

ALBANIA

In Albania provisions on franchising have been introduced into the Civil Code.¹ While Article 1056 provides a brief description of a franchise contract, Article 1057 lists the obligations of the franchisor (Article 1057, first paragraph). The second paragraph of the Article provides that the franchisor is obliged to protect the rights that form part of the franchise from infringement by third parties, as well as to develop it and to support the franchisee in the carrying out of its obligations by providing instructions, information and updates. There is no provision that specifically deals with the obligations of the franchisee.

Article 1058 provides that in the pre-contractual negotiations the parties have to exchange information on matters of relevance to the business of the franchise, in particular when it is of relevance to their respective obligations. The parties have to provide the information in good faith and they are both bound to keep the information they receive confidential, even if the contract is not concluded (first paragraph). There is a three-year prescription from the date of the negotiations on the right to claim damages for an infringement of this duty of confidentiality (second paragraph). If the contract is not concluded as a result of an intentional act of one of the parties, the other party is entitled to claim compensation for the expenses it has incurred in the preparation of the agreement, where it undertook this preparation with legitimate confidence that the agreement would be concluded (third paragraph).

Article 1059 not only provides that the contract must be in writing, it also states that the contract must specify the obligations of the parties, the duration of the contract and other essential terms. The contract should also contain a full description of the franchise system and of the franchise obligations.

Article 1060 relates to the duration of the contract, which must be decided by agreement between the parties taking into consideration the requirements of the market and of their respective services (first paragraph). It also relates to the early termination of the contract, which, in the case of contracts of indefinite duration or with a term of more than ten years, must be made by a notice to the other party one year in advance (second paragraph). In any event, when the contract comes to an end as a result of the expiration of the term or of early termination, the parties should try to come to an agreement on the renewal of the agreement either on the same or on different terms (third paragraph).

Article 1061 specifies that after the contract has come to an end, the parties have a reciprocal obligation to compete fairly (first paragraph). The franchisor may restrict the possibility of the franchisee to compete on the local market for up to one year after the contract has come to an end (second paragraph). If, however, the franchisee suffers a decrease in its professional activity as a result of this non-competition, it is entitled to a corresponding financial compensation (third paragraph).

The franchisor is responsible for ensuring that it is the holder of the rights it is granting. If the rights do not exist, or if the franchisor infringes other obligations, the franchisee has the right to reduce the compensation it owes the franchisor. The reduction is determined by an impartial expert. Furthermore, the franchisee may request compensation for the damage it

¹ Civil Code, Chapter XX – Franchising (Articles 1056 – 1064).

has suffered as a result of the non-existence of the rights or of the breach of the contract by the franchisor (Article 1062).

The franchisor is entitled to request compensation for the damage caused by the infringement of the contractual obligations on the part of the franchisee, in particular as a result of an inadequate observance of the system of franchise obligations by the franchisee (Article 1063).

Lastly, where the infringement of the contractual obligations place the franchised activity at serious risk, the other party has the right to withdraw from the agreement without being bound by its term (Article 1064).