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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

CONSOLIDATED VERSION

OF THE CONSTITUTION

OF ALBANIA

INTEGRATING

THE DRAFT CONSTITUTIONAL AMENDMENTS

**CONSOLIDATED VERSION
OF THE CONSTITUTION
INTEGRATING THE DRAFT CONSTITUTIONAL AMENDMENTS
OF
THE REPUBLIC OF ALBANIA**

This text of the Constitution of the Republic of Albania reflects the following amendments:

Initial law no nr. 8417, dated 21.10.1998 "Constitution of the Republic of Albania"

Amending Law no 9675, dated 13.1.2007

Amending Law no 9904, dated 21.4.2008

Amending law no 88/2012, dated 18.09.2012

Amending law no.137/2015, dated 17.12.2015

Revised draft amendments sent to the Venice Commission as of 12.01.2016

CONSTITUTION OF THE REPUBLIC OF ALBANIA

We, the people of Albania, proud and aware of our history,

with responsibility for the future,

and with faith in God and/or other universal values,

with determination to build a state of law, social and democratic, to guarantee the fundamental human rights and freedoms,

with a spirit of religious coexistence and tolerance,

with a pledge to protect human dignity and personhood, as well as for the prosperity of the whole nation, for peace, well-being, culture and social solidarity,

with the centuries-old aspiration of the Albanian people for national identity and unity,

with a deep conviction that **European values**¹, justice, peace, harmony and cooperation between nations are among the highest values of humanity,

**WE ESTABLISH THIS CONSTITUTION
PART ONE
BASIC PRINCIPLES**

Article 1

1. Albania is a parliamentary republic.
2. The Republic of Albania is a unitary and indivisible 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 through their representatives or directly.
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 a majority of all the members of the Assembly.

¹ Regarding the EU integration provisions, two alternatives were discussed. One option is to include them in the draft amendments by providing for a transitory position; The second option, is not to include them as they are premature for Albania.

4. Upon accession, the Republic of Albania delegates to the European Union institutions the necessary powers for accomplishment of the obligations deriving from the accession², based on a law approved with three fifth majority of all members of the Assembly.

Article 3

The independence of the state and the integrity of its territory, dignity of the individual, human rights and freedoms, social justice, constitutional order, pluralism, national identity and inheritance, religious coexistence, as well as coexistence with, and understanding of Albanians for, minorities 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 directly applicable, except when the Constitution provides otherwise.

Article 5

The Republic of Albania applies international law that is binding upon it.

Article 6

The organization and functioning of the bodies contemplated by this Constitution are regulated by their respective laws, except when this Constitution provides otherwise.

Article 6/1

The election or appointment to or exercise of a public function in one of the organs provided in this Constitution or established by law, notwithstanding the regulation contained in other provisions of this Constitution, shall be prohibited, in case circumstances are established impairing the integrity of the public functionary, under the conditions and rules provided for by law being approved by three fifth of all members of the Assembly.

Article 7

The system of government 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 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 abroad 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 to democratic principles.
2. Political parties and other organizations, whose programs and activity are based on totalitarian methods, that incite and support racial, religious, regional or ethnic hatred, that use violence to take power or influence state policies, as well as those with a secret character, are prohibited pursuant to the law.
3. The financial sources of parties as well as their expenses are always made public.

Article 10

1. In the Republic of Albania there is no official religion.

² Venice Commission Interim Opinion, Paragraph 14.

2. The state is neutral in questions of belief and conscience, and also, it guarantees the freedom of their expression in public life.
3. The state recognizes the equality of religious communities.
4. The state and the religious communities mutually respect the independence of one another and work together for the good of each of them and for all.
5. Relations between the state and religious communities are regulated on the basis of agreements achieved between their representatives and the Council of Ministers. These agreements are ratified by the Assembly.
6. Religious communities are legal entities. They have independence in the administration of their properties according to their principles, rules and canons, to the extent that interests of third parties are not infringed.

Article 11

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

Article 12

1. The armed forces secure the independence of the country, as well as protect its territorial integrity and constitutional order.
2. The armed forces maintain neutrality in political questions and are subject to civilian control.
3. Foreign military forces may be situated in or pass through the Albanian territory, as well as Albanian military forces may be deployed abroad based on a procedure provided in the law approved with the majority of all members of the Assembly, except as otherwise provided in an international agreement.³

Article 13

Local government in the Republic of Albania is founded upon the basis of the principle of decentralization of power and is exercised according to the principle of local autonomy.

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 centre.
3. The seal of the Republic of Albania presents a red shield with a black, two-headed eagle in the centre. At the top of the shield, in gold colour, is the helmet of Skanderbeg.
4. The national anthem is "United Around Our Flag."
5. The National Holiday of the Republic of Albania is the Flag Day, November 28.
6. The capital city of the Republic of Albania is Tirana.
7. The form and dimensions of the national symbols, the content of the text of the national anthem, and their use shall be regulated by law.

PART TWO THE FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

CHAPTER I GENERAL PRINCIPLES

Article 15

1. The fundamental human rights and freedoms are indivisible, inalienable, and inviolable and stand at the basis of the entire juridical order.

³ Venice Commission Interim Opinion Paragraph 15.

2. The bodies of public power, in fulfilment of their duties, shall respect the fundamental rights and freedoms, as well as contribute to their realization.

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 specifically attaches the exercise of particular rights and freedoms with Albanian citizenship.

2. The fundamental rights and freedoms and the duties contemplated in this Constitution are valid also for legal 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 the rights and freedoms provided for in this Constitution may be established only by law for a public interest or for the protection of the rights of others. A limitation shall be in proportion with the situation that has dictated it.

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

Article 18

1. All are equal before the law.

2. No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, **gender identity, sexual orientation, economic condition, property, education, social origin, birth, disability, social or parental ancestry or for other reasons.**⁴

3. No one may be discriminated against for reasons mentioned in paragraph 2 whether reasonable and objective legal grounds do not exist.

Article 19

1. Everyone born of at least one parent with Albanian citizenship gains automatically 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 exercise in full equality before the law the human rights and freedoms.

2. They have the right to freely express, without prohibition or compulsion, their ethnic, cultural, religious and linguistic belonging. They have the right to preserve and develop it, to study and to be taught in their mother tongue, as well as unite in organizations and associations for the protection of their interests and identity.

CHAPTER II-

-PERSONAL RIGHTS AND FREEDOMS

Article 21

The life of a 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 a means of communication is prohibited.

4. The law may require the granting of authorization for the operation of radio or television stations.

⁴ Opinion of Venice Commission paragraph 13, remark 2; also proposals from roundtables;

Article 23

1. The right to information 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 elected collective bodies.

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 cult, education, practices or the performance of rituals.
3. No one may be compelled or prohibited to take part 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, cruel, inhuman or degrading punishment or treatment.

Article 26

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

Article 27

1. No one can be deprived of liberty except in the cases and according to the procedures provided by law.
2. Freedom of person may not be limited, except in the following cases:
 - a) when 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 escorting him to a competent organ;
 - d) when a person is the carrier of a contagious disease, mentally incompetent and dangerous to society;
 - dh) for illegal entry at state borders or in cases of deportation or extradition.
3. No one may be deprived of liberty just because of not being able to fulfil a contractual obligation.

Article 28

1. Everyone who has been deprived of liberty has the right to be notified immediately, in a language that he understands, of the reasons for this measure, as well as of the charge made against him. The person who has been deprived of liberty 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.
2. The person who has been deprived of liberty, according to Article 27, paragraph 2, subparagraph c), must be sent within 48 hours before a judge, who shall decide upon his pre-trial detention or release not later than 48 hours from the moment he receives the documents for review.
3. A person in pre-trial detention has the right to appeal the judge's decision. He has the right to be tried within a reasonable period of time or to be released on bail pursuant to law.
4. In all other cases, the person who has extra-judicially been deprived of liberty may address a judge at any time, who shall decide within 48 hours regarding the legality of this action.
5. Every person who has been deprived of liberty pursuant to Article 27, has the right to humane treatment and respect for his dignity.

Article 29

1. No one may be charged or declared guilty of a criminal offence that was not considered as such by law at the time of its commission, with the exception of cases, that 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 provided for by law at the time of commission of the criminal act.
3. The favourable criminal law has retroactive effect.

Article 30

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

Article 31

During a criminal proceeding, everyone has the right:

- a) to be notified immediately and in detail of the charge made against him, 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 defence;
- c) to have free of charge assistance of a translator, when he does not speak or understand the Albanian language;
- ç) to be defended by himself or with the assistance of a defence lawyer chosen by him; to communicate freely and privately with him, as well as to be assured of free defence when he does not have sufficient means;
- d) to ask witnesses who are present and to seek the presentation of witnesses, experts and other persons who can clarify 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. Everyone has the right to be heard before being adjudicated.
2. A person who is hiding from justice may not take advantage of this right.

Article 34

No one may be sentenced more than once for the same criminal act, 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 the data connected with his person.
2. The collection, use and making public of data about a person is done 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 any 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 that are equivalent to it, may be done only in the cases and manner provided by law.

3. No one may be subjected to a personal search out of a criminal proceeding, with the exception of the cases of entry and exit of the territory of the state, or to avoid a 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. No one may be hindered to go freely out of the state.

Article 39

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

Article 40

Foreigners have the right of refuge in the Republic of Albania according to law.

Article 41

1. The right of private property is guaranteed.
2. Property may be gained by gift, inheritance, purchase, or any other classical means provided by the Civil Code.
3. The law may provide for expropriations or limitations in the exercise of a property right only for public interests.
4. The expropriations or limitations of a property right that are equivalent to expropriation are permitted only against fair compensation.
5. For disagreements connected with the extent of the compensation, a complaint may be filed in court.

Article 42

1. The freedom, property, and rights recognized in the Constitution and by law may not be infringed without due process.
2. Everyone, for the protection of his constitutional and legal rights, freedoms, and interests, or in the case of an accusation raised against him, has the right to a fair and public trial, within a reasonable time, by an independent and impartial court specified by law.

Article 43

Anyone shall be entitled to file **an appeal⁵** against a judicial decision before a higher court, **except if otherwise provided in the law.**

Article 44

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

CHAPTER III POLITICAL RIGHTS AND FREEDOMS

Article 45

1. Every citizen who has attained the age of 18, even on the date of the elections, has the right to elect and be elected.
2. Citizens who have been declared mentally incompetent by a final court decision are excluded from the right of election.
3. Exempted from the right to be elected shall be the citizens being sentenced to imprisonment upon a final decision for commission of a crime, under the rules set out in a law to be approved by three fifth of all the members of the Parliament. In exceptional and

⁵ Venice Commission Interim Opinion Paragraph 16.

justified cases, the law may provide for restrictions of the election right for citizens serving an imprisonment sentence or the right to be elected prior to a final decision being rendered, or the citizens having been deported for a crime or very serious and grave breach of public security.

4. The vote is personal, equal, free and secret.

Article 46

1. Everyone has the right to organize collectively for any lawful purpose.
2. The registration of organizations or associations in court is done according to the procedure provided by law.
3. Organizations or associations that pursue unconstitutional purposes are prohibited pursuant to law.

Article 47

1. Freedom and unarmed participation in peaceful gatherings is guaranteed.
2. Peaceful gatherings in public squares and places are held in conformity with the law.

Article 48

Everyone, by himself or together with others, may direct requests, complaints or comments to the public bodies, which are obliged to reply within the time limits and conditions set by law.

CHAPTER IV ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND FREEDOMS

Article 49

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

Article 50

Employees have the right to unite freely in labour unions for the defence of their work interests.

Article 51

1. The right of an employee to strike in connection with work relations is guaranteed.
2. Limitations on particular categories of employees may be established by law to ensure required services to the society.

Article 52

1. Everyone has the right to social insurance in old age or when he is unable to work, according to a system set by law.
2. Everyone, who remains jobless for reasons independent of his/her volition, and has no other means of support, has the right to assistance 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.
3. 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 use for work, especially under the minimum age for work, which could damage their health and morals or endanger their life or normal development.

4. In all actions relating to children, the child's best interests must be a primary consideration.⁶

Article 55

1. Citizens enjoy in an equal manner the right to health care from the state.
2. Everyone has the right to health insurance pursuant to the procedure provided by law.

Article 56

Everyone has the right to be informed about the status of the environment and its protection.

Article 57

1. Everyone has the right to education.
2. Mandatory school education is determined by law.
3. Public general high school education is open for all.
4. Professional high school education and higher education can be conditioned only on criteria of abilities.
5. Mandatory education and general high school education in public schools are free.
6. Pupils and students may also be educated in private schools of all levels, which are created and operated according to the law.
7. The autonomy and academic freedom of higher education institutions are guaranteed by law.

Article 58

1. Freedom of artistic creation and scientific research, the use and profits deriving from them are guaranteed for all.
2. Copyright is protected by law.

CHAPTER V SOCIAL OBJECTIVES

Article 59

1. The state, within its constitutional powers and the means at its disposal, aims to supplement private initiative and responsibility with:
 - a) employment under suitable conditions for all persons who are able to work;
 - b) fulfilment of the housing needs of its citizens;
 - c) the highest health, physical and mental standards possible;
 - ç) education and qualification according to ability of children and the young, as well as unemployed persons;
 - d) a healthy and ecologically adequate environment for the present and future generations;
 - dh) rational exploitation of forests, waters, pastures and other natural resources on the basis of the principle of sustainable development;
 - e) care and help for the aged, orphans and persons with disabilities;
 - ë) development of sports and recreation activities;
 - f) health rehabilitation, specialized education and integration in society of disabled people, as well as continual improvement of their living conditions;
 - g) protection of national cultural heritage and particular care for the Albanian language.
2. Fulfilment of social objectives may not be claimed directly in court. The law defines the conditions and extent to which the realization of these objectives can be claimed.

⁶ Obligation deriving from Convention on Children Rights of UN ratified by the Republic of Albania. Proposed by UNICEF and from civil society submissions.

CHAPTER VI PEOPLE'S ADVOCATE

Article 60

1. The People's Advocate defends the rights, freedoms and lawful interests of individuals from unlawful acts or omissions of public administration bodies.
2. The People's Advocate is independent in the exercise of his duties.
3. The People's Advocate has his own budget, which he administers by himself. He proposes the budget pursuant to law.

Article 61

1. The People's Advocate is elected by three-fifths of all members of the Assembly for a five-year period, with the right for re-election.
2. Any Albanian citizen with higher education, and with recognized knowledge and recognized activity in the field of human rights and law may be the People's Advocate.
3. The People's Advocate enjoys the immunity of a 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 grounded complaint of not less than one-third of the deputies.
2. In this case, the Assembly makes a decision with three-fifths of all its members.

Article 63

1. The People's Advocate presents an annual report before the Assembly.
2. The People's Advocate reports before the Assembly when it is requested from the Assembly, and he may request the Assembly to hear him on matters he deems 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 bodies and officials are obligated to present to the People's Advocate all documents and information requested by him.

PART THREE THE ASSEMBLY CHAPTER I ELECTION AND TERM

Article 64

1. Assembly is composed of 140 deputies, elected on proportional system with multi-names electoral zones.
2. The multi-name electoral zone corresponds to the administrative division of one of the levels of the administrative-territorial organization.
3. Criteria and rules on the implementation of the proportional electoral system, on the determination of electoral zones and on the number of seats to be obtained in each electoral zone shall be defined by the law on elections.
4. Upon accession of the Republic of Albania to the European Union, Albanian citizens shall elect their representatives to the European Assembly by direct voting in a manner regulated by law.⁷

⁷ Venice Commission Interim Opinion Paragraph 17.

Article 65

1. The Assembly is elected every four years. The mandate of the Assembly starts with its first meeting after the elections and ends on the same date, of the same month of the fourth year from the date of the first meeting. In any case, the Assembly remains on duty until the first meeting of the newly elected Assembly.
2. Elections for the new Assembly are held in the nearest electoral period that precedes the date of the ending of the mandate of the Assembly. Electoral periods and the rules for holding the elections for the Assembly are determined by the law on elections.
3. If the Assembly is dissolved prior to the ending of its full mandate, elections are held no later than 45 days after its dissolution.
4. The Assembly may not approve laws during the period 60 days prior to the termination of its mandate until the first meeting of the new Assembly, except in cases when extraordinary measures have been imposed.”

Article 66

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

Article 67

1. The President of the Republic convenes the newly elected Assembly not earlier than the date of the termination of the mandate of the preceding Assembly, but no later than 10 days after such mandate has expired. If the preceding Assembly has been dissolved before the ending of its mandate, the President of the Republic convenes the new Assembly not later than 10 days since the announcement of the election results.
2. If the President of the Republic does not exercise such a competence, the Assembly convenes itself on the tenth day of the period of time provided in point 1 of this Article.

CHAPTER II THE DEPUTIES

Article 68

1. Candidates for deputies shall be presented at the level of the electoral zone by political parties, electoral coalitions of political parties as well as by voters. A candidate may be presented by only one of the proposing subjects according to this section. The ranking of the candidates in the multi-name lists may not be changed after the submission of the list to the respective electoral commission. The rules for the registration of the candidates for deputies are determined by the law on elections.
2. The law on elections shall also determine other necessary criteria and rules on the organization and conduct of elections, including those on registration of voters, conduct of electoral campaign, administration and validity of elections and declaration of their results.

Article 69

1. Without resigning from duty, the following may not run as candidates nor be elected deputies:
 - a) judges, prosecutors;
 - b) military servicemen on active duty;
 - c) police and National Security employees;
 - ç) diplomatic representatives;
 - d)-mayors and heads of communes as well as prefects in the places where they carry out their duties;
 - dh) chairperson and members of the electoral commissions;
 - e) the President of the Republic and the high officials of the State Administration AS as provided by law.
2. A mandate gained in violation of paragraph 1 of this article is invalid.

Article 70

1. Deputies represent the people and are not bound by any obligatory mandate.

2. Deputies may not simultaneously exercise any other public duty with the exception of that of a member of the Council of Ministers. Other cases of incompatibility are specified by law.
3. Deputies may not carry out any profit-making activity that stems from the property of the state or of local government, nor may they profit from this property.
4. For every violation of paragraph 3 of this article, on the motion of the chairman of the Assembly or one-tenth of its members, the Assembly decides on sending the issue 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 electoral commission.
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 ineluctability provided for 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 without reason.
 - dh) when he is convicted by a final court decision for commitment of a crime.

Article 72

Before beginning the exercise of the mandate, the deputies take the oath in the Assembly.

Article 73

1. The deputy is not held responsible for opinions expressed in the Assembly and votes cast by him in the exercise of the function. This provision is not applicable in the case of defamation.
2. A deputy cannot be arrested or deprive him of liberty in any form nor may a personal search or a search of the residence be exercised against him without the authorisation of the Assembly.
3. A deputy can be arrested or detained without authorisation when he is captured during or immediately after the commission of a crime. In those cases, the General Prosecutor immediately notifies the Assembly, which, when it finds that there is no room for proceedings, orders the lifting of the measure.
4. For the cases provided in paragraphs 2 and 3 of this article, the Assembly may hold discussions in closed sessions for reasons of data protection. The decision is taken by open voting.”

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 requested by the President of the Republic, the Prime Minister or by one-fifth of all the deputies.
3. Extraordinary sessions are called by the Speaker of the Assembly on the basis of a determined 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, directs the work, assures respect for the rights of the Assembly and its members, as well as represents the Assembly in relations with others.

2. The highest civil employee of the Assembly is the General Secretary.
3. Other services necessary for the functioning of the Assembly are carried out by other employees, as specified in the internal regulation.

Article 77

1. The Assembly elects standing committees from its ranks and may also establish special committees.
2. The Assembly has the right and, upon the request of one-fourth of its members is obliged, to designate investigation committees to review a particular issue. Its conclusions are not binding on the courts, but they may be made known to the office of the prosecutor, which evaluates them according to legal procedures.
3. Investigation committees operate according to the procedures set by law.

Article 78

1. The Assembly decides with a majority of votes, in the presence of more than half of its members, except for the cases where the Constitution provides for a qualified majority.
2. Meetings of the deputies, which are convened without being called in accordance 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 all its members have voted in favour of it.

Article 80

1. The Prime Minister and any other member of the Council of Ministers is obligated to answer to interpellations and questions of the deputies within three weeks.
2. A member of the Council of Ministers has the right to take part in meetings of the Assembly or of its committees; he is given the floor whenever he requests it.
3. The heads of state institutions, on request of the parliamentary committees, give explanations and inform on specific issues of their activity to the extent that law permits.

Article 80/a

The Council of Ministers shall report to the Assembly on the acts being prepared in the context of participating of Albania at the institutions of European Union. The Assembly may issue a resolution which shall serve as basis for the actions of the Council of Minister in the European Union institutions.

CHAPTER IV THE LEGISLATIVE PROCESS

Article 81

1. The Council of Ministers, every deputy, and 20,000 electors each have the right to propose laws.
2. The following are approved by three-fifths of all members of the Assembly:
 - a) the laws for the organization and operation of the institutions provided for in the Constitution;
 - b) the law on citizenship;
 - c) the law on general and local elections;
 - ç) the law on referendum;
 - d) the codes;
 - dh) the law for the state of emergency;
 - e) the law on the status of public functionaries;
 - ë) the law on amnesty;
 - f) the law on administrative divisions of the Republic

Article 82

1. The proposal of laws, when this is the case, must always be accompanied by a report that justifies the financial expenses for its implementation.
2. No non-governmental draft law that brings about an increase in the expenses of the state budget or diminishes income can be approved without taking the opinion of the Council of Ministers, which must 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 review according to the normal procedure.

Article 83

1. A draft law is voted on three times: in principle, article by article, and in its entirety.
2. The Assembly may, at the request of the Council of Ministers or one-fifth of all the deputies, review and approve a draft law with an expedited procedure, but not sooner than one week from the beginning of the procedure of review.
3. The expedited procedure is not permitted for the review of the draft laws provided for in Article 81, paragraph 2, with the exception of subparagraph a.

Article 84

1. President of the Republic promulgates the approved law within 20 days from its presentation.
2. The law shall be considered as promulgated, if the President does not assume the entitlements provided for in paragraph 1 of this Article and in paragraph 1 of Article 85.
3. The law shall enter into effect not earlier than 15 days since its publication in the Official Journal.
4. In the event of the extraordinary measures, as well as in case of need and emergency, the law shall enter into effect immediately, after being announced publicly. The law shall be published in the upcoming edition of the Official Journal.

Article 85

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

PART FOUR THE PRESIDENT OF THE REPUBLIC

Article 86

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

Article 87

1. The candidate for President is proposed to the Assembly by a group of not less than 20 MPs. One MP is not allowed to propose more than one candidate at the same time.
2. The President of the Republic is elected by secret vote and without debate by the Assembly. The Assembly conducts up to five voting rounds for the election of the President. The first voting takes place not later than seven days from the beginning of the procedure for the election of the President. Each of the other voting takes place not later than seven days from the unsuccessful completion of the preceding voting. A voting is deemed as completed even when no candidates are running in the competition. New candidates may run in the second, third and fourth voting, in accordance with the conditions of point 1 of this article.
3. The President is elected in the first, second or third voting when one candidate receives not less than three fifths of the votes of all the members of the Assembly. In the fourth and fifth voting, the candidate that receives more than half of the votes of all the members of the Assembly is elected President.
4. The fifth voting takes place when none of the candidates receive the required majority of votes in the fourth voting. The fifth voting takes place only between the two candidates who

have received the highest number of votes in the fourth voting. If there are more than two candidates with the same number of votes, the candidate who will run in the voting shall be determined by lot.

If, after the fourth voting, there are no candidates left to compete, new candidates may run in this voting in accordance with the conditions of point 1 of this article. If more than two candidates are proposed to run, the voting takes place between the two candidates that have ensured the highest number of the proposing MPs.

5. If, even after the fifth voting none of the candidates has received the required majority of votes, or if after the unsuccessful completion of the fourth voting no new candidates are proposed, the Assembly is dissolved. The new elections take place within 45 days from its dissolution.

6. The subsequent Assembly elects the President of the Republic by a majority of all its members."

Article 88

1. The President of the Republic is in every case elected for 5 years, with the right of re-election only once.

2. The mandate expires on the same date of the same month of the fifth year from the date the President of the Republic takes his oath. The mandate of the President is extended only in case of war, and for as long as the war continues.

2/1. The procedure for the election of the President begins not later than 60 days before the termination of the preceding presidential mandate. When the presidential mandate ends during the six months preceding the end of the mandate of the existing Assembly, the procedure for the election of the President starts no later than 60 days prior to the ending of the mandate of the Assembly.

3. The President begins his duties 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: "So help me God!"

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

Article 89

The President of the Republic cannot hold any other public post, cannot be a member of a party or carry out other private activity.

Article 90

1. The President of the Republic is not held responsible for acts carried out in the exercise of his duty.

2. The President of the Republic may be discharged for serious violations of the Constitution and for the commission of a serious crime. In these cases, a proposal to discharge the President may be made by not less than one-fourth of the members of the Assembly and must be supported by not less than two-thirds of all its members.

3. The decision of the Assembly is sent to the Constitutional Court, which, when it proves the culpability of the President of the Republic, declares his discharge from duty.

Article 91

1. When the President of the Republic is temporarily unable to exercise his functions or his post remains vacant, the Chairman of the Assembly takes his post and exercises his powers.

2. In case the President cannot exercise his duty for more than 60 days, the Assembly by two-thirds of all its members decides on sending the issue to the Constitutional Court, which conclusively proves the fact of his incapacity. When the incapacity is proved, the post of the President remains vacant and the election of the new President begins within 10 days from the date the incapacity is proved.

Article 92

The President also exercises these powers:

- a) address messages to the Assembly;
- b) exercise the right of pardon according to the law;
- c) grant Albanian citizenship and permits it to be given up according to the law;
- ç) gives decorations and titles of honour according to the law;
- d) accord the highest military ranks according to the law;
- dh) appoint and release plenipotentiary representatives of the Republic of Albania to other states and international organizations on the proposal of the Prime Minister;
- e) accept letters of credentials and the withdrawal of diplomatic representatives of other states and international organizations accredited to the Republic of Albania;
- ë) sign international agreements according to the law;
- f), appoint the director of the State Intelligence Service upon proposal of the Prime Minister;
- g) nominate the Chairman of the Academy of Sciences and the rectors of universities pursuant to law;
- gj) set the date of the elections for the Assembly, local government bodies and the conduct of referendums;
- h) request opinions and information in writing from the directors of State institutions for issues that have to do with their duties.

Article 93

The President of the Republic, in the exercise of his powers, issues decrees.

Article 94

The President of the Republic cannot exercise other powers besides those recognized expressly in the Constitution and granted by laws issued in compliance with it.

PART FIVE THE COUNCIL OF MINISTERS

Article 95

1. The Council of Ministers consists of the Prime Minister, deputy prime minister, and ministers.
2. The Council of Ministers exercises every state function that is not given to other bodies of State power or local government.

Article 96

1. The President of the Republic, at the beginning of the legislature, as well as when the post of the Prime Minister remains vacant, appoints the Prime Minister on the proposal of the party or coalition of parties that have the majority of seats in the Assembly.
2. When the appointed Prime Minister is not approved by the Assembly, the President appoints a new Prime Minister within 10 days.
3. When even the newly appointed Prime Minister is not approved by the Assembly, the Assembly elects another Prime Minister within 10 days. In this case, the President appoints the new Prime Minister.
4. If the Assembly fails to elect a new Prime Minister, the President of the Republic dissolves the Assembly.

Article 97

The Prime Minister appointed according to Article 96, Article 104 or Article 105 presents to the Assembly for approval, within 10 days, the policy program of the Council of Ministers together with its composition.

Article 98

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 reviewed by the Assembly within 10 days.

Article 99

Before the Prime Minister, deputy prime minister, and ministers take the office, they swear before the President of the Republic.

Article 100

1. The Council of Ministers determines the principal directions of the general state policy.
2. The Council of Ministers takes decisions upon the proposal of the Prime Minister or the respective minister.
3. Meetings of the Council of Ministers are closed.
4. Acts of the Council of Ministers are valid when signed by the Prime Minister and the proposing minister.
5. The Council of Ministers issues decisions and instructions.

Article 101

The Council of Ministers, in cases of necessity and emergency, may issue, under its responsibility, normative acts having the force of law for taking temporary measures. These normative acts are immediately submitted to the Assembly, which is convened within 5 days if it is not in session. These acts lose force retroactively if they are not approved by the Assembly within 45 days.

Article 102

1. The Prime Minister:
 - a) represents the Council of Ministers and chairs its meetings;
 - b) outlines and presents the principal directions of general state policy and is responsible for them;
 - c) assures the implementation of legislation and policies approved by the Council of Ministers;
 - ç) coordinates and supervises the work of the members of the Council of Minister and other institutions of the central state administration;
 - d) performs other duties prescribed in the Constitution and the laws.
2. The Prime Minister resolves disagreements between ministers.
3. The Prime Minister, in the exercise of his powers, issues orders.
4. The minister, within the principal directions of general state policy, directs, under his responsibility, actions for which he has powers. The minister, in the exercise of his powers, issues orders and instructions.

Article 103

1. Anyone who has the capacity 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 bodies of profit-making companies.
3. Members of the Council of Ministers enjoy the immunity of a deputy.

Article 104

1. The Prime Minister is entitled to present to the Assembly a motion of confidence for the Council of Ministers. If the motion of confidence is voted by less than half of all the members of the Assembly, the Prime Minister, within 48 hours from the voting of the motion, requests the President of the Republic to dissolve the Assembly.
2. The President dissolves the Assembly within 10 days from the receipt of the request. A request for a motion of confidence may not be presented while a motion of no confidence is being examined according to article 105.
3. The voting of the motion may not take place unless three days have passed since its submission.

Article 105

1. One-fifths of the Members of Assembly is entitled to present for voting to the Assembly a motion of no confidence towards the incumbent Prime Minister, by proposing a new Prime Minister.

2. The Assembly may vote a motion of no confidence towards the Prime Minister only by electing a new Prime Minister with the votes of more than half of all the members of the Assembly.
3. The President of the Republic decrees the dismissal of the incumbent Prime Minister and the appointment of the elected Prime Minister not later than 10 days from the voting of the motion at the Assembly.

Article 106

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

Article 107

1. Public employees apply the law and are in the service of the people.
2. Employees in the public administration are selected through competition, except when the law provides otherwise.
3. Guarantees of tenure and legal treatment of public employees are regulated by law.

PART SIX LOCAL GOVERNMENT

Article 108

1. The units of local government are communes or municipalities and regions. Other units of local government are regulated by law.
2. The territorial-administrative division of the units of local government are established by law on the basis of mutual economic needs and interests and historical tradition. Their borders may not be changed without first taking the opinion of the inhabitants.
3. Communes and municipalities are the basic units of local government. They perform all the duties of self-government, with the exception of those that the law gives to other units of local government.
4. Self-government in the local units is exercised through their representative organs and local referenda. The principles and procedures for the organization of local referenda are provided by law in accordance with article 151, paragraph 2.

Article 109

1. The representative authorities of the basic local governance shall be the councils, which are elected in every four years, through general, direct and secret voting.
2. The executive organ of a municipality or commune is the Chairman, who is elected directly by the people in the manner provided for in paragraph 1 of this article.
3. Only citizens 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 commune.

4. Upon accession into the European Union, the right to vote and the right to be elected shall be mutually recognized to the European Union citizens who live inside the borders of Albania, under the legislation of the European Union and the rules set out in the Electoral Code.⁸

5. The organs of local government units 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 powers.

Article 110

1. A region consists of several basic units of local government with traditional, economic and social ties and joint interests.
2. The region is the unit in which regional policies are constructed and implemented and where they are harmonized with state policy.

⁸ Venice Commission Interim Opinion Paragraph 17.

3. The representative organ of the region is the Regional Council. Municipalities and communes delegate members to the Regional Council in proportion to their population, but always at least one member. The chairperson of communes and municipalities are always members of the Regional Council. Other members are elected through proportional lists from among the municipal or communal councillors by their respective councils.

4. The Regional Council has the right to issue orders and decisions with general obligatory force for the region.

Article 111

1. The units of local government are legal entities.

2. The units of local government have an independent budget, which is created in the manner provided by law.

Article 112

1. Powers of state administration by law may be delegated to units of local government. Expenses that are incurred in the exercise of the delegation are covered by the state.

2. Bodies of local government are assigned duties only in compliance with law or according to agreements achieved by them. The expenses that are connected with the duties assigned by law to the bodies of local government are covered by the budget of the state.

Article 113

1. The councils of the communes, municipalities and regions:

a) regulate and administer in an independent manner local issues 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;

c) have the right to collect and 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 compliance with law;

dh) create symbols of local government as well as local titles of honour;

e) undertake initiatives for local issues before the bodies defined by law.

2. The bodies of local government issue directives, decisions and orders.

3. The rights of self-government of the units of local government are protected in court.

Article 114

The Council of Ministers appoints a prefect in every region as its representative. The powers of the prefect are defined by law.

Article 115

1. A directly elected body of a local government unit may be dissolved or discharged by the Council of Ministers for serious violations of the Constitution or the laws.

2. The dissolved or discharged body has the right to complain, within 15 days, to the Constitutional Court, and in this case, the decision of the Council of Ministers is suspended.

3. If the right to complain is not exercised within 15 days, or when the Constitutional Court upholds the decision of the Council of Ministers, the President of the Republic sets a date for holding of elections of the respective unit of local government.

PART SEVEN NORMATIVE ACTS AND INTERNATIONAL AGREEMENTS

CHAPTER I NORMATIVE ACTS

Article 116

1. Normative acts that are effective in the entire 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 bodies of local government are effective only within the territorial jurisdiction exercised by these bodies.
 3. Normative acts of ministers and steering bodies of other central institutions of the state are effective in the entire territory of the Republic of Albania within the sphere of their jurisdiction.

Article 117

1. The laws, normative acts of the Council of Ministers, ministers, other central state institutions, acquire juridical force only after they are 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 provided for laws. The promulgation and publication of other international agreements is done according to law.

Article 118

1. Sub-legal acts are issued on the basis of and for implementation of the laws by the bodies provided for in the Constitution.
2. A law must authorize the issuance of sub-legal acts, designate the competent body, the issues that are to be regulated, as well as the principles on the basis of which these sub-legal acts are issued.
3. The body authorized by law to issue sub-legal acts as specified in paragraph 2 of this article may not delegate its power to another body.

Article 119

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 subordinated to these bodies.
2. These acts are issued on the basis of law and may not serve as a basis for taking decisions connected with individuals 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 120

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

CHAPTER II INTERNATIONAL AGREEMENTS

Article 121

1. The ratification and denunciation of international agreements by the Republic of Albania is done by law if they have to do with:
 - a) territory, peace, alliances, 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 Assembly may, with a majority of all its members, ratify other international agreements that are not provided for in paragraph 1 of this article.
3. The Prime Minister notifies the Assembly whenever the Council of Ministers signs an international agreement that is not ratified by law.
4. The principles and procedures for ratification and denunciation of international agreements are provided by law.

Article 122

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 directly, except for cases when it is not self-executing and its implementation requires issuance of a law. The amendment, supplementation and repeal of laws approved by the majority of all members of the Assembly, for the effect of 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. The European Union law which is directly applicable shall prevail over the domestic law of the Republic of Albania.
4. The norms issued by other international organizations have superiority, in case of conflict, on the laws of the country, when the agreement ratified by the Republic of Albania for its participation in this organization, expressly provide for the direct applicability of the norms issued by this organisation.

Article 123

1. The Republic of Albania, on the basis of international agreements, delegates to international organizations state powers for specific issues.
2. The law that ratifies an international agreement as provided for in paragraph 1 of this article is approved by a majority of all members of the Assembly.
3. The Assembly may decide that the ratification of such an agreement can be done through a referendum.

PART EIGHT CONSTITUTIONAL COURT

Article 124

1. The Constitutional Court is the highest authority which settles Constitutional disputes and makes the final interpretation of the Constitution.
2. The Constitutional Court is subject only to the Constitution.
3. The Constitutional Court shall have a separate budget, which it administers independently.⁹

Article 125¹⁰

1. The Constitutional Court shall consist of 9 (nine) members, from which three shall be appointed by the President of the Republic, three members shall be appointed by the Assembly of Albania and three members shall be appointed by the joint meeting of the High Court and the High Administrative Court. The members being appointed by the President of the Republic and the Assembly shall be selected from the list of candidates drafted by the Justice Appointments Council. The appointment and selection procedure of the members of the Constitutional Court guarantees the standards of an open call, honest competition, transparency and selection of the most qualified candidates.
2. The judges of the Constitutional Court shall be appointed for a 9 year mandate without the right to re-appointment and shall be selected out of the ranks of the lawyers of at least 15 years' experience as judges, prosecutors, advocates, law professors or lectors, senior employees in the public administration, with a renowned activity in the constitutional, human rights and other areas of law.
3. The candidates shall not have been sentenced before in connection with the commission of a criminal offence. During the past 10 years they shall not have held a political post in the public administration or a leadership¹¹ position in a political party before becoming

⁹ Venice Commission Interim Opinion Paragraph 22.

¹⁰ Other options were discussed

¹¹ 'Leadership position' in Albanian language means Director of Department or executives of a party. This excludes mere workers or members of the party. Venice Commission Interim Opinion Paragraph 24

candidate¹². The detailed criteria for the appointment of the members of the Constitutional Court shall be provided for by law.

4. One-third of the composition of the Constitutional Court shall be renewed every 3 years under the procedure set out by law.

5. The Chairperson of the Constitutional Court shall be elected by secret voting, by the majority of the members of the Constitutional Court, for a period of 3 years, without the right to re-election. The election procedure of the Constitutional Court Chairperson shall be provided for by law.

6. The Constitutional Court judge shall continue to stay in office until the appointment of his successor, except under cases under Article 127, paragraph 1, subparagraph ç) and d).

Article 126

The Constitutional Court judge shall enjoy immunity in connection with the opinions expressed and the decisions made in the course of assuming his functions, except in cases of a deliberate adoption of an unlawful decision as a result of criminal conduct, personal interests or malice¹³.

Article 127

1. The mandate of Constitutional Court judges shall end, upon:

- a) reaching the age of 70 years;
- b) the expiry of the 9 year mandate;
- c) his/her resignation;
- ç) dismissed in accordance with the provisions of article 128;
- d) as a result of the procedures provided in article 179/b;
- dh) establishing the conditions of inelectability and incompatibility;
- e) establishing incapacity to exercise the duties;

2. The end of the mandate of the Constitutional Court judge shall be declared upon the decision of the Constitutional Court.

3. Where the position of a judge remains vacant, the body having appointed the preceding judge under Article 125 paragraph 1 shall appoint a new judge, the latter staying in office until the expiry of the mandate of the outgoing judge.

4. The Chairperson of the Constitutional Court, not later than 3 months prior to the termination of the mandate of the Constitutional Court judge, according to paragraph 1, subparagraph a) and b), and immediately in the cases of termination of the mandate prior to the legal term, notifies the appointing body for this vacancy. The procedure for the appointment of the new judge ends not later than 60 days from the decision of the Constitutional Court declaring the end of the mandate.

Article 128¹⁴

1. The Constitutional Court judge shall be disciplinarily liable according to a procedure set out by the law. The disciplinary procedure against a judge is adjudicated by the Constitutional Court, which decides for dismissal when he/she:

- a) Commits serious professional and ethical misconduct which discredit the figure and the position of the judge during the exercise of his/her mandate;
- b) Is convicted with final court decision for commission of a crime;

2. The judge of the Constitutional Court is suspended from its duty upon decision of the Constitutional Court when:

- a) against him/her the personal security measure of pre-detention or home arrest is given for commission of a criminal offence;
- b) he/she is accused for a serious crime committed with intention.

Article 128/a¹⁵

¹³ Venice Commission Interim Opinion Paragraph 49.

¹⁴ Venice Commission Interim Opinion Paragraph 28.

Article 129

The Constitutional Court judge shall assume office after swearing in before the President of the Republic.

Article 130

Being a Constitutional Court judge shall not be compatible with duty in other state organs, and any other compensated professional activity, except for teaching and academic activities which furthers the development of legal doctrine. The term of the allowed professional activity as well as the amount of remuneration, against which this activity is exercised, shall be provided in the law¹⁶. The exercise of the function of the judge shall not be compatible with being member of a political party or taking part in any public event organized by a political party, as well as with other activities which are incompatible with the duties of a judge at the Constitutional Court.

Article 131

1. The Constitutional Court decides on:

- a) compatibility of the law with the Constitution or with international agreements as provided for in Article 122;
- b) compatibility of international agreements with the Constitution, prior to their ratification;
- c) compatibility of normative acts of the central and local bodies with the Constitution and international agreements;
- ç) conflicts of competencies between powers, as well as between central government and local government;
- d) constitutionality of the parties and other political organizations, as well as their activity, according to Article 9 of this Constitution;
- dh) dismissal from duty of the President of the Republic and verification of his inability to exercise his functions;
- e) issues related to the electability and incompatibility in exercising the functions of the President of the Republic, members of the parliament, officials of the other organs mentioned in the Constitution, as well as to the verification of their election.
- ë) constitutionality of the referendum and verification of its results;
- f) final examination of the complaints of individuals after all **effective**¹⁷ legal means for the protection of those rights have been exhausted **against judicial acts and the acts of the public power, impairing the fundamental rights and freedoms guaranteed by the Constitution, unless provided elsewhere by the constitution.**
- g)¹⁸

2. The Constitutional Court cannot declare unconstitutional a law approved by Assembly to the effect of revising the Constitution except in the case when the procedure for the approval of this law was infringed¹⁹.

Article 132²⁰

1. The decisions of the Constitutional Court have **general force, shall be final and binding for enforcement.**

2. The decisions of the Constitutional Court shall, enter in force on the day of their publication in the Official Journal. The Constitutional Court may decide that **its decision, which has examined the act, gives effect on another date. In this case, the Constitutional Court may also order the suspension of the application of the repealed act toward the**

¹⁵ Removed provision: In the case of the member of the Constitutional Court resigning, he shall submit his resignation to the Chairman of the Constitutional Court, the latter immediately informing the appointment body to the effect of having the vacancy filled in under Article 125'. It will be provided in the law;

¹⁶ Venice Commission Interim Opinion Paragraph 29.

¹⁷ Venice Commission Interim Opinion Paragraph 31.

¹⁸ Venice Commission Interim Opinion Paragraph 38. See Article 135(2) (reformulated). Removed: 'examination of jurisdictional, as well as material and functional power disputes between the High Court and the High Administrative Court, as well as between the Constitutional Court itself and the High Administrative Court'

¹⁹ Venice Commission Interim Opinion Paragraphs 19-21 and 137. Alternative option were discussed.

²⁰ Venice Commission Interim Opinion Paragraphs 32-33;

complainant with regard to the litigant case, until the decision gives its effects.

3. The minority's opinion shall be published along with the final decision.

Article 133

1. The admission of complaints for adjudication shall be decided by a number of judges as determined by law.

2. Final decisions of the Constitutional Court shall be decided with the majority of all members.²¹

Article 134

1. Recourse to the Constitutional Court shall be only upon the request of:

a) President of the Republic;

b) Prime Minister;

c) Not less than one-fifth of the members of Assembly;

ç) Ombudsman;

d) Head of High State Audit;

dh) Any court, in the event of Article 145, point 2, of this Constitution;

e) Any commissioner established by law for the protection of the fundamental rights and freedoms guaranteed by the Constitution;

ë) High Judicial Council and High Prosecutorial Council;

f) Local governance units;

g) Religious communities forums;

gj) Political parties;

h) organizations;

i) Individuals.

2. The entities provided for in sub-paragraphs d, dh, e, ë, f, g, gj, h, and i of paragraph 1 of this Article may file a request only regarding the issues connected to their interests.²²

PART NINE THE COURTS

Article 135

1. The judicial power shall be assumed by the High Court, High Administrative Court²³, as well as by the appeal courts, first instance courts, which shall be established by law.

2. The Assembly may establish by law specialized courts; however, under no circumstances shall it establish extraordinary courts.

3. By law, a specialized first instance court and court of appeal shall be established competent to adjudicate corruption and organized crime, and criminal charges by high-level officials²⁴. Judges and judicial personnel of these courts as well as of their close family members must successfully pass a review of their assets and their background, as well as periodic reviews of their financial accounts and telecommunications in accordance with the law.

Article 136²⁵

1. The members of the High Court and High Administrative Court shall be appointed by the President of the Republic upon proposal of the High Judicial Council, with a 9 year mandate, without the right to re-appointment. The President of the Republic within 7 days-following the proposal of the High Judicial Council shall appoint the member of the High Court and High Administrative Court.

2. The President of the Republic has the right to return a proposal only once in a reasoned decree²⁶. The decree of the President of the Republic to return a proposal to the High

²¹ Venice Commission Interim Opinion Paragraphs 34.

²² Venice Commission Interim Opinion Paragraphs 35, comments from roundtables.

²³ Alternative option was discussed

²⁴ Venice Commission Interim Opinion Paragraph 42

²⁵ Alternative option was discussed

²⁶ Venice Commission Interim Opinion Paragraph 45.

Judicial Council loses its effect when the majority of the members of High Judicial Council vote against the decree of the President of the Republic. In this case, as well in case the President does not express himself, the proposed judge by the High Judicial Council shall be deemed appointed and shall take office within 7 days of the date of the Council's decision.

3. The members of the High Court and High Administrative Court shall be selected from the ranks of the judges with at least 13 years' experience. One-fifth of members may be selected from among those renowned lawyers with not less than 15 years' experience having worked as advocates, law professors or lecturers, senior employees in the public administration or other practice of law. Members who are not from the ranks of judges must have a university degree and have an academic grade in law²⁷.

4. The lay member must not have been punished before for a criminal offence. During the past 10 years the lay members shall not have held a political post in the public administration and leadership position in a political party before their nomination.

5. The criteria and procedure of selection and appointment of members of the High Court and the High Administrative Court and the conditions for the continuation of the profession as judge shall be provided for by law.²⁸

6. The Chairperson of the High Court and that of the High Administrative Court shall be elected for a 3 year period without the right to re-election, by secret voting and by the absolute majority of the members of each court. The procedure of election shall be provided for by law.

Article 136/a²⁹

Judges are Albanian citizens appointed by the High Judicial Council after finishing the School of Magistrates and after a passing a preliminary evaluation of their assets and their background, as provided by the law. Candidates are selected based on a transparent and opened procedure, which ensures a merit based selection of the most qualified candidates having moral and ethical integrity. Additional criteria for the selection of the judged are regulated by law.³⁰

Article 137

Judges shall enjoy immunity in connection with the opinions expressed and decisions made in the course of assuming their functions, except in cases of a deliberate adoption of an unlawful decision as a result of criminal conduct, personal interests or malice.

Article 137/a³¹

1. Judges shall be disciplinarily liable according to procedures set out in the law. A judge cannot be removed from duty except as a result of:

- a) reaches the retirement age;
- b) resignation;
- c) it is asserted that his/her appointment was done not in compliance with the criteria provided in such regard;
- ç) dismissal after a finding of a serious professional and ethical misconduct after disciplinary proceedings;
- d) dismissal after a final court decision finding the judge guilty of a crime;
- dh) Discharge from duty on grounds of incapacity;
- e) the application of the procedures provided in article 179/b.

Article 138

The salary and other benefits of judges cannot be reduced³², except when:

- a) General economic, financial measures need to be undertaken in order to avoid difficult economic situation of the country or other national emergencies;
- b) the judge return to the previous position which he held prior to this position;

²⁷ Academic grade in law is equivalent to post graduate degree such as masters or doctorate.

²⁸ Venice Commission Interim Opinion Paragraph 46.

²⁹ Former paragraph 7 of article 136 is now article 136/a. It is divided for effects of the legislative technique, because article 136 concerns the members of the High Court and High Administrative Court"

³⁰ Venice Commission Interim Opinion Paragraphs 47-58, 51.

³¹ Venice Commission Interim Opinion Paragraph 50.

³² Venice Commission Interim Opinion Paragraph 50.

- c) as a result of a disciplinary measure;
 ç) is evaluated professionally 'insufficient' according to the law.

Article 139

1. The mandate as High Court or High Administrative Court judge shall end, upon:
- reaching the age of 70 years;
 - the expiry of the 9 year mandate;
 - his resignation;
 - dismissed as provided in Article 140;
 - as a result of the procedures provided in article 179/b;
 - establishing the conditions of ineffectuality and incompatibility;
 - establishing incapacity to exercise the duties;
2. The end of the mandate of the High Court or High Administrative Court member shall be declared respectively upon the decision of the High Court or High Administrative Court respectively. The procedure for the reinstatement of the judge as a judge in a different court upon expiry of mandate is regulated by law.³³
- 3.³⁴The Chairperson of the High Court or High Administrative Court, not later than 3 months prior to the termination of the mandate of the judge of the High Court or High Administrative Court, according to paragraph 1, sub paragraph a) and b), and immediately in the cases of termination of the mandate prior to the legal term, notifies the High Judicial Council for this vacancy. The procedure for the appointment of the new judge ends not later than 60 days from the decision declaring the end of the mandate.³⁵

Article 139/a

Removed.³⁶

Article 140

1. The judge of the High Court and High Administrative Court shall be disciplinarily liable according to a procedure set out by the law. The judge shall be dismissed upon decision of the High Judicial Council when he/she:
- Commits serious professional and ethical misconduct which discredit the figure and the position of the judge during the exercise of his/her mandate;
 - Is convicted with final court decision for commission of a crime;
2. The judge of the High Court and High Administrative Court is suspended from its duty upon decision of the High Judicial Council when:
- against him/her the personal security measure of pre-detention or home arrest is given for commission of a criminal offence;
 - he/she is accused for a serious crime committed with intention;

Article 141

1. The High Court and the High Administrative Court shall decide cases relating to the meaning and application of the law and ensures the unification or evolution in the judicial practice.
2. The High Court and the High Administrative Court may resolve jurisdictional disputes in a joint meeting of both courts, as regulated by law³⁷.

Article 142

- Judicial decisions must be reasoned.
- The High Court and High Administrative Court must publish its decisions as well as minority opinions.

³³ Venice Commission Interim Opinion Paragraph 52.

³⁴ Provision on: 'Where the position of a judge remains vacant, the body having appointed the preceding judge under Article 136/1 shall appoint a new judge, the latter staying in office until the expiry of the mandate of the outgoing judge', removed as it will be provided in the law

³⁵ Venice Commission Interim Opinion Paragraph 41.

³⁶ Removed. Will be in implementing law.

³⁷ Venice Commission Interim Opinion Paragraphs 38-40, and 43; Paragraph 2 of this article was removed from Art.135/2 and placed here

3. The state bodies are obliged to execute judicial decisions.

Article 143

Being a High Court and the High Administrative Court judge shall not be compatible with duty in other state organs, or any other compensated professional activity, except for teaching and academic activities which furthers the development of legal doctrine. The term of the allowed professional activity as well as the amount of remuneration, against which this activity is exercised, shall be provided in the law. The exercise of the function of the judge shall not be compatible with being member of a political party or taking part in any public event organized by a political party, as well as other activities which are incompatible with the duties of a judge.

Article 144

Removed and incorporated into 147

Article 145

1. Judges are independent and subject only to the Constitution and the laws.
2. When judges find that a law comes into conflict with the Constitution, they do not apply it. In this case, they suspend the proceedings and send the case to the Constitutional Court. Decisions of the Constitutional Court are binding for all courts.
3. Interference in the activity of the courts or the judges entails liability according to law.

Article 146

1. Courts shall render their decisions in the name of the Republic.
2. The judicial decisions shall, under all circumstances, be announced publicly.

Article 147³⁸

1. The High Judicial Council shall ensure the independence, accountability and appropriate functionality of the judicial power in the Republic of Albania.
2. The High Judicial Council shall be composed of 11 members, six of which are elected by the judges of all levels of the judicial power and five members are elected by the Assembly among lawyers who are non-judges.
3. The criteria and transparent and open procedure for the selection and ranking of the candidates coming from the judiciary is provided in the law. The lay members shall be selected among highly qualified lawyers, with no less than 15 years of professional experience, of high moral and professional integrity. Candidates must not have been punished before for a criminal offence. During the past 10 years the lay members shall not have held a political post in the public administration and leadership position in a political party before their nomination³⁹.
4. The lay-members shall be elected from the proposals from the proposing bodies by the Assembly with three-fifth of all its members. One shall be from advocates, one shall be from notaries, one shall be a law professor, one shall be from the lay professors of the School of Magistrates and one shall be from civil society. For each vacancy, the proposing bodies present to the Justice Appointment Council three candidates elected based on an open call and transparent process. The Justice Appointment Council ranks the candidates and forwards to the Assembly.
5. The Assembly shall vote separately for each group of candidates. When the Assembly fails to reach the three-fifths majority in the first voting, the proposing body shall make a new proposal within 15 days. The Justice Appointments Council shall provide an examination and ranking⁴⁰ of the candidates within 7 days of the submission of the new proposals. The Assembly shall vote on the new candidates within 7 days of the submission of the examination and ranking. If this majority is not reached even in the second voting, the

³⁸ Alternative option discussed

³⁹ Venice Commission Interim Opinion Paragraph 57, 61. Also includes points raised in roundtables and submissions.

⁴⁰ In Albanian the term 'ranking' means to give points and not simply list them in preferred order.

candidate ranked highest out of both rounds shall be deemed appointed.⁴¹

6. The Chairperson of the High Judicial Council is elected with the majority of all members in the first meeting of the Council from the ranks of the lay members. If a chairperson cannot be selected within the first meeting, the oldest in age judicial member shall select the chairperson by lot in the next meeting, which is opened. The mandate of the Chairperson shall end when his/her underlying mandate ends.⁴²

7. Members of the High Judicial Council shall practice their duty full-time for a period of five years without the right of immediate re-election. At the end of the term, the judge members return to their previous working positions. The lay members who before the appointment worked full time in the public sector shall return to the previous working positions or, if not possible, to positions equivalent to them.

Article 147/a

1. The High Judicial Council shall exercise the following powers:

a) Appoints, evaluates, promotes and transfers judges of all levels, except judges of the Constitutional Court;

b) decides on disciplinary measures on judges of all levels, except judges of the Constitutional Court;

c) Proposes to the President of the Republic candidates for members of the High Court and High Administrative Court, according to the procedure established by law.

ç) Approves the rules of judicial ethics and monitors their observation.

d) Directs and manages the administration of the courts;

dh) Proposes and administers the budget of the courts;

2. The High Judicial Council informs the public and the Assembly on the state of the judicial system and exercises other powers defined by law.

3. The Minister of Justice may participate in the meetings of the High Judicial Council when issues of strategic planning and budget of the judiciary are discussed⁴³.

Article 147/b

1. The mandate of the member of the High Judicial Council shall end upon:

a) Reaching the retirement age;

b) Expiry of the 5 year mandate;

c) His resignation;

ç) dismissal in accordance with the provisions of 147/c;

d) as a result of the procedures provided in article 179/b;

dh) establishing of incapacity to exercise the duties;

2. The expiry of the mandate of the member shall be declared upon a decision of the High Judicial Council.

3. Where the position of the member remains vacant, the body having appointed the preceding member, shall, under Article 147, appoint the new member, the latter staying in office until the expiry of the member of the outgoing member.

4. The Chairperson of the High Judicial Council, not later than 3 months prior to the termination of the mandate of the member, according to paragraph 1 subparagraph a) and b), as well as immediately in cases of termination of the mandate prior to the legal term, notifies the appointing body on the vacancy. The procedure for the appointment of the new member terminates not later than 60 days from the decision declaring the termination of the mandate.

Article 147/c

1. The member of the High Judicial Council shall be disciplinarily liable and shall be dismissed upon decision of the Justice Disciplinary Tribunal when he/she:

a) Commits serious professional and ethical misconduct;

b) Is convicted with final court decision for commission of a crime;

⁴¹ Venice Commission Interim Opinion Paragraph 58-59.

⁴² Venice Commission Interim Opinion Paragraph 63.

⁴³ Venice Commission Interim Opinion Paragraph 62

2. The procedure for examination of disciplinary misconduct is regulated by law.

Article 147/c

Being a member of the High Judicial Council shall not be compatible with duty in other state organs, or any other compensated professional activity, except for teaching and academic activities which furthers the development of legal doctrine. The term of the allowed professional activity as well as the amount of remuneration, against which this activity is exercised, shall be provided in the law. The exercise of this function shall not be compatible with being member of a political party or taking part in any public event organized by a political party, as well as with other activities which are incompatible with the duties of a member of the High Judicial Council.

Article 147/d⁴⁴

1. The High Justice Inspector shall be responsible for the verification of complaints against judges, and prosecutors of all levels, members of the High Judicial Council, High Prosecutorial Council and Prosecutor General, as well as for the investigation of the disciplinary misconduct and initiation of disciplinary procedure against them. The High Justice Inspector shall also be responsible for inspecting the courts and prosecution offices.

2. The High Justice Inspector is appointed upon three fifth majority of all members of the Assembly, for nine years, without the right to re-election, among the ranks of distinguished jurists with at least 15 years' professional experience, with moral and professional integrity. Candidates must not have been punished before for a criminal offence. During the past 10 years the lay members shall not have held a political post in the public administration and a leadership position in a political party before their nomination. The High Justice Inspector is selected from the list of candidates ranked by the Justice Appointment Council based on a transparent and open procedure of the most qualified and reputable candidates. If the Assembly does not reach the majority of three-fifths for any of the candidates, within 30 days of receiving the proposals, the highest ranking candidate is automatically appointed.

3. The High Justice Inspector shall have the status of the High Court judge. Upon the expiry of the mandate, the High Justice Inspector, if prior to his/her appointed in this position worked full time in public sector, shall return to his/her previous working position, or if not possible in another equivalent position⁴⁵.

4. The procedures for the decision-making by the High Justice Inspector are regulated by law. Against the decision of the High Justice Inspector on non-initiation or dismissal of the investigation, appeal can be filed at the High Judicial Council or High Prosecutorial Council, respectively. The revision of the appeals is decided by a number of members from these organs, in accordance with the law.

5. The High Justice Inspector shall not decide on non-initiation or dismissal of an investigation when it is requested by the Minister of Justice, unless obviously unfounded.

Article 147/dh

1. The mandate of the High Justice Inspector ends when:

- a) Reaching the pension age;
- b) Ends the mandate of 9 years;
- c) Resigns;
- ç) dismissal in accordance with article 147/e;
- d) as a result of the procedures provided in article 179/b;
- dh) establishing the incapacity to exercise the duties;

2. The end of the mandate of the High Justice Inspector is declared by decision of the joint meeting of the High Judicial Council and High Prosecutorial Council. The High Justice Inspector remains in duty until the appointment of the new Inspector.

3. The High Justice Inspector, not later than 3 months prior to the termination of the mandate, according to paragraph 1 subparagraph a) and b), as well as immediately in cases of termination of the mandate prior to the legal term, notifies the appointing body on the

⁴⁴ Alternative option was discussed; Venice Commission Interim Opinion Paragraphs 74-83

⁴⁵ Venice Commission Interim Opinion Paragraphs 80-82. This has also been in comments at roundtables and submissions.

vacancy. The procedure for the appointment of the new High Justice Inspector terminates not later than 60 days from the decision declaring the termination of the mandate.

Article 147/e

1. The High Justice Inspector shall be disciplinarily liable and shall be dismissed upon decision of the Justice Disciplinary Tribunal when:

- a) Commits serious professional and ethical misconduct;
- b) Is convicted with final court decision for commission of a crime;

2. The procedure for examination of disciplinary misconduct is regulated by law.

3. The inspection is done by the Minister of Justice, in accordance with rules provided in the law.⁴⁶

Article 147/ë⁴⁷

Being a High Justice Inspector shall not be compatible with duty in other state organs, and any other compensated professional activity, except for teaching and academic activities which furthers the development of legal doctrine. The term of the allowed professional activity as well as the amount of remuneration, against which this activity is exercised, shall be provided in the law. The exercise of the function of the High Justice Inspector shall not be compatible with being member of a political party or taking part in any public event organized by a political party, as well as with other activities which are incompatible with the duties of the High Justice Inspector.

Article 147/f⁴⁸

1. The Disciplinary Tribunal of Justice adjudicates disciplinary measures against members of the High Judicial Council, the High Prosecutorial Council and the Prosecutor General, and the High Justice Inspector⁴⁹.

2. The Disciplinary Tribunal of Justice consists of the Chairperson of the High Court, two judges from the High Court determined by law, the Chairperson of the High Administrative Court, two judges from the High Administrative Court determined by law, one prosecutor elected among the ranks of the prosecutors as determined by law.

3. The appeal of the decisions of the Disciplinary Tribunal of Justice as well as the appeals of the High Judicial Council and High Prosecutorial Council shall be adjudicated by the Constitutional Court.

PART TEN

PROSECUTOR'S OFFICE

Article 148

1. The Prosecutor's Office exercises criminal prosecution and represents accusation in court on behalf of the state. The Prosecutor's Office performs other duties as prescribed by law.

2. The Prosecutor's Office is an independent body, which shall ensure the coordination and control of its actions as well as respects the internal independence of prosecutors to investigate and prosecute.⁵⁰

3. By law a special prosecution office and independent investigation unit shall be established competent to investigate and prosecute corruption, organized crime and crimes by high-level officials, which is independent from the general prosecutor. These prosecutors, staff and employees as well as their close family members of this investigation body must successfully pass a review of their assets and their background, as well as periodic reviews of their financial accounts and telecommunications in accordance with the law. The Chief Prosecutor of this office shall be elected from the members of the office in accordance with the law.

4. Prosecutors are Albanian citizens appointed by the High Prosecutorial Council after

⁴⁶ Venice Commission Interim Opinion Paragraphs 81-82.

⁴⁷ New article

⁴⁸ Alternative options were discussed

⁴⁹ Venice Commission Interim Opinion Paragraph 45 and 128.

⁵⁰ Venice Commission Interim Opinion Paragraphs 84-85.

finishing the School of Magistrates and after a passing an evaluation of their assets and their background in accordance with the law. Candidates are selected based on a transparent and open procedure, which ensures a merit based selection of the most qualified and reputable candidates. Additional criteria for their appointment can be regulated by law.⁵¹

5. In exercising their competences, prosecutors are subject to the Constitution and the law.

6. Prosecutors have disciplinary liability in accordance with the law.

Article 148/a

1. The High Prosecutorial Council shall guarantee the independence, accountability, discipline, status and career of Prosecutors in the Republic of Albania.

2. The High Prosecutorial Council shall be composed of 11 members, six of which are prosecutors being elected by the prosecutors of all levels of the Prosecutors' office and five members elected by the Assembly by lawyers who are not prosecutors.

3. The criteria and transparent and open procedure for the selection and ranking of the candidates coming from the prosecutors is provided in the law. The lay members shall be selected among highly qualified lawyers, with no less than 15 years of professional experience, of high moral and professional integrity. Candidates must not have been punished before for a criminal offence. During the past 10 years the lay members shall not have held a political post in the public administration and a leadership position in a political party before their nomination.

4. The lay members shall be appointed from the proposal from the proposing bodies by the Assembly with three-fifth of all members. One shall be from advocates, one shall be from the notaries, one shall be a law professor, one shall be from the lay professors of the School of Magistrates and one shall be from civil society. The proposing bodies for lay members, for each vacancy, present to the Justice Appointment Council three candidates elected based on an open call and transparent process. The Justice Appointment Council ranks the candidates and forwards to the Assembly.

5. The Assembly shall vote separately for each group of candidates. When the Assembly fails to reach the three-fifths majority in the first voting, the proposing body shall make a new proposal within 15 days. The Justice Appointments Council shall provide an examination and ranking within 7 days of the submission of the new proposals. The Assembly shall vote on the new candidates within 7 days of the submission of the opinion. If this majority is not reached even in the second voting, the candidates ranked highest by the Appointments Council out of both rounds shall be deemed appointed.

6. The Chairperson of the High Prosecutorial Council is elected with the majority of all members at the first meeting of the Council from among the lay members. If a chairperson cannot be selected within the first meeting, the oldest prosecutor member shall select the chairperson by lot in the next meeting, which is opened. The mandate of the Chairperson shall end when his/her underlying mandate ends⁵².

7. Members of the High Prosecutorial Council exercise this duty full time for a period of 5 years without the right to consecutive re-election. At the end of the mandate the prosecutor members return to their previous work. The lay members who before the appointment worked full time in the public sector, return to their previous work or if that is not possible, in positions equivalent to them.

Article 148/b

1. The High Prosecutorial Council exercises these responsibilities:

- a) Appoints, evaluates, promotes and transfers prosecutors;
- b) Decides on disciplinary measures against prosecutors;
- c) Proposes to the Assembly candidates for Prosecutor General in accordance with the procedures prescribed by law;
- ç) Adopts rules of ethics for prosecutors and supervises their observance.

2. The High Prosecutorial Council,⁵³ prepares reports, informs the public and the Assembly on the state of the Prosecutor's Office and exercises other responsibilities as defined by law.

⁵¹ Venice Commission Interim Opinion Paragraph 86.

⁵² Venice Commission Interim Opinion Paragraph 63.

⁵³ Venice Commission Interim Opinion Paragraph 88.

Article 148/c⁵⁴

1. The mandate of the member of the High Prosecutorial Council shall end upon:
 - a) Reaching the pension age;
 - b) Expiry of the 5 year mandate;
 - c) His/her resignation;
 - ç) dismissal according to the provisions of article 148/ç;
 - d) as a result of the procedures provided in article 179/b;
 - dh) establishing the incapacity to exercise the duties;
2. The expiry of the mandate of the member shall be declared upon a decision of the High Prosecutorial Council.
3. Where the position of the member remains vacant, the body having appointed the preceding member, shall, under Article 148/a, appoint the new member, the latter staying in office until the expiry of the member of the outgoing member.
4. The Chairperson of the High Prosecutorial Council, not later than 3 months prior to the termination of the mandate of the member, according to paragraph 1 subparagraph a) and b) as well as immediately in cases of termination of the mandate prior to the legal term, notifies the appointing body on the vacancy. The procedure for the appointment of the new member terminates not later than 60 days from the decision declaring the end of the mandate.

Article 148/ç⁵⁵

1. The member of the High Prosecutorial Council shall be disciplinarily liable and shall be dismissed upon decision of the Disciplinary Tribunal of Justice when:
 - a) Commits serious professional and ethical misconduct;
 - b) Is convicted with final court decision for commission of a crime;
2. The procedure for examination of disciplinary misconduct is regulated by law.

Article 148/d⁵⁶

Being a member of the High Prosecutorial Council shall not be compatible with duty in other state organs, as well as any other compensated professional activity, except for teaching and academic activities which furthers the development of legal doctrine. The term of the allowed professional activity as well as the amount of remuneration, against which this activity is exercised, shall be provided in the law. The exercise of this function shall not be compatible with being member of a political party or taking part in any public event organized by a political party, as well as with other activities which are incompatible with the duties of the member of the High Prosecutorial Council.

Article 149

1. The Prosecutor General is appointed by three-fifths of the members of Assembly from three candidates proposed by the High Prosecutorial Council. The High Prosecutorial Council shall select based on a transparent and open procedure and ranks three candidates on the most qualified and reputable candidates. If Assembly cannot appoint the Prosecutor General within 30 days of receiving the proposals from the High Prosecutorial Council, the highest ranking candidate is automatically appointed. The procedure for selection and appointment of the Prosecutor General is determined by law⁵⁷.
2. The Prosecutor General shall serve for a seven-year⁵⁸, non-renewable mandate.
3. The Prosecutor General shall be selected among highly qualified lawyers, with no less than 15 years of professional experience as lawyer, of high moral and professional integrity, that have graduated from the School of Magistrates or academic degree in law. The Prosecutor General must not have been punished before for a criminal offence. He/she shall not to have held a political post and a post in a political party during the last 10 years before running for this position.

⁵⁴ New article

⁵⁵ New article

⁵⁶ New article

⁵⁷ Venice Commission Interim Opinion Paragraph 93. Comments from roundtables and submissions regarding anti- deadlock mechanism for the appointment of Prosecutor General.

⁵⁸ Comments from roundtables to change the term of the mandate, with a preference for seven years.

Article 149/a

The Prosecutor General exercises these powers:

- a) Represents accusation in the High Court and the Constitutional Court, unless represented by prosecutors of the specialized prosecution office under article 148 paragraph 3 of the Constitution;
- b) Issues only written general guidance to prosecutors of the Prosecutor's Office, with the exception of prosecutors of the specialized prosecution office under article 148 paragraph 3 of the Constitution;
- c) Manages the Prosecutor's Office administration, with the exception of the administration of the specialized prosecution office under article 148 paragraph 3 of the Constitution;
- ç) proposes and administers the budget of the Prosecutor's Office with the exception of the budget for the specialized prosecution office under article 148 paragraph 3 of the Constitution;
- d)-reports to the Assembly on the situation of criminality;⁵⁹
- dh) exercises other powers defined by law.

Article 149/b

1. The mandate of the Prosecutor General ends when:

- a) Reaches the age of 70;
 - b) Expiry of the 7 year mandate;
 - c) Resigns;
 - ç) dismissal according to a procedure provided in article 149/c;
 - d) as a result of the procedures provided in article 179/b;
 - dh) establishing the incapacity to exercise the duties;
2. The termination of the mandate of the Prosecutor General is declared by decision of the High Prosecutorial Council.
3. After the end of a 7-year mandate and upon his or her request, the Prosecutor General shall be appointed in the position he/she held before the appointment or as judge in the Court of Appeal.

Article 149/c

1. The Prosecutor General shall be disciplinarily liable and shall be dismissed upon decision of the Disciplinary Tribunal of Justice when he/she:
 - a) Commits serious professional and ethical misconduct;
 - b) Is convicted with final court decision for commission of a crime;
2. The procedure for examination of disciplinary misconduct is regulated by law.

PART TEN/1**Article 149/ç⁶⁰**

1. The Justice Appointments Council is responsible for verifying the fulfillment of legal requirements and professional and moral criteria of the candidates for the lay members of the High Judicial Council, for the lay members of the High Prosecutorial Council, for the High Justice Inspector, as well as for the members of the Constitutional Court appointed by the President of the Republic and the Assembly. The Justice Appointments Council examines and ranks the candidates.
2. The Justice Appointments Council meets whenever it is necessary.
3. The Justice Appointments Council is composed of the Chairperson of the Constitutional Court, the Chairperson of the High Court, the Chairperson of the High Administrative Court, the Chairperson of the High Judicial Council, the Chairperson of the High Prosecutorial Council,⁶¹ the Prosecutor General, the Chairperson of the National Chamber of Advocacy, the longest serving judge of the Constitutional Court, and the longest serving judge of the High Court.
4. The Chairperson of the High Judicial Council is Chairperson of the Justice Appointments

⁵⁹ Comment from roundtables.

⁶⁰ Alternative options were discussed

⁶¹ Minister removed based on roundtables opinion.

Council, who creates working conditions for the operation of the Justice Appointments Council.

5. Organization and the functioning of the Justice Appointments Council is regulated by law.

PART ELEVEN REFERENDUM

Article 150

1. The people, through 50 thousand citizens, who enjoy the right to vote, have the right to a referendum for the abrogation of a law, as well as to request the President of the Republic to hold a referendum about issues of special importance.
2. The Assembly, upon the proposal of not less than 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. Principles and procedures for holding a referendum, as well as its validity, are provided by law.

Article 151

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 152

1. The Constitutional Court reviews preliminarily the constitutionality of the issues presented for a referendum according to Article 150, paragraphs 1 and 2, Article 151, paragraphs 2 and 3, as well as Article 177, paragraphs 4 and 5, within 60 days.
2. The importance of special issues, as provided in paragraphs 1 and 2 of article 150, is not subject to adjudication in the Constitutional Court.
3. The date of the referendum is set 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 have expressed itself has expired.

Article 153 (repealed)

Article 154

1. The Commission shall consist of 9 members, being elected for a 7-year mandate, 4 members being elected by the Assembly, 2 by the President of the Republic and 3 other members by the High Council of Justice

PART THIRTEEN PUBLIC FINANCES

Article 155

Taxes, fees, and other financial obligations, national and local, reductions or exemptions of certain categories of taxpayers as well as the method of their collection are specified by law. In such cases, the law may not be given retroactive effect.

Article 156

The State can take and guarantee loans and financial credits when so authorized by law.

Article 157

1. The budgetary system is composed of the state budget and local budgets.

2. The state budget is created by revenues collected from taxes, fees and other financial obligations as well as from other legitimate revenues. It includes all state expenses.
3. Local bodies define and collect taxes and other obligations as provided by law.
4. State and local bodies are obliged to make public their revenues and expenses.

Article 158

1. The Prime Minister, on behalf of the Council of Ministers, presents to the Assembly the draft law on the budget during the autumn session, which cannot be closed without approving it.
2. If the draft law is not approved until the beginning of the next financial year, the Council of Ministers implements every month one-twelfth of the budget of the previous year, until the new budget is approved.
3. The Assembly approves the new budget within three months from the last day of the previous financial year, except when extraordinary measures have been decided.
4. The Council of Ministers 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 Audit report.

Article 159

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

Article 160

1. During the financial year, the Assembly may 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 161

1. The Central State Bank is the Bank of Albania. It has the exclusive right to issue and circulate the Albanian currency, to independently implement monetary policy, and maintain and administer the exchange reserves of the Republic of Albania.
2. The Bank of Albania is directed by a council, which is chaired by the Governor. The Governor is elected by the Assembly for 7 years, upon proposal of the President of the Republic, with the right of re-election.
3. If Albania enters into an agreement with the European Union to introduce the European Currency, the Bank of Albania shall transfer powers in accordance with the provisions of this agreement.⁶²

PART FOURTEEN THE HIGH STATE AUDIT

Article 162

1. The High State Audit 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 Audit is appointed and dismissed by the Assembly upon proposal of the President of the Republic. He stays in office for 7 years, with the right of re-election.

Article 163

The High State Audit supervises:

- a) the economic activity of state institutions and other state legal entities;
- b) the use and preservation of state funds by the bodies of central and local government;
- c) the economic activity of legal entities, in which the state owns more than half of the quotas or shares, or when their debts, credits and obligations are guaranteed by the state.

⁶² Venice Commission Interim Opinion Paragraph 12.

Article 164

1. The High State Audit 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 audits any time it is asked by the Assembly.
2. The High State Audit presents to the Assembly a yearly report on its activities.

Article 165

1. The Head of the High State Audit 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 Audit has the immunity of a member of the High Court.

**PART FIFTEEN
ARMED FORCES**

Article 166

1. The Albanian citizens have the duty to participate in the defence of the Republic of Albania, as provided by law.
2. The citizen, who for reasons of conscience refuses to serve with weapons in the armed forces, is obliged to perform an alternative service, as provided by law.

Article 167

1. Military servicemen on active duty cannot be chosen or nominated for other state 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 from cases when the law provides otherwise.

Article 168

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 body of the President of the Republic.

Article 169

1. The President of the Republic in peacetime exercises the command of the Armed Forces through the Prime Minister and Minister of Defence.
2. The President of the Republic in wartime appoints and dismisses the Commander of the Armed Forces upon proposal of the Prime Minister.
3. The President of the Republic, upon proposal of the Prime Minister, appoints and dismisses the Chief of the General Staff, and upon the proposal of the Minister of Defence appoints and dismisses the commanders of the army, navy, and air force.
4. The powers of the President of the Republic, as General Commander of the Armed Forces, and those of the Commander of the Armed Forces, their subordination to constitutional organs, are defined by law.

**PART SIXTEEN
EXTRAORDINARY MEASURES**

Article 170

1. Extraordinary measures can be taken due to a state of war, state of emergency, or natural disaster and last for as long as these states continue.
2. The principles of the activity of public bodies, as well as the extent of limitations on human rights and freedoms during the period of the existence of situations that require extraordinary measures, are defined by law.

3. The law must define the principles, the areas, 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. Acts taken as a result of extraordinary measures must be in proportion with the level of risk and must aim to re-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 these acts may be changed: the Constitution, the laws 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 held elections for local government bodies, there may not be a referendum, and a new President of the Republic may not be elected. The elections for the local government bodies can be held only in those places where the extraordinary measures are not implemented.

Article 171

1. In case of armed aggression against the Republic of Albania, the President of the Republic upon request of the Council of Ministers declares the state of war.
2. In case of external 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 and decides on the state of general or partial mobilization or demobilization.

Article 172

1. In the case of paragraph 1 of Article 171, the President of the Republic presents to the Assembly the decree for establishing the state of war within 48 hours from its signing, specifying the rights to be limited.
2. The Assembly immediately reviews and decides with the majority of all its members, upon the decree of the President.

Article 173

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

Article 174

1. For the prevention or the avoidance of the consequences of natural disasters or technological accidents, the Council of Ministers may decide on the state of natural disaster for a period not longer than 30 days, 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 175

1. During the state of war or state of emergency the rights and freedoms provided for in Articles: 15; 18; 19; 20; 21; 24; 25; 29; 30; 31; 32; 34; 39, paragraph 1; 41, paragraphs 1, 2, 3, and 5; 42; 43; 48; 54; 55 may not be limited.
2. During the state of natural disaster the rights and freedoms provided for in Articles: 37; 38; 41, paragraph 4; 49; 51 may be limited.
3. The acts for declaring the state of war, emergency or natural disaster must specify the rights and freedoms which are limited according to paragraphs 1 and 2 of this Article.

Article 176

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

PART SEVENTEEN REVISION OF THE CONSTITUTION

Article 177

1. Initiative for revision of the Constitution may be undertaken by not less than one-fifth of the members of the Assembly.
2. No revision of the Constitution may be undertaken during the time when the extraordinary measures are taken.
3. The draft law is approved by not less than two-thirds of all members of the Assembly.
4. The Assembly may decide, with two-thirds of all its members that the draft constitutional amendments be voted in a referendum. The draft law for the revision of the Constitution enters into force after ratification by referendum, which takes place not later than 60 days after its approval in the Assembly.
5. The approved constitutional amendment is put to a referendum when this is required by one-fifth of the members of the Assembly.
6. The President of the Republic does not have the right to return for review the law approved by the Assembly for revision of the Constitution.
7. The law approved by referendum is declared by the President of the Republic and enters into force on the date provided for in this law.
8. Revision 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 3 years from the day of its rejection by the referendum.

PART EIGHTEEN TRANSITORY AND LAST PROVISIONS

Article 178

1. Laws and other normative acts approved before the date this Constitution enters into force will be applied as long as they have not been abrogated.
2. The Council of Ministers presents to the Assembly draft laws necessary for implementing this Constitution.

Article 179

1. Members of the Constitutional Court shall continue their activity as members of the Constitutional Court, in accordance with the previous mandate. The composition renewal of Constitutional Court shall be as follows:
 - a) the new members who are due to replace the members whose mandate expires in 2016 shall be appointed, respectively, by the President of the Republic and by the Assembly, and they shall stay in office until 2025.
 - b) the new member who is due to replace the member whose mandate ends in 2017 shall be appointed by the meeting of the High Court⁶³ and shall stay in office until 2025.
 - c) the new members who are due to replace the members whose mandate ends in 2019 shall be appointed, respectively, by the President of the Republic and by the Assembly, and they shall stay in office until 2028.
 - ç) the new member who is due to replace the member whose mandate ends in 2020 shall be appointed by the meeting of the High Court and the High Administrative Court, and he/she shall stay in office until 2028.⁶⁴

⁶³ The High Administrative Court will not exist until 2020.

⁶⁴ Venice Commission Interim Opinion Paragraph 24. Timing has been changed to reflect 9 year terms and not 12 year terms.

d) the new members who are due to replace the members whose mandate ends in 2022 shall be appointed, respectively, by the President of the Republic, the Assembly and by the joint meeting of the High Court and the High Administrative Court, and they shall stay in office until 2031.

3. Members of the High Court shall continue their activities in accordance with the previous mandate. The new members due to replace the members, whose mandate expires, shall be appointed under the provisions of this law.

4. The High Administrative Court shall be established on 01.01.2020⁶⁵. The appointments to the High Administrative Courts shall guarantee the partial renewal of this court. Detailed rules related to the organization and functioning shall be set by law. Until the establishment of the High Administrative Court, the Chairperson of the Administrative Panel of the High Court shall be member of the Justice Appointment Justice.

5. Until 31.12.2019, instead of the three High Administrative Court representatives to the Justice Disciplinary Tribunal, shall serve the Chairperson of the Administrative Panel of the High Court, as well as one judge from the Administrative Panel of the High Court and one judge from the administrative courts at first instance or appeal administrative court each selected by lot, under the lead of the Chairperson of the Justice Disciplinary Tribunal.

6. The High Council of Justice shall be established within 6 months from the entry into force of this law. Three judge members and two lay members of the High Judicial Council shall be appointed initially for a 3-years term, with the purpose of partial renewal of this body. The members of the High Council of Justice shall end their mandate after the establishment of the High Judicial Council, but not later than after all members of the High Judicial Council are selected as determined by law. Until the establishment of the High Judicial Council the oldest lay member in age of the High Council of Justice shall act as member of the Justice Appointment Council.

7. The Prosecutor General shall be appointed within two months after the High Prosecutorial Council is established, but no later than the date of the termination of the mandate of the Prosecutor General in office. The Prosecutor General shall continue his mandate until the appointment of the new Prosecutor General, in accordance with this law, unless that mandate is interrupted under Article 179/b.⁶⁶

8. The High Prosecutorial Council shall be established within 6 months from the entry into force of this law. Three prosecutor members and two lay members of the High Prosecutorial Council shall be appointed initially for a 3-years term, with the purpose of partial renewal of this body. Until the establishment of the High Prosecutorial Council, the Justice Appointment Council shall function without the Chairperson of the High Prosecutorial Council.⁶⁷ In case of a tie, the vote of the Chairperson of the Constitutional Court is decisive. The Ombudsman may participate as an observer in the meetings of the Justice Appointment Council until the Council is fully composed.

9. The first instance court and appeals court under Article 135 paragraph 3 shall be established within 2 months of the establishment of the High Judicial Council, in accordance with law. Upon the establishment of these two courts, the Serious Crimes Court and Serious Crimes Appeals Court shall cease to exist. The transfer of cases shall be done in accordance with the law. The existing judges of these courts shall be appointed within the new courts, unless they fail to pass their background check or asset review, or refuse to agree to the periodic reviews of their financial accounts and telecommunications as well as of their close family members. The specialized prosecution office under Article 148 paragraph 3 shall be established and prosecutors appointed within 2 months of the establishment of the High Prosecutorial Council, in accordance with the law. Upon the establishment of this office, the Serious Crimes Prosecution Office shall cease to exist. The transfer of investigations and cases shall be done in accordance with the law.

10. The amendments to articles 39 paragraph 2, 64 paragraph 4, 80/a, 122 paragraph 3, 161 paragraph 3, shall enter into force upon entry into force of the law adopted by the Albanian

⁶⁵ Venice Commission Interim Opinion paragraphs 37 and 69.

⁶⁶ Venice Commission Interim Opinion paragraph 96. Removed: 'The current Prosecutor General shall be appointed as a judge at the Tirana Court of Appeal within three months from the date of termination of the mandate'

⁶⁷ The existing High Prosecutorial Council is not a constitutional institution and is a consultative body of the General Prosecution Office.

Assembly ratifying the accession treaty between the Republic of Albanian and the European Union'.⁶⁸

11. The High Justice Inspector shall be appointed within 3 months after the establishment of the High Prosecutorial Council. The transition period and manner of functioning of the existing inspectorates shall be regulated by law.⁶⁹

12. Former judges and prosecutors, who successfully undergo the transitional qualification assessment provided in Article 179/b, are qualified to become inspectors within the High Justice Inspector until 31 December 2026.⁷⁰

13. Judges and prosecutors who have not finished the School of Magistrate shall continue on duty and are subject to the transitional qualification assessment according to article 179/b.

Article 179/a⁷¹

1. The mandate of officials elected or appointed in the constitutional organs and the organs established by law, which was obtained prior to the entry into force of this law, shall terminate or become invalid, if it is ascertained that the elected or appointed person falls in the ranks of the subjects which are exempted from the right to be elected, under Articles 6/1 and 45, point 3, of the Constitution.

2. Within 30 days from entry into force of this law, the Assembly shall approve the law providing for the conditions and rules for guaranteeing the integrity of the organs elected, appointed or exercising public functions, in accordance with the procedure of Article 81, point 2 of the Constitution.

Article 179/b

1. In accordance with the provisions of Annex 'Transitional Qualification Assessment of Judges and Prosecutors' all judges, including members of the Constitutional Court and High Court, all prosecutors, including the Prosecutor General, judges members of the High Council of Justice, prosecutors members of the High Prosecutorial Council, the Chief Inspector and the other inspectors of the High Council of Justice and all legal advisors of the Constitutional Court and High Court shall be, *ex officio*, shall be assessed and re-evaluated in order to re-establish public trust and confidence in these essential democratic institutions. Former judges or prosecutors, upon their request, may undergo the evaluation and re-evaluation process, if they fulfil the criteria set out by law.

2. Persons listed in paragraph 1 of this article who successfully pass the re-evaluation procedure shall be considered appointed judges and prosecutors. Persons listed in paragraph 1 of this article who did not act as judges or prosecutors for at least 3 years and who pass the re-evaluation shall undergo one year training at the School of Magistrates under the conditions set out in the law. After successful completion of the training they shall be appointed as judges or prosecutors.

3. The Independent Qualification Commission and the Specialized Chamber of the High Court are responsible for the implementation of the evaluation process for all subject provided in paragraph 1 of this article. Members of the Independent Qualification Commission and judges of the Specialized Chamber of the High Court shall be appointed for nine years without right of reappointment.

4. The Annex shall cease to be part of the Constitution on December 31 of the eleventh year after this law goes into effect, or upon the date of accession of the Republic of Albania to the European Union.⁷²

⁶⁸ Venice Commission Interim Opinion paragraphs 9 and 12.

⁶⁹ Venice Commission Interim Opinion paragraph 67.

⁷⁰ This shall provide former judges or prosecutors to be appointed as inspectors only if they also pass the re-evaluation. This prevents judges and prosecutors who have been dismissed for cause from successfully applying.

⁷¹ Article added following the recent approval of the constitutional decriminalization provisions.

⁷² Venice Commission Interim Opinion Paragraphs 101 and 104. Re-evaluation judges shall be appointed for nine years with no right of reappointment, while the Annex will cease to exist after eleven years in order to provide room for appeals to be completed, which may be completed by the High Court at that time.

Article 180

1. International agreements ratified by the Republic of Albania before this Constitution enters into force are considered ratified according to this Constitution.
2. The Council of Ministers presents to the Constitutional Court the international agreements which contain provisions that come in conflict with the Constitution.

Article 181

1. The Assembly, within two to three years from the date this Constitution enters into force, issues laws for the fair resolution of different issues related to expropriations and confiscations done before the approval of this Constitution, guided by the criteria of Article 41.
2. Laws and other normative acts, adopted before the date this Constitution enters into force, that relate to the expropriations and confiscations shall be applied when they do not come in conflict with it

Article 182

Law No. 7491, dated 29.4. 1991, "On the Main Constitutional Provisions" as well as the other constitutional laws are abrogated the day this Constitution enters into force.

Article 183

This Constitution enters into force with its promulgation by the President of the Republic.
Approved by referendum on 22.11.1998
Promulgated by Decree no 2260, dated 28/11/1998, of the President of the Republic of Albania, Rexhep Meidani

Annex

Transitional Qualification Assessment of Judges and Prosecutors⁷³

Article A Measures to Establish Public Trust

1. In order to safeguard the rights of the citizens of Albania to equally and fairly access courts and to have crimes fairly prosecuted, but to address grounded concerns that this right is denied by the existing corruption in the system, criminal influence and the poor proficiency of a part of the judiciary or prosecution the application range of some articles of this Constitution, in particular provisions regarding privacy, to include Articles 36 and 37, provisions related to the burden of proof, and other provisions, to include Articles 128, 131, paragraph f, 135, 138, 140, 145 paragraph 1, 147/a paragraph 1, letter b), 148/b paragraph 1, letter b), 149/b paragraph 1, letter d), are limited in accordance with Article 17 of this Constitution, to the extent that all judges, including members of the Constitutional Court and High Court, all prosecutors, including the Prosecutor General, judge members of the High Judicial Council, prosecutorial members of the Prosecutorial Council, the Chief Inspector and the other inspectors of the High Council of Justice and legal advisors of the Constitutional Court and High Court, *ex officio*, as well former judges or prosecutors upon their request if they fulfil the criteria set out by law for re-evaluation, shall be assessed and re-evaluated. The assessment and re-evaluation shall cover all persons listed in this paragraph, regardless of whether they are on secondment or other leave from exercising their duties.⁷⁴

2. The assessment and re-evaluation shall be conducted by a transitional Independent Qualification Commission (Commission) and appeals shall be considered by a transitional Specialized Qualification Chamber (Appeals Chamber) which shall function within the High Court. After the Commission and the Appeals Chamber cease operations as provided in article 179/b of the Constitution, any remaining first instance assessments and re-evaluation shall be conducted by the High Administrative Court and any remaining appeals against this decision shall be conducted by the High Court.⁷⁵

3. An Independent Qualification Commission organized and functioning with two separate panels shall be established and a Qualification Assessment shall be conducted at first instance by this organ.⁷⁶ Members in this Commission shall be appointed in accordance with this Annex.

4. A Specialized Qualification Chamber shall be established within the High Court and it is organized and functions with two separate decision-making panels which shall adjudicate as the last instance on final appeals of the Assessment.⁷⁷ Judges in this Specialized Qualification Chamber shall be appointed in accordance with this Annex. No High Court judges outside of the panels of the Specialized Qualification Chamber may decide appeals against the qualification assessment under this Annex.

5. The Commission and the Specialized Qualification Chamber shall both operate and decide independently and impartially according to the provisions of this Annex and of the implementing law. The organization and functioning of the Commission and Appeals Chamber, and the procedures of the qualification assessment, shall be regulated by law.

6. Once the persons provided in paragraph 1 of this article have passed the assessment as provided in this Annex, they are subject to the permanent accountability system regulated by the ordinary rules containing the Constitution and the Laws.⁷⁸

⁷³At the suggestion of the Venice Commission (e.g. Venice Commission Interim Opinion, Paragraph 101), many details have been moved from the Constitutional Annex to the implementing law.

⁷⁴Venice Commission Interim Opinion, Paragraphs 104-106.

⁷⁵Venice Commission Interim Opinion, Paragraph 117.

⁷⁶Venice Commission Interim Opinion, Paragraph 117.

⁷⁷Venice Commission Interim Opinion, Paragraph 117.

⁷⁸ Venice Commission Interim Opinion, Paragraph 102.

Article B

International Monitoring Operation

1. There shall be an international monitoring operation which shall provide transparency, certainty and safeguards against abuse during this transitional qualification assessment process.
2. The organization and functioning of the international monitoring operation shall be established in the framework of international agreements. Its powers shall be established in this annex and by law.⁷⁹
3. International Observers shall be experienced foreign lawyers who qualify to be a judge in their own country.⁸⁰ The Prime Minister of the Republic of Albania, in accordance with international legal framework or diplomatic relationships, shall formally appoint the international observers to this function.⁸¹ The mandate of an International Observer shall only be revoked for gross misbehaviour, based on the request of the international monitoring mission.⁸²
4. International Observers shall have the following duties and authority:⁸³
 - a. International Observers shall have immediate access to all information, people and documents necessary to monitor the appointment process for members at the Commission and judges of the Specialized Qualification Chamber.
 - b. International Observers shall have immediate access to all information, people and documents necessary to monitor the Qualification Assessment at all levels and in all stages.
 - c. International Observers shall be able to file findings and opinions with the Commission and the Specialized Qualification Chamber. In those findings, the International Observer may request that the Commission take evidence or may present evidence obtained from state bodies, foreign entities or private persons, in accordance with the law.⁸⁴
 - ç. When an International Observer has a sufficiently convincing indication that a decision by a panel of the Commission or Specialized Qualification Chamber is grossly inappropriate, ignores facts or important evidence, is not based in law, or results from improper influence, that observer may require the file to be immediately re-assigned to the other panel within the Commission or Specialized Qualification Chamber.⁸⁵

Article C

Independent Qualification Commission and Specialized Qualification Chamber

1. The Independent Qualification Commission shall consist of two public commissioners and two permanent first instance panels consisting of three members each. Public Commissioners shall represent the public interest before the Commission and Specialized Qualification Chamber, may request and present evidence and may appeal the decision of the first instance commission. They shall serve until the Commission ceases to exist but not later than December 31, 2025.⁸⁶
2. The Specialized Qualification Chamber shall consist of two permanent appeals panels consisting of three members each. They shall serve until the Specialized Qualification Chamber ceases to exist, but not later than December 31, 2025.
3. The Commission and Specialized Qualification Chamber shall both operate with accountability, integrity and transparency and with the objective of promoting an independent and competent system of justice free from corruption. The members of the Commission and judges of the Specialized Qualification Chamber shall have the status of a judge at the High Court.⁸⁷

⁷⁹ Venice Commission Interim Opinion, Paragraph 130.

⁸⁰ Venice Commission Interim Opinion, Paragraph 133.

⁸¹ Venice Commission Interim Opinion, Paragraph 132.

⁸² Venice Commission Interim Opinion, Paragraph 132.

⁸³ Venice Commission Interim Opinion, Paragraph 134.

⁸⁴ Venice Commission Interim Opinion, Paragraphs 133-134.

⁸⁵ Venice Commission Interim Opinion, Paragraphs 135.

⁸⁶ Venice Commission Interim Opinion, Paragraphs 102, 125-126.

⁸⁷ Venice Commission Interim Opinion, Paragraphs 117-118.

4. All members of the Commission and judges of the Specialized Qualification Chamber, and the staff of both organs as set by law, must consent to the yearly disclosure of their assets, constant monitoring of their financial accounts and waiver of the privacy of their communication related to their work. All asset declarations shall become public.

5. All members of the Commission and the judges Appeals Chamber shall have a university degree in law or academic grade in law, and no less than fifteen years' experience as a judge, prosecutor, law professor, advocate, notary, attorney in ministries or public administration, or other legal profession related to the judiciary, and shall have a high reputation for integrity. Nominees for judges may not have been judges, prosecutors or legal advisors in the two years prior to their nomination. Nominees for judge shall not have been sentenced before in connection with the commission of a criminal offence. They shall not have held a political post in the public administration or a leadership position in a political party for the past 10 years before becoming a nominee.

6. Within one month of the entry into force of this Annex, the Ombudsperson shall conduct an open and transparent application process for members in the Commission and judges at Specialized Qualification Chamber and public commissioner. All candidates shall send applications and asset declarations in accordance with the law to the Ombudsperson. Within one month, the Ombudsperson shall assess whether the criteria are met and compile a list of qualified applicants and send that list to the Assembly. The Ombudsperson shall only exclude those applicants who are not qualified under the criteria under this Annex.⁸⁸

7. Within 30 days of receiving the pool, Assembly shall appoint with a 3/5 majority the members of the Commission and judges of the Specialized Qualification Chamber and the two Public Commissioners from the pool of qualified candidates provided by the Ombudsperson. If the Assembly fails to appoint all members, judges and public commissioners within 30 days, by the thirty-fifth day the President of the Republic shall select by public lot the members, judges or other commissioners. Those selected shall be automatically appointed.⁸⁹

8. Members in the Commission and judges of the Appeals Chamber and Public Commissioners shall work full time and may not hold any other position or employment during their mandate.

9. The Commission and Specialized Qualification Chamber shall both have a budget, staff and facilities established by law sufficient to support their duties and the duties of the international observers.

10. The official language of the Commission and Specialized Qualification Chamber shall be Albanian and English, and both organs shall have translators and interpreters accordingly.

11. Members of the Commission and judges of the Specialized Qualification Chamber are subject to disciplinary liability in accordance with this Annex. The disciplinary cases shall be reviewed by a joint meeting of both panels of the Specialized Qualification Chamber, excluding any judges accused, in accordance with the law. Dismissal of the member or judge is only warranted for serious misconduct.⁹⁰

12. The member of the Commission and judges of the Specialized Qualification Chamber shall enjoy immunity in connection with the opinions expressed and the decisions made in the course of assuming their functions.⁹¹

13. The members, judges, public commissioner, international observers, staff, and their families shall be protected at highest level in accordance with the law.⁹²

⁸⁸ Venice Commission Interim Opinion, Paragraph 127. The method of selection is clarified and simplified: The Ombudsperson collects the names of applicants and checks to ensure that they are qualified under this Annex. He then forwards the qualified names to Parliament, which has 30 days to pick the judges of the Commission and Appeals Chamber and public commissioners. The President picks names out of a lot as a deadlock breaking mechanism, but also one that removes influence over the names.

⁸⁹ *Id.*

⁹⁰ Venice Commission Interim Opinion, Paragraph 128. The implementing law will elaborate a process similar to that which will be used in the Constitutional Court in its own disciplinary cases.

⁹¹ Added to ensure that judges in the Commission and Appeals Chamber are not subject to threats of prosecution for the written decisions or oral statements made while on duty. As judges of the High Court, the members of the Appeals Chamber are already covered under the normal constitution.

⁹² Venice Commission Interim Opinion, Paragraphs 128.

Article Ç

Qualification Assessment

1. All officials subject to re-evaluation under Article A shall be subject to Qualification Assessment at the first instance by the Independent Qualification Commission and at the appeals instance by the Specialized Qualification Chamber in the High Court. They shall undergo an Asset Assessment under Article D, a Background Assessment under Article DH and a Proficiency Assessment under Article E. At any time, before or during the qualification assessment, an assessee may resign from their office and is not assessed any further. Assesseees who resign under this provision may no longer serve as a judge at any level, prosecutor, member of the High Judicial Council or High Judicial Inspector or High Prosecutorial Council, or Prosecutor General for the duration of ten years.

2. The Commission and Specialized Qualification Chamber shall publish their decisions and may publish information and take into account comments obtained from the public. They shall respect the balance between privacy and investigation needs, and shall guarantee the right to a fair trial. While a review by competent international bodies is available,⁹³ the Constitutional Court shall not have the competence to receive individual complaints from assesseees dismissed as a result of the assessment.⁹⁴

3. Official bodies of the Republic of Albania shall cooperate with and disclose requested information to the Commission and Specialized Qualification Chamber, shall grant direct access to their databases and may provide opinions and proposals in accordance with the law.

4. The Commission, through its staff, public commissioner, members and international observers, shall review the assessee's background check questionnaire and declarations, may interview people named in the questionnaire or others, and shall cooperate with other state or foreign institutions to confirm the veracity and accuracy of the disclosure. The Commission and the international observers shall have direct access to all relevant government databases and files, if not classified as state secret, including the assesseees' personal files, statistical data, files selected for evaluation, self-evaluations, opinions of supervisors, training records and complaints, verification of complaints, disciplinary decisions against the assessee, property and land registers, bank accounts, tax offices, car registration data bases, border control documentation as well as any other relevant documents.

5. In accordance with the law, the staff of the Commission shall compile a dossier of the reports, recommendations and files on the assets, background and proficiency assessments, and shall submit it to the Commission. The Commission shall review all three assessment dossiers and submissions from the assessee in accordance with procedures established by law, and shall decide, based on an assessment of all three reports and the information obtained.

6. The assessee shall have the right to appeal the final decision of the Commission to the Specialized Qualification Chamber in accordance with the law.⁹⁵

Article D

Asset Assessment

1. Assesseees shall be subject to declaration and audit of their assets with the purpose of identifying assesseees who possess or have the use of assets greater than can be legitimately explained, or those assesseees who have failed to accurately and fully disclose their assets and those of their families.

⁹³ Venice Commission Interim Opinion Paragraph 106.

⁹⁴ Venice Commission Interim Opinion Paragraph 103-105, Footnotes 38-39.

⁹⁵ Venice Commission Interim Opinion Paragraph 116. While the Commission will retain Article 6 qualities, there shall be no doubt that assesseees will have access to a chamber of the High Court, which is a specialized chamber of an ordinary court. This was one of the possibilities which the Venice Commission rapporteurs suggested.

2. Assessee shall submit a new and fully detailed asset declaration in accordance with the law. The High Inspectorate for the Declaration and Audit of Assets and Conflict of Interests shall audit the asset declaration and submit to the Commission a report about the legitimacy of the assets and the accuracy and fullness of the disclosure, and may submit a recommendation about disciplinary measures, in accordance with the law.

3. Income shall only be considered legitimate if it has been declared and taxes have been paid. Legitimate income shall be defined by law.

4. If the assessee has assets greater than twice the amount justified by legitimate income, a presumption in favour of the disciplinary measure of dismissal shall be established which the assessee shall have the burden to dispel. For any criminal proceedings relating out of the procedure the burden of proof remains on the State.⁹⁶

5. If the assessee has not submitted the asset declaration in time or takes steps to inaccurately disclose or hide assets in his or her possession or use, a presumption in favour of the disciplinary measure of dismissal shall be established which the assessee shall have the burden to dispel. For any criminal proceedings relating out of the procedure the burden of proof remains on the State.

Article DH

Background Assessment

1. Assessee shall be required to submit a declaration and be subject to a background assessment with the purpose of identifying assessee with regular and inappropriate contacts with members of organized crime. Those who are members of organized crime shall be determined based on the available evidence, or on Albanian or foreign court decisions.⁹⁷

2. Assessee shall submit a detailed background questionnaire and declaration to the Commission for the period January 1, 2012 to December 31, 2015, as regulated by law. The questionnaire and declaration cannot be used as evidence in any criminal case against the assessee.⁹⁸

3. If the assessee has regular and inappropriate contact with members of organized crime, a presumption in favour of the disciplinary measure of dismissal shall be established, which the assessee shall have the burden to dispel. For any criminal proceedings relating out of the procedure the burden of proof remains on the State.

4. If the assessee does not submit the background questionnaire or declaration within the deadline or takes steps to inaccurately disclose or hide contacts with members of organized crime, a presumption in favour of the disciplinary measure of dismissal shall be established, which the assessee shall have the burden to dispel. For any criminal proceedings relating out of the procedure the burden of proof remains on the State.

Article E

Proficiency Assessment

1. Assessee shall be subject to a proficiency assessment, with the purpose of identifying assessee with who are not qualified to perform their role and those who have deficiencies which can be remedied with education.

2. The Proficiency Assessment shall be conducted with the assistance of inspectors from the relevant inspection service at the time of the Assessment. The Proficiency Assessment for judges shall assess judicial capacity, organizational skills, written decisions, orders and judgments, ethics and commitment to judicial values, personal quality and professional commitment, based on standards provided by law. The Proficiency Assessment for prosecutors shall assess prosecutorial capacity, investigation, organizational skills, written decisions, orders and requests, ethics, decisions to not prosecute, and commitment to prosecutorial values, personal quality and professional commitment. The Proficiency Assessment for legal advisors shall assess legal research, written product, organizational skills, ethics, personal quality and professional commitment. The Proficiency Assessment

⁹⁶ Venice Commission Interim Opinion, Paragraph 121.

⁹⁷ Venice Commission Interim Opinion, Paragraph 122.

⁹⁸ Venice Commission verbal opinion, Venice Commission Plenary Session, December 18, 2015.

shall not consider pending cases.⁹⁹

3. If the assessee has demonstrated inadequate knowledge, skill, judgment, or aptitude, or there is a consistent pattern of work inconsistent with the position, the deficiency shall be identified and a presumption in favor of the disciplinary measure of suspension with education to remedy that deficiency shall be established which the assessee shall have the burden to dispel. For any criminal proceedings relating out of the procedure the burden of proof remains on the State.

4. If the assessee has demonstrated inadequate knowledge, skill, judgment, or aptitude, or there is a consistent pattern of work inconsistent with the position, but the deficiency cannot be remedied with education or training, a presumption in favor of the disciplinary measure of dismissal shall be established which the assessee shall have the burden to dispel. For any criminal proceedings relating out of the procedure the burden of proof remains on the State.

5. If the assessee acts to substantially prevent or confound his or her assessment, or has demonstrated such poor knowledge, skill, judgment, aptitude, or a consistent pattern of work which can threaten or diminish the rights of citizens, the assessee shall be considered inadequate and a presumption in favor of the disciplinary measure of dismissal shall be established which the assessee shall have the burden to dispel. For any criminal proceedings relating out of the procedure the burden of proof remains on the State.

Article E

First Instance Assessment

1. For each assessee, the staff of the Commission shall combine the files, reports and recommendations from the Asset, Background and Proficiency Assessments, and any submissions by the assessee and by the international observers. According to transparent criteria, one member of the assigned panel of the Commission shall be a Rapporteur.

2. The Rapporteur can seek additional information, and shall draft a proposed finding and disciplinary measure for the panel of the Commission. The assessee shall be given a copy of the proposed finding and disciplinary measure, and shall have within a deadline set by law the right to agree, object or to submit additional evidence.

3. The Panel shall provide the assessee with a hearing in accordance with the law.

Article F

Disciplinary Measures

1. If either the Commission or the Specialized Qualification Chamber determines that an assessee required disciplinary measures, the Panel shall issue a reasoned decision which orders either the disciplinary measure of one year suspension with education or the disciplinary measure of dismissal.

2. A reasoned decision ordering suspension with education identifies an assessee's deficiency, suspends the official with 60 % of the salary of a first instance judge, assigns the assessee to the School of Magistrates until the education program starts and orders one year of education and testing available at the School of Magistrates, which is designed to remedy the deficiency. At the end of the education program, the suspended official shall be tested. The test is done with supervision of the International Monitoring Operation. Assesses failing the test are dismissed by the first instance commission and shall enjoy the appeal to the Specialized Qualification Chamber. Its decision shall be final.

3. A reasoned decision ordering dismissal has immediate effect, unless an appeal is filed. In the case of appeal the salary is 60 % of the salary of a judge in first instance. In the case of a successful appeal at the Specialized Qualification Chamber the remaining 40 % are paid, in the case the dismissal comes into effect the paid 60 % of the salary have to be reimbursed to the State. A final decision ordering dismissal has *ex lege* immediate effect.

4. An assessee filing an appeal of a disciplinary measure is suspended pending the decision of the Specialized Qualification Chamber.

5. If an assessee resigns, the assessee shall receive the pension immediately. The pension amount is reduced and takes into account to the years served by the official, and the years

⁹⁹ Venice Commission Interim Opinion Paragraph 107.

remaining until the standard pension age. The qualification assessment or appeal shall be immediately stopped, and the assessee may not be qualified to be a judge, prosecutor, or member of the High Judicial Council or High Prosecutorial Council or High Justice Inspector.

6. The dismissal of a judge or prosecutor does not grant an automatic ground for the re-opening of cases decided or prosecuted by the assessee, except in the cases based on which it can be requested revision.¹⁰⁰

Article G

Appellate Instance

1. The assessee and each of the Public Commissioners shall have the right to appeal to the appellate instance of the commission within the period provided by the law, unless the assessee resigns, retires or agrees to a report and recommendation. The Appeals Chamber enjoys the power to take specific fact finding steps and shall remedy any procedural errors of the Commission. The Specialized Qualification Chamber shall decide the case and may not transfer the case back to the Commission.¹⁰¹

2. The international observer takes part with the same rights like those in first instance.¹⁰²

3. The Specialized Qualification Chamber shall uphold or modify the decision of the Commission in a reasoned, written decision. In cases of appeal by the Public Commissioner, it may not impose a more strict disciplinary measure without providing the assessee with sufficient notice to prepare and respond in a hearing.¹⁰³

¹⁰⁰ Venice Commission Interim Opinion, Paragraph 123.

¹⁰¹ Venice Commission Interim Opinion Paragraph 117. The Specialized Appeals Chamber of the High Court shall be an ordinary court, and shall have final power to fact-find and issue decisions.

¹⁰² Venice Commission Interim Opinion Paragraph 135.

¹⁰³ Venice Commission Interim Opinion Paragraph 106.