

LAW

Nr. 10 093, date 9.3.2009

ON THE ORGANIZATION AND FUNCTIONING OF THE AGENCY FOR THE SUPPORT OF CIVIL SOCIETY

In reliance on articles 78 and 83 point 1 of the Constitution, on 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 Object

The object of this law is the organisation and functioning of the Agency for the Support of Civil Society, hereafter ASCS, and the procedures applicable to the distribution of funds for support for civil society.

Article 2 Charter, Seat and Legal personality

1. The ASCS is a central budgetary public entity and it acts to fulfil its mission and objectives in conformity with this law and the legislation in force.
2. The bodies of ASCS exercise their activities in support of the law and the charter.
3. The decisions of ASCS should be in conformity with the provisions of this law, the legislation in force and its charter.
4. The Charter of the ASCS is approved by the Council of Ministers.
5. The seat of ASCS is in Tirana. The Council of Ministers provides this agency with appropriate premises for its normal functioning and activity, in conformity with the legislation in force.

Article 3 Definitions

Within the meaning of this law, the following terms have this meaning:

1. "Financing authority" is the Agency for the Support of Civil Society and/or every central or local public authority that distributes funds from its budget for the support of civil society.
2. "Candidate" is any benefiting subject who takes part in a competition

procedure according to this law.

3. "Grant" is the defined amount of a fund for the support of civil society, made known in the competition documents during a concrete procedure, which is donated without interest to a subject benefiting from the financing authority in compliance with the criteria set according to this law.
4. "Competition documents" are the documents that a financing authority makes available to all candidates interested in preparing project proposals.
5. "Acceptable expenses" are the expenses that are taken into account for a civil society support fund.
6. "Activity for the good and in the interest of the public" is any activity the main goal of which is realization of a public interest.

CHAPTER II MISSION AND OBJECTIVES OF THE ASCS

Article 4

Mission and objectives

1. The ASCS has as its fundamental mission to encourage the sustainable development of civil society and the creation of favourable conditions for civic initiatives for the good of and in the interest of the public.
2. For accomplishing its mission, the ASCS offers financial assistance for programmes that encourage and strengthen the sustainability of non-profit organisations, inter-sector and international cooperation, civic initiatives, philanthropy, volunteerism and democratic institutions of society as well as other programmes that facilitate the fulfilment of its mission.
3. In the exercise of its activity, the ASCS is guided by the strategic priorities of the government for the development of civil society.
4. The above provisions of this article are applicable to every other financing authority according to this law.

CHAPTER III BENEFITING SUBJECTS AND SELECTION PRINCIPLES

Article 5

Benefiting subjects

The ASCS and every other financing authority support and assist, according to the definitions of this law and in compliance with the strategic priorities, initiatives, programmes and activity of a non-profit nature:

- a) of civil society organisations that are registered according to law and conduct activity according to the object defined in their charter, with the exception of political parties, labour unions, religious institutions and political organizations which benefit from public funds;
- b) of natural persons to support their research and studies, participation in international public activities and other forms of individual support,

according to the specific programmes of the agency.

Article 6

Selection principles

In the process of the examination and selection of benefiting candidates and the distribution of funds for the support of civil society according to this law, every financing authority relies on the following principles:

- a) freedom of participation and competition
- b) non-discrimination and equal treatment;
- c) transparency of procedures and decision-making, offering all candidates the respective procedure and information;
- ç) compatibility with the objectives of the grant and the effectiveness of the use of resources, using a competition system and criteria that enable the evaluation of the project proposal and the technical and financial specifications for the selection and distribution of the grant;
- d) the absence of retroactivity, excluding the possibility of the distribution of funds for activity that has already been realised at the date of the decision-making;
- dh) impartiality of examination and decision-making and the prevention of conflicts of interest;
- e) the exclusion of overlapping, which means the avoidance of financing of the same activity for the same concrete interest more than once during a fiscal year.

CHAPTER IV

ORGANS OF THE ASCS

Article 7

Organs of the ASCS

1. The organs of the ASCS are the Supervisory Board and the executive Director.
2. The charter of the ASCS may specify other executive organs to advise or assist it.
3. The procedures of the organisation and functioning of the organs of the ASCS are defined in its charter and the decisions of the Supervisory Board.
4. The members of the organs of the ASCS perform their functions in conformity with the provisions of this law, the legislation in force, the charter and the other general acts of the ASCS.

Article 8

Composition of the Supervisory Board

1. The ASCS is managed by the Supervisory Board, which consists of nine (9) members.
2. The Supervisory Board of the ASCS consists of five members who represent the organisations of civil society and four members who represent the institutions of the central public administration.

3. The Council of Ministers appoints, according to point 2 of this article, four members of the Supervisory Board from representatives of the institutions of the central public administration and five members from representatives of the organisations of civil society, in compliance with the principle of equal gender representation.
4. The representatives of the organisations of civil society are appointed to the Supervisory Board according to point 3 of this article on the basis of their contribution and experience according to proportional representation of the main and priority fields of development and the strategic priorities for the development of civil society. The organisations of civil society registered according to law have the right to send their proposals for representation on the Supervisory Board to the General Secretary of the Council of Ministers.
5. The procedure and rules for the implementation of this article are determined by decision of the Council of Ministers.

Article 9

Duties and competences of the Supervisory Board

The Supervisory Board performs these duties and competences:

- a) it compiles the charter of the ASCS;
- b) it approves, on the basis of this law, detailed rules about the conditions and procedures for the distribution of funds for fulfilling the mission of the ASCS;
- c) it examines the reports of the activity of the ASCS and approves the plan of actions according to the fields that it defines;
- ç) it approves the annual budget of the functioning of the ASCS;
- d) it approves the financial reports;
- dh) it approves the rules of functioning of the personnel;
- e) it decides on the use of the property of the ASCS;
- ë) it elects, releases and discharges its chairman and deputy chairman;
- f) it appoints, releases and discharges the executive director from duty;
- g) it reports to the Council of Ministers on the activity of the ASCS and
- gj) it performs other duties in conformity with the provisions of this law and the charter of the ASCS.

Article 10

Decision-making of the Supervisory Board

1. The dates of the meetings of the Supervisory Board are notified to the Board Members by the Chairman, at least 10 days before the meeting.

2. A meeting may be held if the majority of the members of the Supervisory Board are present. Decisions of the Supervisory Board are taken by a simple majority of the members present at the meeting, except for the cases defined in point 1 of article 11 and point 4 of article 12 of this law as well as decisions for the approval or amendment of the charter of the ASCS and the manner of use of its immovable property which are taken with a simple majority of all the members of the Supervisory Board.

3. Meetings of the Supervisory Board are open to the public, except for cases when the law provides otherwise. The place, date, hour and agenda of the meetings are made known ahead of time according to point 4 of this article.

4. Decisions of the Supervisory Board are published in the publications corner at the headquarters of the ASCS or by another appropriate means in conformity with the definitions of the charter or acts of the ASCS.

5. So long as it is not otherwise provided in this law, the functioning and decision-making of the Supervisory Board is done according to law no. 8480 dated 27.05.1999 "On the functioning of collegial organs of the state administration and public entities."

Article 11

Chairman of the Supervisory Board

1. The chairman and deputy chairman of the Supervisory Board are elected, and discharged from duty by a simple majority of the total number of the members of the Supervisory Board. A proposal for their discharge is made by at least one third of the members of the Board.
2. The Chairman of the Supervisory Board performs these duties:
 - a) he calls its meetings, determines the agenda and chairs the meetings of the Supervisory Board according to the rules and procedures defined in the charter of the ASCS;
 - b) he represents the Supervisory Board in relations with third parties;
 - c) he oversees the implementation of the decisions of the Supervisory Board;
 - ç) he performs every other duty defined in the charter of the CSDF or assigned by the Supervisory Board.
3. In the absence and inability of the Chairman, the Deputy Chairman of the Supervisory Board performs his duties.
4. Calling of meetings, the determination of the agenda and the supervision of the implementation of the decisions of the Supervisory Board, as in point c, paragraph 2 of this article, can also be done by one third of the members of the supervisory board.

Article 12

Executive director of the ASCS

1. The executive director performs these duties:
 - a) he represents the ASCS in relations with third parties;
 - b) he administers, oversees and directs the activity of the ASCS and its administration, including the employment and administration of the personnel, in conformity with the law, the charter of the ASCS and the decisions of the Supervisory Board;
 - c) makes proposals and suggestions to the Supervisory Board whenever required or on his own initiative about the good conduct of the activity of the ASCS;
 - ç) he assures cooperation with public institutions and local and foreign legal persons for the good conduct of the activity of the CSDF

- d) he exercises every other duty that has not been given to other organs of the ASCS in conformity with the provisions of this law, the legislation in force and the charter of the ASCS;
2. The members of the Supervisory Board or debtors of the ASCS, as well as their relatives, may not be appointed to the duty of executive Director of the ASCS.
 3. The executive director takes part in meetings of the Supervisory Board without the right to vote and has the right to propose issues for inclusion in the agenda of meetings of the Supervisory Board.
 4. The executive director is appointed and discharged by a simple majority of the total number of the members of the Supervisory Board.

Article 13

Length of the mandate of the leading organs of the ASCS

1. The length of the mandate of a member of the Supervisory Board is four years, with the right of re-election only once. The mandate of a member of the Supervisory Board ends prematurely when:
 - a) he resigns;
 - b) there are conditions of incompatibility or a conflict of interest according to article 14 of this law are created and a verified violation according to point 2 of this article;
 - c) he loses legal capacity to act by court decision;
 - ç) he does not take part in at least half of the meetings of the Supervisory Board organised during one year;
 - d) he dies;
 - dh) he is sentenced for the commission of a criminal offence by final judicial decision.
2. The Council of Ministers discharges a member of the Supervisory Board from duty when it finds a violation of the law and general acts of the CSDF, when he has professional and financial interests that are in conflict with the interests of the ASCS or when his behaviour and position infringe the reputation of the ASCS.
3. The Supervisory Board discharges the executive Director from duty when it finds one of the violations mentioned in point 2 of this article.
5. The appointment of a new member of the Supervisory Board or executive Director takes place no later than 30 days from the end of the mandate.

Article 14

Prevention of conflicts of interest

A member of the Supervisory Board or any other organ of the ASCS may not vote or take part in a decision-making in which he, his spouse, adoptee or adopted parent, relative in a direct or indirect line with a blood tie or marriage relation up to the second level has a financial interest or in cases related to a legal person of which

he is a member, takes part in its administration or has a financial interest in it according to law.

Article 15 **Administration of the ASCS**

1. The structure of the administration of the ASCS is defined in its charter.
2. The number of employees of the ASCS is approved by the Council of Ministers as a separate line, in conformity with the law on the annual State Budget.
3. The levels of pay and compensation of the employees of the ASCS are approved by the Council of Ministers, in conformity with the legislation in force. The labour relations of the employees of the ASCS are regulated according to the Labour Code.
4. The budget for salaries and expenditure of the administration of the Fund should be approved as a separate item in the Law of State Budget, along with the Civil Society Fund.
5. The ASCS cooperates with state institutions and Albanian and foreign legal persons in conformity with the definitions of its charter.

CHAPTER V SOURCES OF FINANCING OF THE CSDF

Article 16 Sources of financing

1. The sources of financing of the ASCS are:
 - a) financing from the State Budget
 - b) its own income;
 - c) other lawful donations;
 - ç) other income defined by law.
2. The financing of the ASCS is provided as a separate line in the annual State Budget, the annual financing secured from the State Budget cannot be smaller for the following year.
3. The ASCS secures and accepts income and donations, in things of value, goods or services and applies the rules of the agreement signed with the donor in conformity with its mission and the laws in force.
4. The ASCS realises income according to law through the administration of its assets and the conduct of other lawful activities.

ARTICLE 17 Bank accounts

1. The ASCS keeps account in the treasury, in conformity with the legislation in force.
2. Funds obtained in foreign currency are deposited in separate bank accounts.

CHAPTER VI PROCEDURES OF SELECTION AND DECISION-MAKING

Article 18

Responsibilities of the organs of the CSDF for the distribution of funds

1. The fund is divided and allocated according to the fields determined by the Supervisory Board.
2. The executive director of the ASCS:
 - a) assures the preparation and development of the conditions of the grants in adaptation to the specifics of the fields;
 - b) publicly announces the grant and the criteria of the competition and for the selection of the benefiting subjects;
 - c) establishes an evaluation commission of project proposals of no fewer than three persons for every competition procedure, in the composition of which representatives of the organisations of civil society take part as invitees, according to the rules and principles established by the Supervisory Board;
 - ç) determines the time periods and the persons responsible for negotiating the conditions or necessary amendments in a project proposal, according to the conditions determined by the evaluation commission;
 - d) notifies the candidates participating in a particular procedure;
 - dh) enters into the contract with the winner.
3. The evaluation commission:
 - a) opens, examines and evaluates the qualification criteria of the project proposals received, on the date, place and time indicated in the competition documents;
 - b) announces the results of the competition, notifies the participants about non-winning projects, providing the respective reasons.
4. At a minimum, the manner of transfer of the funds, the documentation and the manner of financial reporting and that of performance, the types of expenses recognised and acceptable, the forms of control, including the obligation of the the benefiting subject to make all the documentation on the financial activity carried out available to the High State Audit , the manner of documenting expenses and the product/results of the financed proposed and other mutual conditions and responsibilities are defined in the contract.
5. The responsible organ in the other financing authorities in implementation of points 2 and 3 of this article is the same as that defined according to the rules of public procurement.

Article 19
Basic procedure

1. The financing authorities in the meaning of this law distribute and allocate funds for support of civil society on the basis of an open competition of the public selection of project proposals in compliance with the principles and the procedure defined in this law.
2. The Project proposals are evaluated in accordance with their compliance with the goals of the programme they are proposing, the abilities of the candidate and the effectiveness of the activities, in relation to the results of the costs. The detailed criteria for the evaluation of every grant are publicly announced. These criteria can not be changed during the respective procedure.
3. The selection procedure of a project proposal includes the following phases:
 - a) publication of the annual plan of action;
 - b) a preliminary announcement and publication of every competition procedure for a specific grant and the making available of the respective competition documents;
 - c) amendments and clarifications made during the procedure;
 - ç) the delivery of the project proposal and the registration of the participating candidates by the financing authority;
 - d) the examination of the acceptability, fulfilment of technical and financial capabilities, registration and evaluation of the project proposal;
 - dh) announcement of the competition results, including conditions for adaptations or amendments;
 - e) in case of a refusal of all the candidates, a declaration and the reasons for this refusal;
 - ë) the possible negotiation of amendments defined as a condition for the approval of the winning project proposal;
 - f) the negotiation and signing of the contract;
 - g) the publication of information according to the definitions of this law.
4. The Supervisory Board, upon the proposal of the executive director approves the model contract and procedural rules applicable for the funds for the support of civil society that are distributed according to this law.

Article 20
Projects

1. The projects contain information about the purpose, specific objectives, activities, additional costs, intended results. Their evaluation is set out according to clear indicators and justified determinations.
2. According to their nature, the projects are prepared for the appropriate length of time needed to accomplish them according to the definitions of this law, which may exceed the boundary of a fiscal year.
3. In cases when the duration of the project is more than one year, the grant fund for the activity of the project is transferred at an annual basis, in compliance with the activities performed in the respective year.

Article 21
Competition documents

1. The financing authority prepares the competition documents, which contain at least:
 - a) general information about the financing authority;
 - b) minimum qualification criteria and documentation necessary to prove those criteria;
 - c) the conditions of the grant;
 - ç) instructions about the time periods and formalities that should be respected;
 - d) information about the criteria used for the selection of the candidates.
2. The conditions of the grant contain the characteristics of the project, the field of action, the specific objectives, the activities necessary to be performed and the criteria for evaluating the results.
3. The grant will not, in any case, be used to finance the operational costs of the winning candidate, not related to the selected project.

Article 22

Informing the public and forms of communication

1. The planning and implementation of the procedures of distribution of funds according to this law, the selection procedures, the contracts signed between the financing authority and the benefiting subject as well as the reporting on the expenditure of the funds granted according to this law are information with a public interest, in conformity with the legal framework on the right to be informed about official documents.
2. All public notices on competition procedures, according to the definitions of this law, are published in the Internet page of the financing authority and in at least two national or local newspapers, in compliance with the level of the financing authority. The financing authorities use, in accordance with their means, any other means for making the competition procedures public.
2. The financing authorities publish in their Internet page the names of all winning candidates, summaries of the financed projects and the respective grant amounts. The financing authorities, in compliance with this law `deliver to the ASCS information about projects they finance, which publish it on their Internet Page.

Article 23
Time periods

1. The financing authority should define and include in the announcement of participation in a competition procedure the time period for delivering project proposals. This time period may not be shorter than 30 calendar days from the publication of the announcement.
2. The financing authority has the right to extend the time period for submitting a

project proposal, provided that the new time period shall be made known publicly at least six days before the expiration of the prior term.

3. The time period for assessing the project proposals and publication of results is not longer than 30 days from the time period defined in the competition documents for the submission of project proposals. Candidates are notified within ten days from the date of completing the evaluation of the results of competition. The financing authority and the winning candidate sign the contract within a period of 30 days after the publication of the results of the competition.

Article 24 **Clarifications**

1. Every natural or legal person has the right to ask for and to receive further clarifications from the financing authority.
2. The financing authority should give an answer to every request for clarification under the condition that it is made at least five days before the deadline for submitting project proposals. Every answer should be published in the Internet page and is accessible to all candidates.
3. The financing authority should return an answer to every request for clarification at least three days before the deadline for submitting project proposals.
4. The financing authority has the right, on its own initiative, to give additional clarifying information about the competition documents and should communicate it to all candidates according to the time periods of the above points of this article.

Article 25

Implementation of the contract

1. The financing authority monitors all financed projects about the implementation of the declared activities .
2. The financing authority does not pay the last instalment to the benefiting subject before the evaluation of the final report of the activity and the financial balance sheet, which the benefiting subject is obligated to deliver to the financing authority no later than 30 days from the end of the activity.
3. The evaluation is done no later than 30 days from the receipt of the reports mentioned in point 2 of this article.
4. The financing authority may reserve the right to ask for additional information from the benefiting subject whether during the implementation of the contract or even after the evaluation of the reports of the activity, for the purpose of completing the documentation, but no later than three months from the expiration of the time period defined in point 3 of this article.

Article 26

Review and administrative investigation and appeal

The provisions of the Civil Procedural Code are applicable in relation to the review, administrative investigation and appeal.

CHAPTER VII

AUDITING AND FINANCIAL REPORTING OF THE ACTIVITY OF THE ASCS

Article 27

Auditing

The financing activity of the ASCS is audited according to the legislation in force.

Article 28

Financial reporting

1. The fiscal year of the ASCS is the same as the calendar year.
2. With the closing of the fiscal year, the executive Director submits to the audit of the ASCS the annual balance sheet of the income and expenses and the situation of the property of the ASCS for the last fiscal year. Within three months from the close of the fiscal year, the executive Director submits the above reporting and the audit report to the Supervisory Board.

CHAPTER VIII

TRANSITIONAL AND FINAL PROVISIONS

Article 29

Appointment of the members of the first Supervisory Board

The Council of Ministers is charged, on the basis of point 3, and 5 of article 8 of this law, with appointing the members of the first Supervisory Board of the ASCS within 30 days from the entering into force of this law.

Article 30

Issuance of subordinate legal acts

The Council of Ministers is charged with issuing the necessary subordinate legal acts in implementation of article 15, point 2 and 3 of this law within 60 days after this law enters into force.

Article 31

Entry into force

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

Speaker
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