

Legal News

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I. New Law on Energy Efficiency

The Albanian Parliament passed, on 12.11.2015, the law no. 124/2015, dated 12.11.2015 “*On energy efficiency*” (the “**New Law**”). The New Law shall enter into force 15 days following its publication with the Official Gazette (i.e. publication date 24.11.2015, Official Gazette no. 201).

The New Law, repealing law no. 9379, dated 28.04.2005 “*On energy efficiency*”, is partially approximated with the Directive 2012/27/EU of the European Parliament and of the Council, dated 25.10.2012 “*On energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC*”.

This new instrument provides for the rules regarding the drafting of regulations and national policies on fostering and promoting the improvement and efficient use of energy, in all sectors of economy, including, but not limited to, the residential, services’, industrial, transport, agriculture sectors. The aim of the New Law is to move forward to energy saving and enhancement of supply security, as well as to remove the barriers in the energy market.

The New Law applies to legal entities engaged in production, transmission, distribution and energy supply activities, end consumers and providers of energy services addressing several key issues, some of which are listed below:

- The ministry responsible for energy (the “**Ministry**”), supported by the Agency for Energy Efficiency (the “**Agency**”), draws up the national policies on energy efficiency and monitors the implementation of these policies.



Additionally, the Council of Ministers shall set out a national target on energy saving, based on real economic opportunities, the primary or final consumption of energy, savings of primary or final energy, energy intensity. To this effect, a National Energy Efficiency Action Plan (“**NEEAP**”), to be approved by the Council of Ministers and reviewable every 3 years, shall determine such target. The monitoring of NEEAP implementation and the measures for energy saving will be carried out by the Agency.

- The Agency shall create and update the national database of energy, containing national data on final consumption of energy and the achievements related to energy saving. For such purpose, the New Law sets reporting requirements for the energy consumers. Large energy consumers (i.e. subjects consuming energy more than the equivalent of 3 million kWh per annum) are obliged to submit with the Agency, within 31 March of every year, a report containing the data about their energy consumption for the previous calendar year. Other energy consumers are obliged to submit to the Agency, within 31 March of every year, their current energy consumption, if requested.
- The Council of Ministers includes, in the rules applicable to public procurement, provisions obliging contracting authorities to define, in the documents of the procurement procedures for equipment or goods having direct or indirect impact in the energy consumption, technical specifications that meet the minimum requirements of energy efficiency, as per the applicable legislation. If there are no Albanian technical standard for energy efficiency applicable to a certain good, the technical standard for energy efficiency of the European Union, in force for that product, shall apply.
- The New Law sets numerous requirements and rights for the large energy consumers including, without being limited to, the following:
 - o Obligation to appoint an experienced Manager of Energy, responsible for maintenance of equipment consuming any form of energy, improvement and supervision of ways of using energy and performance of other tasks for the rational use of energy in buildings and industry.
 - o Obligation to undergo the energy audit process every three years. This audit shall be carried out by auditors licensed for this purpose in accordance with the legislation in force. This category of energy consumers is obliged, within two years after receiving the audit results, to undertake the relevant measures and carry out the recommended actions on improvement of the energy efficiency.

It should be noted that the audit obligation applies also to all natural persons and/or legal entities applying for a program financed by the Energy Efficiency Fund on promoting and improving the energy efficiency and each time before a building, industrial facility and other assessable facilities, is put into service and/or built or undergoes a considerable overhaul.

- As a supporting incentive for the large consumers is provided the execution with the Agency of the voluntary agreements on provision of support regarding the measures on energy efficiency and the enforcement thereof. Based on these agreements, the Agency assesses the need on granting financial support for the large energy consumers for carrying out the energy audit process and, henceforth, proposes to the Energy Efficiency Fund the partial coverage of the costs related to such process.
- The New Law regulates the functioning, organization and financing of the Energy Efficiency Fund (“**EEF**”), a legal entity having the status of a non-for-profit organization, with legal seat in Tirana. The scope of EEF is the offering of financial support for performance of investments for adopting the measures on improvement of energy efficiency. From the EEF might benefit the energy production, transmission, distribution and supply companies, the end consumers, the energy services companies and providers of the measures on improvement of the energy efficiency.

EEF might provide grants, loans, financial guarantees and/or other financing means. Any funds to be used for the financing of energy services shall undergo the open competitive procedures as per the legislation in force and the provisions set out under the EEF procedures manual.

II. Decision of the Council of Ministers no. 893, dated 4.11.2015 “On the Organization and Functioning of the National Inspectorate of Territory Protection”

The Decision of Council of Ministers no. 893, dated 4.11.2015 “On the Organization and Functioning of the National Inspectorate of Territory Protection” (the “**Decision**”) contains provisions on organization and functioning of the National Inspectorate of Territory Protection (“**NITP**”). NITP is a central institution, budgetary, public legal entity under the competent minister for the security of the territory and constructions (the “**Minister**”).

The mission of NITP is the control and protection of the territory and the environment against unlawful constructions and developments, or being in breach of

permits' conditions, by guaranteeing a safe and sustainable development in the field of territory development, planning, and protection, and disciplining of the construction works, construction products, as well as in the field of the integrated management of the water sources. NITP has its own budget and is organized into two levels, the central one and the relevant local branches. NITP is headed by its chief inspector, appointed, released and removed from duty, by the Prime Minister upon proposal of the Minister.

The Decision is effective as of the date of its publishing with the Official Gazette (i.e. dated 11.11.2015, Official Gazette no. 193).

III. Decision of the Council of Ministers no. 894, dated 4.11.2015 “On the Unification of the Territory Controlling Procedures by the National Inspectorate of Territory Protection and that of the Local Unit”

Upon Decision no. 894, dated 4.11.2015 “On the Unification of the Territory Controlling Procedures by the National Inspectorate of Territory Protection and that of the Local Unit” (the “**Decision**”), the Council of Ministers decided on the unification of the procedures on territory control exercised by the central National Inspectorate of Territory Protection (“**NITP**”) and that of the local unit.

In this view, the chief inspectors/inspectors of NITP are entitled, *inter alia*, to enter and exercise control on the sites, where is being built, requesting the performance of the object/on site construction works, in accordance with the development/construction permit and/or preliminary declaration, provided by the authorized body of the local or central government.

The subject undergoing the control is obliged to allow the performance of the control by the NITP inspectors and make available all documentation requested for such purpose, in accordance with the applicable legal requirements, as well as help them regarding the examination of this documentation.

A unified inspection team of at least two inspectors shall carry out all the inspections. If necessary, one of the inspectors shall be from central NITP.

In addition to the technical and legal aspects of the construction and the related documentation, the inspection team verifies, according to the working plan, the placement of the table of the object being built, as well as whether such table contains all the information, and is exposed on the construction site, as provided for under point 3 of the Decision.

The inspection team upon conclusion of the performed control, keeps the minutes of inspection that should be signed by both parties, specifying the current situation, deficiencies and tasks addressed to the relevant constructing subject, and, for the observed violations, enforces the procedures provided for under article 12 of law no. 9780, dated 16.07.2007 “On inspection and protection of the territory against unlawful constructions” as amended (the “**Law**”).

Within ten days from the date of the minutes observing the relevant contravention, the central NITP, and that of the local unit, issues the decision (to be signed by the chief inspector) regarding the relevant measures to be taken and the administrative sanctions. Such decision might provide for, *inter alia*, the suspension of the construction works and/or imposing fine against the constructing entity and/or demolition of the construction. The NITP sanctions constitute executive title.

The central NITP is entitled to exercise its powers on a local level, directly and without limitations, *inter alia*, with regard to buildings/construction works that relate to matters, areas or objects of national and territorial importance (i.e. as per article 9/1 of Law).

The decision is effective as of the date of its publishing with the Official Gazette (i.e. dated 11.11.2015, Official Gazette no. 193).

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