

MINING LAW OF ALBANIA

No. 7796, dated 17.2.1994

In reliance of Article 16 of Law No. 7491, dated 29.4.1991 "On the main constitutional provision", on the proposal of the Council of Ministers,

THE PEOPLE'S ASSEMBLY OF THE REPUBLIC OF ALBANIA

D E C I D E D:

CHAPTER I

NAME AND FIELD OF USE

Article 1

This is the mining law of Albania (1994).

Article 2

The field of this law is the entire territory of the Republic of Albania including the submarine and subterranean parts that are under its jurisdiction.

CHAPTER II

GENERAL PRINCIPLES

Article 3

In this law, if not differently speaking:

"State" means the Republic of Albania;

"Minister" means the member of the Council of Ministers, who for the period holding this post is responsible for the mining industry;

"Ministry" means the ministry having under its jurisdiction the mining industry;

"Person" means a juridical or natural person;

"Mineral" means any substance in the solid, liquid or gaseous state that is present in a natural state, on or under the ground, in or under the water, in the sterols and been formed by geological processes excluding petroleum that is in liquid state, natural gas that is in the gaseous state and the water, but including the sand, stones, rocks, gravel and clays;

"Mine" means:

1. Any excavation on or under the ground including even the submarine parts and sterols as well as any drilling or research and discovery well, which is operational and not constructed for purpose of mineral searching or exploitation;
2. Any place where a mining property is utilized including the mining area and all buildings, structures, machineries, dams, roads or other subjects located in such an

area, which are used or to be used for search, benefit, exploitation or processing of such a mineral;

“underground” in relation with a mine means: any place in a mine that is under the natural surface of the land, which connects to the land surface through a vertical well, a dry well, tunnel, slope tunnel or a combination of those;

“Quarry” means any place (except of underground mine) where materials or minerals are mined directly from the surface through excavation or other manner to provide materials for construction, commerce, for industrial or processing purposes;

“Mineral exploitation” means execution of any excavation, drilling or search well according to paragraph 1 of this Article or exploitation of any mining source by any manner aiming at the mining of a mineral including search and discovery within a mining body;

“Processing” in relation to a mineral means the processing the mineral to the extent of ready product including mining, the enrichment processes, refinery, calcinations, casting, its gassing, etc;

“Mining permit” means a permit issued in conformity with this law to enter into activities related to the search, discovery and exploitation of minerals;

“Facilitation [preferential] agreement” means an agreement between the permit possessor and the minister in compliance with Article 44;

“Public interest” means something where the society and people in general have some financial interests, which affect their legal rights or opportunities;

“Mining property rent [the royalty]” means payment in percentage of the sold mineral value that is payable to the state;

“Effective date” means the date in which the minister signs the permit.

Article 4

This law determines relations between the state and juridical and natural persons aiming at provision of mining rights and execution of mining activities. Excluded from the application of this law are the petroleum that is in liquid state, natural gas that is in gaseous state and water.

Article 5

All mining rights provided for in compliance with this law and the exercise of any mining activity in Albania must be relied in the Albanian legislation.

Article 6

Other activities in conformity with mining rights shall be declared in the public interest aiming at the use of land.

Article 7

The state promotes the development and modernization of the mining sector in Albania, in the conditions of the market economy, based on the free competition and initiative.

CHAPTER III

THE STATE AUTHORITY AND THE MINING RIGHTS

Article 8

All the minerals existing in the natural state in the territory of the jurisdiction of this law, despite of their origin, form or physical state, under or on the ground surface, in the depth or in the waters are immovable property of the state, which is represented by the relevant ministry.

Article 9

The state shall grant the mining rights in compliance with this law to the natural or juridical persons, local or foreign, permitting the possessor of the mining right to exercise the mining activities.

Not a single person may exercise mining activities except of those enjoying the rights provided for by this law.

Article 10

When the minister or the person authorized by him deems that the grant of the mining rights in compliance with this law may affect seriously and cause contradictions with inhabitants of the respective region, prior of granting any such right must be consulted with the relevant local government authorities.

Article 11

Any mining right granted prior of entry into force of this law shall be exercised in compliance with this law.

Article 12

A mining right is inviolable, distinctive and independent of the right of property. Been an object of prior approval in writing by the minister, the rights deriving from the mining permit may be transferred and given in terms. New constructions and installations that impact in the main operations shall be considered as immovable auxiliary activities of the mining right.

Article 13

No mining right shall authorize its possessor to use the underground, wells, traverbanks, tunnels, drillings or other underground works for any other purpose which is not specified in the granted permit. The use of land or underground works for deposit, toxical, radioactive or other waste disposal of that kind shall be prohibited.

Any cultural, monetary, historical, archeological, etc, that is discovered in the permitted area for mining execution activities is state property and belongs to the

state. The possessor of the mining permit in case of discovery of the above properties shall notify immediately the General Directory of Mines.

CHAPTER IV

MINERAL GROUPING

Article 14

For the purpose of this law, minerals are divided in the following groups:

- a) First Group Metal minerals
- b) Second Group Non-metal minerals
- c) Third Group Coals and bitumen
- d) Fourth Group Minerals and construction materials
- e) Fifth Group Precious stones
- f) Sixth Group Half-precious stones

Minerals of each group are given in Table A², which is integral part of this law.

CHAPTER V

MANAGEMENT

Article 15

The minister is the competent authority to act on behalf of the state in execution of this law.

Article 16

Aiming at application of provisions of this law in the field of mining activities in Albania shall be established the General Directory of Mines. Research and scientific institutions of the mining industry provide consultancy and technical assistance to the Ministry and the General Directory of Mines on several aspects of the mining industry that are within the field of their activity.

Article 17

The minister in application of this law shall enact the necessary by-laws.

² Note of the translator: The Table A is missing in the original text.

CHAPTER VI

STATE MINING ENTERPRISES

Article 18

In compliance with provisions of this law all the economic unions and state enterprises that operate outside them engaged in mining activities operate independently and are treated in all aspects as the private sector.

Article 19

The state with laws aims at the privatization of areas and activities of economic unions and state enterprises operating outside them.

Article 20

The contribution of the State Mining Enterprise in the privatization process shall be estimated based on the market value either of the rights or of properties belonging to the enterprise at the time of capital transfer.

CHAPTER VII

MINING RIGHTS FOR GROUPS 1, 2 AND 3 OF MINERALS

A) THE SEARCH PERMIT

Article 21

On the application of a person, the minister may grant to him a permit of search, the form of which is described in the regulation. The possessor of permit has the exclusive right of search within the permitted area on presence of minerals.

Article 22

The permitted area for search must not exceed 400 square meters, be unfragmented and must not cover any area, which is object of another search discovery or exploitation permit granted in compliance with this law, with exception of cases when the possessor of such permit given its consent in writing.

Article 23

The maximal time limit shall be one year and is not object of an extension.

Article 24

A person cannot be bearer of more than one search permit simultaneously.

Article 25

The application for a search permit must contain:

- a) Name and address of the applicant;
- b) Specifications of financial resources and technical capacities needed to the permit applicant as well as his experience in the field of mining industry;
- c) A description of the search area including a map;
- d) Specifications of the proposed search program, the proposed methodology, an estimation of costs and the time limits of program execution.

Article 26

Within 60 days from the application receipt, the Minister must notify the applicant about his decision with regard to the application for search permit.

Article 27

The search permit grants the following rights to its possessor:

- a) Entrance in the permitted area with personnel, means, machineries and equipment necessary or indispensable for the conduct of the search of minerals on or under the ground;
- b) The search of minerals, execution of necessary operations and works with the condition that the permit possessor cannot engage in drilling, excavation or other underground techniques for which he is not authorized to use such techniques according to his search permit;
- c) Extraction and removal of minerals samples from the ground in non-commercial quantities but only for studies.

Article 28

Except of other compulsory conditions of the search permit, each search permit is object of the following:

- a) The possessor of the permit must report promptly to the minister in writing about the state of all minerals having an economic interest;
- b) All the land surface faults occurred during the search must recover in the previous state, which is considered complete upon approval of the General Directory of Mines;
- c) The possessor of the permit must take all the necessary measures to prevent the damage of flora or other properties.

Article 29

The permit possessor shall report in a timely and defined manner based on the regulations to the General Directory of Mines about the work performed in the search area, expenses and results. A representative part of the geological sample shall be delivered to the General Directory of Mines together with the results of all tests and treatment conducted to the sample.

B) THE DISCOVERY PERMIT

Article 30

The minister upon application of the person considered of having sufficient financial and technical resources and mining experience may grant to this applicant a discovery permit that shall guarantee to him the exclusive right to discover the specified minerals in his permitted area.

Article 31

The application for a discovery permit must contain:

- a)** Name and address of the applicant;
- b)** His experience in the discovery of minerals;
- c)** The existing financial and technical resources needed to the applicant to obtain the permit;
- ç)** The proposed area for the permit including a map of the area;
- d)** The mineral or groups of minerals (group 1, 2 or 3) for which permit is requested;
- dh)** The proposed methodology of discovery;
- e)** The proposed program of work and a work-plan with deadlines together with estimated expenses allocated for its implementation, as well as a minimal work program guaranteed by person approved by the minister acting as guarantor.

Article 32

The possessor of a discovery permit shall be favored towards other requesters for obtaining a discovery permit in the area of his issued search permit, during the time limit of his search permit and for a period of thirty days after its expiration, provided that the permit applicant meets conditions of paragraphs (b), (c), (dh) and (e) of Article 31.

Article 33

The minister within sixty days from application receipt must notify the discovery permit applicant about his decision with regard to this application.

Article 34

The initial time limit of the discovery permit is two years and shall be object of three extensions one year each if is requested by the permit possessor. The application for time limit extension must be submitted at least 30 days prior of the previous time limit expiration. These time limit extensions shall be granted if the minister deems that the permit possessor has fulfilled the financial obligations in conformity with the permit issued and submits a convincing work program for further continuation of the discovery.

Article 35

Within ninety days after the effective date of the permit, its possessor must

commence works in the field.

Article 36

The maximal permitted area of a discovery permit is 200 square kilometers and is unfragmented. It must not cover areas object of search, discovery or exploitation licenses of other persons with exception of the case when the minister and other possessors of the permits agree that the new permit will not affect the rights of the existing contracts.

Article 37

A possessor of the discovery permit may hold more than one permit simultaneously.

Article 38

The possessor of the discovery permit must leave parts of his permitted discovery area progressively in conformity with the time limits.

- a) Until the end of the initial time limit, the possessor shall leave at least 40 % of the initial permitted area;
- b) Until the end of one-year first extension, the possessor shall leave at least 50 % of the initial permitted area;
- c) Until the end of one-year second extension, the possessor shall leave at least 70 % of the initial permitted area;
- d) Until the end of one-year third extension (until the end of the fifth year), the possessor shall leave all parts of the initial permitted area that are not covered by a mining exploitation permit.

Article 39

The minister shall approve any one-year extension required by the discovery permit possessor as a condition for discovery permit extension. After this official approval by the minister, the permit possessor has the right to continue the discovery.

Article 40

The discovery permit possessor must pay to the state an annual payment for his discovery area. This payment is payable on the effective data of the discovery permit issuance and each year in this effective date dependant of the square kilometers included in his discovery permit at the time of this payment. The annual payment that includes the discovery area must specify in the discovery permit and is the equivalent in ALL of 300 SFr in the moment of payment.

Article 41

The discovery permit grants the following rights to its possessor:

- a) Entrance in the permitted area with personnel, means, machineries and equipment necessary or indispensable for the purpose of discovery of minerals on or under the ground;

- b) To discover minerals and conduct such necessary work for this purpose as the search well, trenches, holes in small or big dimensions as well as search works on or under the ground;
- c) To mine, remove and export from the permitted area, samples of minerals in a non-commercial quantity for study purposes.

Article 42

The possessor of the discovery permit must keep a complete and detailed record of the work conducted for the discovery of minerals and other operations in conformity with his discovery permit and these records are at any moment valid for inspection in Albania by the competent organs that the minister designates.

The discovery permit possessor shall provide the General Directory of Mines with the copy of such information regarding with the discovery and other operations executed by him according to the directory request.

Obligations of Articles 28 and 29 shall apply even to the possessor of the discovery permit.

Article 43

The possessor of the discovery permit during the time limit of his permit has the right of conversion of parts or his permitted area in one or more exploitation permits excluding those parts from the obligations of the discovery permit.

The application for exploitation permit is provided for in Article 45.

C) THE EXPLOITATION PERMIT

Article 44

The minister after the application of the person considered to own sufficient financial and technical resources and mining experience might grant to this applicant an exploitation permit that guarantees to him the exclusive right to use one or more minerals specified in his permitted area. The document of the exploitation permit shall be determined according to regulations.

The minister is authorized to negotiate and to enter into negotiations for signing of a facilitation agreement with the possessor of the permit.

The Council of Ministers shall approve such agreement if under its competence and the People's Assembly approves such agreement on facilitations that are not provided for in the legislation in force.

Article 45

The application for an exploitation permit must:

- a) Contain the name and the address of the applicant;
- b) To specify the area for which the exploitation permit is requested including herein a map;
- c) To specify the mineral or minerals in groups 1, 2 or 3 for which the exploitation permit is requested;
- c) To give details of the source of minerals for which exploitation permit is requested

including details of all discovered minerals, of minerals reserves of various categories and the mining exploitation conditions;

d) To be accompanied with a technical report on exploitation, treatment of minerals and possibilities of increase of their value in Albania and the purpose of the applicant on these minerals;

dh) To provide the proposal of a working program together with the deadlines of works and investments implementation;

e) To provide details of the proposed mining operations including the following:

(i) The calculated production capacity with acceleration of the work operations;

(ii) Types of products;

(iii) Proposals on pollution prevention, treatment of sterols, protection of natural properties, claim and the progressive rehabilitation of damaged ground caused by the mining exploitation and on minimization of the mining exploitation impact on superficial and subterranean waters and lands of the neighboring areas with the permitted area;

(iv) Effects that might happen to environment from mining operations and proposals of their minimization;

(v) Any particular risk (on health or any other thing) that might occur during the exploitation of minerals and the proposals of their control and elimination;

ë) To provide a detailed forecast of capital investments, labor costs, of revenues and the estimated financial resources;

f) To provide specifications of his proposals with regard to employment and qualification of Albanian citizens;

g) To provide specifications on the expected requirements of the infrastructure and the initial measures that he will undertake.

Article 46

When the applicant of the exploitation permit is not possessor of the discovery permit, the application must include complete details of the financial and technical capacity of the applicant and information regarding his experience in the mining field.

Article 47

The minister must notify the applicant of the exploitation permit about his decision on the application within ninety days from its receipt. Such decision with regard to the application is taken in compliance with Article 45.

The minister must be sure that the land given for mining use is studied prior to the issuance of the exploitation permit. For such purpose the minister may request to the applicant of the exploitation permit to prepare a study at the own expenses of the applicant as per the requirements specified by the minister.

All the exploitation permits must publish through the press and other media.

Article 48

The maximal permitted area of a mining exploitation permit is 15 square kilometers and is unfragmented. A possessor of the mining exploitation permit might hold more than one permit simultaneously.

Article 49

The time limit of the mining exploitation permit is up to twenty years, starting from its effective date and is subject of four extensions up to five years each, if the permit possessor requests these extensions in a time no later than one year prior to the expiration data of the previous time limit.

Article 50

The mining exploitation permit possessor must pay to the state on the effective date of the issuance of exploitation permit and annually on the same date an annual payment for his permitted area of exploitation. The minister shall determine the amount of such payment in different time for each exploitation permit according to criteria approved by the Council of Ministers.

The annual payment for a mining exploitation permit has the minimal value of the equivalent in ALL of three thousand SFr and the maximal value of the equivalent in ALL of ten thousand SFr per square kilometer.

Article 51

The possessor of the mining exploitation permit no later than fifteen days after the end of each calendar month must pay to the state the equivalent of Swiss frank a rent of mining property (royalty) of 2% of the market value of the overall sold mineral quantity to consumers during this calendar month and produced by his permitted area. The regulation determines the procedure of market value determination of minerals.

Article 52

The mining exploitation permit grants to the possessor the following rights:

- a) To execute necessary actions to implement effectively the mining operations in his permitted area of exploitation;
- b) To mine and remove from his permitted area the mineral or minerals for which the exploitation permit has been issued;
- c) To install and operate within his permitted area enrichment factories, casting plants, refineries and other factories that increase the value of the mined minerals in his permitted area of exploitation.

Article 53

The possessor of the mining exploitation permit has the right to construct, install and operate within its permitted area buildings, camps and deposit room, tubes, power generators, transmission equipment, communication systems, railways, fuel deposit plants and other necessary infrastructure for the activity operations.

Article 54

The state has no obligation to provide any infrastructure within or outside the

permitted area. When the possessor of the permit wants to use the environs or infrastructure that belongs to the state and used for public purposes he has the right to use this infrastructure in compliance with legislation in force.

Article 55

The possessor of the mining exploitation law has the right without permit or authorization to sell in Albania or to use for export the produced minerals, final products and their under-products in compliance with the mining exploitation permit for his permitted area.

Article 56

The possessor of the mining exploitation law must submit the financial and technical report of all operations executed in compliance with the mining exploitation law and makes available these reports for inspection at any time by the competent organs determined by the minister.

Article 57

The possessor of the mining exploitation law must keep in Albania the complete documentation as well as other information to show the work done in conformity with permits, must keep the current account, the quantity, quality and value of all minerals mined from the permitted exploitation area. All this information including the financial part must be kept in compliance with the Albanian legislation and with an accepted practice used in the international mining industry.

Article 58

The possessor of the mining exploitation permit must submit to the General Directory of Mines technical, operation and production data in the form and time intervals determined in the regulation.

Article 59

The possessor of the mining exploitation permit must submit for approval to the minister an annual working program, the budget and the plan of production of his permitted area of exploitation.
Such program should cover the work-plan of the calendar year in which is the effective date of the permit and at least ninety days prior of the calendar year with which the proposed plan is related to, the budget and the production plan.
The submission by the part of the possessor of the mining exploitation permit shall be official if the minister does not receive a change in writing of the abovementioned program within forty days from the submission date.

Article 60

When the minister considers that the possessor of the mining exploitation permit is using harmful practices of use of minerals and their treatment or is managing working

operations in contrary with the objective of optimal exploitation of the mines, he shall notify the permit possessor (issuing a detailed notice about such practice) and request to him within a certain time limit the necessary explanations.

If during the defined time limit in the notice of the first paragraph, the mining exploitation permit possessor does not fulfill the specified requirements, the minister shall issue an order to oblige the possessor of the mining exploitation permit to take measures within a certain time and to fulfill the requirements presented by him.

Article 61

In cases when the minister notices that the ground is used or may be used in such manner, which according to the minister's opinion impacts directly the object of this law concerning the optimal exploitation of any mineral present or potentially present in enough quantity to exploit profitably, on or under the ground, or over the sterols of the ground, the minister shall intervene to solve this problem and take the necessary measures in conformity with the legislation in force.

Article 62

The mining exploitation permit possessor shall notify the minister:

- a) One year in advance if proposed to stop the production of a mine in the above mentioned area;
- b) One hundred and eighty days in advance if proposed to suspend the production of such mine;
- c) Ninety days in advance if proposed to reduce the production of such mine with more than 10 % of the planned production in the approved production plan.

This notice must contain the detailed reason or reasons for the interruption, suspension or reduction of the production of such mine.

CHAPTER VIII

MINING RIGHTS FOR THE FOURTH GROUP OF MINERALS AND CONSTRUCTION MATERIALS

A) SEARCH AND DISCOVERY PERMIT

Article 63

The minister upon application of a person considered to own sufficient financial resources and technical experience on the fourth group of minerals, may grant to this person a permit defined in the regulation, through which this person has the exclusive right to search and discover within his permitted area minerals of the fourth group that may be the premises to open a quarry of the second type.

A permit of this type has a maximum two years time limit and a surface of maximal 30 square kilometers.

The extension of the permit is dependant of the specifications of the activity the person wants to execute.

A person may be bearer of more than one permit of this type simultaneously. In the

case when the permit is for discovery, the person shall pay to the state on the effective date of the permit a payment in value of the equivalent in ALL of hundred SFr per square kilometer of his permitted area.

Article 64

The application for a discovery permit of minerals of the fourth group must contain:

- a) Name and the address of the applicant;
- b) The existing financial and technical resources and his experience in the search and discovery of the fourth group minerals;
- c) The proposed area of permit and a map;
- d) The fourth group minerals and a map;
- e) The proposed discovery methodology and the working program with the deadlines together with the estimated expenses needed to implement this program.

Article 64

The minister within sixty days upon receipt of the application must notify the application for the discovery permit about his decision with regard to the application.

B) EXPLOITATION PERMIT

Article 66

An exploitation permit through a quarry is needed for exploitation of mines and construction materials with exception of the following cases:

- a) When the owner of the land extracts materials out of the surface of this land and uses for construction in his land;
- b) When local authorities or other persons involved in the construction of public roads or other public construction use the remains of the necessary excavations or those from excavations of the discovery wells beside roads or such works;
- c) In case of, the mining exploitation permit possessor that takes construction materials from his area and uses in his mining operations.

Article 67

The minister shall rule on any agreement with regard to assessments conducted by the person in charge of the inspection according to Article 66. His order is final on the case.

Article 68

The minister through a normative act shall determine the location of the construction of quarries for public purposes (type 1). Any quarry for public construction concerning its activity is under control by the general director of the General Directory of Mines.

Article 69

Shall be authorized to issue two types of quarry permits:

a) The first type of quarry permit – is a permit permitting to exploit minerals and construction materials from a public quarry on payment (that the minister will determine in the issued permit, the amount of this payment is determined in the regulation). The initial maximal time limit of the first type permit is one year, object of renewal (of the quarry permit) every six months in a row according to application of the possessor, which must be submitted at least thirty days prior to the expiration of the previous period.

b) The second type of the quarry permit – is an exclusive permit to open and exploit a quarry for minerals and construction materials on payment (that the minister will determine in the issued permit, the amount of this payment is determined in the regulation). The initial maximal time limit of the second type quarry permit is ten year, object of renovation every year (one after the other) according to application of the possessor (of the second type quarry permit), which must be submitted at least thirty days prior of expiration of the previous period.

Article 70

The application for the quarry permit must contain:

a) Name and the address of the applicant;

b) To define the minerals or materials of the fourth group for which the permit is applied.

c) To specify the initial time limit of the permit;

ç) To provide details of financial resources applicable to applicants of the permit with the purpose of expenses payment of exploitation of minerals and the construction materials;

d) In case of the first type of the quarry permit to show the minimal and maximal annual quantities of production and the specifications for each mineral or material for which permit is applied;

dh) In the case of the second type of the quarry permit, the following is required additionally:

1. To specify the exact location of the proposed quarry by the permit applicant;

2. To provide details of the mineral source for which the quarry permit is required;

3. To provide a proposed exploitation and investment program and a work-plan with deadlines;

4. To provide a detailed estimation of the capital investments, activity expenses and the revenues as well the type of the estimated financial resources;

5. To provide details on the potential infrastructure needs and preliminary measures for its improvement;

6. To provide a detailed list of minerals and construction materials that will be produced by the quarry, the calculated capacity of production, the operations acceleration and the planned markets of product sale;

7. To detail the permit applicant's experience in the exploitation of the quarry and commerce of the types of minerals and materials that will be produced by the quarry;

8. To provide details on the aspects of environment protection regarding to the proposed work operations in the quarry including the following:

(I)- Proposals on pollution prevention, treatment of sterols and preservation of natural resources;

(ii)- The regional potential impacts on the pollution of environment by the work of the quarry and the proposals on their minimization;

(iii)- The special risks (for objects or any other thing), which occur during the exploitation of the minerals and the materials as well as the proposals on their control and elimination;

9. To provide details of the applicant's proposals with regard to employment and qualification of Albanian citizens.

Article 71

The minister must notify on his decision on the application for a quarry permit within 30 days from its receipt. The regulation determines the form the permit. The permit must contain additionally other specific terms.

Article 72

With regard to the second type of the quarry permit in which production is destined for export, the minister negotiates and enters into agreement with the applicant of the quarry permit to conclude a preferential agreement according to Article 44.

Article 73

The quarry permit possessor must pay to the state on the effective date of the exploitation permit and each year on the same date, an annual payment on ALL equal to the equivalent of one thousand and five hundred SFr per square kilometer of his permitted area of exploitation

Article 74

The quarry permit possessor, no later than 15 days after the end of each calendar month, must pay to the state a mining property rent (the royalty), in the equivalent in ALL of the SFr of 2 % of the market value for the gross quantity of mineral sold to consumers during that calendar month and produced by his permitted area. The procedure of the market value calculation is determined in the regulation.

Article 75

The minister has the right to give in administration to the local government organ, by a separate act, the construction materials of the fourth group (the sand, gravel and the filling earth).

CHAPTER IX

GROUP 5 AND 6 OF MINERALS

Article 76

No one can apply for and exploit the minerals of group 5 or 6 without a mining permit issued by the minister.

Article 77

The applicant, prior of application for a mining permit, must border the area of land for which he wants to obtain a mining permit and must notify through the local government organs the owner or owners of such land whether the land does not belong to the state, because he wants to exploit this property owned by others to apply for a mining permit.

Article 78

Any person even one that has already a mining permit for other groups of minerals, in one part or in the entire area, may apply to the Minister for a mining permit that covers minerals of group 5 or 6. The application must:

- a) Contain the name and address of the applicant;
- b) To define the land for which the applicant applies and to specify whether this land is owned by the state or by other owners;
- c) To provide the name and address of each registered owner of the land with which the mining permit application is related to if this land is not state owned. To ensure the registered owner approval in writing for the issuance of mining permit on his property;
- ç) To specify the minerals and materials of group 5 and 6 for which the mining permit is applicable.

Article 79

Within thirty days after receipt of the application, the Minister must notify the mining permit applicant on his decision concerning the application. If the Minister decides to grant the mining permit he must include in the notice the value of the mining property rent (the royalty), special terms if any, which must be applied by the possessor of the mining permit, as well as the agreement and other warranties that the possessor of the permit (in co-operation with the Minister) must apply aiming at the provision of:

- (I)- The correct reporting of all exploited minerals from his permitted mining area;
- (ii)- The value of those minerals;
- (iii)- Payment in the defined amount and time of the mining property rent (the royalty) that his mining permit includes.

Article 80

A mining permit may be granted for a maximal area of two hectares and be unfragmented. The same person may hold more than one permit simultaneously. A mining permit cannot be granted for an area on which another mining permit has been already granted in compliance with this law with exception of the case when the possessor of this already granted permit gives in advance his irrevocable approval in writing.

Article 81

A mining permit is valid for a maximal period of five years starting from the date when the minister notifies the approval of the application for the mining permit.

Article 82

The mining permit possessor, in conformity with terms imposed by the Minister in his permit, may search, discover and exploit minerals and materials of group 5 and 6 for which the permit is granted. In addition to, the applicant with regard to the search, discovery and exploitation of those minerals and materials may:

- a) Establish buildings and objects serving to the activity for which permit is granted;
- b) To exercise any right in compliance with the given permit;
- c) To execute within his permitted area any activity on search, discovery and exploitation of the minerals and materials for which permit is granted;
- ç) To take out from his permitted area all minerals and materials for which the permit is granted;
- d) To sell minerals and materials only through a person with license for minerals business and in no other manner.

Article 83

The possessor of the mining permit in registration and sale of minerals and materials taken out from his permitted area must comply with all rules and procedures determined by the regulation.

Article 85

No one can trade the minerals of group 5 or 6 without a license granted by the minister for minerals commerce.

Article 86

The application for minerals commerce must:

- a) Contain the name and address of the applicant;
- b) To detail the applicant's experience in the commerce of group 5 and 6 minerals;
- c) To specify minerals for which the commerce license is applicable;
- ç) To provide data on the applicant's financial resources needed for the license of proposed minerals commerce.

Article 87

The minister in compliance with Article 86 must notify the license applicant within thirty days after application receipt.

CHAPTER X

RELATIONS BETWEEN THE MINING PERMIT POSSESSOR AND OWNER OF THE LAND

Article 88

Relations between mining permit possessors and owners of the land shall be

regulated according to the Albanian legislation in force.

CHAPTER XI

GENERAL OBLIGATIONS OF POSSESSORS OF THE MINING PERMIT

Article 89

Each possessor of a mining permit regarding the selection of employees searching a job and have the adequate experience must have preference to employ Albanian citizens.

Article 90

Each possessor of a mining permit must undertake the qualification of his Albanian personnel.

Article 91

The possessor of a mining permit shall take the necessary precautions and equipment to insure the life, working conditions and the health of his employees and of all other persons who enter the area where the possessor of the mining permit performs his work operations in conformity with the technical safety regulations and those of the protection at work.

Article 92

The possessor of a mining permit must provide medical equipment and the relevant team of doctors.

Article 93

The possessor of a mining permit applies during the entire period of his mining activity the social insurance according to the relevant Albanian law. Any insurance owned by the possessor of the mining permit or his shareholders is executed in compliance with the Albanian legislation on insurance.

Article 94

The possessor of a mining permit must make possible the inspection of his working operations by the state authorized representatives.

Article 95

The possessor of a mining permit must guarantee that all activities related to his mining permit are executed in conformity with rules of health protection. The possessor of the mining permit in cases when is noticed that any installation or operation executed by this possessor or on behalf of him damages others property or

causes pollution of the ecosystem flora and fauna, must undertake all the necessary measures for protection of environment.

Article 96

The possessor of a mining permit must prepare an operational work-plan for the protection of environment, which must be approved by the Minister of Health and Environment Protection. The plan, above all, includes the transportation and deposit of sterols in the solid, liquid or gaseous state that are generated from his working operations.

Article 97

The possessor of a mining permit, who uses water in his working operations, must return it to the river, lake or to other sources from which it is taken in a clean condition in order not to affect the people's health and the development of flora and fauna.

Article 98

The rehabilitation of the land surface related to the mining activity must be executed by the possessor of the mining permit in conformity with a separate rehabilitation program proposed by the possessor of the mining permit and approved by the minister.

Article 99

In cases when the mining permit has expired and the area pertaining to the mining permit has been abandoned, the person possessor of the mining permit immediately prior to expiration of the permit or abandonment of the mining area must rehabilitate and recover it to its previous natural state within a reasonable period. This action is considered completed upon approval by the minister. Such action shall not apply in the case of objects or buildings:

- a) Which the state may accept (on the minister notice) as its own property without the right of compensation;
- b) Which the owner of the land wants to remain owned by him and on which has been agreed between him and the previous possessor of the mining permit in writing in a notarized agreement.

CHAPTER XII

SPECIFIC BENEFITS TO PROMOTE PRIVATE INVESTMENTS

Article 100

When the minister deems that the activity of the mining permit possessor or his shareholders is mainly oriented to the export of minerals, and with the purpose of promoting investments in the mining sector, to the mining permit possessor and his

shareholders, in compliance with Article 44, shall be granted additional benefits for minerals of group 1, 2 or 3 as below listed:

- a) The right to impose directly the required means and equipments for the work operations;
- b) The right to keep accounts in US Dollars or in other foreign currency accepted by the Bank of Albania;
- c) The to exchange the foreign currency with the local one according to the exchange rates of the Bank of Albania in the time of the exchange;
- d) The right to export and deposit outside the country his profit generated from export sales covering occurred expenses;
- e) The right of exchange of revenues in local currency to foreign currency according to the exchange rate of the Bank of Albania, needed for payment of imports, outside debts, profit and shares of the shareholders;
- f) The right of opening a foreign account in relation to financing projects;
- g) The right to keep or operate bank accounts in Albania or outside the country;
- h) To ensure that the mining sector in relation to other sectors of the economy is not favored less as far as the fiscal package is concerned and which consists on the following:
 - (i) The levy on property and land as provided for in the Albanian legislation;
 - (ii) The import custom fees according to the range provided for in the Albanian legislation;
 - (iii) The mining property rent (the royalty) as determined in this law;
 - (iv) The profit tax in the range as provided for in the Albanian legislation and the effective dates of the issuance of mining permits;
 - (v) Local taxes of the jurisdiction where the company acts according to the legislation in force.
- l) Exception from turn over tax or other taxes that will substitute it on subjects benefiting by this law;
- k) The guarantee that the legislation in reliance of which the mining right has been granted to the possessor of the mining right and his shareholders during all the time of possession of the mining permit to those subjects that have benefited this right according to this law. Amendments in this legislation, including the entry into force of new laws shall not be applicable on these objects with exception of the case when the minister and the possessor of the mining permit agree in writing;
- i) The right that any agreement between the state and the possessor of the mining permit shall be resolved with arbitration in compliance with rules of the International Chamber of Commerce, Paris France or of an Albanian competent court.

Article 101

In cases when the minister extends one or all benefits according to Article 100 to the possessor of the mining permit, these benefits must be specified in the document of the mining permit of the preferential agreement.

CHAPTER XIII

THE REGISTER OF THE MINING PERMITS

Article 102

The General Directory of Mines shall keep a register of all issued, renewed, transferred or annulled mining permits. For any registration shall be a payment of the equivalent on ALL of hundred SFr. The register must be available for inspection.

Article 103

With regard to any legal transaction concerning the registered mining permit:

- a) Has priority the registered permit to the unregistered one;
- b) Has priority the previous registered permit to the later registered one.

Article 104

No transformation of the mining permit or of its right shall be effective if the minister rejects it in writing and if the transferal and the approval of the minister are not registered in the register.

CHAPTER XIV

DISCIPLINARY MEASURES ADOPTED IN CASES OF EXERCISE OF MINING ACTIVITIES WITHOUT VALID MINING PERMIT, THE RIGHT OF THE MINISTER TO LIFT THE MINING PERMIT

Article 105

A person who executes mining activities without a mining permit issued in compliance with this law shall be considered a trespasser of this law and is obliged to pay a penalty imposed by the Minister, which should not be less than the equivalent in ALL of 50 thousand Sfr and not more than the equivalent in ALL of 500 thousand Sfr of each violation.

Article 106

The minister has the right to lift any mining law to the possessor in the following cases:

- a) When after issuance of the permit is noticed that in the application for mining permit has *incorrect data concerning the subject financial and material side*;
- b) When committing violations of this mining law;
- c) When commits breaches of the obligations been defined in his mining permit;
- d) Closes down or interrupts the work in a mine for more than 180 consecutive days;
- e) Unjustifiably reduces production in a permitted mining area.

Article 107

The lift of mining permit in compliance with Article 106 must follow the below procedure:

- a)** The minister must notify the possessor of the mining permit specifying his intention to lift the mining law and the reason of such action;
- b)** The possessor of the mining permit is given 90 days upon receipt of the above notice to:
 - (i)-Appeal in the court for disagreements between the state and the possessor of a issued mining permit (filed to the international arbitration or Albanian courts), if he deems that the decision of the minister to lift the mining permit is not right;
 - (ii)-To correct on the minister's consent violations contained in Article 106, paragraphs b, c and e on basis of which the mining permit is to be lifted;
- c)** If the possessor of the mining permit files an appeal with regard to paragraph b, letter (i) of this Article, on the validity of the decision to lift the mining permit, the minister can not continue the procedure of permit lift without the final decision of the court with the condition that the possessor of the mining permit acts in conformity with the appeal procedure;
- d)** If the possessor of the mining permit does not honor the rights of paragraph b of this Article, after 90 days from the date of the minister notice, in compliance with paragraph a of this Article, the right of possession of mining permit is lifted.

Article 108

When the mining permit is lifted based on a reason specified in Article 106, the minister has the right to execute each paragraph of the agreements completed by this possessor in his name and to follow unlimited any other legal right that he [the possessor] might have [enjoy] in order to redeem the compensation of damages caused by this person.

CHAPTER XV

MISCELLANEOUS

Article 109

All the required or permitted notices in compliance with this law shall be in writing.

Article 110

Technical data and study samples that the mining permit possessor submits to the General Directory of Mines shall be kept secret from the state with exception of cases when the possessor of these agrees to follow the below order (can not execute the subsequent letter prior to the previous one):

- a)** The termination of the time limit of the mining permit;
- b)** Leave of the area in which technical data and study proves have been taken from;
- c)** Two years after provision of this data by the Directory of Mines;
- d)** The publication of such data.

This Article cannot limit the state right of use of such information in preparation of economical and financial reports of its needs.

Article 111

The possessor of mining permit for mineral groups 1, 2 and 3 has the right to import in Albania, to process and to re-export those minerals excluded from taxes for import, export and other state taxes.

Article 112

The state or any person acting on behalf of the state in any case is not obliged to pay damages of persons or property to third parties deriving because of exercise of the mining rights based on this law. The possessor of the mining permit must indemnify the state and any other person acting on behalf of the state on actions executed by the third parties.

Article 113

This law is effective 15 days after publication in the Official Journal.

Promulgated with the Decree No. 783 dated 28.2.1994 of the President of the Republic of Albania, Sali Berisha