

BUSINESS LEGAL COMPLIANCE

MAIN FACTORS FOR THE GROWTH AND
DEVELOPMENT OF COMPANIES

STATUTE OF THE COMPANY

For commercial law and business life, the statute can be considered as the constitutional act of the company. Through it, the basic aspects on which the existence and well-being of a company are built and based are regulated.

It also regulates certain elements which are not expressly regulated in law, or are not mentioned at all in the latter.

The statute must be in accordance with all applicable laws, which have as their object the regulation of companies.



In particular, the statute is drafted taking into account the requirements of law no. 9901, dated 14.04.2008 "On entrepreneurs and companies", as amended, and law no. / 9723, dated 03.05.2007 "On business registration".

Also for the shareholder form of companies the statute should be based on the principles of the Internal Management Code of Joint Stock Companies not Listed on the stock exchange, in order to guarantee elements such as:

- (i) shareholder protection;
- (ii) respect for the rights of employees or other interest groups;
- (iii) fair decision-making;
- (iv) transparency in decision-making;
- (v) effective organs, etc.

According to the law on business registration, companies are registered in the commercial register, by submitting the application for initial registration, completed with all mandatory data, statute and deed of incorporation, in case they are drafted as two separate documents, the acts of the appointment of the bodies of the company, if they are not included in the above acts, as well as other acts necessary for the establishment, according to the legislation in force.

The statute of companies must contain and be well acquainted with the data of:

- a) name;
- b) form;
- c) founding date;
- d) identification data of the founders;
- e) headquarters;
- f) objects, if specified;
- g) duration, if specified;
- h) identification data of the individuals responsible for the administration and representation of the company in relation to third parties, the powers of their representation, as well as the terms of their appointment;



- i) specimens of signatures of individuals representing the company in relation to third parties.

DOCUMENTATION FOR EMPLOYEES

- According to the legislation governing labor relations, the employer is obliged to have documents for employees at the workplace, such as:
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 - The Labor Code and any other law that regulates the rights and obligations between employees and employers, which must be made available to all employees;
 - Individual employment contracts;
 - Register for employees;
 - Payment-sheet;
 - Work permit for foreigners (when there are foreign employees, they must be provided with a work permit, work visa and residence permit for the employee);
 - Authorization for employment of minors;
 - Any other documentation related to the implementation of legal obligations arising from the employment relationship.



**A Guide to Employer
obligations**



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According to the Labor Code, the employer must also keep in the company documents related to health and safety at work, such as:

- Copies of declarations for accidents at work, which date up to three years before the date of inspection by the labor inspector;
- Plan, project of job positions;
- Risk assessment document for each job position, accompanied by preventive measures;
- List of hazardous substances used in the enterprise. (This list must contain sufficient data, which allow to know the composition of the substances used, the hazard, the protective measures, as well as the number of employees who work with them);
- Documentation of the doctor of the enterprise;
- Additional documentation issued by relevant public authorities in the field of health and safety;
- Practice license;
- Proof of ability to drive / use machinery / equipment requiring specialized knowledge.

The above documentation is not exhaustive and may need to be supplemented with additional documents, depending on the type of activity.

CONTRACTS



Commercial activities, depending on their complexity and dimension, almost always need large physical environments, in order to be able to exercise the activity for which they were created.

In this way, the company must enter into a lease contract with the land/shed owner.

The contract must have all the elements required by law and must be at least in writing.

INSURANCE CONTRACT



During its duration, the company carries out a series of activities and acts in several directions to conduct the goals of its activity. In this way, below are some of the types of insurance contracts, voluntary or mandatory which the company must enter into to ensure the business activity at high levels:

- Mandatory liability insurance for damages caused to third parties by the use of motor vehicles (MTPL, which is mandatory under law 32/2021);
- Professional liability insurance of directors and administrators of the company (Directors & Officers liability insurance);
- CASCO insurance for motor vehicles;
- Protection of property from fire, lightning, explosions and collisions of aircraft or parts thereof (FLEXA);
- Insurance against business termination;
- Insurance of the employer's responsibility;
- Liability insurance resulting from product defects;
- Liability insurance of the professional responsibility, depending on the field in which the subject owns expertise;
- Health insurance, life insurance of employees;
- Others.

PERMITS, LICENSES, AUTHORIZATIONS FROM PUBLIC INSTITUTIONS

Exercising activities and performing actions in the territory of the Republic of Albania are, as a rule, free and are not subject to licensing or authorization, but in certain scenarios, the law may require the provision of the entity with an act of public bodies, which allows to perform a certain activity or action.

Entities have the obligation to at least be registered in the commercial register before the start of the activity. Upon receipt of the registration certificate from the National Business Center (NBC), the company can immediately start conducting commercial activity.

When the activity of a company has as object the performance of specific actions, or the use of a public good, for which the law requires the provision of a license, permit or authorization, then the company is subject, as the case may be, to licensing, authorization or permitting procedures. The issuing authority for these administrative acts is as a rule the NBC and in special cases, competent are other public bodies that are determined by special laws.

The categories of **licenses, permits or authorizations** are provided in Annex 1 of Law 10081/2009 "On licenses, authorizations and permits" and are further expanded in Annex no. 1 of DCM no. 538/2009, issued on the basis of for the implementation of the above law.



***Example 1.** The company XYZ sh.a. seeks to exercise the activity of private physical security service. Although it has successfully completed the registration near the National Business Center (NBC) and has been provided with the registration certificate, the company XYZ must be provided with the respective licenses of (i) storage services of persons, objects and activities, (ii) storage services, transportation and escort of values monetary valuables and (iii) the Private Training Center for Private Physical Security Service Employees. The company can apply for the above three types of licenses, or can choose between them, depending on its focus. These types of licenses are indefinite and as mentioned, must be obtained before starting the activity.*

***Example 2.** The company YXZ sh.p.k. The object of its activity is the production of construction materials, iron profiles and similar structures for multi-storey buildings. After registration, it is concluded that the object of the company includes the use of a public good such as the environment. In these conditions, the company must be provided with the relevant environmental permit, according to the type and volume of activity affecting the environment.*

REGISTRATION OF INTELLECTUAL PROPERTY OBJECTS

Companies, but not only, have the right by law to protect any creation, unique image or sign, word, solution or similar products that meet the conditions of trademarks and service as appropriate, patents and usage models, industrial designs or geographical indications.

Law 9947, dated 07.07.2008 “On industrial property”, as amended and bylaws relevant provide the entire normative framework for protection of industrial property objects.

The scope of application of industrial property extends in industry, trade, agriculture, and in the development of all natural or processed products.

Given that companies have in the field of their action a wide range of activities, it is recommended that they seek protection for all industrial property objects that it possess.

General Directorate of Industrial Property (GDIP) is the competent authority in charge of law on registration, administration and promotion of IP facilities, obligation deriving from the Constitution of the Republic of Albania, from the organic law no. 9947, dt 07/07/2008 "On Industrial Property" amended, Article 189, as well as from documents strategies such as: Stabilization and Association Agreement in its article 73, “Intellectual Property”.



THANK YOU