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Addendum
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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

**DRAFT CONSTITUTION
OF THE REPUBLIC
OF ALBANIA**

Revised version ¹

¹ This version replaces the one appearing in document CDL (98) 40 and Addenda I and II.

PART VII-REFERENDUM

Article 1

1. The people, through (50 thousands) citizens who enjoy the right to vote, have the right to express themselves in a referendum about questions of special importance.
2. The Assembly, upon the proposal of not less than one fourth of the deputies or the Council of Ministers, can decide with the majority of its members that an issue or a draft law of special importance be presented for referendum.
3. The Constitutional Court does a preliminary review of the issue presented for referendum according to points 1 and 2 of this article and decides within 60 days.
4. The referendum is decided by the President of the Republic within 60 days after the declaration of the positive decision of the Constitutional Court or after the expiry of the term within which the Constitutional Court had to be expressed.
5. The referendum is valid when more than half of the voters participate in it.
6. Principles and procedures for holding a referendum are regulated by law.

Article 2

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, fundamental human rights and freedoms, budget, taxes, financial obligations of the State, ratification and denouncement of international agreements, 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.

PART VIII-PUBLIC FINANCES

Article 1

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 2

The State can borrow money and guarantee financial credits based on conditions defined by law.

Article 3

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.
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 4

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 5

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 6

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

Article 7

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 formulate and 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.

OTHER PROVISIONS

CHAPTER-ARMED FORCES²

Article 1

1. Albanian citizens have the duty to participate in the defence 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.

² ACCAPP Translation of the Draft approved by the Constitutional Commission received from Krenar Loloçi on 8 June 1998.

Article 2

1. Officers of the active service 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, except for cases when the law provides otherwise.
3. The freedoms and rights contemplated in articles 3, 4, 5, 6, 8, 9, 10, 11, 13, 15, 18, 20, 21, 22, 25/1, 27, 29, 33, 34, 41, 43, 44, cannot be limited.

Article 3

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 4

1. The President of the Republic in peacetime exercises the command of the Armed Forces through the Minister of Defence.
2. The President of the Republic in wartime nominates and dismisses the Chief Commander of the Armed Forces upon request 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 the constitutional organs, are defined by law.

CHAPTER-THE HIGH STATE CONTROL

Article 1

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 2

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 3

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 4

1. The Head of the High State Control has the right 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 minister.

Article 5

The Head of the High State Control can be criminally prosecuted only upon request of the General Prosecutor and with the approval of a majority of the members of the Assembly.

CHAPTER-EXTRAORDINARY MEASURES³

Article 1

1. Extraordinary measures can be taken due to the state of war, state of emergency, or natural disaster.
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 as soon as possible the conditions for normal functioning of the state.
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 law on the extraordinary measures.
6. During the implementation period of extraordinary measures, and within the following 60 days, there may not be elections for the Assembly, local government organs, a referendum, and a new President of the Republic. The elections on the local government organs can be held only in those places where the extraordinary measures

³ ACCAPP Translation of the Draft approved by the Constitutional Parl. Comm. received from Krenar Loloçi on 8 June 1998.

are not implemented.

Article 2

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 for a part or all the state territory.
2. In case of outside threat, or when a common defence 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 3

1. In case of risk to the constitutional order and for public security, the President of the Republic upon request of the Council of the Ministers can decide for a state of emergency in one part or in the whole state territory for a term not longer than 60 days.
2. When such a state is decided, intervention of the armed forces can be ordered only when the police forces are not able to restore the 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 4

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 signature.
2. The Assembly, with the majority of its members, takes into account and immediately decides upon the decree of the President.

Article 5

1. For the prevention or the avoidance of the consequences of a natural disaster or technological accidents, the Council of Ministers can decide for a period not longer than 30 days upon 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 6

1. During the state of war or state of emergency the rights and freedoms contemplated by articles: 1, 4, 5, 6, 7, 10, 11, 15, 16, 17, 18, 20, 27, 28, 33, 40, 41/3 cannot be limited.
2. During the state of natural disaster the rights and freedoms contemplated by articles: 23, 24, 37, 34/3, 35 can be limited.

Article 7

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.