

DECISION
No. 31, dated 22.1.2020

**ON THE ORGANISATION, COMPOSITION, FUNCTIONING, AND STATUS OF
THE STATE EXPORT CONTROL AUTHORITY, THE DETERMINATION OF
DEADLINES, METHOD AND PROCEDURE FOR THE EXCHANGE OF
INFORMATION AND OBTAINING OPINIONS FROM OTHER INSTITUTIONS
INVOLVED IN INTERNATIONAL TRANSFERS OF CONTROLLED GOODS, AS
WELL AS THE DETERMINATION OF PROCEDURES FOR THE ISSUANCE OF
GUARANTEES AND THE CONDUCT OF STATE CONTROL**

Pursuant to Article 100 of the Constitution, Articles 9, point 4, and 35, point 8, of Law No. 46/2018, “Për kontrollin shtetëror të transferimeve ndërkombëtare të mallrave ushtarake dhe të artikujve e teknologjive me përdorim të dyfishtë”, and Law No. 90/2012, “Për organizimin dhe funksionimin e administratës shtetërore”, upon the proposal of the Minister of Defence, the Council of Ministers

DECIDED:

I. GENERAL PROVISIONS

1. This decision aims at the approval of:
 - a) the status, organization, composition, and functioning of the State Export Control Authority;
 - b) the time limits, the manner, and the procedure for the exchange of information and obtaining opinions from other institutions involved in the international transfers of controlled goods;
 - c) the procedures for issuing guarantees and conducting state control.

**II. STATUS, ORGANIZATION, COMPOSITION AND FUNCTIONING OF THE
STATE EXPORT CONTROL AUTHORITY**

2. The State Export Control Authority (hereinafter AKSHE) is a central institution, with the status of a legal person, public, budgetary, under the authority of the Minister of Defence (hereinafter “the minister”), headquartered in Tirana.
3. AKSHE is financed from the state budget and other lawful income.
4. AKSHE may receive donations and funding from entities, inside and outside the country, for which there is no obligation of return and which are included in its budget and used in accordance with the purpose for which they were given.
5. AKSHE is responsible for the international transfers of military goods, items, and dual-use technologies.
6. AKSHE may sign, pursuant to the law on public procurement, contracts with natural and legal persons, having as their object the provision of necessary consultancy services for the achievement of objectives within its field of responsibility.
7. AKSHE has the following responsibilities:
 - a) to ensure the registration of natural and legal persons, including public authorities, for the conduct of activities with military goods;
 - b) to organize the work for the licensing of activities related to the international transfer of controlled goods and the provision to interested persons of licenses, registration certificates, international import certificates, delivery verification certificates, as well as other documents provided for in the relevant legislation in this field;

c) to conduct the control process of all phases of licensing, registration, notification, delivery, post-delivery, as well as, as applicable, in all phases of pre-licensing.

8. AKSHE carries out its activity throughout the entire territory of the Republic of Albania. It is organized at the central level, in the form of a general directorate.

9. AKSHE is headed by the chairman, who is responsible for the development of the activities of this authority, in accordance with this decision and with the requirements of the legislation in force for the state control of international transfers of military goods and of dual-use items and technologies.

10. The chairman of AKSHE, in addition to other duties:

a) ensures the management of the authority's activities for licensing activities with military goods and dual-use goods and technologies;

b) coordinates the activity of the authority with other institutions in the field;

c) issues orders and instructions, in accordance with the legislation in force for the state control of international transfers of military goods and of dual-use items and technologies. The chairman's orders and instructions are made known to the public and interested persons, through the means specified in the regulation for the internal working methods and conduct of AKSHE personnel.

11. The appointment, dismissal, or removal from duty of the chairman of AKSHE is done by the minister, in accordance with the legislation in force regarding the powers and authorities of leadership and command of the Armed Forces of the Republic of Albania.

12. The appointment, dismissal, or removal from duty of AKSHE civil servants is done by the minister, in accordance with the legislation in force regarding the powers and authorities of leadership and command of the Armed Forces of the Republic of Albania, upon the proposal of the chairman.

13. The employment relationships of the chairman, civil servants, and employees of AKSHE are regulated on the basis of the provisions of the Labour Code.

14. The structure and staffing table of AKSHE are approved by order of the Prime Minister, upon the proposal of the minister, according to the provisions of the legislation in force regarding the organization and functioning of the state administration.

15. For the implementation of the obligations and responsibilities defined in the legislation on state control of international transfers of military goods and of dual-use items and technology, AKSHE also performs the following duties:

a) assists the Ministry of Defence in drafting policies and the national strategy in the field of control of activities with controlled goods, taking into account the harmonisation of national legislation with that of the European Union and with international obligations undertaken by the Republic of Albania, in accordance with the legislation in force and international conventions to which the Republic of Albania is a party;

b) coordinates the national system for the control of activities with controlled goods and carries out periodic activities for the information and preparation of other state institutions which have competencies in the control of international transfers of controlled goods;

c) signs, in accordance with the law, agreements, orders, memoranda, cooperation protocols, joint programmes and activities with other state institutions and authorities, domestic or foreign;

ç) reports periodically to the Minister of Defence on its activities;

d) prepares the annual report for the reporting of the Minister of Defence to the Council of Ministers, on key annual developments in the field of control of international transfers of controlled goods. The annual report must contain:

i. the work report of AKSHE for the previous year;

ii. the annual work programme for the coming year;

iii. the implementation of licences issued for the international transfer of controlled goods.

This report constitutes classified information, according to the applicable legislation, regarding classified information as "state secret";

dh) prepares a public annual report in accordance with Albanian legislation on the right to information;

e) assists the Ministry of Defence in drafting draft acts, in accordance with the area of responsibility;

ë) approves methodological standards, mechanisms, procedures and necessary guidelines for the implementation of the control regime for international transfers of controlled goods;

f) registers natural and legal persons, including public authorities, for carrying out international transfers of military goods;

g) licenses export activities, temporary export, import, temporary import, re-export, brokering, transit or *transship*-it through the territory of the Republic of Albania, technical assistance, transfers of *software*-and any other transfer, outside or within this territory, in which various subjects and the controlled goods are involved;

gj) approves with conditions, refuses, amends, restricts, revokes or annuls issued licenses, authorisations or certificates;

h) carries out control activities at all stages of licensing, authorisation, registration, certification, notification, delivery, post-delivery, as well as, as appropriate, at all stages of pre-licensing;

i) exercises control activities at all stages of the process, through specialists employed at AKSHE or through external experts or academic institutions, in cases where technical expertise is needed for the classification of military goods or dual-use items. Expenses that may be required for specialized technical expertise in laboratories, research institutes or other specialized institutions, for the classification of military goods or dual-use items, are covered by the subject, private or public, interested in the classification of these items;

j) exchanges information, general and specific, regarding transfers and refusals of export licenses, within the framework of international non-proliferation regimes and the control of international transfers, to which the Republic of Albania is a party;

k) cooperates, according to its competencies, in the development of monitoring activities and the implementation of embargoes and restrictive regimes, for the export of controlled goods and obligations arising from the implementation of embargoes on the transfer of controlled goods, established by a resolution of the UN Security Council, a regulation adopted by the EU, a decision of the OSCE, a decision of several NATO Member States or in implementation of a legal act of the relevant authorities of the Republic of Albania;

l) undertakes activities for the promotion of the specific interests of the Republic of Albania in its relations with international non-proliferation organizations and bodies and in the control of international transfers of controlled goods;

ll) provides specialized counseling and organizes information programs and awareness campaigns for individuals and legal persons, including public authorities, on the developments, objectives, norms, procedures, and restrictions related to activities involving controlled goods;

m) participates in national exhibitions and, as appropriate, in international exhibitions of military technology and high technology;

n) builds and manages the official website, intended to inform economic operators, other interested authorities, and civil society about the applicable legislation and licensing procedures.

16. The regulation that establishes the internal methods of work and the conduct of the staff of AKSHE is approved by the minister, upon the proposal of the chairperson.

17. AKSHE has its own official emblem, logo, and seal. The emblem consists of the emblem of the Republic of Albania, with the inscriptions: “Republika e Shqipërisë, Ministria ... (the name of the ministry under which AKSHE operates), Autoriteti i Kontrollit Shtetëror të Eksporteve”, in accordance with the provisions of the Decision of the Council of Ministers regarding the use of the emblem of the Republic of Albania.

18. The seal of AKSHE has the form and elements defined in the Decision of the Council of Ministers on the rules for the use, administration, control, and preservation of official seals. The seal is produced, administered, and preserved in accordance with applicable legislation.

III. DEADLINES, METHODS, AND PROCEDURE FOR THE EXCHANGE OF INFORMATION AND THE OBTAINING OF OPINIONS FROM OTHER INSTITUTIONS INVOLVED IN THE INTERNATIONAL TRANSFERS OF CONTROLLED GOODS

19. For the fulfillment of its legal obligations, AKSHE has the right to request data on international transfers of goods from state authorities and other entities.

20. For the purpose of coordinating work, drafting policies, assessing and providing opinions on international transfers of military goods and dual-use items and technologies, AKSHE exchanges and receives information from:

- a) the ministry responsible for foreign affairs;
- b) the ministry responsible for internal affairs/General Directorate of State Police;
- c) the ministry responsible for finance/General Directorate of Customs;
- ç) State Intelligence Service;
- d) Defense Intelligence and Security Agency;
- dh) General Directorate for the Prevention of Money Laundering.

AKSHE may enter into agreements with the above-mentioned institutions, as well as with other institutions, regarding the determination of procedures, deadlines, and modalities for the exchange of information on international transfers of military goods and dual-use technologies.

21. The institutions mentioned in point 20 of this chapter review specific cases of international transfers of military goods and goods and technologies with dual-use, which are referred by AKSHE, according to their area of responsibility.

22. The institutions mentioned in point 20 of this chapter exchange information with AKSHE, according to their areas of responsibility, as well as based on the criteria established in Article 12 of Law No. 46/2018, “Për kontrollin shtetëror të transferimeve ndërkombëtare të mallrave ushtarake dhe të artikujve e teknologji me përdorim të dyfishtë”.

23. AKSHE, for the fulfillment of legal obligations, has the right to request information from other state institutions, solely for the purpose of exercising its activity. The institutions mentioned in point 20 of this chapter, as well as other institutions that may be engaged in the control of international transfers of military goods and goods and technologies with dual-use, must respond within 15 (fifteen) working days. If the information cannot be made available within this deadline, for justified reasons, the parties agree on its extension.

24. The information sent by state institutions and other entities becomes an integral part of the final assessment by AKSHE, on the basis of which the decision is made regarding the approval, rejection of the application, or revocation of licenses, certificates, and authorisations.

25. AKSHE, in the course of its activity, is obliged to safeguard classified information, the confidentiality of data, and the trade secrets of the entities involved in licensing, in accordance with the applicable laws and bylaws in force.

26. AKSHE may engage other state bodies during the implementation of measures adopted in the export control process, such as the diplomatic and consular representations of the Republic of Albania abroad, with the consent of the relevant supervisory institution, as well as intelligence services or other specialized structures.

27. The deadlines for communication and cooperation with other national and international institutions involved in the international transfer of controlled goods are those provided for in the

Code of Administrative Procedures, as well as in the legislation on the right to information, except in cases where compliance with these deadlines is objectively impossible.

IV. PROCEDURES FOR ISSUING GUARANTEES AND CONDUCTING STATE CONTROL, IN ACCORDANCE WITH THE OBLIGATIONS FOR THE END USE OF THE GOODS

28. The State Export Control Authority issues state guarantees in relation to the end use of goods through the issuance of the following certificate:

- a) of the end user;
- b) of international import;
- c) of the arrival of the goods at the destination.

29. The certificates specified in point 28 of this chapter are issued to interested parties, at the request of the exporting country, and shall be considered valid when submitted within 6 months from the date of issuance. The criteria for issuing the certificates are determined by order of the head of AKSHE, in accordance with point 3 of Article 26 of Law no. 46/2018, “Për kontrollin shtetëror të transferimeve ndërkombëtare të mallrave ushtarake dhe të artikujve e teknologjive me përdorim të dyfishtë”.

30. The State Export Control Authority also confirms end user certificates issued by foreign authorities, at the request of the interested parties. The procedures for the confirmation of these certificates are the same as the procedures when they are issued by AKSHE itself.

31. For the issuance of state guarantees, AKSHE and other authorized state bodies have the right to control and inspect the premises, documents of the arrival of goods at the destination, and the use of the goods at all stages of the international transfer, even after their arrival at the domestic end user.

32. The inspection specified in point 31 of this chapter is carried out in accordance with Law no. 46/2018, “Për kontrollin shtetëror të transferimeve ndërkombëtare të mallrave ushtarake dhe të artikujve e teknologjive me përdorim të dyfishtë”, and Law no. 10433, dated 16.6.2011, “Për inspektimin në Republikën e Shqipërisë”.

V. TRANSITIONAL AND FINAL PROVISIONS

33. Decisions of the Council of Ministers, no. 43, dated 16.1.2008, “Për organizimin, funksionimin dhe statusin e Autoritetit të Kontrollit Shtetëror të Eksporteve”, as amended, no. 304, dated 25.3.2009, “Për përcaktimin e procedurave për kryerjen e ekspertizave dhe të kontrollit nga Autoriteti i Kontrollit Shtetëror të Eksporteve (AKSHE)”, and no. 305, dated 25.3.2009, “Për përcaktimin e procedurës së lëshimit të dokumenteve ligjore të garancisë në fushën e kontrollit shtetëror të veprimtarisë së import-eksportit të mallrave ushtarake dhe të mallrave e teknologjive, me përdorim të dyfishtë”, are repealed.

34. Employees appointed before the entry into force of this decision are not subject again to the appointment procedures.

35. The Minister of Defense and the State Export Control Authority are charged with the implementation of this decision.

This decision enters into force after its publication in the Official Gazette.

PRIME MINISTER
Edi Rama