each case when the reorganization affects the financial, property rights or obligations to third parties and other civil rights of the local government units the issues that might arise will be solved in negotiations between parties concerned, according to the legislation in force.
2. In case of disagreements of the issues anticipated in paragraph 1 of this article, the conflicts will be resolved in the court.

#### **Article 70 Guarantee of continuation of the basic functions**

1. In the case of reorganization affecting boundary changes that results in new units of local governments, or when this reorganization causes incompatibility to the mandate of the majority members of the council of a local government unit which loses part of its territory, partial local elections shall be held in these territories, in compliance with the methods and schedule anticipated in the Election Code of the Republic of Albania.

2. The new local government units, as well as other central and local government bodies have the authority to take necessary measures, so that the local government units created or affected by the reorganization, can function normally, according to this Law, ensuring the provision of the public services for the population in the transition period.

## **CHAPTER XI**

### **TRANSITORY AND CLOSING PROVISIONS**

#### **Article 71 Implementation of this Law**

Functions of the units of local governments, in accordance with this Law, is realized in compliance with the time limits established in the articles of this Chapter.

#### **Article 72 Functioning and Organization of Local Government Units**

1. With the enforcement of this Law, communal, municipal and regional Councils will exercise their full rights and powers for:
  - a) Adoption of decisions, orders, and other acts for their organization in the manner as set forth in this law;
  - b) Exercise of fiscal authority;
  - c) Undertake initiatives in the interest of their respective local communities;
  - c) Adoption of personnel rules/procedures;

d) Exercise of any other rights and powers set forth in this Law and other laws in relation to the control of commune and municipality property and performance of its functions.

2. Communes, municipalities and regions shall undertake ownership and control of such property in accordance and in compliance with the timetable defined in specific law.

3. Communes, municipalities and regions will undertake ownership of public enterprises, according to the schedules set forth in a specific law, as well as will exercise the right to establish juridical entities in compliance with this Law.

4. Beginning on January 1, 2001, commune and municipality governments shall be fully responsible for performing the following exclusive functions:

I. Infrastructure and public services

- a) Construction, rehabilitation and maintenance of local roads, sidewalks and public squares;
- b) Public lighting;
- c) Public transport;
- c) Cemeteries and funeral services;
- d) City/village decoration;
- dh) Parks and public spaces;
- e) Waste management [collection, transport, disposal / treatment]

II Social cultural and recreational functions

- a) Saving and promoting the local cultural and historic values, organization of activities and management of relevant institutions
- b) Organization of recreational activities and management of relevant institutions

- c) Social services including orphanages, day care, elderly homes etc

### III Local Economic development

- a) The preparation of programs for local economic development;
- b) The setting [regulation] and functioning of public markets and trade network;
- c) Small business development as well as the carrying out of promotional activities, such as fairs and advertisement in public places;
- ç) Performance of services in support of local economic development, such as information, necessary structures and infrastructure;
- d) Veterinary service;
- dh) The protection and development of local forests, pastures and natural resources of local character.

5. Beginning on January 1, 2002, the communes and municipalities shall be fully responsible for the performing of the following exclusive functions:

#### **I. In infrastructure and public services:**

- a) Water supply;
- b) Sewage and drainage and [flood] protection canals in the residential areas;
- c.) Urban planning, land management and housing, as defined by the law, except for the authority to adopt construction permits, which shall be transferred to the communes and municipalities from January 1, 2001.

#### **II. Civil Security**

- a) The protection of public order to prevent administrative violations and ensure the implementation of commune or municipality acts;
- b) Civil security.

6. Beginning on January 1, 2002, the manner of carrying out the following shared functions and competencies:

- a) The functioning of pre- school and pre- university education;
- b) The functioning of the priority health service system and the protection of public health;
- c) Social assistance and poverty alleviation and ensuring of the functioning of relevant institutions;

c) Public order and civil protection;

d) Environmental protection.

7. The communes and municipalities will also exercise other shared functions, according to the manner defined by law.

8. No later than January 1, 2001, the regions shall carry out all the functions and powers granted by this Law.

### **Article 73 Fiscal Authority of Communes and Municipalities**

1. Beginning on January 1, 2001, communes, municipalities and regions shall have the authority to impose local taxes and tariffs, defined by special law.

2. Beginning on January 1, 2001, the communes, municipalities and regions shall have the authority to set local fees on the following categories:

a) Fees for public services;

b) Fees for public goods, with the exception of those produced by the central government;

c) Fees for licenses, authorizations and official documentation.

3. The communes, municipalities and regions shall have the right to of property use and use the revenues created in compliance with the respective laws on local property.

4. Beginning on January 1, 2002, communes, municipalities and regions shall be authorized to borrow funds for investments, in accordance with this Law and subject to the procedures and limitations set forth in special laws.

5. Beginning on January 1, 2002 the communes, municipalities and regions will receive financing as described by a special law from the following sources:

- a) General and equalization unconditional transfers;
- b) Shared national taxes;
- c) Conditional transfers to achieve national objectives;
- ç) Funds transferred from the central government to communes, municipalities and regions for performing the delegated functions.

6. Beginning on January 1, 2001, each communal, municipal and regional Council shall develop and adopt a local budget, based on the principle of local autonomy and the unique national accounting standards with zero budget deficit.

7. Beginning on January 1, 2001, communes, municipalities and regions shall institute internal financial controls.

8. Beginning on January 1, 2001, communes and municipalities will transfer their quotas to the regional budget.

## **Article 74                      Duties of Council of Ministers**

1. The Council of Ministers is responsible for drafting the laws and normative acts to enable the compliance with the implementation schedule set in this chapter of this Law.

2. This process shall be done in collaboration and consultation with representatives of local governments, local communities and civil society in general.

## **Article 75**                    **Disolution of Council District**

1. District Councils shall remain in force until the date of the 2000 local elections. Thereafter, the district council administration shall be under the authority of the Prefect.
  
2. The Prefect is responsible for the performing of the functions of former district councils, which have not been transferred to the communes and municipalities according to this chapter.

## **Article 76**                    **Abolition**

When this Law comes into effect, Law no. 7572, date 06.10.1992 "For the Organization and Functioning of Local Government" including its adopted changes and whatever other legal provisions contrary to this Law are abolished.

## **Article 77**                    **Effective date**

This Law shall come into effect 15 days after its publication in the official journal.

**Promulgated with the decree No. 2729, dated 08.07.2000, of the President of the Republic of Albania**

**Rexhep Meidani**

**REPUBLIC OF ALBANIA**

**PEOPLE'S ASSEMBLY**

**L A W**

**No. 8743, Dated 22.2.2001**

**ON**

**IMMOVABLE STATE PROPERTY**

In compliance with Articles 41, 78, 83 item 1 and 113 of the Constitution, and upon the proposal of the Council of Ministers,

**THE ASSEMBLY**

**OF THE REPUBLIC OF ALBANIA**

**D E C I D E D:**

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

This law is intended to determine the juridical status of the types of immovable state property and assign responsibility for its management.

#### Article 2

##### Definitions:

For the purpose of this Law, the following definitions have the following meanings:

- a) "Immovable State Property" shall mean the immovable property of the Central Government and Local Government units.
- b) "Immovable Public Property" shall mean that part of immovable state property which exercises fundamental and inseparable functions of the State Property providing benefits to the public.

- c) The Inventory of the immovable state property shall mean the document in which all the immovable state properties are preliminary registered during their identification and transfer process. Hereinafter it shall be referred as "inventory".

## CHAPTER II

### DETERMINATION OF STATE PROPERTIES

#### Article 3

##### Public property

1. The following public properties belong to the State :

- a) Shorelines, territorial waters, all river beds and banks, torrents, natural streams, lakes, lagoons and artificial/ natural reservoirs, islands as well as accumulation of sand, stones and silt on river, lakes and reservoirs beds, as set forth in the laws in effect.
- b) Historical, archaeological and cultural areas as well as national and local parks.
- c) Military/Public Order, Security Areas/Installations
- ç) Natural Resources and Mineral Deposits, as set forth in the legislation in effect.

2. Immovable Public properties, in case they are state owned, are also forests, pastures, meadows and all other immovable units erected on them, which have to do directly with their protection and development.

3. Immovable public properties, in case they are state owned are also the tangible assets, which are intended to provide public services, such as:

- Roads and bridges, railways and their supporting system related to them;
- Airport facilities;
- Energy producing and transmission system;
- Telecommunication and Post Office service system;
- Used Water Supply and Sewage discharge System in inhabited areas;
- Constructions of Historical, Archaeological and Cultural Interest;
- Parks, gardens, public sites (located in the cities and inhabited areas), facilities (owned by the state) being used for the purpose of providing public service like education, research, culture, sport, health, social insurance, central and local institutional facilities as well as the Governmental Residences together with the land on which these facilities have been erected.

4. The immovable public Property can be transferred or given for use as according to the methods and limitations specified by special laws.

#### **Article 4**

##### **Immovable non-public state properties**

1. The immovable state properties, which are not public property such as: agricultural land, plots of lands, buildings, tangible assets of the enterprises managed by the state, as well as other properties of this kind, enjoy juridical status equal to a private property (subject to Civil Code) unless they are subject to special legal provisions.

2. The Change in the status of an immovable state property from a public property into a non-public one is conducted in accordance with legal procedures.

## Article 5

### **Subsequent Acquisition of Ownership on Immovable Property**

After the effective date of this Law, the state may acquire rights of ownership on immovable property by means of gift, eminent domain, voluntary purchase, inheritance or other means of acquiring property, according to the laws in effect.

## Article 6

### ***Registration of Immovable Property***

1. All immovable public properties shall be registered at the Immovable Property Registry in accordance with the Law 7843, date 13.07.1994 on "The Registration of Immovable Property"

2. The registration of Immovable Properties is specifically made by:

- a) (with reference to the property finally identified as owned by the Central Government, which will be registered in the name of the Republic of Albania) The Council of Ministers
- b) (with reference to the property finally identified as owned by the Local Government, which will be registered in the name of the Local Government) The Local Government Unit Council

## Article 7

### **Registration of Conditions and Restrictions, their Removal or Change**

1. In the Immovable Property Register on state public properties, it should also be noted:

- a) Public benefits obtained from a property or the fundamental function that an immovable public property exercises as stated in article 2, item b and article 3 of this Law;
- b) limitation of the use of the immovable property, so that it maintains and protects its characteristics and maintenance;
- c) The conditions of the right of the public use of the property;
- ç) The conditions to guarantee the carrying out of functions performed.

2. The determinations and limitations stated in the Immovable Property Registry, in accordance with the first paragraph of this article, may be removed or amended with the decision of the Council of Ministers on immovable central government properties, if :

- a) The Characteristics set forth in the Immovable Property Registry do not conform to the criteria set forth in Article 2, item b and in article 3 of this ;
- b) Restriction set forth in the Immovable Property Registry is more burdensome than is necessary;
- c) The conditions of the property have changed or the circumstances that may have justified the imposition of restrictions no longer exist.

## **CHAPTER III**

### **DETERMINATION OF STATE OWNERSHIP ON THEIMMOVABLE PROPERTY**

#### **Article 8**

### **Determination of Ownership**

1. Not later than 90 days after the effective date of this Law, the Council of Ministers shall approve sub legal acts on procedures, by which an inventory of all ownership and other interests in immovable property of the Albanian State shall be established.

2. Within a specified period of time (specified in sub legal acts), each organ of the Central and Local Government shall set forth a comprehensive inventory of immovable property for which it has actual administrative responsibility

3. Within a specified period of time but not later than twelve (12) months after the effective date of this law, the Council of Ministers shall approve the List of inventory of immovable properties.

### **Article 9**

#### **Transfer and Final Registration**

A separate Law shall determine the immovable property to be transferred to Local Government in ownership or in use and also the conditions and restrictions on these properties and the procedures of transfer.

### **Article 10**

The Council of Ministers shall assign management responsibility for Central Government properties to various state organs, which will manage these properties.

## **CHAPTER IV**

### **ADMINISTRATION OF IMMOVABLE PUBLIC PROPERTY**

#### **Article 11**

##### **Administration of Immovable property**

The administration of Immovable Property by the State Organs or Local Government Units shall be done in compliance with rules set forth in the legislation in effect and in the Civil Code.

#### **Article 12**

##### **Principles for Administration of Immovable Property**

The administration of the Immovable Property shall be done in that way as to ensure:

- a) Protection and guarantee of Public interest;
- b) Protection of any valuable and unique characteristics of the property;
- c) Protection and improvement of economic value of property;
- ç) Protection of the ecological condition of the unit of immovable property, according to the principle of great public usefulness.

### **Article 13**

The Council of the Ministers shall designate a specific organ of the Central Government as being responsible for the administration of each unit of immovable property and makes the appropriate notes at The Immovable Property Registry.

### **Article 14**

The Council of Ministers shall assign responsibility for the administration of each unit of immovable property to that Organ of the Central Government or Public Entity that is exercising the greatest degree of Control over the property. However, if no organ is exercising predominant control, the Council of Ministers shall assign the property to the Central Government Organ or Public Entity, whose area of responsibility is most consistent with the characteristics of the property

### **Article 15**

#### **Change in Assignment of Management Responsibility**

The Council of Ministers shall change the administration assignment of an immovable property unit from one Central Government organ or Public Entity to another, if the Council of Ministers shall determine that:

- a) The organ responsible is not administering the property in a manner that is consistent with article 13 of this Law;

- b) There is a change in the characteristics of the property,
- c) The most advantageous use of the property can best be realized under the administration of a different state or public Organ

### **Article 16**

The change in the assignment of the management responsibility of a state organ shall also be specifically noted in the Immoveable Property Register.

### **Article 17**

Resolution of Disputes Regarding Assignment of Management Responsibility to a State Organ.

Within 90 days after the effective date of this Law, the Council of Ministers shall publish procedures for possible challenges, regarding to management responsibilities on immovable properties, in accordance with this Chapter.

### **Article 18**

The procedures shall ensure that:

a) Any dispute over the assignment of immovable property administrator shall be determined within 90 days after the initiation of dispute resolution procedures;

A

b) All disputes shall be determined in a manner which achieves the purpose of administration set forth in Articles 3, 4 and 6 of this Law

## **CHAPTER V**

### **CLOSING PROVISIONS**

#### **Article 19**

All legal provisions of other laws that come into conflict with the provisions of this law are abrogated

#### **Article 20**

This law shall come into effect 15 days after its publication in " Fletore Zyrtare"(Official Newsletter)

**DEPUTY SPEAKER OF THE PARLIAMENT**

**NAMIK DOKLE**

# REPUBLIC OF ALBANIA

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## PEOPLE'S ASSEMBLY

### LAW

NO. 8744, dated. 22.2.2001

#### ON THE TRANSFER OF IMMOVABLE STATE PUBLIC PROPERTIES TO LOCAL GOVERNMENTS

In compliance with Articles 41, 78, 83/1, 111, 112 and 113 of the Constitution, with the proposal of the Councils of Ministers,

#### THE ASSEMBLY

#### OF THE REPUBLIC OF ALBANIA

DECIDED:

#### CHAPTER I

#### GENERAL PROVISIONS

## Article 1

### The Purpose of this Law

This law regulates the process of the transfer of immovable state public property and titles of ownership of the state on the capital of trade companies and/or state enterprises from Central Government to Local Government units.

This law sets forth the types of property that shall be transferred to local governments, the nature of the rights of local governments in such property and the process by which such property shall be transferred.

## Article 2

### The definitions of the terms used in this law

- a. "Property" shall refer to all public immovable properties of the state and titles of ownership of the state on the capital of trade companies and/or state enterprises.
- b. "Transfer" shall mean the act by which the Central Government grants to a local government unit either the ownership of property and/or the right to use immovable public property of the state under the definitions of this law.
- c. "Central Government" shall mean the Council of Ministers, Ministries and other institutions which have the right to manage the immovable public property of the state in accordance with this Law.

- ç) “ Terms of use” shall mean the criteria and the limitations that shall apply to property for which use rights are received by local governments under this Law.

## CHAPTER II

### TYPES OF PROPERTY TO BE TRANSFERRED TO LOCAL GOVERNMENT UNITS

#### Article 3

#### Property to be Transferred to Local Governments

The following property shall be transferred to local governments to be used for the realization of their functions and/or delivery of the services for the community under their jurisdiction:

- a. Property that is used to exercise administrative functions.
- b. Property that is used to conduct educational programs.
- c. Property that is used to exercise public health functions.
- ç. Property that is used to exercise economic functions.
  
- d. Property that is used to conduct socio-cultural and sport activities.
- dh. Property that is used to exercise functions in the field of agriculture and food control.
  
- e. Property that is used to gather, contain, sanitize and distribute water and property to collect, discharge and treat sewage.
- ë. Property that is used in the operation of public transportation systems.

- f. Property that is used for local transport facilities (urban, rural and communal) including local streets, roads, bridges, airports and ports.
- g. Such properties as sidewalks, plazas and related lighting and decorative features within municipalities and communes.
- gj. Such property as funeral facilities, graveyards within municipalities and communes.
- h. Such property as historical and cultural monuments and busts having a local interest.
- i. Such property as forests, pastures, parks and public gardens that are intended for use by local inhabitants.
- j. Such property as residential structures and units of local interest
- k. Property that is used to perform other functions according to laws in effect..

## Article 4

### Transfer of other types of property

When state immovable property is transferred to local government units, any related movable property including legal reserves, shall also be transferred to local governments.

Together with the property transferred, all the documentation related with this property is transferred to Local Governments units as well.

In those cases when the property to be transferred to local governments are in the form of shares in a trade company and /or state owned enterprise, the Central Government shall transfer under local ownership a part or all the titles of ownership of the state on capital.

## CHAPTER III

### OWNERSHIP AND USE RIGHTS AND THEIR RESTRICTIONS

## Article 5

### Ownership and Use Rights

The transfer of property by the Central Government to Local governments under this Law shall be in either of the following forms:

- In ownership or
- In use

## Article 6

The Central Government has the following rights for the properties transferred to Local Governments:

- a. To supervise the compliance of conditions and or/ the restrictions determined in the act of transfer at the time of transfer of property into ownership.
- b. Interferes with the attributes of the owner when it observes non-compliance with the conditions and or/ restrictions determined in the act of transfer at the time of transfer of property in use.

## Article 7

### Restrictions on the Rights of Ownership

Where ownership of property is transferred to local government units, the Central Government may impose conditions and restrictions on the property at the time of its transfer. Provided that such conditions and restrictions must be the minimum necessary to achieve an essential public benefit or to protect a special character of the property

## Article 8

### Restrictions on the right of ownership:

- a. Not changing the purpose of use of property. Not using the property for a purpose other than that determined in the act of transfer without the approval of the Central Government.
- b. Specific use conditions of. The property should be used in such a way that its unique characteristics are maintained.
- c. Limitation upon the right of sale and disposition of property. The local government may be forbidden to sell some properties or grant them for use to third parties, without the approval of the Central Government.

## Article 9

### Sale and Disposition of Property that was obtained under Transfer

A Local Government may not sell property that it received under ownership under this law in all the ways acknowledged by the legislation in effect, to a physical, juridical or private entity in one of the following cases:

- a. When there is a condition or restriction which prohibits the sale or disposition of property;
- b. When the property is indispensable for the performance of a local government function.

## Article 10

### The Use of Proceeds from any Disposition or Use of Property

The proceeds from any such sale or disposition shall be only used for the performance of a local government function.

## Article 11

### Extinguishing conditions or restriction on property

1. Local Government units may give notice to the Council of Ministers to extinguish a condition or restriction, established under this law, on any property in which they have an ownership interest, only after 3(three) years following the effective date of this Law. Within 90(ninety) days after receiving such notice, the Council of Ministers must officially accept or refuse the request. If the Council of Ministers fails to officially respond within this time limit, the request is considered accepted.
2. In case that the Council of Ministers refuses to accept the request, the local government unit may demand that the property be returned to Central Government, which is obliged to accept it. In this case, within 6 (six) months after receiving notice from Local Government, the Council of Ministers must pay the local government for any improvements that have been made to property since its transfer. If the Council of Ministers fails to pay for any improvements within this period, the condition or restriction shall automatically be extinguished.

#### **Article 12**

Any condition and/or restriction imposed on the transferred property under this law, shall remain in effect after the transfer, until it is extinguished by the decision of the Council of Ministers.

#### **Article 13**

#### **Use Rights Granted to Local Governments**

1. Where a local government is granted use rights in property, The Council of Ministers shall determine the terms of use of property in the act of transfer.
2. The terms of use for each property shall comply with the discretion of local government to perform the functions with which this property is related.

#### **Article 14**

#### **Termination of use rights of property**

The Council of Ministers decides on terminating a local government use of property in the following cases:

- a. When the delegated function, for which the property is transferred terminates or ceases.
- b. At the time when the Council of Ministers observes that the property is not being used by a local government unit in compliance with the conditions and or restriction on the use of the said property.

#### **Article 15**

**Procedures to grant use of property**

The Council of Ministers shall follow the following procedure in terminating a local government use of property under articles 14(a) or 14(b):

- a. In the case when the decision to terminate a local government use of property is made under article 14 (a), then the decision will be executed only when the two following requirements are met:
- following 90(ninety) days from the notice of this decision to Local Governments and
  - only after the Council of Ministers pays the local governments for any improvements that have been made to property with its funds.

Such payment should be done within 6 (six) months from the date of notice. If the Central Government fails to make such payment, the local government units shall be allowed to use the property till the Central Government makes full payment for a three year period.

- b. In the case when the decision to terminate a local government use of property is made under article 14(b), the Council of Ministers executes the decision within 10(ten) days from the notice to local governments, no matter if the payments are made or not for the improvements made to the property by local government units with its funds.

The Council of Ministers shall make the payments for the improvements made to property by local government units within 6 (six) months after it issued notice of termination. After 6(six) months period, the Central Government shall pay one percent (1%) late payment charges for each day of the total amount it owns to local governments.

**Article 16**

**Financial Responsibility on the properties transferred**

1. In case the Council of Ministers shall impose a condition that causes a local government to incur costs for the maintenance or improvement of property, the Council of Ministers shall provide funds to finance such costs.

2. Whenever the Council of Ministers grants use rights to a local government, it shall provide local governments with financial means to operate and maintain the property for its intended purpose.

3. Use rights agreement should specify the respective financial obligations of local government and central government for the maintenance and improvement of the property.

**CHAPTER IV**

## TRANSFER PROCEDURES

### Article 17

#### Transfer Schedule and Procedures

The transfer of property under this Law shall be completed 24 months after the effective date of this Law. Additional transfers of property shall be undertaken after this date as needed to implement any further assignment of functions to local governments.

Transfer of property shall be performed as follows:

- a. Not less than the time-limit set forth in article 21 of this law but not later than 13 (thirteen) months after the effective date of this Law, local government units shall submit to the Council of Ministers a list of the properties, that they are requesting to be transferred, in compliance with article 4 and articles of Chapter III of this Law.
  
- b. Within 20 (twenty) months after the effective date of this Law, The Council of Ministers, after reviewing the requests submitted by local government units, according to section 24(a), makes a preliminary decision for the list of properties to be transferred to each local government. The list of property to be transferred shall state any conditions or restrictions that the Council of Ministers imposes on properties, in compliance with this Law. The list shall be submitted to each respective local government, which makes it public within 10 days from the date of submission.

- c. Not later than 3(three) months after receiving the list of property, any local government unit may submit to the Council of Ministers objections to the contents of its list, based upon any reason set forth in Article 19 of this law.
  
- ç. Not later than 24 months after the effective date of this Law, the Council of Ministers will issue its final decision on the transfer of the property, for which there are objections by local government units, as well as any condition or restriction which should be imposed on these properties.
  
- d. Local government units, which initially submitted a list of property under Article 17(a), may oppose the final decision of the Council of Ministers, by submitting their objections to the administrative section of the Court, in accordance with article 19 of this Law.
  
- dh. Any local government which did not submit a proposed list of properties in accordance with Article 17(a) has not the right to oppose the final decision of the Council of Ministers on the transfer of properties.

## Article 18

### Documentation of Transfer

All the properties transferred in ownership to local government under this Law, shall be registered in the name of the respective local government in the immovable property registration office, in compliance with legal and sub legal acts and upon undergoing immovable property registration procedures. Any condition or restriction placed upon the property shall be recorded in the immovable property registration documents (cartela).

## CHAPTER V

### RESOLUTION OF DISPUTES

#### Article 19

1. Any local government may object to the list of property as prepared by the Council of Ministers pursuant to Article 17(c) of this Law based upon any of the following reasons:

- a. The local government units lack the financial ability to maintain the property;
- b. The local governments believe that the property is not needed for a function they are responsible to perform.
- c. The local governments believe that property should be added to the list for the performance of its functions in accordance with article 3 and Chapter III of this Law.
- ç. The local governments believe that the conditions or restrictions that are recommended to be imposed on the property are not consistent with the principles set forth in Articles 4,5,6,7, 8 of this Law

2. If consultation between the Council of Ministers and the involved local government does not resolve the objection within the time set forth in article 17(c), than within 6 (six) months, they have the right to submit the matter to the administrative section of the Court.

3. In any case, both sides may submit to the administrative section of the Court any disagreements related with the fulfillment of respective financial obligations as set forth in article 16 of this Law or in the transfer documentation.

## CHAPTER VI

### CLOSING PROVISIONS

#### Article 20

After the effective date of this Law, the administrative buildings of municipalities and communes and all the premises in which local government administration is carrying out its activity, and which are managed by local government units and which do not constitute a conflict of ownership with the third parties, are transferred under the ownership of communes and municipalities.

With the approval of communal councils, communes and municipalities take measures and cover the costs for the registration of these properties according to procedures set forth in relevant law.

#### Article 21

##### Authority to Implement this Law

Within 3 months after the effective date of this law, the Council of Ministers shall issue sub legal acts that implement to this law and charges relevant structures for its implementation.

Sub legal acts shall include the standard forms that local governments shall use to propose property for transfer.

## Article 22

All legal provisions that come into conflict with this Law, are abrogated.

## Article 23

This Law shall come into effect 15 days after its publication in the " Fletore Zyrtare"(Official Newsletter).

**DEPUTY SPEAKER**

**NAMIK DOKLE**



**REPUBLIC OF ALBANIA**  
THE PARLIAMENT

LAW  
Nr 9828 Date 29.04.2004

**"ON ACCOUNTING AND FINANCIAL STATEMENTS"**

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In accordance with articles 78, and 81 point 1 and 83 point 1, of the Constitution and based on the Proposal of the Council of Ministers, the Parliament of the Republic of Albania,

**DECIDED**

**CHAPTER I**

**OBJECTIVES, SCOPE OF APPLICATION AND DEFINITIONS**

**Article 1 - Objective**

This Law defines the general principles and regulations for the preparation of national accounting standards, for the purpose of preparation of financial statements, and book-keeping.

## Article 2 - Scope of application

The scope of application of this law includes all entities operating for the acquisition of profit situated in the Republic of Albania, including financial institutions and holding companies, irrespective of their legal structure or specific legal requirements that may apply to them.

The scope of application of this law includes also other not-for-profit entities, with exception to the cases when the accounting and financial statements are subject to specific laws or regulations.

## Article 3 - Definitions

In this Law, the following terms are used with the meaning specified:

- **Book-keeping:** journal entry and account recording of all transactions and economic events, that belongs to an entity.
- **Accounting system** means a system for defining, recognising measuring, classifying and presenting financial data concerning the activities of an entity.
- **Accounting Standards:** general principles or regulations promulgated by an organization responsible for accounting standardization, determined by this law, that will serve as a base for selecting accounting policies and treatment applicable for the preparation **and presentation** of the Financial Statements.
- **International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS)** are the standards set by the International Accounting Standards Board (IASB).
- **Entity:** natural and legal persons, public and private, both profit and non-profit oriented that operate and have a permanent establishment (seat) in Albania.

- **Entities operating for the acquisition of profit:** entities which produce goods and services for sale or supply to the market in order to make profit which is ultimately intended to be distributed among those who have invested in the capital of the entity.
  
- **Not-for-profit entities:** public, budgetary, central and local government entities, as well as their controlled units, non profit organizations, and any other private, public, political, social or religious organisation which does not conform with the definition of an entity operating for the acquisition of profit.
  
- **Supporting evidence** - source document, supplementary document and accounting records (books), prepared either in written in a letter format or in any computerised form.
  - Source documents contain initial recordings of events and other economic transaction.
  - Supplementary documents are bearer of data taken by source documents
  - Accounting records (books) are bearer of chronologically and systematically recorded data and effects of economic transactions taken from source and supplementary documents
  
- **Computerised data bearer** - any document of the supporting evidence, authorized by the relevant authorities, written by computer means based on a non-manipulative computer software which are printable in any time.

## Article 4

### Accounting standards applicable to the preparation of financial statements

Entities subject to this law, with exception to the cases foreseen by the second and third paragraph of this article, for preparation and publication of financial statements apply national accounting standards. Such accounting standards shall be drafted by National Accounting Council and within a period of one month shall be declared obligatory for application by the Minister of Finance.

After having the opinion of the National Accounting Council, Minister of Finance announces these accounting standards obligatory applicable for non- profit oriented public entities.

Standards issued by the International Accounting Standards Board and translated in Albanian under the responsibility of the National Accounting Council, without changes from their original text in English language, are announced by the Minister of Finance and shall be applied by:

- a. Companies listed in an official stock exchange and by their subsidiaries subject to accounting consolidation.
- b. Second tier banks, financial institutions similar to banks, insurance and reinsurance companies, securities funds and all companies licensed to operate in investing securities, even if they are not listed in an official stock-exchange.
- c. Other large size entities not listed in a stock exchange, when they exceed some limits, on their annual incomes and their employees' number, determined by the Council of Ministers.

## CHAPTER II

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### **BOOKKEEPING AND INVENTORY OF ASSETS AND LIABILITIES**

#### **Article 5 - Book-keeping**

All entities organise book-keeping on the basis of the principles and methods defined by the National Accounting Council.

#### Article 6 - Supporting evidence

Accounting entries shall be justified by supporting evidence in documentary or computerised form that ensures for reliability. Supporting evidence is to be kept as tangible proof for the period of time defined by article 17 of this Law.

For each of such accounting entry, the origin, nature, date and content of the economic transaction or event must be written.

#### **Article 7 - Inventory of assets and liabilities**

Entities subject to this Law must control the existence and valuation of their assets, liabilities and equity by means of an inventory of such items and their supporting evidence at least once a year.

The inventory of assets and liabilities is carried out under the responsibility of, and according to procedures approved by the management of the entity in order assets and liabilities to present a true and fair way in the annual financial statements.

## **Article 8 -Language and currency of accounting records**

Accounting records are kept in Albanian language and amounts are denominated in Albanian monetary unit.

Documents in foreign languages and/or denominated in foreign currencies which are received from, or sent to foreign entities that don't have a permanent establishment in Albania are deemed to be in conformity with the first paragraph of this article.

Entities may record transactions and balances denominated in foreign currencies, and translate them into Albanian currency in conformity with the relevant accounting standard.

## **CHAPTER III**

### **PRINCIPLES ANDELEMENTS OF FINANCIAL STATEMENTS**

#### **Article 9 - Compliance with Accounting standards**

Financial statements present a true and fair view of the financial position, performance, changes in financial position and cash flows of the entity. They are prepared and presented in accordance with accounting standards. National Accounting Council may authorize some exceptions, where application of a specific national accounting standard is deemed to be inappropriate to guarantee true and fair data.

In this law financial statement refers to both individual and consolidated financial statements

#### **Article 10- Underlying assumptions and principles**

Financial statements provide transparency through full disclosure and provide a fair presentation of necessary data for the decision-making purposes. They are prepared on an accrual basis of accounting and on the going concern assumption that the activity of the entity will continue for the foreseeable future.

Data contained in the financial statements should be understandable to users who have a reasonable knowledge of business and economic activities and accounting.

Data on items and amounts that influence the economic decisions of users shall be presented separately in the financial statements. Aggregated presentation is allowed for immaterial items of a similar nature.

Offsetting between a balance sheet asset and balance sheet liability items or between expense and income items in the income statement is not permitted, other than required or authorised by an accounting standard.

All transactions and events are treated in compliance with accounting policies that ensure the completeness, neutrality, prudence, and faithful representation of the financial statements.

## **Article 11 Comparability**

Financial statements should enable users to perform comparisons between different accounting periods and/or different entities.

The presentation and classification of items should be done consistently from one period to another unless a change is required by a new national accounting standard, or will result in a more appropriate presentation of events or transactions in the financial statements of the entity.

## **Article 12- Components of Financial statements**

Subject to any exceptions or exemptions specified in national accounting standards, the financial statements of an entity shall include the following documents:

- balance sheet,
- income statement,
- statement of changes in equity,
- cash flow statement, and
- notes to financial statements, containing disclosure of accounting policies, as well as other explanatory material.

### **Article 13- Measurement principles**

Items should be recognised and included in the financial statements with amounts determined on the basis of the accounting standards.

### **Article 14- Accounting periods**

The duration of an accounting period is twelve months.

Accounting periods begin on the 1st of January and end on the 31st of December. Exceptions or exemptions, with the proposal of the National Accounting Council for specific activities or in particular cases shall be approved by of the Council of Ministers.

### **Article 15-Language and currency of financial statements**

Financial statements are prepared and presented in the Albanian language and amounts are denominated in Albanian currency.

Financial statements may be presented in rounded figures if such rounding does not cause any loss of material data that have effect to the users of such statements.

### **Article 16- Registration and publication of financial statements**

The financial statements of an entity, with exception to those of the second paragraph of this article are registered with the registrar of the relevant courts no later than one month after the date of their approval by a general meeting of their members or other equivalent governing body.

Public Not-for-profit entities register their financial statements within the time limits and with the authorities specified by the Government Decree.

### **Article 17-Retention of Documents**

Accounting records and supporting evidence must be kept for ten consecutive years after the end of the accounting period to which they relate, unless a longer period is compulsory in accordance

with another law or regulation. The same period is applicable for **Computerised data bearer** and their printings.

### **Article 18- Responsibility**

The management of the entity and its supervisory body are responsible for complying with all the requirements foreseen in the provision of this Law.

The statutory audit of the financial statements by an independent licensed auditor does not release the entity's management or its supervisory body from the responsibilities foreseen in the first paragraph of this article

## **CHAPTER IV**

### **THE NATIONAL ACCOUNTING COUNCIL**

#### **Article 19 - Status and Duties**

The National Accounting Council is established as a public professional organization with the status of a legal person.

The National Accounting Council is responsible for:

- a. drafting national accounting standards in conformity with the requirements of this law and in coherence with International Accounting Standards.

If, for legislative and domestic accounting practice reasons, the National Accounting Council deem it necessary to derogate from some standards, it has the authority to do so, only if it explain clearly and justify the reasons for doing so.

- b. developing an accounting system, where except the national accounting standards, shall be determined regulations concerning book-keeping, charts of accounts and their use, as well as financial statements formats;
- c. evidencing the needs proposing solutions for improvements in accounting polidies, for book keeping and for qualifications.
- d. Interpreting and generalizing the issues coming out by practice and accounting standards application, which it issues in the form of accounting guidelines.

- e. reviewing and expressing its views on all draft laws and regulations which comprise provisions pertaining to the preparation of accounts in respect of entities concerned by the present law, as well as for the accountancy profession;
- f. to establish relation with domestic and foreign professional organisations and to participate in national and international activities related to accounting.

### **Article 20. Composition and Mandate Prolongation**

The National Accounting Council is comprised of 9 members, where:

- o two members are proposed by free professional organizations established in accordance with the legislation in force
- o two member are proposed by the Economic faculties
- o two members are proposed by the Union of Commerce and Trade Chambers
- o three members are proposed by the Minister of Finance.

A Government Decree mandates members of the National Accounting Council.

Members of National Accounting Council shall have a six-year mandate and with the proposal of the relevant organ and by approval of the Council of Ministers may be re-appointed for another mandate.

In order to ensure continuity in the composition and work of the council, one of the members of the first mandate, determined via draw by each of organs entitled to make proposals, shall have a four-year mandate, subject to re-appointment for a second mandate.

Candidates to be member of the Council shall meet the following criteria:

1. Have a graduate diploma in the field of accounting
2. Have been awarded with the “professor” title, or academic grade “Doctor in science” from a period not less than three years, or have won a title “Master in Accounting and/or Finance” since a period not less than 5 years;
3. Have work experience for more than 10 years.
4. Have experience in methodology leadership and in drafting laws, bylaws, regulations and methodology in the field of accounting and finance;
5. Have a reputable professional authority and morality.

The National Accounting Council shall be engaged to perform its missions on part-time basis.

For supporting the activity of the Council an administrative structure, with employed staff, is established. The structure, personnel, wages for employees and honorariums for council members, shall be approved by a Government Decree.

The mandate of a member of the National Accounting Council is revoked ahead of time on the proposal of the Council and by Government Decree, only when he/she:

- Is dead;
- Shall become disable because of a disease; ○
- Is penalised
- Does not fulfil the requirements defined in the council internal regulation.

#### **Article 21 - Organization and functioning**

The organization and functioning of the National Accounting Council, procedures for drafting national accounting standards and other products done by council members or third parties, shall be determined in its the Internal regulation, which is proposed by the Council and approved by the Council of Ministers.

Chairman and Deputy Chairmen shall be elected amongst the council members, according the procedures defined in the internal regulation.

#### **Article 22 - Financing Sources**

The activity of the National Accounting Council is funded by the state budget. Council is also entitled to use the incomes realised from its activities.

National Accounting council may use financing and donations given by entities and organizations, financial and professional, domestic and foreign, in accordance with the legislation in force.

#### **Article 23 - Infringments and penalties**

Any infringement of the provisions of this law will result in an administrative, civil or penal penalty dependant to the damage caused, based on the provisions of the Civil Law, Penal Law or other laws, as well as based on the request made by the interested parties.

### **CHAPTER V**

#### **TRANSITORY AND LAST PROVISIONS**

#### **Article 24 - Law application**

Until the date when the law entering in force the council of Ministers shall issue relevant documents for organization and function of the structures and bodies foreseen in the law as well as for approving accounting standards.

#### **Article 25 - Free Application**

Entities are allowed to implement international accounting standards, before the date when application of such standards will become obligatory.

#### **Article 26 - Abrogation**

Law Nr. 7661 dated 19.01.1993 “Accounting” will be repealed immediately after this Law becomes effective.

#### Article 27

#### **Effective date**

This Law will come into effect on the 1<sup>st</sup> of January 2006.

Speaker of the Parliament

Servet Pellumbi

Passed to the parliament with Government Decree Nr. 492 date 18.07.2003

**U.S. Agency for International Development**

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