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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**

**Draft Constitution of the Republic of Albania  
(as presented for referendum on 6 November 1994)**

Unofficial Version

DRAFT CONSTITUTION OF THE REPUBLIC OF ALBANIA  
(As printed in Rilindja Demokratike October 6, 1994)

FIRST PART  
BASIC PRINCIPLES

Article 1

Form of the State

1. The Republic of Albania is a sovereign state, democratic and unitary. Its territory is indivisible and inalienable.

Article 2

Sovereignty

1. Sovereignty belongs to the people, who exercise it by way of their representative organs and by referendum.

2. No one other than the organs specifically set out in this Constitution may exercise sovereignty in the name of the Republic of Albania.

3. The representative organs are elected by free, general and direct vote.

Article 3

Principle of Legality

1. All state activity is performed on the basis of the Constitution and laws in force.

2. The exact and uniform implementation of juridical norms is obligatory for all state organs, political parties, societies and organizations, and also for every other natural or juridical person.

Article 4

Separation of State Power

1. State organization is based on the principle of the separation of power into the legislative, the executive and the judicial.

Article 5

Political Pluralism

Social life in the Republic of Albania is based on the principle of political pluralism.

Article 6

Political Parties

1. Parties take part and assist in the formation and expression of the will of the people. They may be created freely in compliance with law. Their organization and activity must be in compliance with democratic principles.

2. The activity of parties that put the existence of the Republic of Albania or its democratic institutions at risk is prohibited.

3. Political parties on religious or ethnic bases are not allowed in Albania.

Article 7

Laicity of the Albanian State

1. Religion is separate from the state in the Republic

of Albania.

2. The state guarantees freedom of religious beliefs.

3. Religious activity which puts the existence of the Republic of Albania or its democratic institutions at risk, as well as the use of religion for political purposes, is prohibited.

4. The Chairmen of large religious communities must be Albanian citizens, born in Albania and with a permanent residence in it for the last 20 years.

#### Article 8

##### Care for Albanians Living Outside the State

1. The Republic of Albania protects the rights of its citizens who have a temporary or permanent residence outside its borders.

2. It supports the recognition and protection of human and national rights of the Albanian population who live outside the state borders of the Republic, in compliance with international acts and agreements.

#### Article 9

##### International Relations

The Republic of Albania in its external relations protects independence and national interests, implements a policy of cooperation, peace and international security.

#### Article 10

##### International Law and Internal Legislation

1. The Republic of Albania recognizes and respects the generally accepted principles and norms of international law, as well as the treaties and international agreements to which it is a party.

#### Article 11

##### Duties of the Armed Forces

The Armed Forces secure the sovereignty and independence of the Republic of Albania, protect its territorial integrity and its Constitutional order.

#### Article 12

##### Economy of the Country and Types of Property

1. The economy of the Republic of Albania is based on the principles of the market economy.

2. Property is private and public.

3. The exercise of private free initiative shall be secured by law.

#### Article 13

##### Official Language

In the Republic of Albania the official language is Albanian.

#### Article 14

##### Emblem

The emblem of the Republic of Albania shows a black two-headed eagle, set in a red background. At the top of the emblem is the helmet of Skanderbeg.

Article 15

Flag

The state flag of the Republic of Albania shows a red field with a black two-headed eagle in the middle.

Article 16

National Hymn

The national hymn of the Republic of Albania is "United Around Our Flag."

Article 17

National Holiday

The national holiday of the Republic of Albania is Flag Day, November 28.

Article 18

Capitol

The capitol of the Republic of Albania is Tirana.

SECOND PART

THE FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

Article 19

The Right to Life

1. The right of every person to live is protected by law.
2. No one may be deprived of life except in the execution of a judicial decision for an extremely serious crime performed wilfully and for which the death penalty is provided by law.
3. The death penalty may not be given to young people who at the time of commission of the crime were under 18 years of age or to women.

Article 20

Freedom of Expression of Thought

1. Freedom of expression of thought is inviolable.
2. No law may be issued that limits beforehand freedom of speech, the press, or other means of communication, except in cases of the protection of the interests of children or of human life.
3. Everyone has the right to express his thoughts through speech, writing or any other means of dissemination, but he is responsible before the law for the abuse of this right.
4. No one may be deprived of the right to be informed.
5. The exercise of these rights and freedoms may not be limited, except in cases provided by law which are considered necessary for the interests of national security, the protection of public order and security, the prevention of crime, the protection of health and morals, the honor and the rights of others, the prevention of the release of information received in confidence, and also to guarantee the authority and impartiality of the judicial power.

Article 21

Prohibition of Torture

No one may be subjected to torture or inhuman or degrading punishment or treatment.

Article 22

Prohibition of Forced Labor

No one may be required to perform forced labor, except in cases of execution of a judicial decision, the performance of military service, a service which results from an emergency situation or natural disaster, which threatens human life or health.

Article 23

Personal Freedom and Security

1. Human freedom and security is inviolable.
2. No one may be detained or arrested without sufficient data.
3. No one may be detained for more than 48 hours.
4. A detained or arrested person must be informed immediately of the reason for his detention or arrest and within 48 hours be presented before a judge, who must decide within 48 hours.
5. Every detained or arrested person must be informed, in the case of detention or arrest, that he has no duty to make any statement and that he has the right to communicate immediately with a lawyer.
6. An arrested person has the right to appeal his arrest in court.
7. The maximum time of pre-imprisonment confinement shall be set by law.

Article 24

Prohibition of Punishment without Law

1. No one may be accused or found guilty of a criminal act that was not considered such by law at the time of its performance.
2. A more severe punishment than that contemplated by law at the time of performance of a criminal act may not be given.
3. A favorable penal law shall have retroactive effect.

Article 25

Presumption of Innocence

No one may be found guilty until his guilt is proven by a final judicial decision.

Article 26

Procedural Penal Guarantees

During the penal process, no one may be deprived of the right:

- a) to be made immediately and fully aware of the accusation that has been made;
- b) to have sufficient time and facilities to prepare his defense;

- c) to have the assistance, without payment, of a translator, when he does not speak or understand Albanian;
- d) to defend himself personally or with the assistance of a legal defender selected by him, to communicate freely and privately with him, and also to be provided with free legal defense when he does not have sufficient means.
- ch) to question witnesses present and to require the presentation of witnesses, experts, other persons, or documentary evidence, which may clarify the facts.

Article 27

No Obligation to Confess Guilt

No one may be compelled to testify against himself or to confess his guilt.

Article 28

Invalidity of Illegal Data

No one may be declared guilty on the basis of unlawfully collected evidence.

Article 29

The Right to be Heard in Court

No one may be deprived of the right to be heard in court before being sentenced.

Article 30

Prohibition of Adjudication Twice for the Same Act

No one may be judged or punished more than once for the same criminal act, except when the re-adjudication of the question is ordered by a higher court.

Article 31

The Right to Appeal

Everyone has the right to appeal a judicial decision to a higher court.

Article 32

The Right to Rehabilitation and Indemnification

1. No one may be deprived of the right to be rehabilitated and indemnified in accordance with law if he is injured by a failure of proper exercise of justice or is hurt by an unlawful administrative act.

2. Everyone has the right of indemnification in accordance with law for damage he has suffered from the acts of others.

3. No arrested or imprisoned person may be deprived of humane treatment and moral rehabilitation.

Article 33

Non-Infringement of Private Life and Personal Dignity

1. The private life and dignity of a person may not be infringed.

2. Data about the private life of a person may be collected only with his permission or when necessary to perform investigation for a criminal offense or with the approval of the competent state organ specified by law when this is necessary for national security.

The collection, handling and final use of personal data, as well as supervision and maintenance of secrecy of these data, shall be regulated by law.

3. No one may be deprived of the right to become aware of the data collected about him, except when there is a judicial decision to protect the interests of the penal process or national security.

4. The use of personal data contrary to the purpose for which it was collected is forbidden.

#### Article 34

##### Invulnerability of the Residence and the Person

1. The residence is inviolable. Entry into the residence may be done without the permission of the person who lives in it only by judicial decision in cases contemplated by law or even without this decision in order to avoid an immediate risk to life, human health, for property or when a crime is being committed or immediately after its commission.

2. No one may be subjected to a personal search except when entering the state or leaving it or to avoid an immediate risk that threatens public security. A personal search may be done only by the state organs specified by law.

#### Article 35

##### Secrecy of Correspondence

The secrecy of correspondence or every other means of private communication may not be infringed except with a judicial decision to protect the interests of the penal process or with the approval of the competent state organ specified by law when this is necessary for national security.

#### Article 36

##### Freedom of Thought, Conscience and Religion

1. Freedom of thought, conscience and religion are inviolable.

2. Everyone is free to change his religion or beliefs and to practice them individually or collectively, in public or in private life, by means of cult, education, practices or the performance of rituals.

3. The right to practice one's religion or beliefs may not be the object of limitations other than those prescribed by law which constitute necessary measures in the interest of public security, protection of public order, health, morals, the rights and freedoms of people.

#### Article 37

##### The Right to Vote and be Elected

1. Every citizen who has reached the age of eighteen has the right to vote and to be elected. Citizens from whom the capacity to act has been taken away are excluded from this right.

2. Arrested persons as well as those who are serving a sentence of imprisonment have only the right to vote.

3. The vote is personal, equal and secret.

Article 38

The Right to Organize

1. No one may be deprived of the right to be organized collectively for any lawful purpose.
2. Limitations on the exercise of this right may be set by law for public employees.

Article 39

The Right of Assembly

1. Peaceful assemblies without arms may not be restricted.
2. Assemblies in squares and places of public passage are done with prior approval of the competent organ, which may deny a license only for well-grounded reasons that put public order and security at risk.

Article 40

The Right to Move

1. Everyone has the right to choose his place of residence and also to move freely in every part of the territory of the state, except when by law limitations are set for reasons of health or public security.
2. Each person may leave the state and return freely.

Article 41

Prohibition of Exile and Extradition

1. No Albanian citizen may be exiled.
2. Extradition is permitted only when it is expressly provided in the international agreements to which the Republic of Albania is a party.
3. Collective expulsion of foreigners is prohibited. The expulsion of foreign individuals is permitted under conditions specified by law.

Article 42

Citizenship

1. No one may have his Albanian citizenship taken away without his permission or the right to give up his citizenship.
2. The conditions of obtaining and giving up citizenship shall be regulated by law.

Article 43

Equality before the Law

All are equal before the law, without distinction of sex, race, ethnicity, language, religion, economic, financial, educational and social condition, political belief, and parentage.

Article 44

The Rights of National Minorities

1. Persons who belong to national minorities have the right to exercise, in full equality before the law, the fundamental human rights and freedoms. They have the right freely to express, preserve and develop their ethnic, cultural, religious and linguistic identity, to teach and to



learn in their mother language, and also to join together in organizations and societies for the protection of their interests and their identity.

2. Nationality shall be set on the basis of accepted international norms.

#### Article 45

##### The Right to Private Property and Inheritance

1. No one may be deprived of the right to have private property alone or together with others, as well as the right to inherit. The obtaining, enjoying and alienating of property, as well as the right of inheritance, shall be regulated by law.

2. No one may be expropriated, except for a public interest and against full compensation.

#### Article 46

##### The Right to Work

Everyone has the right to earn his living with lawful work, which he has himself chosen or accepted. He is free to choose his profession, place of work and also his system of professional qualification.

#### Article 47

##### Labor Union Freedom

Employees have the right to join freely in labor organizations for the protection of their interests in work and social security.

#### Article 48

##### The Right to Strike

1. The right of employees to a strike that seeks the improvement of their working conditions, pay or any other work benefit may not be limited.

2. Conditions and rules for the exercise of this right shall be set by law, as well as guarantees to secure necessary services for society.

#### Article 49

##### The Right to Social Assistance and Security

1. Everyone has the right of social security in old age or when he is unable to work, in accordance with a system set by law.

2. Employees who remain without work for reasons independent of their volition have the right of compensation under conditions provided by law.

#### Article 50

##### Marriage and the Family

1. Everyone who has reached marriageable age has the right freely to choose a spouse and to create a family. Marriage and the family enjoy the special protection of the state.

2. Entering into and dissolving marriage shall be regulated by law.

Article 51

Protection of Children and Women

1. Children, the young, pregnant women and new mothers have the right to special protection by law.
2. Children born outside of marriage enjoy the same rights as children born from marriage.

Article 52

Health Care

1. All enjoy in an equal manner the right to health care from the state.
2. Compulsory medical treatment shall be done only for the good of the patient in cases specified by law.
3. No one may be subjected to scientific or medical experimentation without his consent.

Article 53

The Right to Education

1. Everyone has the right to free education lasting not less than eight years.
2. General secondary education is open to all.
3. The pursuit of professional secondary education and higher education may be conditioned only on professional criteria.
4. Pupils and students have the right also to be educated in private schools.
5. University autonomy is guaranteed.

Article 54

Freedom of Creativity and the Right of Intellectual Property

1. Each person enjoys freedom of creativity in the fields of science, technical subjects, literature and the arts.
2. Copyright shall be regulated by law.

Article 55

The Right of Petition

Everyone has the right, alone or together with others, to direct requests, complaints or observations to the competent State organs.

Article 56

Due Process

Freedom, property or the rights accepted by law may not be infringed without a proper legal process.

Article 57

Judicial Restitution of a Right

No one who has a right recognized by this Constitution infringed may be deprived of the restitution of the right in court.

Article 58

Guaranty to a Fair Trial

1. No one may have the right to a fair, public and speedy trial by a competent, independent and impartial court taken away.

2. Receiving the public and the media may be limited during a trial when the interests of order or public morals, national security, private life of the parties or justice requires it.

#### Article 59

##### Temporary Limitation of Rights

The exercise of particular rights may be restricted temporarily by law in the case of a declaration of war or a state of emergency, except for the rights provided by this Constitution in articles 19 (the right to life), 20 (freedom of expression of thought), 21 (prohibition of torture), 24 (no punishment without law), 25 (procedural penal guarantees), 27 (no obligation to confess guilt), 35 (freedom of thought, conscience and religion), 43 (equality before the law), 57 (judicial restitution of a right), 58 (guarantees to a fair trial).

### THIRD PART HIGH STATE ORGANS

#### 1. PARLIAMENT

##### Article 60

##### Role and Structure

1. The legislative power is exercised by a Parliament consisting of one chamber with 140 deputies.

2. The system of elections shall be set by law.

##### Article 61

##### Extent of Time of Its Mandate

1. Parliament is elected for four years.

2. This mandate may be lengthened, with the approval of the President of the Republic, only in case of war or an emergency condition and so long as those circumstances continue.

3. The elections of the new Parliament shall take place no later than sixty days from the date the mandate ends, or the earlier dissolution of Parliament.

4. The mandate of Parliament continues until the first meeting of the new Parliament.

##### Article 62

##### Sessions

1. Parliament is called to its first meeting by the President of the Republic not later than twenty days after the elections are concluded.

2. Parliament carries on its annual work in two sessions. The first session opens on the third Monday of January, while the second session opens on the first Monday of September.

3. Parliament meets in special session when called by the President of the Republic, or one-third of the deputies, or the Prime Minister.

Article 63

Conditions for Being Elected a Deputy

Any Albanian citizen with a permanent residence in Albania for at least the past two years and who enjoys the electoral right may be elected a deputy.

Article 64

Incompatibility of Being a Deputy with Other Functions

1. Being a deputy is not compatible with any other state function except being a member of government.
2. The rights and duties of the deputy shall be set by law.

Article 65

Representative Limits of a Deputy

A deputy represents all the people and is not connected with any obligatory mandate.

Article 66

Immunity of a Deputy

1. A deputy enjoys immunity. He may not be penally pursued except with the approval of Parliament on the basis of a complaint of the General Prosecutor. A deputy may be pursued penally without this approval only when he is apprehended during the commission of a serious crime.
2. A deputy does not have responsibility for opinions expressed in the performance of his functions or for a vote that he has given.

Article 67

Internal Organization of Parliament

1. Parliament shall elect from its ranks a chairman and his deputies, temporary and permanent commissions as well as the Bureau of the interparliamentary group.
2. Parliament functions according to rules established by it.

Article 68

Public Character of Meetings and Presence of Majority

1. Meetings of Parliament shall be open. On the request of the President of the Republic, the Prime Minister or one-fifth of the deputies, meetings of Parliament may be closed, when a majority of all deputies have voted for this.
2. Parliament may carry on its meetings when more than half of the deputies are present.

Article 69

Approval of Laws

1. Laws and other acts of Parliament are considered approved when more than half of the deputies present, but not less than one third of the deputies, have voted for them.
2. The vote is personal.

Article 70

Interpellance and Questions

The deputies have the right to make an interpellance and questioning to the Prime Minister according to the time

periods and regulations set in regulations.

#### Article 71

##### Presence of Members of the Government

1. Members of the government have the right to take place in every meeting of Parliament and its commissions. According to the request presented, they must be heard on a priority basis.

#### Article 72

##### Powers of Parliament

###### Parliament:

1. Approves, amends and repeals laws.
2. Examines and approves the draft budget of the state and the report on the implementation of the previous budget. Every other law that entails new expenses must specify their source.
3. Decides on the conduct of referenda. A referendum is not permitted for the repeal of laws that set out taxes and tariffs, laws on the state budget, on the declaration of amnesty, as well as normative acts by which the ratification of international treaties is authorized.  
The manner of conducting referenda shall be set by law.
4. Elects the President of the Republic and discharges him.
5. Approves the Prime Minister, the program of the Government and controls its activity.
6. Elects the Constitutional Court, the Supreme Court, the General Prosecutor and his deputies.
7. Grants amnesty.
8. Decides on partial or general mobilization, on an emergency situation, and also on a state of war in the case of armed aggression against the Republic of Albania, or when this is necessary to fulfill the obligations that result from international treaties.
9. Ratifies and rejects by law:
  - a) treaties that have a political or military character;
  - b) treaties or agreements that have to do with the borders of the Republic of Albania;
  - c) treaties or agreements that have to do with fundamental human rights and freedoms;
  - d) treaties that have as a consequence financial obligations for the state, or changes in legislation;
  - e) other treaties or agreements that provide specifically that they must be ratified or rejected by Parliament.

#### Article 73

##### Legislative Initiative

1. The legislative initiative belongs to the President of the Republic, the Government, every deputy and also 20,000 voters.
2. Draft laws that would have financial effects may be presented to Parliament only by the Government.

#### Article 74

##### Procedure of Examining and Voting on Laws

1. Every draft law that is presented to Parliament shall first be examined by the appropriate commissions, which shall set out amendments and their evaluations of them. After it is discussed by Parliament, the draft law shall be subject to not less than two votes.

2. Parliament may specify in its regulations a different procedure for examining particular draft laws.

#### Article 75

##### Promulgation of Laws

1. A law is considered promulgated when within 15 days from its presentation to the President of the Republic he has not exercised a veto.

2. The President of the Republic may return a law for re-examination only once. In this case, a majority of the whole number of deputies must vote for approval of the law.

#### Article 76

A law enters into force fifteen days after its publication in the Official Journal, except when the law specifies a different date.

#### Article 77

In cases when a state of war or emergency has been declared, Parliament may decide that a law shall enter into force immediately after notification by the mass media.

## 2. PRESIDENT OF THE REPUBLIC

#### Article 78

##### State Position of the President and Personal Conditions

1. The President of the Republic is Head of State and represents the unity of the people.

2. Only an Albanian citizen with a residence in Albania for at least the last ten years, and who is at least 40 years old, may be elected President of the Republic.

#### Article 79

##### Election of the President

1. The President of the Republic is elected by Parliament by secret vote and by a majority of two thirds of the votes of all deputies. When this majority is not reached in the first vote, there shall be a second vote, in which the President is elected with an absolute majority of the votes of all deputies.

2. Each candidate for President shall be proposed to Parliament by a group of not less than thirty deputies. A deputy is not permitted to take part in more than one of the groups that propose a candidate for President.

3. When there is more than one candidate for President of the Republic, the second vote is done only for the two candidates who have won the largest number of votes in the first round. The candidate who has won an absolute majority

of votes shall be considered elected.

4. If the election of the President is not achieved even in the second round, a third round shall be held. When no candidate receives an absolute majority even after the third round, the President shall dissolve Parliament. New elections shall be held within 30 days. The new Parliament shall elect as President of the Republic the candidate who receives the most votes.

#### Article 80

##### Mandate of the President

1. The President of the Republic is elected for five years with the right of re-election only one time. The new election of the President of the Republic shall take place not later than 30 days before the end of the mandate.

2. The mandate of the President of the Republic may be extended only when parliament cannot meet because of war or a state of emergency.

3. After being elected by Parliament, the President of the Republic shall take the appropriate oath before it and begin his duties, but not before the mandate of the President who is discharged has concluded.

#### Article 81

##### Incompatibility with Other Duties

The function of President of the Republic is incompatible with any other state or private duty as well as with that of chairman of the party.

#### Article 82

##### Discharge before Conclusion of the Mandate

1. The President of the Republic is not responsible for acts carried on in the exercise of his duty except for treason against the Fatherland or for serious and wilful violations of the Constitution.

2. The discharge of the President for these cases may be sought by not less than one quarter of the number of deputies and decided by not less than two thirds of them.

#### Article 83

##### Substitution for the President

1. In the case of discharge, death, serious illness which makes him unable to perform his duties or resignation of the President, the Chairman of Parliament shall take his place and carry out his competencies, except when Parliament is dissolved.

2. The election of the new President in these cases shall take place within 20 days.

#### Article 84

##### Competencies of the President

The President of the Republic:

1. Guarantees respect for the Constitution and laws.
2. Sets the date for Parliamentary elections, elections for the organs of local power and of the carrying out of

referenda.

3. Promulgates laws and acts for the carrying out of referenda decided on by Parliament.

4. Proposes to Parliament to decide on popular referenda.

5. With a well-reasoned message, within 15 days from the date when a law is presented to him, may return it to Parliament only one time for re-examination.

6. Names the Prime Minister and receives his resignation.

7. On the proposal of the Prime Minister, names or discharges ministers, other particular members of the government and directors of national central institutions.

8. In specific cases, chairs a meeting of the Government, setting in the agenda questions he considers should be examined and resolved. In these cases he signs the respective decisions.

9. On the proposal or with the countersignature of the Prime Minister, and after receiving the opinion of the Chairman of Parliament, may dissolve parliament before the end of the term of the legislature, when its constitution does not permit the exercise of the functions of Parliament itself and makes the governing of the country impossible. In this case, Parliamentary elections shall be held again no later than 45 days from the date of dissolution.

The President may not exercise this competency in the last six months of his term.

10. On the proposal or with the countersignature of the Prime Minister, enters into treaties and international agreements and ratifies and rejects those that Parliament itself does not examine.

11. Names and discharges diplomatic representatives, on the proposal or with the countersignature of the Prime Minister.

12. Receives credentials and letters of designation of diplomatic representatives of foreign states.

13. Approves requests for granting or giving up Albanian citizenship.

14. Exercises the right of pardon.

15. Gives decorations and titles of honor.

16. On the proposal or with the countersignature of the Prime Minister, awards higher military grades.

17. Declares partial or general mobilization, as well as a state of emergency, when it is impossible to convene Parliament. In these cases, the appropriate decree shall be presented to Parliament for approval within five days.

18. Declares a state of war in the case of armed aggression against the Republic of Albania, when it is impossible to convene Parliament.

19. Communicates with Parliament through messages which



are read in plenary session.

20. Issues decisions and decrees of an individual character.

In urgent cases, on the proposal of the Prime Minister, or the respective minister, or with their countersignature, he issues decrees of a normative character, which shall be presented to Parliament for approval within 15 days.

21. Creates advisory organizations within his office for assistance.

22. Seeks the opinion of and written data from directors of state institutions for questions that have to do with their duties.

23. Also carries out other competencies provided in this Constitution.

#### Article 85

##### Attributes in the Field of Defense

The President of the Republic of Albania is the Commander in Chief of the Armed Forces and Chairman of the National Security Council.

#### Article 86

##### National Security Council

1. The National Security Council is created to direct, organize and mobilize all the forces and resources of the country for the defense of the Fatherland.

2. The make-up of the National Security Council shall be approved by the People's Assembly on the proposal of the Chairman of the National Security council.

### 3. THE GOVERNMENT

#### Article 87

##### Role and Method of Formation

1. The government defines and directs the policy of the state and carries on the general leadership of the state administration.

2. The Prime Minister is named by the President of the Republic and approved by Parliament. Ministers are proposed by the Prime Minister and approved by the President of the Republic.

3. If the Prime Minister named by the party that has won the most votes is not approved, the President of the Republic shall name the Prime Minister from the second party by the number of seats in Parliament. If after this the Prime Minister does not succeed in being approved, He shall be named by the third party in number of seats. If even after this the approval of the Prime Minister is impossible, the President of the Republic shall dissolve Parliament. New elections shall be held within 30 days. To prepare the new elections, the President of the Republic shall create a working government of all parties represented in Parliament.

#### Article 88

##### Respective Oath and Beginning of the Mandate

1. The Prime Minister and the ministers individually shall take their respective oaths before the President of the Republic.
2. The mandate of the Government begins from the day when this oath is taken and continues until the taking of the oath by the new Government..

#### Article 89

##### Vote of Confidence

The Government must receive a vote of confidence from Parliament within 10 days from the taking of the oath.

#### Article 90

##### Make-Up

1. The Government consists of the Prime Minister, his Deputies, ministers and persons equivalent with them.
2. The Prime Minister and each member of Government may not exercise any other state function or private activity, except that of deputy.

#### Article 91

##### Principal Competencies

##### The Government:

1. Issues decisions, orders and directives on the basis of the laws and for their implementation. They shall be signed by the Prime Minister and, when they have a normative character, published in the Official Journal.
2. Directs and controls the activity of ministries and other central institutions of the state administration.
3. Directs activity for the fulfillment of duties in the field of defense of the country, on the basis and in implementation of decisions of the National Security Council.
4. Cooperates with and supervises the activity of local organs of state administration.
5. Draws up the draft economic and social programs for the development of the country and the draft budget of the state, and also cooperates with, disciplines and controls the finances of the state and the monetary and credit system.
6. Secures the preservation and defense of the environment, appropriate working conditions and defense of the health of the people.
7. Enters into international agreements and approves and rejects those which are not subject to ratification.
8. Orders the repeal of unlawful acts of ministers and directors of central institutions of state administration.

#### Article 92

##### Presentation of Draft Budgetary Laws

The Prime Minister in the name of the Government must present a draft law for the budget during the autumn session, which may not close without approving it. If the draft law does not succeed in being approved by the beginning of the

Next year, the Government shall implement the budget of the prior year until the new budget is approved.

#### Article 93

##### Approval of Expenses

During the first session of the following year, the Government must present to Parliament for its examination and approval the expenses of the prior year.

No expense may be authorized except by law.

Taxes and tariffs shall be set by law and only for public purposes.

#### Article 94

Functions of the Prime Minister and members of the government

1. The Prime Minister represents the Government, chairs its meetings and directs its general activity and is responsible for it.

2. The ministers and the directors of central institutions direct the respective ministry or central institution of state administration. Each of them is responsible for the activity of the ministry or other central institution that he is entrusted to direct.

3. Ministers and directors of central institutions shall issue orders, regulations and directives for questions that are in their competency, on the basis of laws as well as the decisions and guidelines of the Government and for their implementation. Their acts, which have a normative character, shall be published in the Official Journal.

4. The ministers and directors of central institution shall repeal unlawful orders and directives of institutions of their subordinate organs.

#### Article 95

##### Motions

1. A motion of no confidence in the Prime Minister for specific questions and which is reasoned shall be signed by not less than one-sixth of the deputies.

2. Another motion of no confidence may be presented only after six months. When it is presented by more than half of the number of deputies this time limit is inapplicable.

3. A motion of no confidence shall be investigated by Parliament not earlier than three days from the date when it is presented.

#### Article 96

##### Request for Vote of Confidence

The Prime Minister may ask Parliament to give it a vote of confidence for specific questions of the activity of the Government.

#### Article 97

##### Resignation

When Parliament approves a motion of no confidence or does not give a vote of confidence, the Prime Minister and ministers shall immediately resign.

#### Article 98

##### Their Immunity and Penal Responsibility

Members of the Government enjoy immunity. They may not be penally prosecuted without the authorization of the President of the Republic.

The Supreme Court has the competency for the adjudication of these penal questions.

#### Article 99

##### Cessation of the Mandate

The mandate of the Government ends:

- a) when Parliament has decided on a vote of no confidence against the Prime Minister;
- b) when the President has accepted the resignation of the Prime Minister;
- c) when the Prime Minister has died or, for serious health reasons, cannot carry on with this function.

### FOURTH PART

## ORGANIZATION OF JUSTICE AND THE CONSTITUTIONAL COURT

### THE JUDICIAL SYSTEM

#### Article 100

1. The judicial power is independent. It is exercised by the Supreme Court and by other Courts specified by law.
2. In the exercise of their functions judges are subject only to the Constitution and laws.
3. The organization and competencies of the courts shall be regulated by law.
4. The pay and benefits of judges may not be lowered.

#### Article 101

##### Prohibition of Special Courts

1. Parliament may create courts for particular fields, but in no case for specific questions.

#### Article 102

##### The Supreme Court

1. The Supreme Court is the highest judicial authority. It consists of 9 judges. The chairman and members of the Supreme Court are elected by Parliament on the proposal of the President of the Republic.
2. The conditions for being elected a member of the Supreme Court shall be set by law.
3. The Chairman of the Supreme Court holds this position for four years with the right to be re-elected once. He may be replaced with the above procedure by one of the members.
4. Judges of the Supreme Court may be removed from office and prosecuted penally under the conditions provided by law on the basis of a reasoned decision of Parliament on the proposal of the President of the Republic and when a majority of all members of Parliament have voted for this.

#### Article 103

In questions connected with fundamental human rights and freedoms, judges may apply the Constitutional provisions directly. These questions shall be examined obligatorily by the Supreme Court, which decides with a majority of all its members.

#### Article 104

##### Reasoning of Judicial Decisions

1. Judicial decisions must be reasoned.
2. The Supreme Court must publish its decisions.

#### Article 105

##### Immunity of Judges

1. Judges may be pursued penally or removed from office only by decision of the High Council of Justice, in the conditions provided by law.

2. They have the right of appeal to the Supreme Court.

#### OFFICE OF THE PROSECUTOR

#### Article 106

##### Role and Juridical Position of the Office of the Prosecutor

1. The office of the prosecutor is the authority that exercises penal prosecution in investigation and in court.
2. The office of the prosecutor is organized and functions as a unique and centralized organ.
3. In the exercise of their competencies prosecutors are subject to the law.

#### Article 107

##### The General Prosecutor and his Deputies

1. The General Prosecutor and his deputies are elected and discharged by Parliament on the proposal of the President of the Republic.
2. The organization and other competencies of the office of the prosecutor shall be regulated by law.
3. The directors of the prosecutors in each judicial link enjoy the immunity provided by article 105.

#### Article 108

##### Incompatibility with Other Duties

The duty of judge and prosecutor is not compatible with any state or private function.

#### Article 109

##### High Council of Justice

1. The High Council of Justice is chaired by the President of the Republic and consists of the minister of Justice, the chairman of the Supreme Court, the General Prosecutor and also nine jurists recognized for their high professional competency, who are elected by a joint meeting of the members of the Supreme Court and the directors of the General Prosecutor's Office, for a five year period and without the right of immediate re-election.

2. The High Council of Justice is the sole organ that decides on the naming, promotion and demotion in

responsibility, disciplinary responsibility and transfer of judges and directors of prosecutors in every link of the judicial chain.

3. The manner of exercise of the activity of the High Council of Justice shall be specified by law.

## CONSTITUTIONAL COURT

### Article 110

#### Its Role and Independence

The Constitutional Court is an independent organ and has the duty of guaranteeing respect for the Constitution.

### Article 111

#### Make-Up and Manner of Formation

The Constitutional Court consists of nine members. The chairman and members of the Constitutional Court are elected by Parliament on the proposal of the President of the Republic.

### Article 112

#### Incompatibility with Other Duties or Activity

The function of a member of the Constitutional Court is not compatible with any other state, party or private duty.

### Article 113

#### The Mandate

1. The mandate of a member of the Constitutional Court is eight years.

2. The make-up of the Constitutional Court is renewed at the end of every four years. In the first round for four members and the second round for five others.

### Article 114

#### Immunity

1. A member of the Constitutional Court does not have legal responsibility for opinions and decisions given in the exercise of his functions.

2. A member of the Constitutional Court enjoys immunity. He may not be penally prosecuted without the permission of the Constitutional Court, given by a majority of votes and with a reasoned decision by its general meeting.

### Article 115

#### Powers

The Constitutional Court has these competencies:

1. It makes interpretations of the Constitution, decides on the compatibility of laws, decrees and also regulations (sub-legal acts) with the Constitution. It decides on the suspension of these acts when it finds that serious consequences could be caused by their implementation.

2. It decides whether an international agreement entered into in the name of the Republic of Albania, but not yet ratified, is compatible with the Constitution. Also, it decides on the incompatibility of legal provisions in force with generally accepted norms of international law as well as

with the content of agreements to which the Republic of Albania is a party.

3. It resolves disagreements on competencies between state powers.

4. It decides on questions that have to do with the constitutionality of the activity of parties and other political or social organizations.

5. It resolves complaints about the legality of the election of the President of the Republic and the deputies. It also examines the legality of popular referenda, promulgating the final results.

6. It examines the constitutionality of a penal accusation that Parliament has presented against the President of the Republic.

#### Article 116

##### Subjects Entitled to Present Complaints

These subjects have the right to present a complaint for the adjudication of a question by the Constitutional Court: the President of the Republic, every parliamentary group, one fifth of the deputies, the Council of Ministers and the organs of local power.

#### Article 117

##### Decisions

1. The Constitutional Court decides by majority vote of all its members.

2. Decisions of the Constitutional Court are final. They must be reasoned. In a case of doubt or disagreement about the meaning of a decision, the Court has the right to interpret it, on its own initiative or the request of an interested party, within 30 days from the date of notification of the request.

3. A law, decree, regulation and their specific provisions declared incompatible with the provisions of this Constitution, or with law, with generally accepted norms of international law or agreements to which the Republic of Albania is a party, lose force the day after promulgation of the decision in the "Official Journal."

4. In other cases, a decision of the Constitutional Court enters into force at the time provided by it.

5. When it is decided the repeal of laws or other acts and agreements entered into require juridical regulation, the decision of the Constitutional Court shall notify the People's Assembly or other competent organs to take the measures provided by the Constitution.

#### Article 118

##### Organization and Functioning

The organization and functioning of the Constitutional Court, the procedure of resolving questions, and also other basic questions for the performance of its duties shall be regulated by law.

FIFTH PART  
LOCAL POWER

Article 119

Organization of Local Power

1. The territory of the Republic of Albania is divided into communes, municipalities and districts.
2. In each commune, municipality and district, the local power is organized and functions.
3. The organization and functioning of local power is done by law on the basis of the principles of decentralization, self-government and autonomy.

Article 120

Election of Organs of Local Power

1. The organs of local power are elected directly by the people.
2. The manner of their election and their competencies shall be set by law.

Article 121

Representative Organs

1. The representative organs of local power are, respectively, the council of the commune, the council of the municipality and the council of the district.
2. The chairman of the commune and the chairman of the municipality are elected by the vote of the local population.
3. The Council of the district elects its own leadership and chairman.

Article 122

Economic Activity

The organs of local power are juridical persons. They have property which is recognized to them by law and carry on economic activity within and outside of their territory.

Article 123

Financial Sources

1. The organs of local power have their own budget.
2. The financial sources and the manner of their use, as well as their duties to the state, shall be set by law.
3. For particular communes, municipalities and districts, the state shall provide for financial contributions.

Article 124

Dissolution

The elected organs of local power may be dissolved by decree of the President of the Republic according to a proposal made by the Prime Minister, only in cases provided by law.

SIXTH PART  
TRANSITIONAL AND FINAL PROVISIONS



Article 125

Constitutional institutions that exist on the date of entry into force of this Constitution shall function in compliance with the provisions of this Constitution.

Article 126

The republican form of the state may not be the object of Constitutional changes.

Article 127

This Constitution enters into force the day after its approval.

Article 128

Law Nr. 7461 dated April 29, 1991 "On the major Constitutional provisions" as well as all other Constitutional laws for changes, supplements or additions to it are repealed with the entry into force of this Constitution.

Article 129

Other legal provisions remain in force so long as they do not conflict with this Constitution.

Article 130

Amendments for a change to this Constitution shall be approved by referendum after two thirds of the number of deputies have voted for this.