

## ALBANIA

## LAW NO. 7764

<b>Document Type</b>	Investment Law
<b>Document Number</b>	7764
<b>Document Title</b>	Law on Foreign Investments
<b>Year</b>	1993
<b>Date</b>	10 November
<b>Language</b>	English
<b>Provenance</b>	Government (Albania)

### LAW NO. 7764 FOR FOREIGN INVESTMENTS

Based on article 16 of Law no. 7491, dated 29.04.1991, "On the main constitutional provisions", on the proposal of the Council of Ministers,

#### THE PEOPLE'S ASSEMBLY OF THE REPUBLIC OF ALBANIA

#### DECIDED:

##### Article 1

##### General provisions

For the purpose of this law, "territory" means the territory under the sovereignty of the Republic of Albania, including territorial waters, maritime zones and continental shelf, over which the Republic of Albania, in accordance with international norms, exercises its legal and sovereign rights.

- "Foreign investor" means:

- a) every physical person who is a citizen of a foreign country; or
- b) every physical person who is a citizen of the Republic of Albania, but resides outside the country; or
- c) every legal person established in accordance with the law of a foreign country, who directly or indirectly seeks to carry out or is carrying out an investment in the territory of the Republic of Albania in conformity with its laws, or has carried out an investment in conformity with its laws during the period from 31.07.1990 to the present.

- "Foreign investment" means any kind of investment in the territory of the Republic of Albania, performed directly or indirectly by a foreign investor, that consists of:

- a) movable or immovable, tangible or intangible assets, or any other kind of ownership;

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- b) a company, rights that derive from any kind of participation in a company, by stock shares, etc;
- c) loans, monetary obligations or obligations in an activity of an economic value and related to an investment;
- c) intellectual property, including literature and artistic, scientific and technological products, audio recording, inventions, industrial designs, schemes of integrated circuits, know how, trademarks, designs of trademarks and trade names;
- d) every right recognized by law or contracts and every license or permission issued in accordance with the laws.

- "Dispute over a foreign investment" means every disagreement or presumption caused by a foreign investment or related to it.

- "Revenue" means an amount of money that derives from or is associated with an investment, including profit, dividend, interest, reinvestment of the capital, costs of direction and administration, costs of technical assistance or other costs or contributions in kind.

## **Article 2**

### **Permission and treatment**

1. Foreign investments in the Republic of Albania are not conditioned upon prior authorization. They are permitted and treated based on conditions not less favorable than those afforded to domestic investments in similar circumstances, except land ownership, which is regulated by special law.
2. In all cases and at any time, investments have an equal and impartial treatment and enjoy complete protection and security.
3. In any case, foreign investments have treatment not less favorable than the one provided by generally accepted norms of international law.

## **Article 3**

### **Right of employment**

A company with the participation of foreign investments has the right to employ foreign citizens as well.

## **Article 4**

### **Expropriation and nationalization**

Foreign investments will not be expropriated or nationalized directly or indirectly, they will not be the subject of any measure equal to these measures, except in special cases, in the interest of the public use, defined by law, without any discrimination, with immediate, appropriate and effective compensation, in accordance with legal procedures.

## **Article 5**

### **Compensation for expropriation and nationalization**

1. Compensation is equal to the real market value of the expropriated investment, at the moment when the expropriation act is undertaken or made public, whichever is first.
2. Compensation will be paid without delay and includes also the interest calculated upon a reasonable market rate, starting from the moment of expropriation; it is fully transferable and exchangeable calculated according to the market exchange rate on the date of expropriation.
3. A foreign investor has the right to request an immediate review of the expropriation or compensation act by the judicial authorities, according to the provisions of article 8 of this law.

## **Article 6**

### **War and armed conflict**

Foreign investors, whose investments suffer losses because of war, armed conflict, state of emergency or other similar situations, are treated in a way not less favorable than that provided to domestic investors regarding measures adopted for such losses.

## **Article 7** **Transfers**

1. Foreign investors have the right to transfer outside the territory of the Republic of Albania all funds and contributions in kind related to a foreign investment, including:
  - a) revenues;
  - b) compensation in accordance with article 5 of this law;
  - c) payments deriving from an investment dispute;
  - c) payments made pursuant to a contract, including loan and interest payments made according to a loan agreement;
  - d) revenues deriving from the sale or the partial or complete liquidation of an investment;
  - dh) revenues deriving from reduction of the capital of the company in accordance with Albanian legislation.
2. Foreign investors have the right to perform these transfers outside the territory of the Republic of Albania in an easy convertible currency, calculated according to the spot exchange rate of transactions on the day of transfer in the currency in which their investments will be transferred.
3. The Republic of Albania may limit the transfer right through impartial and nondiscriminatory application of laws of a general character, including those regarding the payment of taxes and fulfillment of duties and court decisions.

## **Article 8** **Dispute settlement**

1. If a dispute arises between a foreign investor and an Albanian private party or an Albanian state enterprise or company, which has not been settled through an agreement, the foreign investor may choose to settle the dispute according to any kind of previously agreed upon and applied procedures. If there is no procedure foreseen for the settlement of disputes, then the foreign investor has the right to submit the dispute for resolution to a competent court or arbitrator of the Republic of Albania, according to its laws.
2. If a dispute arises between a foreign investor and the Albanian public administration, which has not been settled through an agreement, the foreign investor may submit the dispute for resolution to a competent court or arbitrator of the Republic of Albania, according to its laws. If the dispute relates to expropriation, compensation for expropriation or discrimination, as well as to transfers as provided in article 7 of this law, the foreign investor may submit the dispute for resolution to the International Center for Settlement of Investment Disputes ("Center"), established by the Convention for the settlement of investment disputes between the states and citizens of other states, approved in Washington, on 18 March 1965.
3. Every decision of international arbitration according to this article is final and irrevocable for the parties in dispute. The Republic of Albania undertakes to apply without delay the provisions of these decisions and assure their implementation within its territory.

## **Article 9** **The status of this law**

1. Law no. 7594, dated 04.08.1992 "For foreign investments" and all other legal provisions or substatutory acts contrary to this law are abrogated.
2. In case the provisions of this law are not in conformity with international agreements ratified by the People's Assembly to which the Republic of Albania and the Government of the Republic of Albania is a party, the latter will prevail to the extent they provide rights or greater protection for foreign investors than those provided by this law.

## **Article 10** **National security**

Nothing in this law shall prevent the application by the Republic of Albania of the necessary measures for the protection of public order, fulfillment of its international obligations regarding the establishment and preservation of peace and security all over the world, protection of national security or defense interests.

## **Article 11** **Publication of laws**

The Republic of Albania will publish all laws, rules and procedures regarding foreign investments.

**Article 12****Entering into force**

This law enters into force 15 days after publication in the Official Journal.

**Proclaimed by decree no. 687, dated 10.11.1993 of the President of the Republic of Albania, Sali Berisha.**