The need for building an efficient system of state control over international transfers (import, export, transit, trans-shipment) of military goods and dual-use goods and technologies, and the resulting participation by the Republic of Albania in joint international initiatives to supervise international transfers of sensitive goods, brought about the adoption of the Law No. 9707, dated 05.04.2007 on the State Control over Import-Export Activity of Military Equipment and Dual-use Goods and Technologies, which constitutes the legal basis of the Albanian state export control system. Article 6 of the Law describes the competencies of institutions which play the main role in the export control of strategic goods.

According to this article:

a) The Parliament lays down the legal basis of the export control policy,
b) The Council of Ministers drafts and implements the state policy of export control,
c) The state policy in this field is also implemented by the State Export Control Authority, the ministers and other state entities with competences in export control.

The responsible institution in the Republic of Albania for the implementation of the state policy in the field of state export controls is the State Export Control Authority (AKSHE), in cooperation with ministries and other state entities that have competences over export control.

The main purpose of establishing the state export control system is to protect the interests of national security, to maintain the international commitments of the Republic of Albania related to non-proliferation of weapons of mass destruction, and limitation of illegal conventional arms transfers, as well as to take measures for preventing their use for terrorist or other illegal purposes.

LEGISLATION:

Law No. 9707 dated 05.04.2007, on “State Control over the Import-Export Activity of Military Equipment and Dual-use Goods and Technologies.”

Decision of the Council of Ministers No. 43 dated 16.01.2008, on the “Organization, Functioning and Status of the State Export Control Authority.”

Decision of the Council of Ministers No. 304, dated 25.3.2009, on “Setting up the Procedures for Conducting Expertise and Control by the Albanian State Export Control Authority (AKSHE).”

Decision of the Council of Ministers No. 305, dated 25.3.2009, on “Setting up the Procedures of Issuing Legal Documents in the Field of State Control of Import-Export of Military Goods and Dual-use Goods and Technologies.”

Decision of the Council of Ministers No. 341, dated 08.04.2009, on “Establishing the Tariffs for Issuing Legal Documents.”


Order of the Head of AKSHE, No. 72, dated 30.12.2008, on “Regulations on Organization and Functioning of the Albanian state Export Control Authority.”

In the Republic of Albania the responsible institution for enforcing the state policy in the field of state export control is the State Export Control Authority (AKSHE), which acts in cooperation with the ministries and other state entities responsible for export controls. AKSHE is a central institution subordinate to the Minister of Defense, which conducts the activity of state control over export, import, transit, transshipment and brokering activity for military goods and dual-use goods and technologies.

AKSHE is also the responsible institution for enforcing the state policy in the field of exports and imports of military goods and dual-use goods and technologies.

The institution:

• Conducts analyses and provides the respective expertise regarding goods and activities subject to export. This control includes all stages of the process starting from pre-licensing through further control after the entity is granted a license, to verification of the end user and destination of goods.
• Issues legal documents: licenses, authorizations and certificates.
• Sanctions legal violations in the field of state export control.
• Fosters the enforcement of embargos.
• Serves as a contact point in implementing international agreements.

A very important role that AKSHE plays, as a result of its legal competences, is acting as point of contact in implementing international agreements in this field, implementing procedures deriving from international standards, overseeing implementation of full and partial embargos, with careful analysis of destinations and end-use and continuous exchange of information regarding trade entities involved in illicit operations.

As of June 1, 2009, AKSHE has started the operational process of issuing licenses, authorizations and certificates for entities dealing with military goods and dual-use goods.

State control over exports includes:

• Items.
All items that are included in the Common Military Lists of the European Union adopted by the Council Decision no 2010/C 69/03 (CFSP), and in the Dual-use goods Regulation No 428/2009 of the European Union, are part of the items controlled by the state export control system. The Council of Ministers Decision that implement this international lists is updated every year. (currently in place is CMD No. 106 dated 09.02.2011 on the “Adopting the List of Military Goods and the List of Dual-use Goods and Technologies subject to State Import-Export Control”.
One list refers to military goods whereas another to the dual-use goods.

Military equipment and technologies include:

• Products designed for military purpose (examples: arms, ammunition);
• Services designed for military purposes (examples: design, assembly, repair);
• Technologies designed for military purposes (examples: information, technical data and technical assistance).

Dual-use goods include:

Special products, equipment, materials, software and technology that are not exclusively designed for military purpose or works and services related to them, which, apart from civil use can be used for military or terrorist purposes or are in their design, manner of production and use intended for military purposes, weapons of mass destruction, their proliferation or explosives and nuclear weapons (example: nuclear materials, chemical agents, bacteriological agents, biological agents and toxic preparations).
• Entities:
  • Individuals that conduct activities in relation to the transfer of the above-mentioned items;
  • Legal entities that conduct activities in relation to the transfer of the above-mentioned items.
• Activities:
  • Export;
  • Import;
  • Transit;
  • Trans-shipment;
  • Brokering.

STAGES OF THE PROCESS

The process of licensing entities:

Registration:

As far as the entities involved in activities related to military goods are concerned, they have to register at AKSHE, which issues a Registration Certificate that gives them the right to trade with military items. This is the first step of the licensing process.

Application:

Commercial entities wishing to obtain a license, authorization or certificate need to submit the required documentation to AKSHE and fill in the required form. The required criteria, adequate documentation, frequently asked questions, information points for citizens as well as all useful information are published in the following website: www.akshe.gov.al.

Reporting:

Individuals/legal entities involved in international transfers of military goods, dual-use goods and technologies, who have obtained a license and an international import certificate, are required to submit written reports to AKSHE on a quarterly basis regarding the following:

• Transfer of the goods specified in the documents;
• Use of these goods for the stated purpose.
Individuals/legal entities involved in the international transfers of goods are required to submit, within 10 days from the date of completing the transfer of each merchandise, a copy of the following documentation:

- Export/import license;
- International transport document;
- Customs statement;
- Invoice of the goods.

Controlling and licensing process by the Albanian State Export Control Authority AKSHE exercises a comprehensive control throughout the licensing process, covering the entire timeframe of the pre-licensing, licensing and post-licensing process.

This control may include:

a) Control of documentation and requests
This control consists of verifying the accuracy and correctness of the completed documents submitted in compliance with legal procedures in force and verifying the proper completion of the licensing request, which is considered as the documentation control phase.

b) Technical control by the experts

This control phase is related to the actual, physical control of goods subject to license, comparing the data described by the applicant against the actual goods.

With regards to this phase, it is very important for the applicant to correctly classify the goods according to the numbers in the control list, ensuring that each item included in the licensing application has its correct corresponding code. This control consists of technical verification and analysis performed by the AKSHE experts or other bodies if necessary.

With regards to the time period, control may include all stages of the process, not only a preliminary check in the pre-licensing phase, but it may continue in the post-licensing stage to verify the actual state during transport.

The maximum duration of the process is 30 days from the date of submitting all necessary documents; if necessary the work will be coordinated with other stakeholders.

c) Licensing control

This phase is related to the evaluation of the application. In the process of decision making, all of the objective and subjective aspects are taken into consideration, such as the nature of the sensitive goods, respect of the EU Code of Conduct, replaced by the
Common Position 2008/944/CFSP, respect of the embargoes imposed by international or national organization, respect for international agreements, end-users, the end-use of goods, financial aspects, etc. This is a control of the equipment against legal documentation of the applicant, closely connected to the decision-making process. Although the Albanian export control system gives the exclusive right of decision-making to AKSHE, in order to have an efficient control over these goods, often other state entities are involved in this process and their activity is related to the activity of AKSHE. If necessary, other specialized state entities are involved in the decision-making process, for example the Ministry of Foreign Affairs, Intelligence Agencies, General Directorate of Customs, the, the Ministry of Economy, the Ministry of Finance, the

**LEGAL DOCUMENTS ISSUED BY AKSHE LICENSES**

1. Export license for military goods (single use, general, unlimited);
2. Import license for military goods (single use, general, unlimited);
3. Brokering license for military goods (single use, general, unlimited);
4. Export license for dual-use goods (single use, general, unlimited);
5. Import license for dual-use goods (single use, general, unlimited);
6. Brokering license for dual-use goods (single use, general, unlimited);
7. License for electronic transfer of software or technology.

**AUTHORIZATIONS**

1. Authorizations for international transit/transshipment of military goods in the territory of Albania;
2. Authorization for international transit/transshipment of dual-use goods in the territory of Albania;
3. Authorization for temporary export/import of military goods,
4. Authorization for temporary export/import of dual-use goods,
5. Authorization to negotiate international agreements on military goods;
6. Authorization to negotiate international agreements on dual-use goods;
7. Authorization for the export of non listed items (catch all)

**CERTIFICATES**

1. Registration certificate for military goods;
2. International import certificate military goods;
3. End-user certificate for military goods;
4. Delivery certificate for military goods;
5. International import certificate for dual-use goods;
6. End-users certificate for dual-use goods;
7. Delivery certificate for dual-use goods.

DECISIONS

Decisions may be issued on:
- Granting the license/authorization;
- Denying of the licensing request;
- Revocation and suspension of the request;

SANCTIONS

In the event that they do not fit into criminal offences under the Criminal Code, when AKSHE verifies an administrative violation of the procedures and obligations by commercial entities, then it can sanction them with:
- Fine (foreseen by article 31 of Law No. 9707, dated 5.4.2007 on the “State Control of Import-Export of Military Equipment and Dual-use Goods and Technologies”);
- Revocation and suspension of the license;