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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**

**DRAFT CONSTITUTION  
OF THE REPUBLIC OF ALBANIA**

**AND APPENDICES**

*As of July 10, 1998*  
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**PREAMBLE**

We, the people of Albania, proud of our history and with faith in the future;  
with determination to build a state that is democratic, social and juridical;  
with the aim of respecting universal human values;  
with a spirit of tolerance and religious coexistence;  
with belief that human dignity and personhood should be protected, as well as the prosperity of the whole country, toward the goals of peace, well-being, culture and social solidarity;  
with the centuries-old aspiration of Albanianism, and national identity and unity;  
with a deep belief that justice, peace, harmony and cooperation among nations are among the highest values of humanity,

*We establish this Constitution:*

**PART I--BASIC PRINCIPLES**

**Article 1**

1. Albania is a parliamentary republic.
2. The Republic of Albania is a unitary state.
3. Governance is based on a system of elections that are free, equal, general and periodic.

**Article 2**

1. Sovereignty in the Republic of Albania belongs to the people.
2. The people exercise sovereignty directly or through their representatives.
3. For the maintenance of peace and national interests, the Republic of Albania may take part in a system of collective security, on the basis of a law approved by the majority of the members of the Assembly.

**Article 3**

The independence and integrity of the territory, human dignity and human rights and freedoms, social justice, the constitutional order, pluralism, national identity and the national inheritance, as well as religious co-existence are the bases of this state, which has the duty of respecting and protecting them.

**Article 4**

1. The law constitutes the basis and the boundaries of the activity of the state.
2. The Constitution is the highest law in the Republic of Albania.
3. The provisions of the Constitution are applicable directly, except when the Constitution

provides otherwise.

#### **Article 5**

The Republic of Albania respects international law applicable to it.

#### **Article 6**

The organization and functioning of the organs contemplated by this Constitution are regulated by their respective laws, except when provided otherwise in it.

#### **Article 7**

The system of governance in the Republic of Albania is based on the separation and balancing of legislative, executive and judicial powers.

#### **Article 8**

1. The Republic of Albania recognizes and protects the national rights of the Albanian people who live outside its borders.
2. The Republic of Albania protects the rights of its citizens with a temporary or permanent residence outside its borders.
3. The Republic of Albania assures assistance for Albanians who live and work in emigration in order to preserve and develop their ties with the national cultural inheritance.

#### **Article 9**

1. Political parties are created freely. Their organization shall conform with democratic principles.
2. Political parties and other organizations, the programs and activity of which rely on totalitarian methods, which incite and support racial, religious, regional or ethnic hatred, which use force for taking power or influence state policies, as well as those with a secret character are prohibited.
3. The financial sources of parties as well as their expenses shall be made public at all times.

#### **Article 10**

1. The Republic of Albania does not have an official religion.
2. The state is impartial in questions of belief and conscience, and also, it guarantees the freedom of their expression in public life.
3. The state guarantees the equality of religious communities.
4. The state and the religious communities respect the independence of one another mutually and work together for the good of each of them and for all.
5. Agreements between the state and religious communities are regulated by law, on the basis of agreements entered into between their representatives and the Government.
6. Religious communities are juridical persons. They have independence in the administration of their properties according to their principles, rules and canons.

### **Article 11**

1. The economic system of the Republic of Albania is based on a market economy, on freedom of economic activity, as well as on private and public property.
2. Private and public property are protected alike by law.
3. Limitations on the freedom of economic activity may be established only by law and only for important public reasons.

### **Article 12**

1. The armed forces secure the independence of the country and also protect the territorial integrity and the constitutional order.
2. The armed forces preserve impartiality in political questions and are subject to civilian and democratic control.
3. No foreign military force may be accepted into Albanian territory, except by a law approved by a majority of the members of the Assembly.

### **Article 13**

Local governance in the Republic of Albania is exercised according to the principle of decentralization of public power.

### **Article 14**

1. The official language in the Republic of Albania is Albanian.
2. The national flag is red with a two-headed black eagle in the center.
3. The seal of the Republic of Albania presents a black two-headed eagle, set on a red background. At the top of the seal is the headdress of Skanderbeg.
4. The national anthem is "United around our flag."
5. The National Holiday of the Republic of Albania is Flag Day, November 28.
6. The capital city of the Republic of Albania is Tirana.

## **PART II--THE FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS**

### **CHAPTER I--GENERAL PRINCIPLES**

### **Article 15**

1. The fundamental human rights and freedoms are indivisible and inalienable and stand at the basis of the entire juridical order.
2. The state organs, in fulfillment of their duties, shall respect the fundamental rights and freedoms, as well as contribute to making them a reality.

### **Article 16**

1. The fundamental rights and freedoms and the duties contemplated in this Constitution for Albanian citizens are also valid for foreigners and stateless persons in the territory of the Republic of Albania, except for cases when the Constitution attaches the exercise of particular

rights and freedoms, in a special manner, with Albanian citizenship.

2. The fundamental rights and freedoms and the duties contemplated in this Constitution are valid also for juridical persons so long as they comport with the general purposes of these persons and with the core of these rights, freedoms and duties.

#### **Article 17**

1. The limitation of these rights and freedoms may be established only by law for a public interest or for the protection of the fundamental rights of others. A limitation shall be in proportion with the situation that has dictated it and shall fall as soon as the situation ends.

2. These limitations may not infringe the core of the rights and freedoms and in no case may exceed the limitations contemplated in the European Convention on Human Rights.

#### **Article 18**

1. All are equal before the law.

2. No one may be discriminated for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education or social position or because of who his parents are.

3. No one may be discriminated for reasons mentioned in paragraph 2 if a reasonable and objective legal basis does not exist.

#### **Article 19**

1. Everyone born of at least one parent with Albanian citizenship gains itself the Albanian citizenship. Albanian citizenship is gained also for other reasons provided by law.

2. An Albanian citizen may not lose his citizenship, except when he gives it up.

#### **Article 20**

1. Persons who belong to national minorities have the right to exercise in full equality before the law the fundamental human rights and freedoms.

2. They have the right freely to express, preserve and develop their ethnic, cultural, religious and linguistic identity, to study and teach in their mother tongue, as well as unite in organizations and societies for the protection of their interests and identity.

### **CHAPTER II--PERSONAL RIGHTS AND FREEDOMS**

#### **Article 21**

**Variant I** - Every person has the right to life. This right is protected by law. No one may be deprived of life in an arbitrary manner.

**Variant II** -- The life of every person is protected by law.

#### **Article 22**

1. Freedom of expression is guaranteed.

2. The freedom of the press, radio and television are guaranteed.

3. Prior censorship of the means of mass communication is prohibited.
4. The law may require the granting of authorization for the operation of radio or television stations.

### **Article 23**

1. The right to inform oneself is guaranteed.
2. Everyone has the right, in compliance with law, to get information about the activity of state organs, as well as of persons who exercise state functions.
3. Everybody is given the possibility to follow the meetings of collectively elected organs.

### **Article 24**

1. Freedom of conscience and of religion is guaranteed.
2. Everyone is free to choose or to change his religion or beliefs, as well as to express them individually or collectively, in public or private life, through [their own] sect, education, practices or the performance of rituals.
3. No one may be forced to take part or not in a religious community or in religious practices or to make his beliefs or faith public.

### **Article 25**

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

### **Article 26**

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

### **Article 27**

1. No one's liberty may be taken away except in the cases and according to the modalities provided by law.
2. No law may be issued to limit the freedom of a person, except in the following cases:
  - a) when he is punished with imprisonment by a competent court;
  - b) for failure to comply with the lawful orders of the court or with an obligation set by law;
  - c) when there are reasonable suspicions that he has committed a criminal offense or to prevent the commission by him of a criminal offense or his escape after its commission;
  - ç) for the supervision of a minor for purposes of education or for accompanying him to a competent organ;
  - d) when a person is the carrier of a contagious disease or is mentally incompetent and dangerous to society, an alcoholic, an addict or a vagrant;
  - dh) for illegal entry into the state or in cases of deportation or extradition.
3. No one may be deprived of liberty just because he is not in a condition to fulfill a contractual obligation.

### **Article 28**

1. Everyone whose liberty has been taken away has the right to be notified immediately, in a language that he understands, of the reasons for this measure, as well as the accusation made against him. A person whose liberty has been taken away shall be sent within 48 hours before a judge, who shall decide on his pre-trial imprisonment or release not later than 48 hours from the time he receives the documents for review.
2. Every person who is detained or arrested shall be informed that he has no obligation to make a declaration and has the right to communicate immediately with a lawyer, and he shall also be given the possibility to realize his rights.
3. A person in pre-trial detention has the right to appeal the judge's decision.
4. A person whose liberty is taken away other than by a judge may at any time direct himself to a judge, who shall decide within 48 hours on the legality of this measure.
5. No prisoner may be denied humane treatment and moral rehabilitation.
6. The person whose liberty is taken away has the right to a trial within a reasonable term or to be released on bail.

### **Article 29**

1. No one may be accused or declared guilty of a criminal offense that was not considered as such by law at the time of its commission, with the exception of cases, which at the time of their commission, according to international law, constitute war crimes or crimes against humanity.
2. No punishment may be given that is more severe than that which was contemplated by law at the time of commission of the criminal offense.
3. A favorable criminal law has retroactive effect.

### **Article 30**

Everyone is considered innocent if his guilt is not proven by a final judicial decision.

### **Article 31**

During a criminal proceeding, everyone has the right:

- a) to be made aware immediately and in detail of the accusation made against him [and] of his rights, as well as to have the possibility created to notify his family or those close to him;
- b) to have the time and sufficient facilities to prepare his defense;
- c) to have the assistance without payment of a translator, when he does not speak or understand Albanian language;
- ç) to be defended by himself or with the assistance of a legal defender chosen by him; to communicate freely and privately with him, as well as to be assured of free defense when he does not have sufficient means;
- d) to question witnesses who are present and to seek the presentation of witnesses, experts and other persons who can explain the facts.

### **Article 32**

1. No one may be obliged to testify against himself or his family or to confess his guilt.



2. No one may be declared guilty on the basis of data collected in an unlawful manner.

### **Article 33**

1. No one may be denied the right to be heard before being sentenced.
2. A person who is hiding from justice may not take advantage of this right.

### **Article 34**

No one may be punished more than one time for the same criminal offense nor be tried again, except for cases when the re-adjudication of the case is decided on by a higher court, in the manner specified by law.

### **Article 35**

1. No one may be obliged, except when the law requires it, to make public data connected with his person.
2. The collection, use and making public of data about a person is done only with his consent, except for the cases provided by law.
3. Everyone has the right to become acquainted with data collected about him, except for the cases provided by law.
4. Everyone has the right to request the correction or expunging of untrue or incomplete data or data collected in violation of law.

### **Article 36**

The freedom and secrecy of correspondence or other means of communication are guaranteed.

### **Article 37**

1. The inviolability of the residence is guaranteed.
2. Searches of a residence as well as the premises forming part of it may be done only in the cases and manners provided by law.
3. No one may be subjected to a personal search outside a criminal proceeding, with the exception of the cases of entry into the territory of the state and the leaving of it, or to avoid an immediate risk that threatens public security.

### **Article 38**

1. Everyone has the right to choose his place of residence and to move freely to any part of the territory of the state.
2. Each person may go out of the state freely.

### **Article 39**

1. No Albanian citizen may be deported from the territory of the state.
2. Extradition may be permitted only when it is expressly provided in international agreements, to which the Republic of Albania is a party, and only by judicial decision.
3. The collective expulsion of foreigners is prohibited. The deportation of individuals is permitted under the conditions specified by law.

### **Article 40**

1. Foreigners have the right of refuge in the Republic of Albania according to law.
2. Foreigners who in their countries are prohibited from an efficient exercise of the rights and freedoms guaranteed by the Constitution of the Republic of Albania, have the right of refuge in the Republic of Albania according to law.

### **Article 41**

1. The freedom, property, and rights recognized in the Constitution and by law may not be infringed without due process [lit. without an ordered legal proceeding].
2. Everyone, to protect his rights and freedoms against accusations raised against him, has the right to a fair and public trial, within a reasonable time, by an independent and impartial court set by law.

### **Article 42**

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

### **Article 43**

Everyone has the right to be rehabilitated and/or indemnified in compliance with law if he is damaged because of an unlawful act, action or failure to act of the state organs.

## **CHAPTER III--POLITICAL RIGHTS AND FREEDOMS**

### **Article 44**

1. Every citizen who has reached the age of 18, even on the date of the elections, has the right to vote.
2. Citizens who have been declared mentally incompetent by a final court decision do not have the right to vote.
3. Convicts that are serving a sentence that deprives them of freedom have only the right to elect.
4. The vote is personal, equal, free and secret.

### **Article 45**

1. Everyone has the right to organize collectively for any lawful purpose.
2. The registration of organizations or societies in court is done according to the procedure provided by law.

3. Organizations or societies that pursue unconstitutional purposes are prohibited in conformity with the law.

#### **Article 46**

1. Freedom of peaceful meetings and without arms, and of the participation in them is guaranteed.
2. Peaceful meetings in squares and places of public passage are held in conformity with the law.

#### **Article 47**

Everyone, by himself or together with others, may direct requests, complaints or comments to the organs of the state, which are obliged to answer in the time periods and conditions set by law.

### **CHAPTER IV--ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND FREEDOMS**

#### **Article 48**

1. The right of private property is guaranteed.
2. Property may be gained by transfer of ownership, inheritance or any other means contemplated by Civil Code.
3. The law can contemplate expropriations or limitations in the exercise of property right only for public interests and always against a fair remuneration.
4. For disagreements connected with the extend of the remuneration, a complaint may be filed in court.

#### **Article 49**

1. Everyone has the right to earn the means of living by lawful work that he has chosen or accepted himself. He is free to choose his profession and place of work as well as his own system of professional qualification.
2. Employees have the right to social protection of work.

Employees and employers have the right to unite freely in labor organizations for the defense of their work interests.

#### **Article 51**

1. The right of employees to strike in connection with their work relations is guaranteed.
2. Limitations on particular categories of employees may be established by law to assure essential services to society.

#### **Article 52**

1. Everyone has the right to social security in old age or when he is unable to work, according to a system set by law.
2. Employees who remain without work involuntarily [lit. for reasons independent of their volition] have the right to help under the conditions provided by law.

**Article 53**

1. Everyone has the right to get married and have a family.
2. Marriage and family enjoy special protection of the state.
2. The entering into and dissolution of marriage are regulated by law.

**Article 54**

1. Children, the young, pregnant women and new mothers have the right to special protection by the state.
2. Children born out of wedlock have equal rights with those born within marriage.
3. Every child has the right to be protected from violence, ill treatment, exploitation and their use for work that could damage their health and moral or endanger their life or normal development.

**Article 55**

Citizens enjoy health care from the state in an equal manner.

**Article 56**

Everyone has the right to be informed for the state of the environment and of its protection.

**Article 57**

1. Everyone has the right to education.
2. Mandatory school education is determined by law.
3. General high school public education is open for all.
4. Professional high school education and the higher one can be conditioned only on criteria of abilities.
5. Education in public schools is free. Attendance of religious education in public schools is willful.
6. The law may contemplate payments for services performed by institutions of high public education.
7. Pupils and students may also be educated in private schools of all the levels, which are created and function on the basis of law.
8. The autonomy and academic freedom of higher education institutions are guaranteed by law.

**Article 58**

1. Freedom of artistic creation and scientific research, putting [the products] into use and profiting from them are guaranteed for all.
2. Copyright is protected by law.

**CHAPTER V--SOCIAL OBJECTIVES**

**Article 59**

1. To supplement private initiative and responsibility, the state aims, within its constitutional competencies and the means at its disposal, for:
  - a) employment under suitable conditions for all persons who are able to work.
  - b) fulfillment of the housing needs of its citizens.
  - c) necessary medical treatment for its citizens.
  - ç) education of children and the young, as well as persons unable to work, according to their abilities.
  - d) establishment of a suitable environment for the present and future generations.
  - dh) development of sport and of recreating activities.
  - e) health rehabilitation, specialized education and integration in society of disabled people, as well as improvement in continuance of their living conditions.

## **CHAPTER VI--PEOPLE'S ADVOCATE**

### **Article 60**

1. The People's Advocate defends human rights and freedoms from unlawful and irregular actions or failures to act of the organs of public administration.
2. The Advocate is independent and responsible only to the Assembly.
3. The People's Advocate has his budget, the draft of which is presented to the Assembly.

### **Article 61**

1. The People's Advocate is elected by three-fifths of the Assembly for a five year period, with the right of re-election.
2. Any Albanian citizen with knowledge and recognized activity in the field of human rights may be the People's Advocate.
3. The People's Advocate enjoys immunity and the privileges of the judge of the High Court.
4. The People's Advocate may not take part in any political party, carry on any other political, state or professional activity, nor take part in the management organs of social, economic and commercial organizations.

### **Article 62**

1. The People's Advocate may be discharged only on the reasoned complaint of not less than one third of the deputies.
2. In this case, the Assembly makes a decision with three fifths of its members.

### **Article 63**

1. The People's Advocate makes an annual report to the Assembly.
2. The People's Advocate reports to the Assembly when it is requested of him, and may also ask to be heard by the Assembly for questions that he considers important.
3. The People's Advocate has the right to make recommendations and to propose measures when he observes violations of human rights and freedoms by the public administration.
4. Public organs and officials are obligated to present to the People's Advocate all documents and materials requested by him.

## **PART III--THE ASSEMBLY**

## **CHAPTER I--ELECTION AND TERM**

### **Article 64**

1. The Assembly consists of not less than 140 deputies.
2. Two-thirds of the deputies are elected directly in single-member electoral zones with approximately the same number of voters specified by law.
3. Supplemental mandates are given to the parties from their multi-name lists in proportion to the votes won by the candidates on the national scale in the first round.
4. Parties that receive less than 3% (variant - 4%) of the valid votes on the national scale do not benefit from supplemental mandates.

### **Article 65**

1. The Assembly is elected for four years.
2. Elections for the Assembly are held within 60 to 30 days before the end of the mandate and not later than 45 days after dissolution.
3. The mandate of the Assembly continues until the first meeting of the new Assembly. In this interval the Assembly may not issue laws or take decisions with the exception of immediate cases.

### **Article 66**

1. The mandate of the Assembly is extended only in the case of war and for so long as it continues.
2. When the Assembly is dissolved, it recalls itself.

### **Article 67**

1. The Assembly that has just been elected is called to its first meeting by the President of the Republic no later than 20 days from the conclusion of the elections.
2. If the President of the Republic does not exercise this competency, the Assembly meets its within 10 days from the end of the term provided in point 1 of this article.

## **CHAPTER II--THE DEPUTIES**

### **Article 68**

1. Candidates for deputy may be presented only by political parties or voters.
2. Candidates for deputy may be presented from individuals as well.
3. The rules for the designation of candidates for deputy, for the organization and conduct of the elections, as well as for the conditions of validity of the elections shall be set by law.

### **Article 69**

1. Without resigning from office, the following may not run as candidates nor be elected deputies:

- a) judges, prosecutors;
  - b) soldiers on active duty;
  - c) employees of the police and of National Security;
  - ç) chairmen of municipalities and communities as well as prefects in the places where they carry out their duties;
  - d) chairmen and members of the electoral commissions;
  - dh) the President of the Republic, high officials of the state Administration contemplated by law, except for members of the Council of Ministers, the People's Advocate, the Chairman and vice chairmen of the High State Control, the General Director of Radio Television.
2. A mandate gained in violation of point 1 of this article is invalid.

### **Article 70**

1. Deputies represent the people and are not connected to any obligatory mandate.
2. They may not at the same time exercise any other public duty; a deputy may be a member of the Council of Ministers. Other cases of incompatibility shall be set by law.
3. Deputies may not carry out any profit-making activity that stems from the property of the state or of local power, nor may they gain this property [lit. property of these, i.e., the state or local power].
4. For every violation of point 3 of this article, on the motion of the chairman of the Assembly or one tenth of its members, the Assembly sends the question to the Constitutional Court, which determines the incompatibility.

### **Article 71**

1. The mandate of the deputy begins on the day when he is declared elected by the respective election committee.
2. The mandate of the deputy ends or is invalid, as the case may be:
  - a) when he does not take the oath;
  - b) when he resigns from the mandate;
  - c) when one of the conditions of inelectability contemplated in articles 69 and 70, paragraphs 2 and 3 is ascertained;
  - ç) when the mandate of the Assembly ends;
  - d) when he is absent for more than six consecutive months in the Assembly;

### **Article 72**

Before beginning the exercise of the mandate, the deputies take this oath before the Assembly:

### **Article 73**

1. A deputy does not bear responsibility for opinions expressed and votes given. This provision is not applicable in the case of defamation.
2. A deputy may not be detained or arrested without the authorization of the Assembly.
3. He may be detained or arrested without authorization in the act of committing a crime only when he is caught during or immediately after the commission of a serious crime. In these cases, the General Prosecutor immediately notifies the Assembly, which when it determines that the proceeding is out of place, shall decide to lift the measure.



4. For issues contemplated in paragraphs 2 and 3, the Assembly decides by secret vote.

### **CHAPTER III--ORGANIZATION AND FUNCTIONING**

#### **Article 74**

1. The Assembly conducts its annual work in two sessions. The first session begins on the third Monday of January and the second session on the first Monday of September.
2. The Assembly meets in extraordinary session when it is called by the President of the Republic, the Prime Minister or by one fifth of the deputies.
3. Extraordinary sessions are called on the basis of a specified agenda.

#### **Article 75**

1. The Assembly elects and discharges its chairman.
2. The Assembly is organized and functions according to regulations approved by the majority of all the members.

#### **Article 76**

1. The Chairman chairs debates, assures respect for the rights of the Assembly and its members, and also represents the Assembly in relations with others.
2. Other services necessary for the functioning of the Assembly are carried out by other employees, as is specified in the internal regulations.
3. The highest civil employee of the Assembly is the General Secretary.

#### **Article 77**

1. The Assembly selects standing committees from its ranks and may also designate special [ad hoc] committees.
2. The Assembly has the right, and with the request of one fourth of its members, is obliged to designate investigatory committees to examine a particular issue. Its conclusions are not binding on the courts, but they may notify the office of the prosecutor, which evaluates them according to legal procedure.
4. [Sic] Investigatory committees operate according to the procedures set by law.

#### **Article 78**

1. The Assembly makes decisions by a majority of votes, when more than half of its members are present, except for the cases where the Constitution provides for a special majority.
2. Meetings of the deputies held without being called according to the regulations do not have any effect.

#### **Article 79**

1. Meetings of the Assembly are open.
2. At the request of the President of the Republic, the Prime Minister or one fifth of the deputies, meetings of the Assembly may be closed, when a majority of its members have voted for this.

#### **Article 80**

1. The Prime Minister and every other member of the Government is obligated to answer interpellations and questions of the deputies within three weeks.
2. A member of the Government has the right to take part in meetings of the Assembly or of its committees; he is given the floor whenever he requests it.

### **CHAPTER IV--THE LEGISLATIVE PROCESS**

#### **Article 81**

1. The Government, every deputy and 20,000 voters have the right to propose laws.
2. The following laws are approved by the majority of all the members of the Assembly:
  - a) laws for the organization and functioning of the institutions contemplated by the Constitution;
  - b) a law on citizenship;

- c) a law on internal or local elections;
- ç) a law on referenda;
- d) codes;
- dh) a law for a state of emergency;
- e) a law on the status of public officials;
- ë) a law on amnesty;
- f) a law on administrative separation of the Republic.

#### **Article 82**

1. The proposal of laws, when this is the case, shall always be accompanied by a report that justifies the financial expenses for its implementation.
2. No non-governmental draft law that make necessary the increases of the state budget or diminishes income may not be approved without taking the opinion of the Council of Ministers, which shall be given within 30 days from the date of receiving the draft law.
3. If the Council of Ministers does not give an answer within the above term, the draft law passes for examination according to the procedure.

#### **Article 83**

1. A draft law is voted on three times; in principle, article for article, and in its entirety.
2. The Assembly may, on the request of the Government, examine and approve a draft law with an expedited procedure within 15 days from the date of presentation, but not sooner than one week from the beginning of the procedure of examination.
3. The expedited procedure is not permitted for the examination of the draft laws contemplated in Article 81, paragraph 2.

#### **Article 84**

1. President of the Republic promulgates the approved law within 20 days.
2. A law is considered promulgated if within 20 days the President of the Republic does not exercise the right of veto.
3. A law enters into force with the passage of not less than 15 days after its publication in the Official Journal.
4. In the event of a state of emergency or war, when the Assembly [sic] decides with an absolute majority of votes and the President of the Republic gives his consent, a law may enter into force immediately, but only after it is made public. The law shall be published in the first number of the Official Journal.

#### **Article 85**

1. The President of the Republic has the right to return a law for re-examination only once.
2. The decree of the President for the reexamination of a law loses its effect when the majority of all the members of the Assembly vote against it.

### **CHAPTER V--THE COUNCIL OF THE ASSEMBLY**

#### **Article 86**

1. The Council is part of the Assembly of the Republic of Albania. It is composed of 25 to 30 members.
2. The Council is elected by the members of the Assembly at the beginning of the first session.
3. Representation on the Council is done in proportion with the number of seats won in the Assembly. Parties which pass the minimum contemplated in article 64, paragraph 4, are represented on the Council by not less than one member.

#### **Article 87**

1. The Council reviews preliminarily:
  - a) draft laws contemplated in article 81, paragraph 2, of the Constitution;
  - b) candidates for the Constitutional Court, High Court and for the representatives plenipotentiary of the Republic of Albania in other states and international organizations;
  - c) dissolution of the local government elected organs.
2. The Council makes decisions with three-fifths of its members, within 15 days. In each case the decision is sent for review to the Assembly within 3 days. The Assembly may void the decision of the Council with three-fifths of its members.
3. The Council of the Assembly gives opinions on specific issues, when so requested by the Assembly.

#### *Variants:*

1. *The Council reviews draft laws approved by the Assembly which are contemplated by article 81, paragraph 2 of the Constitution.*
2. *The Council may request within two weeks from the day of receiving the draft law, that it be debated again in the Assembly.*
3. *In the event that the Council does not disapprove of the approved draft law or does not take a decision within two weeks from the day of its sending, the draft law is considered finally approved.*
4. *With a reasoned decision of the Council, the Assembly is obliged to debate and vote again on the draft law. A decision of the Council may be over-turned by the Assembly, with a decision by the majority of all its members.*
5. *The Council of the Assembly gives opinions on specific issues, when so requested by the Assembly.*

#### **Article 88**

The Assembly, upon request of the Council of Ministers, may delegate legislative competencies for immediate cases to the Council of the Assembly.

### **PART IV--THE PRESIDENT OF THE REPUBLIC**

#### **Article 89**

1. The President of the Republic is the Head of State and represents the unity of the people.
2. Only an Albanian citizen who has been a resident for not less than the past 10 years in Albania and who has reached the age of 40 may be elected President.

**Article 90**

1. A candidate for President is proposed to the Assembly by a group of not less than 20 of its members. A member is not permitted to take part in more than one proposing group.
2. The President of the Republic is elected by secret vote and without debate by the Assembly by a majority of three-fifths of all its members.
3. When this majority is not reached in the first voting, a second voting takes place within 7 days from the day of the first voting.
4. When this majority is not reached even in the second voting, a third voting takes place within 7 days.
5. When there is more than one candidate and none of them has received the required majority, within 7 days, a third voting takes place between the two candidates who have received the greatest number of votes.
6. If even in the fourth voting neither of the two candidates has received the required majority, a fifth one takes place.
7. If even in the fifth voting neither of the two candidates has received the required majority, the Assembly dissolves and within 60 days new general elections take place.
8. The new Assembly elects the President of the Republic by a majority of its members.

### **Article 91**

1. The President of the Republic is elected for 5 years, with the right of re-election only once.
2. The election of the President is done no later than 30 days before the end of the previous presidential mandate.
3. The President begins in office officially after he takes the oath before the Assembly, but not before the mandate of the President who is leaving has been completed. The President swears as follows:

“I swear that I will obey to the Constitution and laws of the country, that I will respect the rights and freedoms of citizens, protect the independence of the Republic, and I will serve the general interest and the progress of the Albanian People.” “The President may add: May God help me!”

4. A President who resigns before the end of his mandate may not be a candidate in the presidential election that takes place after his resignation.

### **Article 92**

The President of the Republic may not carry out any other public activity, be a member of a party or carry out business or professional activity.

### **Article 93**

1. The President of the Republic is not responsible for acts [using the word “aktet” and not “veprimet”] carried out in the exercise of his duty.
2. The President of the Republic may be discharged for willful violations of the Constitution and the laws. A proposal for the discharge of the President in these cases may be made by not less than one fourth of the members of the Assembly and shall be supported by not less than two thirds of its members.
3. The decision of the Assembly is sent to the Constitutional Court, which, when it verifies the guilt of the President of the Republic, declares his discharge from office.

### **Article 94**

1. When the President of the Republic is temporarily unable to exercise his functions or his place remains vacant, the Chairman of the Assembly takes his place and exercises his competencies.
2. If the President cannot exercise his duty for more than 60 days, the Assembly by two thirds of its members decides on sending the question to the Constitutional Court, which verifies conclusively the fact of his incapacity. In case of verification of incapacity the place of the President remains vacant. If in such a way the place of the President remains vacant, the election of the new President begins within 10 days, from the day of verification of incapacity.

### **Article 95**

The President also exercises these competencies:

- a) he sends messages to the Assembly;
- b) he exercises the right of pardon according to the law;

- c) he grants Albanian citizenship and permits it to be given up according to the law;
- ç) he gives decorations and titles of honor;
- d) accords the highest military rank according to the law;
- dh) on the proposal of the Prime Minister, he appoints and withdraws representatives plenipotentiary of the Republic of Albania in other states and international organizations;
- e) accepts letters of credential and their withdrawal for diplomatic representatives of other states and international organization accredited to him;
- ë) upon proposal of the Prime minister, he appoints the Director of the National Security Department;
- f) nominates rectors of universities upon proposal of their representatives' councils;
- g) he sets the date of the elections for the Assembly, for the organs of local power and for the conduct of a referendum.

#### **Article 96**

Acts of the President of the Republic are countersigned from the Prime Minister or the respective minister.

#### **Article 97**

The President of the Republic may not exercise other competencies besides those recognized expressly in the Constitution and in laws issued in compatibility with it.

### **PART V--THE COUNCIL OF MINISTERS**

#### **Article 98**

1. The Council of Ministers consists of the Prime Minister and the ministers.
2. The Council of Ministers exercises every state function that is not reserved to other state organs or to local governance.

#### **Article 99**

1. At the beginning of a legislature, as well as in case of vacancy, the President of the Republic names as Prime Minister the candidate presented by the party or coalition of parties that have the majority of seats in the Assembly.
2. The Prime Minister, within 10 days from his appointment, presents for approval to the Assembly the political program of the Council of Ministers, as well as its composition.

#### **Article 100**

1. If the Prime Minister named is not approved, the Assembly elects a new Prime Minister within 15 days from the voting.
2. If the election does not take place within this time period, the Assembly within the next 7 days does a new election of the Prime Minister.

3. If the one elected receives the votes of a majority of all the members of the Assembly, the President of the Republic shall appoint him within seven days
4. When this majority is not achieved, the President of the Republic dissolves the Assembly within seven days.

#### **Article 101**

The Prime Minister elected according to paragraph 1 or 2 of article 100 presents to the Assembly for approval within 10 days the political program of the Council of Ministers together with its composition.

#### **Article 102**

1. A minister is appointed and dismissed by the President of the Republic, on the proposal of the Prime Minister, within 7 days.
2. The decree is approved within 10 days by the Assembly.

#### **Article 103**

Before taking office, the Prime Minister and ministers swear before the President.

#### **Article 104**

The Prime Minister names one of the ministers to the office of vice prime minister.

#### **Article 105**

1. The Prime Minister:
  - a) represents the Council of Ministers and chairs its meetings;
  - b) sets and is responsible for the principal directions of general policy;
  - c) assures the implementation of legislation and policies approved by the Council of Ministers;
  - ç) coordinates and checks the work of the members of the Council of Minister and other organs or institutions of the central state administration;
  - d) carries out other duties prescribed in the Constitution and the laws.
2. The Prime Minister resolves disagreements between ministers.
3. Exercising his competencies, the Prime Minister issues orders.
4. The minister, within the principal directions of overall policy, directs in an independent manner and under his responsibility the activity that he has in his competency. The minister issues orders and recommendations.

#### **Article 106**

1. The Council of Ministers takes decisions on the proposal of the Prime Minister or the respective minister.
2. Meetings of the Council of Ministers are closed.
3. Acts of the Council of Ministers are valid when they are signed by the Prime Minister and by the respective minister.
4. The Council of Ministers takes decisions and issues recommendations.



#### **Article 107**

1. Anyone who has the capacity [lit. qualities] to be a deputy may be appointed a minister.
2. A minister may not exercise any other state function nor be a director or member of the organs of for-profit companies. [It would be better to say “shoqërive tregtare,” that is, commercial companies].
3. Members of the Council of Ministers enjoy the immunity of the deputy.

#### **Article 108**

1. If a motion of confidence presented by the Prime Minister is refused by a majority of the members of the Assembly, the Assembly elects another Prime Minister within 15 days.
2. When the Assembly does not succeed in electing a new Prime Minister, the President of the Republic dissolves the Assembly.
3. The vote for the motion can not be done if three days have not passed from the day it was presented.

#### **Article 109**

1. In case the motion of nonconfidence presented from one fifth of the members of the Assembly, is approved by the majority of its members, the Assembly within 15 days elects another Prime Minister.
2. When the Assembly cannot elect the new Prime Minister, the President of the Republic dissolves the Assembly.
3. The vote for the motion can not be done if three days have not passed from the day it was presented.

#### **Article 110**

The Prime Minister and the ministers are obligated to stay in office until the appointment of the new Council of Ministers.

### **PART VI--LOCAL GOVERNANCE**

#### **Article 111**

1. The units of local governance are communities or municipalities and regions. Other units are set by law.
2. The units of local governance are set by law on the basis of the requirements of mutual economic interests and historical tradition.
3. Communities and municipalities are the basic units of self governance, which carry on all the self-governance duties that are not recognized to other units of local governance.
4. Competencies of the state administration may be delegated by law to units of local governance. The expenses that are incurred in the exercise of the delegation are paid by the state.
5. The boundaries of the units of local governance are set by law and may not be changed without the opinion of the population that lives in them first being received.

### **Article 112**

1. The representative organs of the basic units of local governance are councils that are elected every three years by general direct elections and with secret voting.
2. The executive organ of a municipality or community is the Chairman, who is elected directly by the people in the manner contemplated in paragraph 1 of this article.
3. Only citizens who have reached the age of 18 and who have a permanent residence in the territory of the respective local entity have the right to be elected to the local councils and as chairman of the municipality or community.

### **Article 113**

1. The units of local governance are juridical persons.
2. The rights of self-governance of the units of local governance are protected in court.
3. The units of local governance have an independent budget, which is created in the manner prescribed by law.

### **Article 114**

1. Self-governance in the local units is exercised through their representative organs and local referenda.
2. Only duties in compliance with law or according to agreements entered into by them may be put to the organs of local governance. The expenses that are connected with the duties put by law to the organs of local governance are paid by the budget of the state.

### **Article 115**

1. The councils of the communities, municipalities and regions:
  - a) regulate and administer in an independent manner local questions within their jurisdiction;
  - b) exercise the rights of ownership, administer in an independent manner the income created, and also have the right to exercise economic activity and business;
  - c) have the right to spend the income that is necessary for the exercise of their functions;
  - ç) have the right, in compliance with law, to establish local taxes as well as their level;
  - d) establish rules for their organization and functioning in compatibility with law;
  - dh) create symbols of local governance as well as local titles of honor;
  - e) undertake initiatives for local issues before the organs designated by law;
  - ë) have the right to form unions and joint institutions with one another for the representation of their interests, to cooperate with local units of other countries, and also to be represented in international organizations of local lowers.
2. The organs of units of local governance issue rules, decisions and orders.

### **Article 116**

1. A region is created by the union of several basic units of local governance on the basis of traditional, economic and social ties and mutual interests.

2. The region is the unit in which regional policies are constructed and implemented and where they are harmonized with state policy.
3. The representative organ of the region is the Regional Council, which consists of the chairmen of the communities and municipalities as well as by members elected from the ranks of the municipal councils in proportion with the numbers of their members.
4. The number of representatives of the municipal councils in the regional council is established in proportion to the seats that the political subjects represented in the municipal councils have.
5. The Regional Council elects its executive organ.
6. The Regional Council have the right to issue rules and decisions with general obligatory force for the region.

#### **Article 117**

For the implementation of state policy, the preservation of national interests, the respect for law and public order as well as for the exercise of administrative control, the Council of Ministers designates a prefect as its representative in each region.

#### **Article 118**

On the proposal of the Prime Minister, the Assembly may dissolve a representative organ of a unit of local governance for serious violations of the Constitution and the laws.

### **PART VII--JURIDICAL ACTS AND INTERNATIONAL AGREEMENTS**

#### **CHAPTER I--JURIDICAL ACTS**

#### **Article 119**

1. Juridical acts that are effective in the whole territory of the Republic of Albania are:
  - a) the Constitution;
  - b) ratified international agreements;
  - c) the laws;
  - ç) normative acts of the Council of Ministers.
2. Acts that are issued by the organs of local power are effective only within the territorial jurisdiction exercised by these organs.
3. Juridical acts of ministers and other central institutions of the state are effective in the whole territory of the Republic of Albania within the sphere of their jurisdiction.

### **Article 120**

1. The laws, normative acts of the Council of Ministers, ministers, other central state institutions, receive juridical force only after they are promulgated and published in the Official Journal.
2. The promulgation and publication of other normative acts is done according to the manner provided by law.
3. International agreements that are ratified by law are promulgated and published according to the procedures that are contemplated for laws. The promulgation and publication of other international agreements is done according to law.

### **Article 121**

1. Regulations [sublegal acts] are issued on the basis of and for implementation of the laws by the organs provided in the Constitution.
2. A law shall authorize the issuance of regulations, designate the competent organ, the questions that are to be regulated, as well as the principles on the basis of which these regulations are issued.
3. The organ authorized by law to issue regulations as specified in point 2 of this article may not delegate its competency to another organ.

### **Article 122**

1. The rules of the Council of Ministers, of the ministries and other central state institutions, as well as orders of the Prime Minister, of the ministers and heads of other central institutions, have an internal character and are binding only on the administrative entities that are under the organs that issues such acts.
2. These acts are issued on the basis of law and may not serve as the basis for taking decisions connected with citizens, juridical persons and other subjects.
3. The rules and orders are issued on the basis of and for implementation of acts that have general juridical force.

### **Article 123**

The principles and procedures for the issuance of local juridical acts are provided by law.

## **CHAPTER II--INTERNATIONAL AGREEMENTS**

### **Article 124**

1. The ratification and rejection of international agreements by the Republic of Albania is done by law in cases that have to do with:
  - a) territory, peace, alliance, political and military issues;
  - b) freedoms, human rights and obligations of citizens as are provided in the Constitution;
  - c) membership of the Republic of Albania in international organizations;
  - ç) the undertaking of financial obligations by the Republic of Albania;
  - d) the approval, amendment, supplementing or repeal of laws.

2. The Prime Minister notifies the Assembly whenever the Council of Ministers is going to ratify an international agreement that is not ratified by law.
3. The principles and procedures for ratifying and rejecting international agreements are provided by law.

#### **Article 125**

1. The Republic of Albania on the basis of international agreements delegates to international organizations state competencies for specific questions.
2. A law by which an international agreement is ratified as is provided in the first paragraph of this article is approved by a majority of the members of the Assembly.
3. The Assembly may decide that the ratification of such an agreement be done through a national referendum.

#### **Article 126**

1. Any international agreement that has been ratified constitutes part of the internal juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented in a direct manner, except for cases when its implementation depends on the issuance of a law. The amendment, supplementing and repeal of laws approved by the majority of the members of the Assembly, aiming at ratifying an international agreement, is done with the same majority.
2. An international agreement that has been ratified by law has superiority over laws of the country that are not compatible with it.
3. When it is expressly contemplated in an agreement for participation in an international organization ratified by the Republic of Albania that the norms issued by it are directly applicable, they have superiority over laws of the country in the case of a conflict between them.

## **PART VIII--THE COURTS**

### **Article 127**

1. The judicial power is exercised by the High Court as well as by other lower courts that are created by law.
2. The members of the High Court are elected by the Assembly, on the proposal of the President of the Republic.
3. Members of the High Court are elected for 7 years. Members who are re-elected after this term stay in office until retirement age.
4. Members of the High Court elect from their ranks a Chairman, who stays in office for 5 years, with the right to be re-elected.

### **Article 128**

1. Other judges are named by the President of the Republic on the proposal of the High Council of Justice.
2. The High Council of Justice consists of the Chairman of the High Court, the minister of Justice, 3 members elected by the Assembly, and 9 judges who are elected by the national judicial Conference. Elected members stay in office for 5 years, without the right of immediate re-election.
3. The President of the Republic is the honorary Chairman of the High Council of Justice. When he takes part, he chairs the meeting.
4. The High Council of Justice elects a vice chairman from its ranks. The vice chairman directs the activity of the High Council of Justice and also chairs its meetings in the absence of the President of the Republic.
5. The High Council of Justice decides on disciplinary responsibility as well as for transferring judges according to the law.
6. The transferring of judges may not be done without their consent, except when the needs of reorganization of the judicial system dictate this.
7. Judges may be removed from office for violations of the Constitution or serious violations of law during the exercise of their functions by decree of the President of the Republic on the proposal of the High Council of Justice. They have the right to complain against this decision to the High Court, which decides by joint colleges.

### **Article 129**

Only citizens with higher juridical education may be elected judges.  
Other conditions and procedures of election are set by law.

### **Article 130**

1. Members of the High Court may be penally prosecuted only with the approval of the Assembly. They may be discharged by the Assembly when by a final judicial decision it is proven that they have committed a criminal act as is provided by law.
2. Other judges may be penally prosecuted only with the approval of the High Council of Justice.

**Article 131**

1. The time a judge stays in office may not be limited nor may his pay and other benefits be lowered.
2. The retirement age of Members of the High Court and other judges is set by law.

**Article 132**

1. The High Court has review jurisdiction.
2. For a unification or change of judicial practice, the High Court has the right to withdraw specific judicial questions for examination in the joint colleges.
3. Decisions given according to point 2 of this article are obligatory for all courts.

**Article 133**

1. Judicial decisions shall be reasoned.
2. The High Court shall publish its decisions as well as the minority opinions.
3. The organs of the state must execute judicial decisions. [Lit. are obligated for the execution of judicial decisions].
4. The courts have their own police at their disposal.

**Article 134**

1. The Assembly decides on the legal procedure for judicial questions as well as for the specification of punishments, but may not adjudicate itself any concrete question.
2. The Assembly may create by law courts for particular fields, but in no case an extraordinary court.

**Article 135**

Being a judge is not compatible with any other state, political or private activity.

**Article 136**

The courts have a special budget, which they administer themselves. They propose their budget according to law.

**Article 137**

1. Judges are independent and subject only to the Constitution and the laws. They are obliged to apply international agreements when this is contemplated by the Constitution or a law.
2. Judges do not apply laws that come into conflict with the Constitution. In this case they suspend the adjudication and send the question to the Constitutional Court. Decisions of the Constitutional Court are obligatory for all courts.
3. Interference in the activity of the courts or the judges entails liability according to law.

**Article 138**

1. Judges give their decisions in the name of the Republic.
2. In every case judicial decisions are announced publicly.

#### **PART IX--OFFICE OF THE PROSECUTOR**

##### **Article 139**

1. The office of the prosecutor exercises penal prosecution and also represents the accusation in court in the name of the state. The office of the prosecutor also performs other duties set by law.
2. Prosecutors are organized and function close to the judicial system as a centralized organ.
3. In the exercise of their competencies the prosecutors obey only to the law.

##### **Article 140**

1. The General Prosecutor is named and discharged by the President of the Republic on the proposal of the Prime Minister.
2. The other prosecutors are named and discharged by the General Prosecutor.

#### **PART X--REFERENDUM**

##### **Article 141**

1. The people, through 50 thousands citizens who enjoy the right to vote, have the right to a referendum for the abrogation of a law, as well as request from the President of the Republic to held a referendum about questions of special importance.
2. The Assembly upon the proposal of not less then one fifth of the deputies or the Council of Ministers, can decide that an issue or a draft law of special importance be presented for referendum.
3. The referendum is valid when more than half of the voters participate in it.
4. Principles and procedures for holding a referendum are regulated by law.

##### **Article 142**

1. A law approved by referendum is promulgated by the President of the Republic.
2. Issues related to the territorial integrity of the Republic of Albania, limitations of fundamental human rights and freedoms, budget, taxes, financial obligations of the State, declaration and abrogation of the state of emergency, declaration of war and peace, as well as amnesty, cannot be voted upon in a referendum.
3. A referendum upon the same issue cannot be repeated before 3 years have passed since it was held.

##### **Article 143**

1. Constitutional Court examines priory the issue put for a referendum according to paragraphs 1 and 2 of article 141 and of the paragraphs 2 and 3 of article 142, for which it decides within 60 days.



2. The date of the referendum is determined by the President of the Republic within 45 days after the promulgation of the positive decision of the Constitutional Court or after the term within which the Constitutional Court had to be expressed has passed.

## **PART XI--PUBLIC FINANCES**

### **Article 144**

Taxes and other financial obligations as well as reductions in taxes or the exemption of certain categories of taxpayers from paying taxes are decided by law.

### **Article 145**

The State can borrow money and guarantee financial credits when so authorized by law.

### **Article 146**

1. The budgetary system is composed of the state budget and local budget.
2. The state budget is created by revenues from taxes and from other financial obligations, as well as from other revenues from state (or public) property. It includes all state expenses.
3. Local organs define and collect taxes and other financial obligations based on law.
4. State and local organs are obliged to make public their revenues and expenses.

### **Article 147**

1. The Prime Minister, on behalf of the Government, presents the draft law on the budget in the autumn session, which cannot close without approving it.
2. If the draft law is not approved until the beginning of the next financial year, the Government implements the budget of the previous year, until the new budget is approved.
3. If the Assembly does not approve the new budget within three months from the last day of the previous financial year, the President of the Republic can dissolve the Assembly.
4. Within the first three months after the end of the previous financial year, the Government is obligated to present to the Assembly a report about the implementation of the budget and about the state debt from the previous year.
5. The Assembly takes a final decision after having also listened to the High State Control report.

### **Article 148**

1. During the financial year, the Assembly can make changes in the budget.
2. The changes in the budget are made based on defined procedures for drafting and approving it.
3. Expenses foreseen in other laws cannot be reduced as long as these laws are in force.

### **Article 149**

Principles and procedures for drafting the draft budget, as well as for implementing it are defined by law.

#### **Article 150**

1. The Central State Bank is the Bank of Albania. It has the exclusive right to issue and circulate the Albanian money, as well as to independently implement monetary policy.
2. The Bank of Albania is headed by its board, as well as by the Governor who is elected by the Assembly for 5 years, upon proposal of the President of the Republic.

### **PART XII--THE HIGH STATE CONTROL**

#### **Article 151**

1. The High State Control is the highest institution of economic and financial control. It is subject only to the Constitution and laws.
2. The Head of the High State Control is appointed and dismissed by the Assembly upon proposal of the President of the Republic. He stays in office for 5 years, with the right of reelection.

#### **Article 152**

The High State Control supervises:

- a) the economic activity of state institutions and other state juridical persons;
- b) the use and preservation of state funds;
- c) the use of state funds transferred to local self-governing organs;
- ç) the economic activity of juridical persons, in which the state owns more than half of the quotas or of its shares, or when debt, credits and obligations are guaranteed by the State.

#### **Article 153**

1. The High State Control presents to the Assembly:
  - a) a report on the implementation of the state budget;
  - b) its opinion on the Council of Ministers' report about the expenses of the previous financial year before it is approved by the Assembly;
  - c) information about the results of controls any time it is asked by the Assembly.
2. The High State Control presents to the Assembly a yearly report on its activities.

#### **Article 154**

1. The Head of the High State Control may be invited to participate and speak in the meetings of the Council of Ministers when questions related to its functions are reviewed.
2. The Head of the High State Control has the status of a deputy.

### **PART XIII--ARMED FORCES**

#### **Article 155**

1. The Albanian citizens have the duty to participate in the defense of the Republic of Albania,

as foreseen by law.

2. The citizen, who for religious reasons refuses service with weapons in the armed forces, is obliged to perform an alternative service, as foreseen by law.

#### **Article 156**

1. Officers on active duty cannot be chosen or nominated for other duties nor participate in a party or political activity.

2. Members of the armed forces or persons who perform an alternative service enjoy all the constitutional rights and freedoms, apart cases when the law provides differently.

3. The freedoms and rights contemplated in articles 17, 18, 19, 20, 22, 23, 24, 25, 28, 29, 32, 34, 35, 36, 39, 41, 43, 47, 48, 55, 57, 58, cannot be limited.

#### **Article 157**

1. The Armed Forces of the Republic of Albania are composed of the army, navy, and air force.

2. The President of the Republic is the General Commander of the Armed Forces.

3. The National Security Council is an advisory organ of the President of the Republic.

#### **Article 158**

1. The President of the Republic in peacetime exercises the command of the Armed Forces through the Prime Minister and Minister of Defense.

2. The President of the Republic in wartime nominates and dismisses the Chief Commander of the Armed Forces upon proposal of the Prime Minister.

3. The President of the Republic, upon proposal of the minister of Defense, nominates and dismisses the Chief of the General Staff, and the commanders of the branches of the Armed Forces.

4. The competencies of the President of the Republic, as General Commander of the Armed Forces, and of the Chief Commander of the Armed Forces, their dependency from constitutional organs, are defined by law.

### **PART XIV--EXTRAORDINARY MEASURES**

#### **Article 159**

1. Extraordinary measures can be taken due to a state of war, state of emergency, or natural disaster and exist for as long as these states exist.

2. The principles for actions of public organs, as well as the extent of limitations on human rights and freedoms during the existence of such situations that require extraordinary measures, will be set by law.

3. The law should define the principles, the scope, and the manner of compensation for losses caused as a result of the limitation of human rights and freedoms during the period in which extraordinary measures are taken.

4. Actions taken as a result of extraordinary measures should be in proportion with the risk level and should aim to establish the conditions for the normal functioning of the state, as soon as possible.

5. During the situations that require extraordinary measures to be taken, none of the following

acts should be changed: Constitution, the law on the election of the Assembly and local government organs, as well as the laws on extraordinary measures.

6. During the implementation period of extraordinary measures, there may not be elections for the Assembly, local government organs, a referendum cannot be held, and a new President of the Republic cannot be elected. The elections for the local government organs can be held only in those places where the extraordinary measures are not implemented.

### **Article 160**

1. In case of armed aggression against the Republic of Albania, the President of the Republic upon request of the Council of Ministers can declare the state of war.

2. In case of external threat, or when a common defense obligation derives from an international agreement, the Assembly upon proposal of the President of the Republic declares the state of war, decides the state of general or partial mobilization or demobilization.

### **Article 161**

1. In case of risk for the constitutional order and for the public security, the President of the Republic upon request of the Council of Ministers can decide for a state of emergency in one part or in the whole state territory which lasts for as long as this state continues but not longer than 60 days.
2. When such a state is decided, the intervention of armed forces can be ordered only when police forces are not able to restore order.
3. The extension of the term of the state of emergency can be done only with the consent of the Assembly, for each 30 days, for a period of time not longer than 90 days.

### **Article 162**

1. The President of the Republic presents to the Assembly the decree establishing the state of war or the state of emergency within 48 hours from its signing, by specifying the rights to be limited.
2. The Assembly, with the majority of its members, takes into account and immediately decides on the decree of the President.

### **Article 163**

1. For the prevention or the avoidance of the consequences of natural disasters or technological accidents, the Council of Ministers can decide for a period not longer than 30 days, on the state of natural disaster in one part or in the whole territory of the state.
2. The extension of the state of natural disaster can be done only with the consent of the Assembly.

### **Article 164**

1. During the state of war or state of emergency the rights and freedoms contemplated by articles: 15, 18, 19, 20, 21, 24, 25, 29, 30, 31, 32, 34, 41, 42, 47, 54, 55, cannot be limited.
2. During the state of natural disaster the rights and freedoms contemplated by articles: 37, 38, 48/3 and 4, 49, 51 can be limited.
3. The acts for declaring the state of emergency should specify the rights and freedoms which are limited according to paragraphs 1 and 2 of this article.

### **Article 165**

When the Assembly cannot be assembled during the state of war, the President of the Republic, upon proposal of the Council of Ministers, has the right to issue acts which have the force of the law, which have to be approved by the Assembly in its first meeting.

## **PART XV--CONSTITUTIONAL COURT**

### **Article 166**

The Constitutional Court is the organ that guarantees respect for the Constitution and makes final interpretations of it.

### **Article 167**

1. Constitutional Court is composed of 9 judges which are elected from the Assembly upon proposal of the President of the Republic.

*Variant of paragraph 1:*

*Constitutional Court is composed of 9 judges from which 3 members are elected by the Assembly, 3 by the President of the Republic and 3 by the National Judicial Conference.*

2. Judges are elected for 9 years without the right to be reelected, among lawyers with high qualification and with work experience not less than 15 years in the profession.

3. The composition of the Constitutional Court is renewed every 3 years in one third of it according to the procedure determined by law.

4. Judges elect among themselves the chief for a four year period with the right of reelection.

5. The judge of the Constitutional Court continues his duty until the election of his successor.

### **Article 168**

1. The judge of the Constitutional Court cannot be penally prosecuted without the consent of the Assembly (Constitutional Court). In case of refusal, the penal prosecution is quashed once and for all.

2. The judge of the Constitutional Court can be arrested only if caught in the commission of a crime or immediately after its commission. The competent organ immediately notifies the Speaker of the Assembly (Chief of the Constitutional Court). When the Speaker of the Assembly (Court) does not give his consent within 24 hours to send to court the arrested judge, the competent organ is obliged to release him. (The Assembly in its first meeting decides finally to allow or refuse the penal prosecution).

3. The Assembly (Court) in cases of points 1 and 2 of this article decides with the majority of all members.

### **Article 169**

1. The mandate of the judge ends:

- a) when sentenced with a final decision for commission of a crime;
- b) when he does not show up for duty for more than 12 months;
- c) when he has reached the retirement age;
- ç) when he is declared incapable to act with a final judicial decision.

2. If the seat of the judge is vacant, the Assembly upon proposal of the President of the Republic elects a new judge, who remains on duty until the mandate of the dismissed judge ends.

*Variant of paragraph 2:*

*If the seat of the judge is vacant, the respective proposing organ elects a new judge, who remains in duty until the mandate of the dismissed judge ends.*

### **Article 170**

The judge of the Constitutional Court starts the duty after he makes an oath in front of the President of the Republic.

### **Article 171**

Being a judge is incompatible with any other state, political or private activity.

### **Article 172**

The Constitutional Court decides on:

- a) compatibility of the law with the Constitution or with international agreements as provided in article 121/2;
- b) compatibility of international agreements with the Constitution, prior to their ratification;
- c) compatibility of acts of the central organs with the Constitution, with international agreements and laws;
- ç) disagreements of competencies between powers, as well as between central government and local governance;
- d) constitutionality of the parties and other political organizations as well as their activity;
- dh) dismissal from duty of the President of the Republic and verification of the impossibility for him to exercise his functions;
- e) issues related with the verification of the election and of the electability and incompatibility in exercising the functions of the President of the Republic and of the deputies;
- ë) constitutionality of the referendum and verification of its results;
- f) final solution of the complaints of individuals for the violation of their constitutional rights.

### **Article 173**

1. The Constitutional Court decisions have general obligatory power and are final. The Constitutional Court in no case may replace the competency of other state organs.
2. The Constitutional Court decisions enter in force the day of the publishing of the Official Gazette. Constitutional Court can decide that the law or the other juridical act is to be abrogated on another date. The minority opinions are published together with the decision.

### **Article 174**

1. Acceptance of complaints for judgement is decided from a number of judges as determined by law.
2. The Constitutional Court decides with the majority of all its members.

### **Article 175**

1. The Constitutional Court is put into motion only on the request of:
  - a) the President of the Republic;
  - b) Prime Minister;
  - c) a group of not less than 10 (5) deputies;
  - ç) the Chief of High State Control;
  - d) every court;

- dh) People's Advocate;
  - e) organs of the local governance;
  - ë) organs of religious communities;
  - f) political parties and other organizations;
  - g) individuals.
2. Those provided for in subparagraphs 'dh', 'e', 'ë', 'f', and 'g' of paragraph 1 can make a request only for issues related with their activity.

## **PART XVI--REVIEW OF THE CONSTITUTION**

### **Article 176**

1. Initiative for review of the Constitution may be undertaken by not less than one fifth of the members of the Assembly.
2. No review of the Constitution may be undertaken during the time when the extraordinary measures are taken.
3. The draft law for review of the Constitution is voted upon three times. The time period between two votes should not be shorter than 30 days.
4. The draft law is approved by not less than two-thirds of all members of the Assembly.
5. The draft law for review of Constitution enters into force after ratification by referendum, which takes place not later than 60 days from the day of its approval by the Assembly.
6. The President of the Republic does not have the right to return for review the law approved by the Assembly for review of the Constitution.
7. The law approved by referendum is declared by the President of the Republic and enters into force on the date foreseen in the law.
8. Review of the Constitution for the same issue, cannot be done before a year from the day of the rejection of the draft law by the Assembly and three years from the day of its rejection by the referendum.

## **PART XVII--TRANSITORIALLY AND FINAL DISPOSITIONS**

### **Article 177**

1. Laws and other normative acts approved before the date this Constitution enters into force, will be applied only when and to the extent they are contradictory to it.
2. The Council of Ministers, within 12 months from the day the Constitution enters into force, presents to the Assembly draft laws necessary for changing the legislation in force as well as applying the Constitution.

### **Article 178**

1. The mandate of the constitutional bodies and people elected or appointed before the Constitution enters into force, ends in the time period foreseen in the provisions that were in force during their election or appointment.
2. Decisions of the Constitutional Court, given regarding the compatibility of laws with constitutional provisions issued before this Constitution enters into force, will be considered final only after the Court reissues its opinion, upon a request by respective subjects, within 12 months from the date the Constitution enters into force.



3. The rights gained by individuals remain untouched.

**Article 179**

1. International agreements ratified by the Republic of Albania before the Constitution enters into force are considered ratified according to this Constitution.
2. The Council of Ministers, within 12 months of the date the Constitution enters into force, presents to the Assembly the international agreements which include provisions that are contrary to the Constitution.

**Article 180**

Assembly, within \_\_\_\_\_ from the date this Constitution enters into force should issue laws necessary for the final (just) resolution of different issues related to expropriations and confiscations done before \_\_\_\_\_.

**Article 181**

Law No. 7491 dated 29.04.1991 "For Main Constitutional Provisions" as well as other constitutional laws are abrogated the day this Constitution enters into force.

## **APPENDIX I**

### **THE COUNCIL OF THE ASSEMBLY (The last version)**

#### **Article 86**

1. The Council of the Assembly shall be composed of 25 members elected by and amongst the members of the Assembly at the beginning of its first session, as well as of the chairmen of regions.
2. The Deputies members of the Council are elected proportionally on the basis of the number of seats won by the parties in the Assembly. Parties, which have surpassed the threshold provided for in article 64, paragraph 4, shall be represented in the Council with no less than one member.
3. The Council shall, in the exercise of its powers provided for in article 87, act as a body separated from the Assembly.
4. The Chairmen of the regions shall enjoy the immunity of deputies.

#### **Article 87**

The Council of Assembly:

- a) shall consider the approved bills provided for in article 81, paragraph 2, of the Constitution;
- b) shall give for the nominees to the office of members of the Constitutional Court, members of the Supreme Court (Court of Cassation), as well as for the plenipotentiary representatives of the Republic of Albania in foreign States and in international organisations.
- c) shall decide for the dissolution or removal of the elected bodies of the local government.

#### **Article 88**

1. In cases contemplated in articles 87, the Council shall decide with the majority of all its members within 30 days.
2. The council shall function according to its rules adopted by the majority of all its members.

**Article 89**

1. If the Council decides to return a bill, the Assembly must reconsider it. The Assembly may override the decision of the Council with the majority of all its members.
2. If the Council has not expressed itself within the term provided for in Article 88, the bill shall be considered finally approved.

**Article 90**

1. In urgent cases, the Assembly may, on its own initiative or on the request of the Council of Ministers, delegate to the Council of the Assembly legislative powers.
2. The acts of the Council must be approved in the nearest coming meeting of the Assembly.

**APPENDIX II**

**PJESA IX**

**OFFICE OF THE PROSECUTOR  
(Second version)**

**Article 140**

1. The General Prosecutor is named and discharged by the President of the Republic on the proposal of the Prime Minister.
2. The Council of the Prosecutor Office shall make the appointment, removal and disciplinary measures on the proposal of the General Prosecutor.
3. The Council of the Prosecutor Office shall be composed of Minister of Justice, who presides, General Prosecutor, two members elected by the Assembly and 5 members elected by national conference of the prosecutors for 5 years.