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Consolidation of the  
Justice System in Albania

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## CONSTITUTION OF THE REPUBLIC OF ALBANIA<sup>1</sup>

*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 justice, peace, harmony and cooperation between nations are among the highest values of humanity,*

**establish this Constitution:**

### PART ONE FUNDAMENTAL 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.

<sup>1</sup> Adopted by Law no. 8417, dated 21.10.1998;  
Amended by Law no. 9675, dated 13.01.2007;  
Amended by Law no. 9904, dated 21.04.2008;  
Amended by Law no. 88/2012, dated 18.09.2012;  
Amended by Law no. 137/2015 dated 17.12.2015;  
Amended by Law no. 76/2016, dated 22.07.2016;  
Amended by Law no. 115/2020, dated 30.07.2020.

## **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.

## **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 national heritage, religious coexistence, as well as the coexistence and understanding of Albanians with minorities are the basis of this state, which has the duty of respecting and protecting them.

## **Article 4**

1. The rule of 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 organisation and functioning of the bodies foreseen in this Constitution are regulated by their respective laws, except when this Constitution provides otherwise.

### **Article 6/1**

*(added by Law no. 137/2015, Article 1)*

The election, appointment or exercise of a public function with one of the bodies foreseen in this Constitution or established by law, regardless of the regulations contained in other provisions of this Constitution, is prohibited, as long as circumstances are established impairing the integrity of the public functionary, under the conditions and rules provided for by a law adopted by three fifths of the entire 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 Albanian citizens with a temporary or permanent residence outside of its borders.
3. The Republic of Albania assures assistance to Albanians who live and work abroad in order to preserve and progress their connection with the national cultural heritage.

#### **Article 9**

1. Political parties are created freely. Their organization shall conform with 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. The state is neutral in questions of faith and conscience and 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 and of 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 ensure 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. No foreign military force may be situated in, or pass through, the Albanian territory, as well no Albanian military force may be sent abroad, except by a law approved by a majority of all members of the Assembly.

#### **Article 13**

Local government in the Republic of Albania is established on 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 double-headed black eagle in the centre.
3. The Seal of the Republic of Albania presents a red shield with a double-headed black eagle in the centre. At the top of the shield, in gold colour, is placed the helmet of Skanderbeg.
4. The national anthem is "United Around the 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 is regulated by law.

### **PART TWO**

## **FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS**

### **CHAPTER I**

## **GENERAL PRINCIPLES**

#### **Article 15**

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

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. Limitations of the rights and freedoms foreseen in this Constitution may be established only by law for a public interest or for the protection of the rights of others. The 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, economic, educational, social status, or their ancestry.

3. No one may be discriminated against for reasons mentioned in paragraph 2, provided no objective and reasonable justification exists.

#### **Article 19**

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

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

#### **Article 20**

1. Persons who belong to national minorities exercise in full equality before the law their 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 them, 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. Preventive censorship of the means of communication is prohibited.
4. The law may require the granting of authorization for the operation of radio or television stations.

**Article 23**

1. The right to information is guaranteed.
2. Everyone has the right, in compliance with law, to receive 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/her religion or beliefs, as well as to express them individually or collectively, in public or private life, through congregation, education, practices or the performance of rituals.
3. No one may be compelled or prohibited to take part in a religious community or in its religious practices, or to make his/her 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 instances of the execution of a judicial decision, the performance of military service, or a service that results from a state of war, a state of emergency, or a natural disaster, which threatens human life or health.

#### **Article 27**

1. No one may be deprived of liberty, except in the cases and according to the procedures provided for 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 is reasonable doubt that he/she has committed a criminal offense or to prevent the commission by him/her of a criminal offense or his/her escape following its commission;
  - ç) for the supervision of a minor for purposes of education or for escorting him to a competent organ;
  - d) when the person is the carrier of a contagious disease, mentally incompetent or 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/she understands, of the reasons for this measure, as well as of the charge made against him/her. The person, who has been deprived of liberty, is informed that he/she has no obligation to make a declaration and has the right to communicate immediately with a lawyer, as well as been given the opportunity for realising his/her rights.
2. The person, who has been deprived of liberty according to Article 27, paragraph 2, subparagraph c, is presented within 48 hours before a judge, who shall decide upon his/her pre-trial detention or release not later than 48 hours from the moment of receiving the documents for review.
3. A person in pre-trial detention has the right to appeal the decision of the judge. He/she 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/her dignity.

#### **Article 29**



1. No one may be accused or declared guilty of a criminal offence, which was not considered as such by law at the time of its commission, with the exception of offences, 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/her guilt is not proven by a final judicial decision.

#### **Article 31**

During the criminal proceeding everyone has the right:

- a) to be notified immediately and in detail of the charge made against him/her, of his/her rights, as well as to be given the opportunity to notify his/her family or those close to him/her;
- b) to have sufficient time and facilities to prepare his/her defence;
- c) to have free of charge assistance of a translator, when he/she does not speak or understand the Albanian language;
- ç) to be defended by himself/herself or with the assistance of a defence lawyer chosen by him/her; to communicate freely and privately with the latter, as well as to be assured of free of charge defence, when he/she does not possess sufficient means;
- d) to question witnesses who are present and to seek the presentation of witnesses, experts and other persons who may clarify the facts.

#### **Article 32**

1. No one may be obliged to testify against himself/herself or his/her family or to confess his/her 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 tried.
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/her person.
2. Collection, use and making public of data about a person is done with his/her consent, except for the cases provided by law.
3. Everyone has the right to become acquainted with data collected about him/her, 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 home is guaranteed.
2. Searches of a home, 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 outside 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/her place of residence and to move freely to any part of the territory of the state.
2. No one may be hindered from freely leaving the country.

#### **Article 39**

1. No Albanian citizen may be expelled from the territory of the state.
2. Extradition may be permitted only when it is expressly provided in international agreements, to which the Republic of Albania is a party, and only by judicial decision.
3. The collective expulsion of foreigners is prohibited. The 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 the public interest.
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. Freedom, property, and the rights recognized by the Constitution and by law may not be infringed without due process.
2. Everyone, for the protection of his/her constitutional and legal rights, freedoms, and interests, or in the case of an accusation raised against him/her, has the right to a fair and public trial within a reasonable time by an independent and impartial court established by law.

#### **Article 43**

*(amended by Law no. 76, dated 22.07.2016, Article 1)*

Anyone shall be entitled to file an appeal against a judicial decision before a higher court, except if otherwise provided in the law for criminal offences of a minor character, for civil and administrative matters of minor importance or value, according to the conditions provided in Article 17 of the Constitution.

#### **Article 44**

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

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



**Article 45**

*(paragraph 3 amended by Law no. 137, dated 17.12.2015, Article 2)*

1. Every citizen who has attained the age of eighteen, 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 to participate in elections.
3. Exempted from the right to be elected are the citizens being sentenced to imprisonment upon a conclusive decision with final force and effect, in connection with the commission of a crime, as per the rules set out in a law being approved by three fifths of all the members of the Parliament. In exceptional and justified cases, the law may provide for restrictions of the right to elect for citizens serving a sentence of imprisonment, or the right to be elected prior to conviction by final decision, or when the citizens have been deported in connection with 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. 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 of peaceful and unarmed assembly, as well as participation in such assembly is guaranteed.
2. Peaceful assembly in public squares and public places are held in conformity with the law.

**Article 48**

Everyone, by themselves or together with others, may direct requests, complaints or comments to 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/herself. He/she is free to choose his/her profession, place of work, as well as his/her 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 essential services to the society.

**Article 52**

1. Everyone has the right to social insurance in old age or when he/she is unable to work, according to a system established 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, mistreatment, exploitation and employment for work, especially when under the minimum age for work that could damage their health and morals or endanger their life or normal development.

**Article 55**

1. Citizens enjoy in an equal manner the right to healthcare 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 may be conditioned only on aptitude criteria.
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 on the basis of a 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, their use and profits deriving from them are guaranteed for all.
2. Author rights are protected by law.

### **CHAPTER V SOCIAL OBJECTIVES**

#### **Article 59**

1. The state, within its constitutional powers and the means at its disposal, as well as in support of the private initiative and responsibility, aims towards:
  - 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 for children and the young, as well as for unemployed persons;
  - d) a healthy and ecologically adequate environment for the present and future generations;
  - dh) rational utilization of forests, waters, pastures and other natural resources on the basis of the principle of sustainable development;
  - e) care and support for the elderly, orphans and persons with disabilities;
  - ë) development of sport 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.



CHAPTER VI  
**PEOPLES ADVOCATE**

**Article 60**

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

**Article 61**

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

**Article 62**

1. The Peoples Advocate may be discharged only on the reasoned request of not less than one-third of the deputies.
2. In this case, the Assembly decides with three-fifths of all its members.

**Article 63**

1. The Peoples Advocate presents an annual report before the Assembly.
2. The Peoples Advocate reports before the Assembly when it is requested from the latter, and may request to the Assembly to be heard on matters that he/she deems important.
3. The Peoples Advocate has the right to make recommendations and to propose measures when he/she observes violations of human rights and freedoms by the public administration.
4. Public bodies and officials are obligated to present to the Peoples Advocate all documents and information requested by him/her.

PART THREE  
**THE ASSEMBLY**

CHAPTER I  
**ELECTION AND TERM**

**Article 64**

*(amended by Law no. 115/2020, dated 30.07.2020, Article 1)*

1. The Assembly consists of 140 deputies, elected according to a system of proportional elections with regional competition and national threshold.
2. Electoral subjects that reach the national threshold partake in the distribution of mandates.
3. Voters enjoy the right to give preferential vote to the candidates of multi-name lists. The criteria and rules for the implementation of the electoral system, for the designation of electoral districts, the national threshold, the number of mandates for each district, the distribution of mandates and the extent of the preferential voting are defined in the law on elections. The law on elections shall guarantee that no less than two-thirds of the multi-name list will be subject to preferential voting and that gender representation is guaranteed.

**Article 65**

*(amended by Law no. 9904, dated 21.4.2008, Article 2)*

1. The Assembly is elected every four years. The mandate of the Assembly commences 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. In case that the Assembly is dissolved prior to the end 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, with the exception of instances of imposition of extraordinary measures.

**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**

*(amended by Law no. 9904, dated 21.4.2008, Article 3)*

1. The President of the Republic convenes the newly elected Assembly not earlier than the date of termination of the mandate of the preceding Assembly, but no later than 10 days after such mandate has expired. When the preceding Assembly was dissolved before the end 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. In case the President of the Republic does not exercise such competence, the Assembly convenes itself on the tenth day of the period of time provided in paragraph 1 of this Article.

**CHAPTER II**  
**THE DEPUTIES**

**Article 68**

*(paragraph 1 amended by Law no. 115/2020, dated 30.07.2020, Article 2)*

*(paragraph 2 amended by Law no. 9904, dated 21.4.2008, Article 4)*

1. Candidates for deputies are nominated at the constituency level by political parties or by voters. A candidate may only be brought forward from one of the proposing subjects, according to this paragraph. The rules for the registration of candidates for deputies are defined in the law on elections.
2. The law on elections determines also 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) chairpersons and members of the electoral commissions;
  - e) the President of the Republic and the high officials of the state administration as foreseen 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 instances 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 chairperson of the Assembly or one-tenth of its members, the Assembly decides on sending the issue to the Constitutional Court, which finds the incompatibility.

#### **Article 71**

1. The mandate of deputy commences on the day when he/she is declared elected by the respective electoral commission.
2. The mandate of deputy ends or is invalid, as the case may be:
  - a) when he/she does not take the oath;
  - b) when he/she resigns from the mandate;
  - c) when is ascertained one of the conditions of ineluctability foreseen in articles 69, and 70 paragraphs 2 and 3;
  - ç) when the mandate of the Assembly ends;
  - d) when he/she is absent for more than six consecutive months in the Assembly without reason;
  - dh) when he/she 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**

*(amended by Law no. 88, dated 18.09.2012, Article 1)  
(paragraph 3 amended by Law no. 76, 22.07.2016, Article 2)*

1. The deputy is not held responsible for opinions expressed in the Assembly and votes cast by him/her in the exercise of the function. This provision is not applicable in the case of defamation.
2. A deputy may not be arrested or have his/her liberty deprived in any form or have a personal search of his/her house carried out, without the authorisation of the Assembly.
3. A deputy may be detained or arrested without authorisation when caught during or immediately after the commission of a crime. The General Prosecutor or the Chief Special Prosecutor

immediately notifies the Assembly, which, when it finds that there is no ground for proceedings, orders the lifting of the measure.

4. For the cases foreseen 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 requested by the President of the Republic, by the Prime Minister or by one-fifth of all the deputies.
3. Extraordinary sessions are called by the Chairperson of the Assembly on the basis of a determined agenda.

#### Article 75

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

#### Article 76

1. The Chairperson 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 ranking civil servant of the Assembly is the General Secretary.
3. Other services necessary for the functioning of the Assembly are carried out by other civil servants, as specified in the internal regulation.

#### Article 77

1. The Assembly elects from its ranks the standing committees, 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 investigative committees to review a particular matter. Their conclusions are not binding on the courts, but they may be made known to the prosecution, which evaluates them according to legal procedures.
3. Investigative 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 all its members, except for the cases where the Constitution provides for a qualified majority.
2. Meetings of the deputies that are convened without being called in accordance to the regulation, do not have any effect.

#### **Article 79**

1. Meetings of the Assembly are open.
2. Upon the request of the President of the Republic, the Prime Minister or one-fifth of the deputies, meetings of the Assembly may be held in closed doors, when for this there has been a vote of the majority of all its members.

#### **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/she is given the floor whenever he/she requests it.
3. The heads of state institutions, upon the request of the parliamentary committees, give explanations and inform on specific matters of their activity to the extent that is permitted by law.

### **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) Laws for the organization and functioning of the institutions foreseen in the Constitution;
  - b) Law on citizenship;
  - c) Law on general and local elections;
  - ç) Law on referendums;
  - d) Codes;
  - dh) Law for the state of emergency;
  - e) Law on the status of public functionaries;
  - ë) Law on amnesty;
  - f) Law on administrative divisions of the Republic.

#### **Article 82**

1. The proposal of laws, when this is the case, shall always be accompanied by a report that justifies the financial expenses for its implementation.
2. No non-governmental draft law that brings about an increase in the expenses of the state budget or diminishes income may 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. In case that 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. The draft law is voted on three times: in principle, article by article, and in its entirety.
2. The Assembly, at the request of the Council of Ministers or one-fifth of all the deputies, may 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 foreseen in Article 81, paragraph 2, with the exception of subparagraph dh.

#### **Article 84**

1. President of the Republic promulgates the approved law within 20 days from its presentation.
2. The law is considered promulgated, if the President does not assume the rights foreseen in paragraph 1 of this Article and in paragraph 1 of Article 85.
3. The law enters into force 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 urgency, when the Assembly decides by a majority of all members and the President of the Republic gives his/her consent, the law enters into force immediately, only after it has been publicly announced. The law is published in the earliest issue of the Official Journal.

#### **Article 85**

1. The President of the Republic has the right to return the law for review only once.
2. The decree of the President for the review of a law loses its force, 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. President may be elected only an Albanian citizen by birth, who has been a resident for not less than the past 10 years in Albania and who has reached the age of 40 years old.

### **Article 87**

*(amended by Law no. 9904, dated 21.4.2008, Article 5)*

1. The candidate for President is proposed to the Assembly by a group of not less than 20 deputies. One deputy 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 sessions takes place not later than seven days from the unsuccessful completion of the preceding vote. A voting session is deemed complete 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 paragraph 1 of this Article.
3. The President is elected in the first, second or third vote when one candidate receives not less than three fifths of the votes of all members of the Assembly. In the fourth and fifth vote, the candidate that receives more than half of the votes of all members of the Assembly is elected President.
4. The fifth voting session takes place when none of the candidates receive the required majority of votes in the fourth voting. The fifth voting session takes place only between the two candidates who have received the highest number of votes in the fourth voting session. If there are more than two candidates with the same number of votes, the candidate who will run in the voting is determined by lot.

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

5. In the event that even after the fifth vote, there is no candidate that has received the required majority of votes, or if after the unsuccessful completion of the fourth voting session 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**

*(amended by Law no. 9904, dated 21.4.2008, Article 6)*

1. The President of the Republic, in every case, is 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/her 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 begins no later than 60 days prior to the ending of the mandate of the Assembly.

3. The President commences his/her duties after taking 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 of Albania, and I will serve the general interest and the progress of the Albanian People."* The President may add: *"So help me God!"*

4. The President that resigns before the end of his/her mandate, may not be a candidate in the presidential election that takes place after his/her resignation.

#### **Article 89**

The President of the Republic may not hold any other public duty, may not be a member of a political party or carry out other private activities.

#### **Article 90**

1. The President of the Republic is not held responsible for acts carried out in the exercise of duty.
2. The President of the Republic may be discharged for serious violations of the Constitution and for the commission of a serious crime. The proposal to discharge the President in these instances 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 presented to the Constitutional Court, which, when it finds the culpability of the President of the Republic, declares his/her discharge from duty.

#### **Article 91**

1. When the President of the Republic is temporarily unable to exercise his/her functions or when his/her post remains vacant, the Chairperson of the Assembly takes his/her post and exercises his/her powers.
2. In case the President cannot exercise his/her duty for more than 60 days, the Assembly, by two-thirds of all its members decides on presenting the case to the Constitutional Court, which



conclusively finds for the fact of his/her incapacity. In the instance of finding of incapacity, the post of the President remains vacant and the election of the new President begins within 10 days from the date of finding of incapacity.

#### **Article 92**

The President exercises also these powers:

- a) addresses messages to the Assembly;
- b) exercises the right of pardon according to the law;
- c) grants Albanian citizenship and permits its renunciation according to the law;
- ç) gives decorations and titles of honour according to the law;
- d) accords the highest military ranks according to the law;
- dh) upon the proposal of the Prime Minister, appoints and dismisses the plenipotentiary representatives of the Republic of Albania to other states and international organizations;
- e) accepts letters of credence and the withdrawal of diplomatic representatives of other states and international organizations accredited to the Republic of Albania;
- ë) concludes international agreements according to the law;
- f) upon proposal of the Prime Minister, appoints the director of the state intelligence service;
- g) nominates the Chairperson of the Academy of Sciences and the rectors of universities in accordance with the law;
- gj) sets the date of elections for the Assembly, local government bodies and the conduct of referendums;
- h) requests written opinions and information from the directors of state institutions for matters connected with their duties.

#### **Article 93**

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

#### **Article 94**

The President of the Republic may not exercise other competences, 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, which 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, within 10 days the Assembly elects another Prime Minister. In this case, the President appoints the new Prime Minister.

4. When 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. The 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**

Prior to commencement of the duty, the Prime Minister, deputy prime minister, and ministers take the oath 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, under its responsibility, may issue normative acts having the force of law, for the taking of 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 their force retroactively, in case 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) plans and presents the principal directions of general state policy and is responsible for them;
  - c) ensures 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 as foreseen in the Constitution and the laws.
2. The Prime Minister resolves disagreements between ministers.
3. The Prime Minister, in the exercise of his/her powers, issues orders.
4. The minister, within the principal directions of general state policy, directs under his/her responsibility the activities under his/her competence. The minister, in the exercise of his/her powers, issues orders and instructions.

### **Article 103**

1. Minister may be appointed anyone who has the qualifications to be a deputy.
2. The minister may not exercise any other state function nor be a director or member of the bodies of profitmaking enterprises.
3. Members of the Council of Ministers enjoy the immunity of a deputy.

### **Article 104**

*(amended by Law no. 9904, dated 21.4.2008, Article 7)*

1. The Prime Minister is entitled to present to the Assembly a motion of confidence for the Council of Ministers. In case that 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.

The 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**

*(amended by Law no. 9904, dated 21.4.2008, Article 8)*

1. One-fifths of the deputies has the right 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 civil servants apply the law and are in the service of the people.

2. Civil servants in the public administration are selected through competition, with the exception of cases provided by law.

3. Guarantees of tenure and legal treatment of public civil servants are regulated by law.

### **PART SIX**

### **LOCAL GOVERNMENT**

#### **Article 108**

1. The units of local government are communes or municipalities and districts. 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 their 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 foreseen by law in accordance also with Article 151, paragraph 2.

#### **Article 109**

*(amended by Law no. 9675, dated 13.1.2007, Article 1)*

1. The representative authorities of the basic units of local governance are the councils, which are elected every four years through general, direct and secret voting.
2. The executive organ of a municipality or commune is the Chairperson, who is elected directly by the people in the manner foreseen in paragraph 1 of this Article.
3. Only citizens who have a permanent residence in the territory of the respective local unit have the right to be elected to the local councils and as chairman of the municipality or commune.
4. 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. The district consists of several basic units of local government with traditional, economic and social ties and joint interests.
2. The district is the unit in which regional policies are constructed and implemented and where they are harmonized with state policy.
3. The representative organ of the district is the council of the district. Municipalities and communes delegate members to the council of the district in proportion to their population, but in every instance with at least one member. The chairpersons of communes and municipalities are always members of the council of the district. Other members are elected through proportional lists from among the municipal or communal councillors by their respective councils.
4. The Council of the district has the right to issue directives and decisions with general obligatory force for the district.

#### **Article 111**

1. The units of local government are legal entities.
2. The units of local government have an independent budget, which is established 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 concluded with 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 districts:
  - a) regulate and administer in an independent manner local issues within their jurisdiction;
  - b) exercise the rights of property, administer in an independent manner the income generated, 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 the law, to establish local taxes as well as their level;
  - d) establish rules for their organization and functioning in compliance with the 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 the prefect as its representative in every district. The competences 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. In case 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 have force throughout the entire territory of the Republic of Albania are the:

- a) Constitution;
- b) ratified international agreements;
- c) laws;
- ç) normative acts of the Council of Ministers.

2. Acts that are issued by the bodies of local government have force only within the territorial jurisdiction exercised by these bodies.
3. Normative acts of ministers and governing bodies of other central state institutions have force throughout the entire territory of the Republic of Albania within the sphere of their jurisdiction.

#### **Article 117**

1. Laws, normative acts of the Council of Ministers, of ministers, of other central state institutions, acquire legal force only after being published in the Official Journal.
2. The promulgation and publication of other normative acts is done in accordance with the manner foreseen by law.
3. International agreements, that are ratified by law, are promulgated and published according to the procedures that are foreseen for laws. The promulgation and publication of other international agreements is done according to law.

#### **Article 118**

1. Sublegal acts are issued on the basis and for the implementation of the laws by the bodies foreseen in the Constitution.
2. The law shall authorize the issuance of sublegal acts, designate the competent body, the matters that are to be regulated, as well as the principles on the basis of which these sublegal acts are to be issued.
3. The body authorized by law to issue sublegal acts, as specified in paragraph 2 of this Article, may not delegate its competence to another body.

#### **Article 119**

1. Regulations 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 state institutions, have an internal character and are binding only to the administrative units that are subordinate to them.
2. These acts are issued on the basis of law and may not serve as basis for taking decisions in connection with individuals and other subjects.
3. Regulations and orders are issued on the basis and for the 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 the:
  - a) territory, peace, alliances, political and military issues;
  - b) human rights and freedoms, as well as obligations of citizens, as foreseen in the Constitution;
  - c) membership of the Republic of Albania in international organizations;
  - ç) undertaking of financial obligations by the Republic of Albania;
  - d) approval, amendment, supplementing or repeal of laws.
2. The Assembly, with a majority of all its members, may ratify other international agreements that are not foreseen 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 for by law.

### **Article 122**

1. Every ratified international agreement 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 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 norms issued by an international organization have superiority, in case of conflict, on the legislation 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 matters.
2. The law that ratifies an international agreement as provided for in paragraph 1 of this Article is approved by majority of all members of the Assembly.
3. The Assembly may decide that the ratification of such an agreement be done through a referendum.

### PART EIGHT

### **CONSTITUTIONAL COURT**

### **Article 124**

*(amended by Law no. 76, dated 22.07.2016, Article 3)*

1. The Constitutional Court resolves constitutional disputes and makes the definitive interpretation of the Constitution.
2. The Constitutional Court is subject only to the Constitution.
3. The Constitutional Court has a separate budget, which it administers independently.

### **Article 125**

*(amended by Law no. 76, / datë 22.07.2016, Article 4)*

1. The Constitutional Court consists of 9 (nine) members. Three members are appointed by the President of the Republic, three members are elected by the Assembly and three members are elected by the High Court. The members are selected among the three candidates ranked highest by the Justice Appointments Council, in accordance with the law.
2. The Assembly elects the judge of the Constitutional Court by no less than a three-fifths majority of its members. In case the Assembly fails to elect the judge within 30 days of the submission of the list by the Justice Appointments Council, the candidate ranked highest in the list is deemed appointed.
3. The judges of the Constitutional Court hold office for 9 years, without the right to re-appointment.
4. The judges of the Constitutional Court shall have a graduate degree in law, at least 15 years of experience as judges, prosecutors, advocates, professors or lecturers in law, senior civil servants in the public administration, with a prominent activity in the constitutional, human rights or other areas of law.
5. The judge should not have held political posts in the public administration or leadership positions in a political party in the last past 10 years before running as a candidate. Further criteria, as well as the procedure for the appointment and selection of judges of the Constitutional Court are regulated by law.
6. The composition of the Constitutional Court is renewed every 3 years to one-third thereof, in

accordance with the procedure determined by law.

7. The judge of the Constitutional Court continues to stay in office until the appointment of his/her successor, except for the cases foreseen in Article 127, paragraph 1, subparagraphs “c”, “ç”, “d”, and “dh”.

#### **Article 126**

*(amended by Law no. 88, dated 18.09.2012, Article 2, and by Law no. 76, dated 22.07.2016, Article 5)*

The judge of the Constitutional Court enjoys immunities in connection with the opinions expressed and the decisions made in the course of assuming his/her functions, except where the judge acts based upon personal interests or with malice.

#### **Article 127**

*(amended by Law no. 76, dated 22.07.2016, Article 6)*

1. The mandate of the judge of the Constitutional Court terminates when:
  - a) reaching the age of 70 years;
  - b) the 9 year mandate expires;
  - c) presenting his/her resignation;
  - ç) dismissed in accordance with the provisions of article 128 of the Constitution;
  - d) the conditions of inelectability and incompatibility in the exercise of the function have been established;
  - dh) the fact of incapacity to exercise the duties has been established.
2. The termination of the mandate of judge of the Constitutional Court is declared upon the decision of the Constitutional Court.
3. In the instance where the position of judge remains vacant, the appointing body appoints a new judge, who remains in office until the expiry of the mandate of the outgoing judge.

#### **Article 128**

*(amended by Law no. 76, dated 22.07.2016, Article 7)*

1. The judge of the Constitutional Court is disciplinary liable under the law.
2. The disciplinary proceedings against the judge are conducted by the Constitutional Court, which decides on his/her dismissal when:
  - a) finding serious professional and ethical misconduct that discredit the position and image of judge while exercising the mandate;
  - b) sentenced by a final court decision for the commission of a crime.

3. The judge of the Constitutional Court is suspended from duty by decision of the Constitutional Court when:

- a) upon him/her is imposed the personal security measure of “arrest in prison” or “house arrest” for commission of a criminal offence;
- b) he/she obtains the capacity of defendant for an offence committed intentionally;
- c) disciplinary proceedings are initiated, as per the law.

#### **Article 129**

The judge of the Constitutional Court commences the duty after he/she takes the oath in front of the President of the Republic.

#### **Article 130**

*(amended by Law no. 76, dated 22.07.2016, Article 8)*

Being a judge of the Constitutional Court shall not be compatible with any other political, state or professional activity that is exercised against remuneration, except for teaching, academic and scientific activities, in accordance with the law.

#### **Article 131**

*(letter “e” amended by Law no. 137, dated 17.12.2015, Article 3)*

*(letter “f” amended and paragraph 2 added by Law no. 76, dated 22.07.2016, Article 9)*

1. The Constitutional Court decides on:

- a) compatibility of the law with the Constitution or with international agreements, as foreseen 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 state powers, as well as between central government and local government;
- d) constitutionality of political parties and other political organizations, as well as their activity, as per Article 9 of this Constitution;
- dh) dismissal from duty of the President of the Republic and finding of his/her inability to exercise his/her functions;
- e) matters connected to the electability and noncompliance in assuming the functions of the President of the Republic, of deputies, of functionaries of bodies foreseen in the Constitution, as well as to the verification of their election;
- ë) constitutionality of the referendum and verification of its results;

- f) conclusive adjudication of the complaints of individuals against the acts of the public powers or judicial acts impairing the fundamental rights and freedoms guaranteed by the Constitution, after all effective legal means for the protection of these rights have been exhausted, unless provided otherwise by the Constitution.
2. The Constitutional Court, when recourse being sought for examining a law on the revision of the Constitution, approved by the Assembly according to Article 177, shall control only the compliance with the procedural requirements foreseen in the Constitution.

**Article 132**

*(amended by Law no. 76, dated 22.07.2016, Article 10)*

1. The decisions of the Constitutional Court are final and binding for enforcement.
2. The decisions of the Constitutional Court enter into force on the day of their publication in the Official Journal. The Constitutional Court may decide that its decision, which has examined the act, begins to give effects on another date.
3. The dissenting opinion is published along with the final decision.

**Article 133**

*(paragraph 2 amended by Law no. 76, dated 22.07.2016, Article 11)*

1. Acceptance of complaints for adjudication is decided by a number of judges determined by law.
2. The Constitutional Court makes final decisions by the majority of all its members, unless otherwise provided for by law.

**Article 134**

*(amended by Law no. 76, dated 22.07.2016, Article 12)*

1. Recourse to the Constitutional Court is sought upon the request of the:
  - a) President of the Republic;
  - b) Prime Minister;
  - c) Not less than one-fifth of the members of Assembly;
  - ç) Peoples Advocate;
  - d) Head of High State Audit;
  - dh) Any court, as per the provisions of Article 145, paragraph 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) Organs of religious communities;
  - gj) Political parties;
  - h) Organizations;

i) Individuals.

2. The entities provided for in subparagraphs “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.

**PART NINE**  
**THE COURTS**

**Article 135**

*(amended by Law no. 76, dated 22.07.2016, Article 13)*

1. The judicial power is exercised by the High Court as well as by the appeal courts, first instance courts, which are established by law.
2. Specialized courts are competent to adjudicate the criminal acts of corruption and organized crime, as well as criminal charges against the President of the Republic, Chairperson of the Assembly, Prime Minister, member of the Council of Ministers, judge of the Constitutional Court and High Court, Prosecutor General, High Inspector of Justice, Mayor, deputy, deputy minister, member of the High Judicial Council and High Prosecutorial Council, and heads of central or independent institutions as provided by the Constitution or by law, as well as charges against the former such officials.
3. The Assembly may establish by law other courts in specialized fields, however, under no circumstances may it establish extraordinary courts.
4. Judges of the specialized courts foreseen in paragraph 2, of this Article, are appointed by the High Judicial Council, in accordance with the law. Judges of the specialized courts may be dismissed from duty by a majority of two-thirds of the members of the High Judicial Council. The candidate judges and candidate judicial civil servants in the specialized courts, as well as their close family members, prior to their appointment, are subject to the verification of their assets and background, and consent to periodic reviews of their financial accounts and personal telecommunications, in accordance with the law.

**Article 136**

*(amended by Law no. 76, dated 22.07.2016, Article 14)*

1. The judges of the High Court are appointed by the President of the Republic upon proposal of the High Judicial Council, for a mandate of 9-years, without the right to re-appointment.
2. The President of the Republic, within 10 days following the day of receipt of the decision of the High Judicial Council, appoints the judge of the High Court, with the exception of cases where the President finds that the candidate does not meet the criteria for qualification or conditions for electability, in accordance with the law. The decree of the President of the Republic rejecting the appointment of the candidate loses its force when it is voted down by the majority of the members of the High Judicial Council. In this case, as well as in case the President is silent, the candidate is deemed appointed and takes office within 15 days following the date of the decision of the High Judicial Council.

3. The judge of the High Court is selected from among the ranks of the judges with at least 13 years of experience in practicing the profession. One fifth of the judges in this court are selected from among prominent jurists with not less than 15 years of experience as advocates, professors or lecturers of law, high level jurists in the public administration or in other fields of law. Candidates selected from among the ranks of jurists shall have a law degree.
4. The non-judge candidate shall not have held political posts in the public administration, or leadership positions in a political party, in the past 10 years before their candidacy. Further criteria and the procedure of selection of the judges are provided for by law.
5. The judges of the High Court remains in office until the appointment of the successor, except for the cases foreseen in Article 139, paragraph 3, subparagraphs “c”, “ç”, “d” and “dh”.

**Article 136/a**

*(added by Law no. 76, dated 22.07.2016, Article 15)*

1. Judge may be any Albanian citizen appointed by the High Judicial Council, upon graduating the School of Magistrates and upon the carrying out of the process of preliminary verification of their assets and background, in accordance with the law.
2. Further criteria for the selection and appointment of judges are provided for by law.

**Article 137**

*(amended by Law no. 88, dated 18.09.2012, Article 3, and by Law no. 76, dated 22.07.2016, Article 16)*

The judge enjoys immunity in connection with the opinions expressed and the decisions rendered in the course of exercising his/her functions, except for the cases where the judge deliberately renders a decision in furtherance of a personal interest of with malice.

**Article 138**

*(amended by Law no. 76, dated 22.07.2016, Article 17)*

The salary and other benefits of judges may not be reduced, except for cases where:

- a) general economic and financial measures need to be undertaken in order to avoid difficult economic situations of the country or other national emergencies;
- b) the judge returns to position he/she held prior to the appointment;
- c) a disciplinary measure is imposed on him/her or he/she is evaluated professionally incapable, in accordance with the law.

**Article 139**

*(amended by Law no. 76, dated 22.07.2016, Article 18)*

1. The mandate of the judge of the High Court judge is terminated in the following instances:



- a) reaching the retirement age;
  - b) the 9 year mandate expires;
  - c) presenting his/her resignation;
  - ç) dismissed in accordance with the provisions of Article 140 of the Constitution;
  - d) the conditions of inelectability and incompatibility in the exercise of the function have been established;
  - dh) the fact of incapacity to exercise the duties has been established.
2. The termination of the mandate of the judge of the High Court is declared upon decision of the High Court.
  3. The procedure for the appointment of the judge to another court upon the termination of the mandate is regulated by law.

#### **Article 140**

*(amended by Law no. 76, dated 22.07.2016, Article 19)*

1. The judge is disciplinarily liable under the law.
2. The judge is dismissed by decision of the High Judicial Council when:
  - a) commits serious professional or ethical misconduct that discredit the position and image of judge while exercising the duty;
  - b) sentenced by final court decision for the commission of a crime.
3. The judge is suspended from duty by decision of the High Judicial Council when:
  - a) upon him/her is imposed the personal security measure of “arrest in prison” or “house arrest” for the commission of a criminal offence;
  - b) he/she obtains the capacity of defendant for a serious offence committed intentionally;
  - c) disciplinary proceedings are initiated, as per the law.
4. Against the decision of dismissal an appeal may be made to the Constitutional Court.

#### **Article 141**

*(amended by Law no. 76, dated 22.07.2016, Article 20)*

1. The High Court adjudicates cases concerning the interpretation and application of the law so as to ensure the unification or development of the judicial practice, in accordance with the law.
2. For changing the judicial practice, the High Court reviews in Joint Chambers specific judicial issues decided by the chambers, in accordance with the law.

#### **Article 142**



1. Judicial decisions shall be reasoned.
2. The High Court shall publish its decisions, as well as the minority opinions.
3. The state bodies are obliged to execute judicial decisions.

**Article 143**

*(amended by Law no. 76, dated 22.07.2016, Article 21)*

Being a judge is not compatible with any other political or state activity, as well as professional activity exercised against remuneration, with the exception of teaching, academic, scientific activities, or secondment to justice system institutions, in accordance with the law.

**Article 144**

*(repealed by Law no. 76/2016, Article 22)*

**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 obligatory for all courts.
3. Interference in the activity of the courts or the judges entails liability according to law.

**Article 146**

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

**Article 147**

*(amended by Law no. 76, dated 22.07.2016, Article 23)*

1. The High Judicial Council ensures the independence, accountability and appropriate functioning of the judicial power in the Republic of Albania.
2. The High Judicial Council is composed of 11 members, six of which are elected by the judges of all levels of the judicial power and five members are selected by the Assembly among the ranks of non-judge jurists.
3. The judge members are elected from among the ranks of judges of high moral and professional integrity, in accordance with an open and transparent procedure that ensures a fair representation of all levels of the judiciary. The non-judge members are selected among the ranks of prominent jurists, with not less than 15 years of professional experience, of high moral and professional integrity. They should not have held political posts in the public administration or leadership positions in a political party in the past 10 years before running as candidates. Further criteria and

the procedure for selecting the candidates are regulated by law.

4. Two non-judge members are selected from among the ranks of advocates, two members from the corps of pedagogues of law faculties and the School of Magistrates, and one member from civil society. The Secretary General of the Assembly, based on an open and transparent procedure, announces the vacancies, in accordance with the law.

5. The Secretary General of the Assembly, not later than 10 days from the submission of candidatures, verifies whether the candidates fulfil the criteria foreseen in the Constitution and the law and assesses the professional and moral criteria for member of the High Judicial Council and prepares the list. In case the candidates do not fulfil the criteria and conditions to be elected, the Secretary General of the Assembly does not include their names in the list.

6. The Secretary General of the Assembly, upon completion of the verification, immediately sends the list of candidates who fulfil the formal criteria to the parliamentary subcommittee, in accordance with paragraph 7 of this article.

7. The standing committee responsible for legal affairs in the Assembly establishes a subcommittee for the further assessment and selection of candidates not later than three days from the submission of the list. The subcommittee is composed of five members of the Assembly, where three members are nominated by the parliamentary majority and two by the parliamentary minority. The subcommittee may, with at least four votes, include in the list of candidates even those who have been excluded from the list by the Secretary General of the Assembly for failure to comply with formal requirements. The subcommittee selects the candidates with the support of at least 4 members. In case the required majority cannot be reached, the candidates are selected by lot.

8. The names of the candidates selected by the subcommittee are consolidated into one list and sent to the Chairperson of the Assembly. Within ten days, the Assembly approves the list of candidates by two-thirds of all the members. In case the list is rejected, the procedure is repeated in the subcommittee as per paragraph 7 of this Article, but not more than two times. In case that, following the conduct for a third time of the procedure by the Assembly, it fails to approve the presented list, the candidates of this list are deemed selected. The detailed procedure is regulated by law.

9. The Chairperson of the High Judicial Council is elected at the first meeting of the Council from among the ranks of the non-judge members, in accordance with the law.

10. Members of the High Judicial Council exercise their duty on full-time basis for a period of five years, without the right to immediate re-election. At the end of the mandate, the judge members return to their previous work positions. The mandate of judges of the High Court or specialized courts shall be suspended during the period of time of their service as member of the High Judicial Council. The non-judge members, who before appointment worked full-time in the public sector, shall return to the previous work positions or, if not possible, to positions equivalent to them.

#### **Article 147/a**

*(added by Law no. 76, dated 22.07.2016, Article 24)*

1. The High Judicial Council exercises the following functions:



- a) appoints, evaluates, promotes and transfers judges of all levels;
  - b) decides on disciplinary measures on judges of all levels;
  - c) proposes to the President of the Republic candidates for judges of the High Court, in accordance with the law;
  - ç) approves the rules of judicial ethics and monitors their observation;
  - d) directs and ensures the proper running of work of the courts administration, with the exception of the management of the information technology structure of the courts, which is regulated by decision of the Council of Ministers;
  - dh) proposes and administers its own budget and the budget of the courts;
  - e) informs the public and the Assembly on the state of the judicial system;
  - ë) exercises other powers defined by law.
2. The law may provide for the establishment of decision-making committees of the High Judicial Council.
3. The Minister of Justice may participate, without the right to vote, in the meetings of the High Judicial Council when issues of strategic planning and budget of the judiciary are discussed.

**Article 147/b**

*(added by Law no. 76, dated 22.07.2016, Article 25)*

1. The mandate of the member of the High Judicial Council shall terminate when:
- a) reaching the retirement age;
  - b) the 5 year mandate expires;
  - c) presenting his/her resignation;
  - ç) dismissed in accordance with the provisions of Article 147/c of the Constitution;
  - d) the conditions of inelectability and incompatibility in the exercise of the function have been established;
  - dh) the fact of incapacity to exercise the duties has been established;
2. The termination of the mandate of the member is declared upon decision of the High Judicial Council.
3. Where the position of the member remains vacant, the appointing body of the preceding member, in accordance with Article 147, appoints the new member, the latter remaining in office until the expiry of the mandate of the outgoing member.
4. The member of the High Judicial Council remains in office until the appointment of the successor, except for the cases foreseen in subparagraphs “c”, “ç”, “d” and “dh”, of paragraph 1, of this Article.

**Article 147/c**

*(added by Law no. 76, dated 22.07.2016, Article 26)*

1. The member of the High Judicial Council is disciplinarily liable in accordance with the law.
2. The member is dismissed upon decision of the Constitutional Court when:
  - a) committing serious professional or ethical misconduct;
  - b) sentenced by a final court decision for the commission of a crime.
3. The member of the High Judicial Council is suspended from duty upon decision of the Constitutional Court when:
  - a) upon him/her is imposed the personal security measure of “arrest in prison” or “house arrest” for commission of a criminal offence;
  - b) he/she obtains the capacity of the defendant for a serious offence committed intentionally;
  - c) disciplinary proceedings are initiated, as per the law.

**Article 147/ç**

*(added by Law no. 76, dated 22.07.2016, Article 27)*

Being member of the High Judicial Council is not compatible with any other political or state activity, as well as any other professional activity exercised against remuneration, except for teaching, academic and scientific activities, in accordance with the law.

**Article 147/d**

*(added by Law no. 76, dated 22.07.2016, Article 28)*

1. The High Inspector of Justice is responsible for the verification of complaints, investigation of violations on its own initiative and the initiation of disciplinary proceedings against judges and prosecutors of all levels, members of the High Judicial Council, High Prosecutorial Council and the Prosecutor General, in accordance with the procedure defined by law.
2. The High Inspector of Justice is also responsible for the institutional inspection of courts and prosecution offices.
3. The High Inspector of Justice is elected by a majority of three fifths of all members of the Assembly, for a term of 9-years, without the right to re-election, among the ranks of prominent jurists with no less than 15 years of professional experience, of high moral and professional integrity. He/she should not have held political posts in the public administration or leadership positions in a political party in the past 10 years before the candidacy.
4. The High Inspector of Justice is elected from the list of five candidates selected and ranked based on merits by the Justice Appointment Council, in compliance with a transparent and open procedure. In case the Assembly does not reach the majority of three-fifths for any of the candidates within 30 days of receiving the list, the candidate ranked first is declared appointed.
5. The High Inspector of Justice shall enjoy the status of the High Court judge.
6. The procedures for the decision making of the High Inspector of Justice are regulated by law. Appeals against decisions relating to disciplinary measures against other inspectors are examined by

the Constitutional Court.

**Article 147/dh**

*(added by Law no. 76, dated 22.07.2016, Article 29)*

1. The mandate of the High Inspector of Justice terminates when:
  - a) reaching the retirement age;
  - b) the 9 year mandate expires;
  - c) presenting his/her resignation;
  - ç) dismissed in accordance with the provisions of Article 147/e of the Constitution;
  - d) the conditions of inelectability and incompatibility in the exercise of the function have been established;
  - dh) the fact of incapacity to exercise the duties has been established.
2. The termination of the mandate of the High Inspector of Justice is declared by decision of the joint meeting of the High Judicial Council and High Prosecutorial Council.
3. The High Inspector of Justice remains in office until the appointment of the new Inspector, except for the cases foreseen in paragraph 1, subparagraphs “c”, “ç”, “d”, and “dh”.
4. Upon termination of the mandate, upon his/her request, the High Inspector of Justice returns to the position he/she held before the appointment or in a position equivalent to it.

**Article 147/e**

*(added by Law no. 76, dated 22.07.2016, Article 30)*

1. The High Inspector of Justice is disciplinarily liable in accordance with the law.
2. The High Inspector of Justice is dismissed upon decision of the Constitutional Court when:
  - a) committing serious professional or ethical misconduct;
  - b) sentenced by a final court decision for the commission of a crime;
3. A parliamentary investigative committee shall investigate allegations of misconduct by the High Inspector of Justice, respecting his/her rights to a fair trial. The investigative committee, in case it finds the existence of misconduct as per paragraph 2 of this Article, proposes to the Constitutional Court the dismissal of the High Inspector of Justice, in accordance with the law.
4. The High Inspector of Justice is suspended from duty upon decision of the Constitutional Court when:
  - a) upon him/her is imposed the personal security measure of “arrest in prison” or “house arrest” for commission of a criminal offence;
  - b) he/she obtains the capacity of the defendant for a serious offence committed intentionally;
  - c) disciplinary proceedings are initiated, as per the law.

**Article 147/ë**

*(added by Law no. 76, dated 22.07.2016, Article 31)*

Being the High Inspector of Justice is not compatible with any other political or state activity, as well as professional activity exercised against remuneration, except for teaching, academic or scientific activities, in accordance with the law.

**PART TEN**

**THE PROSECUTION OFFICE**

**Article 148**

*(amended by Law no. 76, dated 22.07.2016, Article 32)*

1. The Prosecution Office carries out the criminal prosecution, and represents the accusation in court on behalf of the state. The Prosecution Office performs other duties defined by law.
2. The Prosecution Office is an independent body, which ensures the coordination and control of its actions as well as respects the internal independence of prosecutors to investigate and prosecute, in accordance with the law.
3. The Prosecution Office is organised and function attached to the judiciary system.
4. The Special Prosecution Office and the Special Investigation Unit for the prosecution and investigation of criminal offences of corruption, organized crime and criminal cases in accordance with Article 135, paragraph 2, of the Constitution are independent from the Prosecutor General. The Special Investigation Unit is subordinate to the Special Prosecution Office.

**Article 148/a**

*(added by Law no. 76, dated 22.07.2016, Article 33)*

1. The Prosecutor General is appointed by a majority of three fifths of the members of Assembly, among three candidates proposed by the High Prosecutorial Council, for a seven-year mandate, without the right to re-appointment.
2. The High Prosecutorial Council selects and ranks the three most qualified candidates, on the basis of an open and transparent procedure, and forwards them to the Assembly, in accordance with the law.
3. The Prosecutor General is elected among the ranks of prominent jurists, with not less than 15 years of professional experience, of high moral and professional integrity, who have graduated from the School of Magistrates or have a scientific degree in law. The candidate shall not have held political posts in the public administration or leadership positions in a political party in the past 10 years before running as a candidate.
4. In case the Assembly fails to elect the Prosecutor General within 30 days of receiving the proposals, the candidate ranked highest by the High Prosecutorial Council, is declared appointed.
5. Upon completion of the mandate and upon his/her request, the Prosecutor General is appointed in the position he/she held before the appointment or as a judge in the Court of Appeal.

**Article 148/b**

*(added by Law no. 76, dated 22.07.2016, Article 34)*

The Prosecutor General exercises these powers:

- a) represents accusation before the High Court and cases before the Constitutional Court, except for the instance where the representation is made by the Special Prosecution Office;
- b) issues written general guidance to prosecutors, with the exception of prosecutors of the Special Prosecution Office;
- c) manages the Prosecution Office administration, with the exception of the administration of the Special Prosecution Office. The establishment and management of the information technology structures is regulated by decision of the Council of Ministers;
- ç) proposes and administers the budget of the Prosecution Office, with the exception of the budget for the Special Prosecution Office;
- d) reports to the Assembly on the situation of criminality;
- dh) exercises other powers defined by law.

**Article 148/c**

*(added by Law no. 76, dated 22.07.2016, Article 35)*

1. The mandate of the Prosecutor General shall terminate when:
  - a) reaching the retirement age;
  - b) the 7 year mandate expires;
  - c) presenting his/her resignation;
  - ç) dismissed in accordance with the procedure foreseen in Article 149/c of the Constitution;
  - d) the conditions of inelectability and incompatibility in the exercise of the function have been established;
  - dh) the fact of incapacity to exercise the duties has been established.
2. The termination of the mandate of the Prosecutor General is declared by decision of the High Prosecutorial Council.

**Article 148/ç**

*(added by Law no. 76, dated 22.07.2016, Article 36)*

1. Prosecutor may be any Albanian citizen appointed by the High Prosecutorial Council upon having graduated from the School of Magistrates and upon the carrying out of the process of preliminary verification of their assets and background, in accordance with the law.
2. Further criteria for the selection and appointment of prosecutors are provided for by law.

**Article 148/d**





*(added by Law no. 76, dated 22.07.2016, Article 37)*

1. The prosecutor is disciplinarily liable in accordance with the law.
2. The prosecutor is dismissed upon decision of the High Prosecutorial Council when:
  - a) committing serious professional or ethical misconduct which discredit the position and image of prosecutor in the course of exercising the duty;
  - b) sentenced by a final court decision for commission of a crime.
3. Against the decision of dismissal an appealed may be made to the Constitutional Court.
4. The prosecutor is suspended from duty upon decision of the High Prosecutorial Council when:
  - a) upon him/her is imposed the personal security measure of “arrest in prison” or “house arrest” for the commission of a criminal offence;
  - b) he/she obtains the capacity of the defendant for a serious offence committed intentionally;
  - c) disciplinary proceedings are initiated, as per the law.

#### **Article 148/dh**

*(added by Law no. 76, dated 22.07.2016, Article 38)*

1. The Special Prosecution Office exercises criminal prosecution and represents accusation before the specialized courts foreseen in Article 135, paragraph 2, of the Constitution, as well as before the High Court.
2. The Special Prosecution Office consists of at least 10 prosecutors, who are appointed by the High Prosecutorial Council for a 9-year term, without the right to re-appointment. The law shall provide further criteria for the selection as well as for the transparent and open procedure of appointment.
3. The Chief Special Prosecutor of the Special Prosecution Office is elected from the ranks of the prosecutors of this Prosecution Office by a majority of the members of the High Prosecutorial Council for a three-year term, without the right to re-appointment, in accordance with the law.
4. The prosecutor of the Special Prosecution Office may be dismissed from office for the commission of a crime or serious disciplinary misconduct by a majority of two-thirds of the members of the High Prosecutorial Council.
5. The candidate for becoming prosecutor, investigation officer, administrative staff of the Special Prosecution Office, Special Investigation Unit, as well as their close family members, prior to their appointment, are subject to a verification of their assets and background, and consent to periodic reviews of their financial accounts and personal telecommunications, in accordance with the law.

#### **Article 149**

*(amended by Law no. 76, dated 22.07.2016, Article 39)*

1. The High Prosecutorial Council guarantees the independence, accountability, discipline, status and career of prosecutors in the Republic of Albania.



2. The High Prosecutorial Council is composed of 11 members, six of whom are elected by the prosecutors of all levels of the prosecution system and five members are selected by the Assembly among jurists who are not prosecutors.
3. The prosecutor members are elected from among the ranks of prosecutors of high moral and professional integrity, in accordance with an open and transparent procedure that ensures a fair representation of all levels of the prosecution system. The non-prosecutor members are selected among prominent jurists, with not less than 15 years of professional experience, of high moral and professional integrity. They shall not have held political posts in the public administration or leadership positions in a political party in the past 10 years before running as a candidate. Further criteria and the procedure for selecting the candidates are regulated by law.
4. Two non-prosecutor members are selected from among the ranks of advocates, two members from the corps of pedagogues of law faculties and the School of Magistrates, and one member from civil society. The Secretary General of the Assembly, based on an open and transparent procedure, announces the vacancies in accordance with the law.
5. The Secretary General of the Assembly, not later than 10 days from the submission of candidatures, verifies whether the candidates fulfil the criteria foreseen in the Constitution and the law and assesses the professional and moral criteria to be member of the High Prosecutorial Council and prepares the list. In case the candidates do not fulfil the criteria and conditions to be elected, the Secretary General of the Assembly does not include their names in the list.
6. The Secretary General of the Assembly, upon completion of the verification, immediately sends the list of candidates who fulfil the formal criteria to the parliamentary subcommittee, in accordance with paragraph 7 of this article.
7. The standing committee responsible for legal affairs in the Assembly shall establish a subcommittee for the further assessment and selection of candidates not later than three days from the submission of the list. The subcommittee is composed of five members of the Assembly, three members nominated by the parliamentary majority and two by the parliamentary minority. The subcommittee may, with at least four votes, include in the list of candidates even those who have been excluded from the list by the Secretary General of the Assembly for failure to comply with formal requirements. The subcommittee selects the candidates with the support of at least 4 members. In case the required majority cannot be reached, the candidates are selected by lot.
8. The names of the candidates selected by the subcommittee are consolidated into one list and sent to the Chairperson of the Assembly. Within ten days, the Assembly approves the list of candidates by a majority of two-thirds of all the members. In case the list is rejected, the procedure is repeated in the subcommittee under paragraph 7 of this Article, but no more than two times. In case that, following the conduct for a third time of the procedure by the Assembly, it fails to approve the presented list, the candidates of this list are deemed selected. The detailed procedure is regulated by law.
9. The Chairperson of the High Prosecutorial Council is elected at the first meeting of the Council from among the non-prosecutor members, in accordance with the law.
10. Members of the High Prosecutorial Council exercise their duty on a full-time basis for a period of five years, without the right of immediate re-election. At the end of the term, the prosecutor members return to their previous work positions. The mandate of the special prosecutor is

suspended during the period of time of the exercise of the function as member of High Prosecutorial Council. The non-prosecutor members, who before the appointment worked full-time in the public sector, return to their previous work positions or, if not possible, to positions equivalent to them.

**Article 149/a**

*(added by Law no. 76, dated 22.07.2016, Article 40)*

1. The High Prosecutorial Council shall exercise the following competences:
  - a) appoints, evaluates, promotes and transfers all prosecutors of all levels;
  - b) decides on disciplinary measures against all prosecutors of all levels;
  - c) proposes to the Assembly candidates for Prosecutor General, in accordance with the law;
  - ç) adopts rules of ethics for prosecutors and supervises their observance;
  - d) proposes and administers its own budget;
  - dh) informs the public and the Assembly on the state of the Prosecution Office;
  - e) performs other functions as defined by law.
  
2. The law may provide for the establishment of decision-making committees of the High Prosecutorial Council.

**Article 149/b**

*(added by Law no. 76, dated 22.07.2016, Article 41)*

1. The mandate of member of the High Prosecutorial Council terminates when:
  - a) reaching the retirement age;
  - b) the 5 year mandate expires;
  - c) presenting his/her resignation;
  - ç) dismissed in accordance with the provisions of Article 149/c of the Constitution;
  - d) the conditions of inelectability and incompatibility in the exercise of the function have been established;
  - dh) the fact of incapacity to exercise the duties has been established.
  
2. The termination of the mandate is declared upon decision of the High Prosecutorial Council.
3. Where the position of the member remains vacant, the appointing body of the preceding member, as per Article 149, appoints the new member, the latter remaining in office until the expiry of the mandate of the outgoing member.
4. The member of the High Prosecutorial Council remains in office until the appointment of the successor, except for the cases foreseen in subparagraph "c", "ç", "d" and "dh" of paragraph 1 of this article.

**Article 149/c**

*(added by Law no. 76, dated 22.07.2016, Article 42)*

1. The Prosecutor General and the members of the High Prosecutorial Council are disciplinarily liable in accordance with the law.

2. The Prosecutor General and the members of the High Prosecutorial Council are dismissed upon decision of the Constitutional Court when:

- a) committing serious professional or ethical misconduct;
- b) sentenced by a final court decision for the commission of a crime.

3. The Prosecutor General and the members of the High Prosecutorial Council are suspended from duty upon decision of the Constitutional Court when:

- a) upon him/her is imposed the personal security measure of “arrest in prison” or “house arrest” for the commission of a criminal offence;
- b) he/she obtains the capacity of the defendant for a serious offence committed intentionally;
- c) disciplinary proceedings are initiated, as per the law.

**Article 149/ç**

*(added by Law no. 76, dated 22.07.2016, Article 43)*

Being Prosecutor General, prosecutor or member of the High Prosecutorial Council is not compatible with any other state or political activity, as well as with any professional activity exercised against remuneration, except for teaching, academic or scientific activities.

**Article 149/d**

*(added by Law no. 76, dated 22.07.2016, Article 44)*

1. The Justice Appointments Council is responsible for verifying the fulfilment of legal requirements and assessment of professional and moral criteria of the candidates for High Inspector of Justice, as well as for member of the Constitutional Court. The Justice Appointments Council examines and ranks the candidates according to their professional merits. The ranking of candidates is not binding, except when the Assembly fails to make an appointment.

2. The Justice Appointments Council meets whenever it is necessary.

3. The Justice Appointments Council consists of nine members selected by lot from the ranks of judges and prosecutors, who are not subject to disciplinary measures. They serve a one-year term beginning on January 1 of each calendar year. Between December 1 and December 5 of each year, the President of the Republic selects by lot two judges of the Constitutional Court, one judge of the High Court, one prosecutor of the General Prosecution Office, two judges and two prosecutors from the Courts of Appeal and one judge from the Administrative Courts. If the President of the Republic fails to select the members by December 5, the Chairperson of the Assembly makes the selection by lot before December 10 of that calendar year. The Peoples Advocate participates as observer in the selection by lot and in the meetings and activities of the Justice Appointments Council.

4. Chairperson of the Justice Appointments Council is the member from the High Court. The High Court creates the working conditions for the operation of the Justice Appointments Council.

5. Further criteria on the scale of qualification of candidates participating in the lot are provided by

law. The organization and functioning of the Justice Appointments Council are 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 proposal of the Council of Ministers, may decide that an issue or that 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, may not be voted upon in a referendum.
3. A referendum upon the same issue may not 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. Referenda can be held only in one day of the year.

**PART TWELVE**  
**CENTRAL ELECTION COMMISSION**

*(repealed by Law no. 9904, dated 21.4.2008, Article 10)*



**PART THIRTEEN**  
**PUBLIC FINANCES**

**Article 155**

Taxes, fees, and other national and local financial obligations, the reduction or exemption 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 may incur 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 set and collect taxes and other obligations as provided by law.
4. State and local government 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 state budget during the autumn session, which may not 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 report of the High State Audit.

**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 may not 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 to 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.

### **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/she 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.

#### **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 report of the Council of Ministers about the expenses of the previous financial year before it is approved by the Assembly;
  - c) information about the results of audits at any time when 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. 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 as a combatant in the armed forces, is obliged to perform an alternative service, as provided by law.

#### **Article 167**

1. Military servicemen on active duty may not be elected or appointed for other state duties nor participate in a political 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 to the President of the Republic.

#### **Article 169**

1. The President of the Republic, in times of peace, exercises the command of the Armed Forces through the Prime Minister and Minister of Defence.
2. The President of the Republic, in times of war, 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, and their subordination to constitutional organs, are defined by law.

**PART SIXTEEN**  
**EXTRAORDINARY MEASURES**

**Article 170**

1. Extraordinary measures may be imposed due to a state of war, state of emergency, or state of 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, areas and 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 imposed.
4. Acts taken as a result of extraordinary measures shall be in proportion with the level of risk and shall aim to re-establish the conditions for the normal functioning of the state, as soon as possible.
5. During the situations that require the imposition of extraordinary measures, none of these acts may be amended: the Constitution, the laws on the election of the Assembly and organs of local government, as well as the laws on extraordinary measures.
6. During the period of implementation 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 may 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 Article 171, paragraph 1, the President of the Republic presents to the Assembly the decree for imposing 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 on the decree of the President.



#### **Article 173**

1. In case of danger to the constitutional order and to public security, the Assembly, upon the request of the Council of Ministers, may impose the state of emergency in one part or the whole territory of the state, which shall last as long as this danger continues, but not longer than 60 days.
2. Upon the imposition of the state of emergency, the intervention of armed forces is done upon 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, every 30 days, for a period of time not longer than 90 days.

#### **Article 174**

1. For the prevention or 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 may 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, state of emergency or state of natural disaster shall specify the rights and freedoms which are limited in accordance with 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 law, which have to be approved by the Assembly in its first meeting.

### **PART SEVENTEEN REVISION OF THE CONSTITUTION**

#### **Article 177**

1. The 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 extraordinary measures are imposed.
3. The draft 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 the 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 may not be done before the passing of 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 FINAL DISPOSITIONS**

**Article 178**

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

**Article 179**

*(amended by Law no. 76, dated 22.07.2016, Article 45)*

1. Members of the Constitutional Court continue their activity as members of the Constitutional Court, in accordance with the previous mandate.
2. The first member to be replaced in the Constitutional Court is appointed by the President of the Republic, the second is elected by the Assembly and the third is appointed by the High Court. This shall be the order for all future appointments after the entry into force of this law.
3. With the aim for the regular renewal of the membership of the Constitutional Court, the new judge who shall succeed the judge whose mandate ends in 2017 shall remain in office until 2025 and the new judge who will succeed the judge whose mandate ends in 2020 shall remain in office until 2028. The other Constitutional Court judges are appointed for the entire duration of the mandate, in accordance with the law.
4. Members of the High Court continue to exercise their duties in accordance with the previous mandate. The new members that shall replace the members whose mandate expires, are appointed

under the provisions of this law.

5. The High Judicial Council is established within 8 months from the entry into force of this law. Three judge members and two non-judge members of the High Judicial Council are appointed initially for a 3-year mandate, 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 elected as determined by law. For the first appointment of the lay members of the High Judicial Council that are made after the entry into force of this law, the verification of the candidates as provided in article 147 of the Constitution are conducted by the General Secretary of the Assembly and the International Monitoring Operation.

6. The High Prosecutorial Council is established within 8 months from the entry into force of this law. Three prosecutor members and two non-prosecutor members of the High Prosecutorial Council are appointed initially for a 3-years mandate, with the purpose of partial renewal of this body. For the first appointment of the lay members of the High Prosecutorial Council that is made after the entry into force of this law, the verification of the candidates as provided in article 149 of the Constitution are conducted by the General Secretary of the Assembly and the International Monitoring Operation.

7. During their 9 year mandate, the judges of the Appeal Chamber, as per Article 179/b, have disciplinary jurisdiction over all judges of the Constitutional Court, members of the High Judicial Council, the High Prosecutorial Council, the Prosecutor General, and the High Inspector of Justice. The Appeal Chamber adjudicates appeals against decisions of the High Judicial Council, High Prosecutorial Council as well as High Inspector of Justice, imposing disciplinary sanctions respectively against judges, prosecutors and other inspectors.

8. The Serious Crimes Court of First Instance and the Serious Crimes Court of Appeal shall assume the name, function and competence of the first instance court and appeals court within 2 months of the establishment of the High Judicial Council, in accordance with the law. The transfer of cases is done in accordance with the law. The incumbent judges of these courts are transferred to other courts, if they or their close family members refuse to agree to the periodic reviews of their financial accounts and personal telecommunication. The prosecutors attached to the Special Prosecution Office are appointed within 2 months of the establishment of the High Prosecutorial Council. The Serious Crimes Prosecution Office shall cease to exist. The transfer of cases under investigation and adjudication is done in accordance with the law.

9. The High Inspector of Justice is appointed within 6 months after the entry into force of this law. The manner of functioning of the existing inspectorates during the transition period are regulated by law.

10. Judges and prosecutors who have not graduated the School of Magistrate remain in office and are subject to the process of transitional re-evaluation of the qualification of judges and prosecutors under Article 179/b and the Annex to this law.

11. The President of the Republic, within 5 days of the entry into force of this law, selects by lot the members of the Justice Appointments Council, in accordance with Article 149/d, paragraph 3, of the Constitution. If the President of the Republic fails to select the members within 5 days of the entry into force of this law, the Chairperson of the Assembly selects them by lot within 10 days of the

entry into force of this law. Those selected hold office until December 31 of the year that this law enters into force. The Peoples Advocate participates as observer in the selection by lot, as well as in the meetings and activities of the Justice Appointments Council. The members of the Justice Appointments Council are as soon as possible subject to the transitional re-evaluation of the qualification of judges and prosecutors under Article 179/b of this law.

12. The President of the Republic remains as Chairperson of the High Council of Justice until the High Judicial Council is established within 8 months from the entry into force of this law. Upon the establishment of the High Judicial Council, the President appoints the judges of the High Court, in accordance with Article 136 of the Constitution. The President of the Republic fills in the first vacancy in the Constitutional Court under paragraph 2, of this Article, and Article 125 of the Constitution.

13. Until the Parliamentary elections, which will be held after the entry into force of this law, but not later than 1 September 2017, the election of the High Inspector of Justice and the Prosecutor General, shall be made by two-thirds of the members of the Assembly. Other elections shall be made by three-fifths of the members of the Assembly.

#### **Article 179/a**

*(added by Law no. 137, dated 17.12.2015, Article 3)*

1. The mandate of the functionaries being elected or appointed to the constitutional bodies or bodies established by law, which was obtained prior to the entry into force of this law shall end or become invalid, upon the finding that elected or appointed person falls under the circle of persons being exempted from the right to the elected, under Articles 6/1 and 45, paragraph 3, of the Constitution.

2. Within 30 days since the entry into force of this law, the Assembly, in accordance with the procedure of Article 81, paragraph 2, of the Constitution, approves the law that defines the conditions and rules for guaranteeing the integrity of the bodies being elected, appointed or assuming public functions.

#### **Article 179/b**

*(added by Law no. 76, dated 22.07.2016, Article 46)*

1. The re-evaluation system is established in order to guarantee the proper functioning of the rule of law, the independence of the justice system, as well as to re-establish the public trust and confidence in the institutions of this system.

2. The re-evaluation is carried out on the basis of the principles of fair trial, as well as by respecting the fundamental rights of the assessee.

3. All judges, including judges of the Constitutional Court and the High Court, all prosecutors, including the Prosecutor General, the Chief Inspector and the other inspectors of the High Council of Justice, shall be subjects of re-evaluation *ex officio*.

4. All legal advisors of the Constitutional Court and High Court, legal assistants of the administrative courts, legal assistants of the General Prosecution Office shall be re-evaluated *ex*

*officio*. Former judges or prosecutors, and former legal advisors of the Constitutional Court and High Court, with at least three years of work experience in this function, may undergo upon their request the re-evaluation process, if they fulfil the criteria as per the law.

5. The re-evaluation is conducted by an Independent Qualification Commission, while appeals of the assesseses or the Public Commissioners are adjudicated by the Appeal Chamber attached to the Constitutional Court. During the transition period of 9 years, the Constitutional Court shall consist of two chambers.

6. The Commission and the Appeal Chamber are independent and impartial.

7. Failure to successfully pass the re-evaluation process constitutes a ground for the immediate termination of the exercise of functions, in addition to the grounds provided for in the Constitution. Judges and prosecutors, including those seconded in other positions, former judges or former prosecutors, who successfully pass the re-evaluation, remain in office or are appointed judges and prosecutors. All other assesseses, who successfully pass the re-evaluation, are appointed as judges or prosecutors, as per the law.

8. The mandate of members of the Independent Qualification Commission and the Public Commissioner is 5 years from the date of commencement of their operation, while the mandate of the judges of the Appeal Chamber is 9 years. After the dissolution of the Commission, pending re-evaluation cases are conducted by the High Judicial Council, in accordance with the law. Pending re-evaluation cases of the prosecutors are conducted by the High Prosecutorial Council, in accordance with the law. After the dissolution of the Public Commissioners, their competences are exercised by the Chief Special Prosecutor of the Special Prosecution Office. Any appeals against pending decisions of the Commission are considered by the Constitutional Court.

9. The Assembly decides on repealing this Annex after the last re-evaluation decision becomes final, following a report submitted by the Chairperson of the Appeal Chamber on the situation with the pending cases or at the end of the mandate of the Special Qualification Chamber.

10. Procedures and criteria for the re-evaluation are regulated as per the provisions of the Annex and the law.

#### **Article 180**

1. International agreements ratified by the Republic of Albania before the entry into force of this Constitution are considered as 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, under the guidance of the criteria of Article 41.



2. Laws and other normative acts adopted before the date this Constitution enters into force, which 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 fundamental constitutional provisions", as well as the other constitutional laws are abrogated on the day of entry into force of this Constitution.

**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 Mejdani.**

ANNEX

**TRANSITIONAL RE-EVALUATION OF JUDGES AND PROSECUTORS**

*(added by Law no. 76, dated 22.07.2016)*

Article A

**Limitation of rights foreseen in the Constitution**

1. To the extent necessary to carry out the re-evaluation, the application of some Articles of this Constitution, in particular articles regarding the right to respect of private life, as well as Articles 36 and 37, provisions related to the burden of proof, Articles 128, 131, subparagraph “f”, 135, 138, 140, 145, paragraph 1, 147/a, paragraph 1, subparagraph “b”, 149/a, paragraph 1, subparagraph “b”, are partly limited, in accordance with Article 17 of the Constitution.
2. Persons successfully pass the re-evaluation, as per the provisions of this Annex, are subject to the permanent system of accountability, according to the general rules foreseen in the Constitution and in the law.

Article B

**International Monitoring Operation**

1. The International Monitoring Operation shall support the re-evaluation process by way of monitoring and overseeing the entire process. This Operation includes the partners within the framework of the European integration process and Euro-Atlantic cooperation and is led by the European Commission.
2. The International Monitoring Operation performs its tasks in accordance with international arrangements in force. The International Monitoring Operation appoints the International Observers following a notification to the Council of Ministers. The Observers are appointed from among the judges or prosecutors with no less than 15 years of experience in the justice system of their respective countries. The mandate of an international observer may be terminated by the International Monitoring Operation only for gross misconduct.
3. The International Observer exercises the following duties:
  - a) provides recommendations to the Assembly concerning the qualification and selection of the candidates for the position of member of the Commission, the Appeal Chamber judge and Public Commissioner;
  - b) presents findings and opinions on issues which are examined by the Commission and the Appeal Chamber and contributes to the background assessment as per Article DH. Regarding these findings, the International Observer may request that the Commission or the Appeal Chamber examines evidence or submits evidence obtained from state bodies, foreign entities or private persons, in accordance with the law;
  - c) submits written recommendations to the Public Commissioners for filing an appeal. In case that the Public Commissioner does not follow this recommendation, he/she prepares a written report and provides the reasons for the refusal;

- ç) are entitled to have immediate access to all information, data on persons and documents necessary to monitor the re-evaluation process at all levels and in all stages.

#### Article C

#### **General provisions for the Commission and Appeal Chamber**

1. The Independent Qualification Commission consists of four permanent adjudicating panels having three members each.
2. Two Public Commissioners represent the public interest and may file appeals against the decisions of the Commission.
3. The Commission and the Special Appeal Chamber exercise their duties on the basis of accountability, integrity and transparency with the objective of promoting an independent and professional justice system that is free from corruption. During the exercise of their mandate, the members of the Commission and Public Commissioners enjoy the status of the member of the High Court. The judges of the Appeal Chamber enjoy the status of the judge of the Constitutional Court and their mandate shall not be subject to age limit, unless provided otherwise by the law.
4. Members of the Commission, judges of the Appeal Chamber, Public Commissioners, as well as the other employees of these institutions sign a written declaration, as per the law, authorising the annual audit of their assets, systematic monitoring of their financial accounts and transaction, as well as the waiver of the privacy of their communications throughout the duration of their stay in office. All declarations of their assets become public.
5. Members of the Commission and judges of the Appeal Chamber shall have a graduate degree in law and no less than 15 years of experience as a judge, prosecutor, lecturer in law, advocate, notary, high ranking jurist in the public administration, or other legal profession related to the justice system. Candidates for member of the Commission and judge of the Appeal Chamber may not have been judges, prosecutors or legal advisors or legal assistants in the past two years prior to their nomination. The candidates shall not have held political posts in the public administration or leadership positions in a political party for the past 10 years before running as a candidate.
6. The President of the Republic of Albania organises the open and transparent application process for the positions of the member of the Independent Qualification Commission, judge of the Special Appeal Chamber and Public Commissioner. All candidates present the applications and all declarations to the President, in accordance with the law. Within 7 days from the conclusion of the application process, the President compiles a list with the candidates, who meet the formal criteria for each position, and a separate list with the candidates, who do not meet the formal criteria. This process is monitored by the International Monitoring Operation. In case that the President does not complete the process within 45 days of the entry into force of this Annex, this duty is invested upon the Peoples Advocate.
7. A committee composed of at least three representatives of the International Monitoring Operation assesses the candidates, in accordance with the law. Not later than 14 days from the day of submission of the two lists by the President, the Committee, on the basis of its assessment, submits its recommendations to the President, who then forwards them to the Assembly. In case that the President does not exercise his/her competences within 5 days, this duty is invested upon

the Peoples Advocate.

8. Within three days of receiving the list of candidates, who meet the formal criteria, the list of candidates, who do not meet the formal criteria, and the list with recommendations from the International Monitoring Operation, the Assembly establishes an *ad hoc* committee with six members consisting of equal representatives from the parliamentary majority and opposition. The committee may with at least four votes move a candidate from the list of those who do not meet formal criteria to the list of those who do fulfil the formal criteria. The committee may with at least five votes move an applicant from the list with recommendations from the International Monitoring Operation to the list of candidates eligible to be voted. Within ten days of its establishment, the *ad hoc* committee forwards the list of candidates eligible to be voted for each position to the *ad hoc* selection committees. The other two lists are not forwarded for voting.

9. The Assembly establishes within ten days two *ad hoc* selection committees consisting of equal representatives from the parliamentary majority and opposition, one committee with 12 members and one committee with 6 members.

10. Within 30 days of the establishment of the *ad hoc* committee, each member of the 12 member committee selects, from the eligible to be voted, a candidate for commissioner, without debate and in a secret and electronic vote that ensures that one member may elect one candidate. The committee then selects two candidates from the eligible to be voted for public commissioner, using a simple vote where the two candidates with the most votes are selected. In case of a tie, a lot shall be used. Two alternate members for each position are selected in the same manner used for the Public Commissioner.

11. Within 30 days of the establishment of the *ad hoc* committee, each member of the 6 member committee selects from the eligible to be voted, a candidate for judge of the Special Appeal Chamber, without debate and in a secret and electronic vote that ensures that one member may elect one candidate. The committee then selects the seventh judge from the remaining candidates on the eligible to be voted, using a simple vote where the candidate with the most votes is selected. In case of a tie, a lot shall be used. Two alternate judges for each position are selected in the same manner used for the seventh judge.

12. The selections from the two *ad hoc* committees are consolidated into one list and sent to the Chairperson of the Assembly. Within 10 days, the Assembly approves the entire list of candidates *en bloc* by a majority of three fifths of all its members. In case that the Assembly fails to approve the list of candidates *en bloc*, the Chairperson of the Assembly shall send it back to the *ad hoc* committees to repeat their selection process and submit a second list within 10 days. The Assembly, within 10 days, may reject the entire list of candidates *en bloc* by a majority of two thirds of all its members. In case the list is not rejected, those selected are considered appointed. The details of this procedure are regulated by law.

13. Members of the Independent Qualification Commission, judges of the Special Appeal Chamber and Public Commissioners exercise their duties on a full-time basis and may not hold any other position or exercise any other duty during their mandate.

14. The Commission, Appeal Chamber and Public Commissioners shall have sufficient budget, staff and facilities to properly support the exercise of their duties and of the duties of the International Observers, in accordance with the law.

15. The official languages of the Commission, Appeal Chamber and Public Commissioners are Albanian and English. Both bodies shall employ translators and interpreters for this purpose.

16. Members of the Commission, judges of the Appeal Chamber and Public Commissioners are subject to disciplinary liability. Cases of disciplinary misconduct are reviewed by the Appeal Chamber, in accordance with the law.

17. Members of the Commission, judges of the Appeal Chamber, Public Commissioners, international observers, the administration staff and their families are guaranteed protection of the highest level, in accordance with the law.

#### Article Ç

##### **Re-evaluation**

1. The re-evaluation includes the assets, background and proficiency assessment, according to Article D, DH, and E of this Annex and the law.

2. The Commission and Appeal Chamber publish their decisions and any other necessary information obtained from the public. These bodies take into their examination the information from the public by observing the principle of proportionality between privacy and investigation needs, and by guaranteeing the right to a fair trial.

3. State institutions of the Republic of Albania cooperate with the Commission and Appeal Chamber, by making available to them the requested information required, as well as by granting direct access to their data. They may provide opinions and make concrete proposals, in accordance with the law.

4. The Commission or the Appeal Chamber, where appropriate, through their staff, the Public Commissioners or the international observers, review the declarations of the assessee regarding his/her past, interview the persons named in the declaration or other persons, as well as cooperates with other state or foreign institutions for confirming the veracity and accuracy of the declarations. The Commission, Appeal Chamber and the international observers have direct access to all relevant government databases and files, except for those classified as “state secret”, including the personal files of the assessees, statistical data, casefiles selected for evaluation, self-evaluations, opinions of supervisors, training records and complaints, verification of complaints, disciplinary decisions against the assessees, data on the properties of the assessee, bank accounts, tax records, car registration data, data on entry and exit at the border as well as any other useful documents. The Commission or the Appeal Chamber may order private individuals and companies to provide testimony or evidence in accordance with the law.

5. The burden of proof shifts to the assessee only for this process, excluding any other process, in particular, criminal proceedings.

#### Article D

##### **Assets Assessment**

1. Assessee are subject to declaration and the assessment of their assets, with the purpose of identifying those who own or have in use greater assets than what can be legally justified, or those

who have not accurately and fully declared their assets and those of persons related to them.

2. The assessee submits 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 audits the asset declaration and submits to the Commission a report on the lawfulness of the assets, on the accuracy and fullness of the declaration, in accordance with the law.
3. The assessee has to credibly explain the lawful source of assets and of the income. For the purposes of this law, lawful assets are considered the declared income and for which tax obligations have been paid. Other elements of a lawful asset are defined by law.
4. If the assessee has assets greater than double the amount of the lawful assets, he/she is presumed guilty of disciplinary misconduct, unless he/she presents evidence that prove the contrary.
5. If the assessee does not submit the asset declaration in time in accordance with the law, he/she is dismissed from office. If the assessee tries to hide or to inaccurately present the assets in his/her ownership, possession or use, the principle of the presumption of the disciplinary measure of dismissal applies and the assessee has the obligation to prove the contrary.

#### Article DH

##### **Background Assessment**

1. Assesses are required to submit a background declaration and are subject to a background assessment with the purpose of identifying those with inappropriate contacts with persons involved in organized crime. The background assessment on persons involved in organized crime is based on the background declaration and other evidence, including Albanian or foreign court decisions.
2. Assessee prepares and submit to the Commission a detailed background declaration that covers the period from 1 January 2012 up to the day of the declaration, as per the law. The background declaration may be used as evidence only in this process and in any case never in a criminal proceeding.
3. If the assessee has inappropriate contacts with persons involved in organized crime, a presumption for the disciplinary measure of dismissal is established, which the assessee shall have the burden to disprove.
4. If the assessee does not submit the background declaration in time in accordance with the law, he/she is dismissed. If the assessee takes steps to inaccurately disclose or hide contacts with persons involved in the organized crime, a presumption for the disciplinary measure of dismissal is established, which the assessee shall have the burden to disprove.

#### Article E

##### **Proficiency Assessment**

1. Assesses are subject to a proficiency re-evaluation, with the purpose of identifying those who are not qualified to perform their function and of those who have professional deficiencies which may be remedied through education.

2. The proficiency assessment is conducted with the assistance of the officials who exercise the duty of ethical and professional evaluation of judges or prosecutors at the time when re-evaluation is carried out. The proficiency assessment for judges, legal advisors or legal assistants includes the ability to judge, organizational skills, ethics and commitment to judicial values, personal qualities and professional commitment, based on the standards provided by law. The proficiency assessment for prosecutors includes the ability to investigate and raise public charges, organizational skills, ethics and commitment to professional values, as well as the personal qualities based on the standards provided by law. The proficiency assessment for advisors or legal assistants includes the testing at the School of Magistrates. The proficiency assessment is not extended to cases which are under examination.
3. If it results that the assessee has shallow knowledge, skill, judgment, or behaviour, or has a way of working which does not comply with his position, then this is considered professional deficiency and the presumption in favour of the disciplinary measure of suspension applies together with the obligation to attend the education program and the assessee has the obligation to prove the contrary.
4. If it results that the assessee has inappropriate knowledge, skill, judgment, or behaviour, or has a way of working which does not comply with his position and the noticed deficiency cannot be remedied through the one year education program, the presumption in favour of the disciplinary measure of dismissal applies and the assessee has the obligation to prove the contrary.
5. If the assessee performs actions to prevent or complicate his assessment, or it results to have such poor knowledge, skill, judgment, attitude, or pattern of work that it endangers or violates the rights of citizens, he/she is considered inappropriate to exercise the function. In this case, the presumption in favour of the disciplinary measure of dismissal applies and the assessee has the obligation to prove the contrary.

#### Article Ë

#### **Disciplinary Measures**

1. The Commission or the Appeal Chamber, after reviewing the case, determine the disciplinary measures, the suspension of the assessee from duty for one year coupled with compulsory education or his/her dismissal from office. In any case, the decision is reasoned.
2. The decision ordering suspension from duty coupled with an obligation to attend the education program shall identify the professional deficiencies of the assessee. During the suspension period, the assessee is entitled to 75 % of the relevant salary. The assessee is ordered to attend a one year education program at the School of Magistrates, which is designed to remedy the deficiencies. At the end of the education program, the assessee is tested on his/her skills. This testing is overseen by the International Monitoring Operation. The assessee who fails to pass the test is dismissed by the Commission.
3. In any case, the dismissal of a judge or prosecutor shall not constitute a ground for the re-opening of cases decided or prosecuted by the assessee, except in the cases based on which a review may be requested according to the procedural codes.



Article F  
**Appeal Chamber**

1. The Appeal Chamber consists of seven judges and it is the sole judicial body that considers appeals against the decisions of the Commission, in accordance with the Annex and the law. The Chamber decides in adjudicating panels composed of five members each.
2. The assessee and the Public Commissioners, under the law, may file an appeal to this Chamber against the decisions of the Commission, except for decisions made under Article Ë, paragraph 2, of the Annex.
3. The Appeal Chamber may request the collection of facts or evidence as well as remedy any procedural errors committed by the Commission, taking into account the fundamental rights of the assessee. The Appeal Chamber decides the case and may not transfer the case back to the Commission. The constitutional jurisdiction does not permit to call into question the constitutionality of the principles, on which the re-evaluation process is based on, and as such, it is based also on the criteria set forth in this law.
4. The international observer at the Appeal Chamber enjoys the same rights as the international observer at the Commission.
5. During the period of examination of the appeal, the assessee is paid 75 percent of the salary. In case the Chamber accepts the appeal by annulling the decision of the Commission, the part of 25 percent of the salary is paid to the assessee for the entire period of suspension. A final decision ordering dismissal from office has *ex lege* immediate effect.
6. An assessee filing an appeal against the disciplinary measure of dismissal is suspended from duty pending the decision of the Appeal Chamber.
7. The Appeal Chamber may uphold, modify or overrule the decision of the Commission, giving a reasoned decision in writing. In cases of appeals by the Public Commissioners, the Appeal Chamber may not impose a more severe disciplinary measure, without providing the assessee with sufficient time to prepare and be heard in a hearing.
8. Assessee may exercise the right of appeal to the European Court of Human Rights.

Article G  
**Resignation**

1. The assessee may resign from office, and in this case, the re-evaluation process is terminated.
2. The assessee who resigns under this provision may no longer be appointed as a judge or prosecutor at any level, as a member of the High Judicial Council or High Prosecutorial Council, High Inspector of Justice, or Prosecutor General for a period of fifteen years.