

## CONSTITUTION KUSHTETUTA

### DISCLAIMER

Please note that the translation provided below is only provisional translation and therefore does NOT represent an official document of Republic of Albania. It confers no rights and imposes no obligations separate from those conferred or imposed by the legislation formally adopted and published in Albanian language.

Unofficial translation of the consolidated version of the Constitution of the Republic of Albania as approved by the initial law and the amending laws as follows:

Initial law no nr. 8417, dated 21.10.1998

Amending Law no 9675, dated 13.1.2007<sup>1</sup>

Amending Law no 9904, dated 21.4.2008<sup>2</sup>

Amending law no 88/2012, dated 18.09.2012<sup>3</sup>

Amending Law no 137/2015 dated 17.12.2015<sup>4</sup>

Amending law 76/2016, dated 22/07/2016<sup>5</sup>

Date of last check 2016 07 27

## CONSTITUTION OF THE REPUBLIC OF ALBANIA

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

---

<sup>1</sup> This amendment has been promulgated upon the Decree of the President of the Republic no 5191, dated 14.1.2007 and it contains the following transitory provisions:

#### Article 3

##### Transitory provision

1. The four-year mandate, set out in Article 1 of this Law, shall be for the first time implemented for the councils and heads of municipalities and communes being elected immediately after the entry into effect of this law.

2. One of the mandates of the two CEC members, elected based on Article 2 of this Law, shall end on 31 March 2010, while the other on 31 March 2013. The Assembly shall determine which of the mandates shall end on 31 March 2010 by lots. The lots procedures shall be set out by the Council of the Regulation, Mandates and Immunity of the Assembly of Albania.

#### Article 4

This law shall enter into effect immediately.

<sup>2</sup> This amendment has been promulgated upon the Decree of the President of the Republic no 5700, dated 6.5.2008, published in the Official Journal no 61, p 2728 and it contains the following transitory provisions:

#### Article 11

This law enters into effect 15 days after its publication in the Official Journal.

<sup>3</sup> This amendment was approved on 19/09/2012, promulgated by Decree of President of the Republic no 7779, dated 9.10.2012, published in the Official Journal no 132, p 7618, on 11 October 2012 and entered into force on: 26 October 2012 and it contains the following temporary provision:

#### Article 4

This law enters into effect 15 days after its publication in the Official Journal.

<sup>4</sup> This amendment was approved on 17.12.2015 by Law 137/2015, official journal no. 219, page 14419 and entered into effect immediately

<sup>5</sup> This law was approved on 22.07.2016

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,

## **WE ESTABLISH THIS CONSTITUTION**

### **PART ONE BASIC PRINCIPLES**

#### **Article 1**

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

#### **Article 2**

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

### **Article 3**

The independence of the state and the integrity of its territory, dignity of the individual, human rights and freedoms, social justice, constitutional order, pluralism, national identity and inheritance, religious coexistence, as well as coexistence with, and understanding of Albanians for, minorities are the bases of this state, which has the duty of respecting and protecting them.

### **Article 4**

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

### **Article 5**

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

### **Article 6**

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

### **Article 6/1**

The election or appointment to or assumption of a public function with one of the bodies foreseen in this Constitution or established by law, regardless of the regulation contained in other provisions of this Constitution, shall be prohibited, as long as circumstances are established impairing the integrity of the public functionary, under the conditions and rules provided for by law being approved by three fifth of 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 its citizens with a temporary or permanent residence outside its borders.
3. The Republic of Albania assures assistance for Albanians who live and work abroad in order to preserve and develop their ties with the national cultural inheritance.

## **Article 9**

1. Political parties are created freely. Their organization shall conform 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 belief and conscience, and also, it guarantees the freedom of their expression in public life.
3. The state recognizes the equality of religious communities.
4. The state and the religious communities mutually respect the independence of one another and work together for the good of each of them and for all.

5. Relations between the state and religious communities are regulated on the basis of agreements achieved between their representatives and the Council of Ministers. These agreements are ratified by the Assembly.

6. Religious communities are legal entities. They have independence in the administration of their properties according to their principles, rules and canons, to the extent that interests of third parties are not infringed.

#### **Article 11**

1. The economic system of the Republic of Albania is based on private and public property, as well as on a market economy and on freedom of economic activity.

2. Private and public property are equally protected by law.

3. Limitations on the freedom of economic activity may be established only by law and for important public reasons.

#### **Article 12**

1. The armed forces secure the independence of the country, as well as protect its territorial integrity and constitutional order.

2. The armed forces maintain neutrality in political questions and are subject to civilian control.

3. No foreign military force may be situated in, or pass through, the Albanian territory, as well as 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 founded upon the basis of the principle of decentralization of power and is exercised according to the principle of local autonomy.

#### **Article 14**

1. The official language in the Republic of Albania is Albanian.

2. The national flag is red with a two-headed black eagle in the centre.

3. The seal of the Republic of Albania presents a red shield with a black, two-headed eagle in the centre. At the top of the shield, in gold colour, is the helmet of Skanderbeg.

4. The national anthem is "United Around Our Flag."

5. The National Holiday of the Republic of Albania is the Flag Day, November 28.

6. The capital city of the Republic of Albania is Tirana.

7. The form and dimensions of the national symbols, the content of the text of the national anthem, and their use shall be regulated by law.

## **PART TWO THE FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS**

### **CHAPTER I GENERAL PRINCIPLES**

#### **Article 15**

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

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

#### **Article 16**

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

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

### **Article 17**

1. The limitation of the rights and freedoms provided for in this Constitution may be established only by law for a public interest or for the protection of the rights of others. A limitation shall be in proportion with the situation that has dictated it.
2. These limitations may not infringe the essence of the rights and freedoms and in no case may exceed the limitations provided for in the European Convention on Human Rights.

### **Article 18**

1. All are equal before the law.
2. No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or ancestry.
3. No one may be discriminated against for reasons mentioned in paragraph 2 whether reasonable and objective legal grounds do not exist.

### **Article 19**

1. Everyone born of at least one parent with Albanian citizenship gains automatically Albanian citizenship. Albanian citizenship is gained also for other reasons provided by law.
2. An Albanian citizen may not lose his citizenship, except when he gives it up.

### **Article 20**

1. Persons who belong to national minorities exercise in full equality before the law the human rights and freedoms.
2. They have the right to freely express, without prohibition or compulsion, their ethnic, cultural, religious and linguistic belonging. They have the right to preserve and develop it, to study and to be taught in their mother tongue, as well as unite in organizations and associations for the protection of their interests and identity.

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

### **Article 21**

The life of a person is protected by law.

### **Article 22**

1. Freedom of expression is guaranteed.
2. The freedom of the press, radio and television are guaranteed.
3. Prior censorship of a means of communication is prohibited.
4. The law may require the granting of authorization for the operation of radio or television stations.

### **Article 23**

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

### **Article 24**

1. Freedom of conscience and of religion is guaranteed.
2. Everyone is free to choose or to change his religion or beliefs, as well as to express them individually or collectively, in public or private life, through cult, education, practices or the performance of rituals.
3. No one may be compelled or prohibited to take part in a religious community or in religious practices or to make his beliefs or faith public.



### **Article 25**

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

### **Article 26**

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

### **Article 27**

1. No one can be deprived of liberty except in the cases and according to the procedures provided by law.

2. Freedom of person may not be limited, except in the following cases:

a) when punished with imprisonment by a competent court;

b) for failure to comply with the lawful orders of the court or with an obligation set by law;

c) when there are reasonable suspicions that he has committed a criminal offense or to prevent the commission by him of a criminal offense or his escape after its commission;

ç) for the supervision of a minor for purposes of education or for escorting him to a competent organ;

d) when a person is the carrier of a contagious disease, mentally incompetent and dangerous to society;

dh) for illegal entry at state borders or in cases of deportation or extradition.

3. No one may be deprived of liberty just because of not being able to fulfil a contractual obligation.

### **Article 28**

1. Everyone who has been deprived of liberty has the right to be notified immediately, in a language that he understands, of the reasons for this measure, as well as of the charge made

against him. The person who has been deprived of liberty shall be informed that he has no obligation to make a declaration and has the right to communicate immediately with a lawyer, and he shall also be given the possibility to realize his rights.

2. The person who has been deprived of liberty, according to Article 27, paragraph 2, subparagraph c), must be sent within 48 hours before a judge, who shall decide upon his pre-trial detention or release not later than 48 hours from the moment he receives the documents for review.

3. A person in pre-trial detention has the right to appeal the judge's decision. He has the right to be tried within a reasonable period of time or to be released on bail pursuant to law.

4. In all other cases, the person who has extra-judicially been deprived of liberty may address a judge at any time, who shall decide within 48 hours regarding the legality of this action.

5. Every person who has been deprived of liberty pursuant to Article 27, has the right to humane treatment and respect for his dignity.

#### **Article 29**

1. No one may be charged or declared guilty of a criminal offence that was not considered as such by law at the time of its commission, with the exception of cases, that at the time of their commission, according to international law, constitute war crimes or crimes against humanity.

2. No punishment may be given that is more severe than that which was provided for by law at the time of commission of the criminal act.

3. The favourable criminal law has retroactive effect.

#### **Article 30**

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

#### **Article 31**

During a criminal proceeding, everyone has the right:

a) to be notified immediately and in detail of the charge made against him, of his rights, as well as to have the possibility created to notify his family or those close to him;

b) to have the time and sufficient facilities to prepare his defence;

c) to have free of charge assistance of a translator, when he does not speak or understand the Albanian language;

ç) to be defended by himself or with the assistance of a defence lawyer chosen by him; to communicate freely and privately with him, as well as to be assured of free defence when he does not have sufficient means;

d) to ask witnesses who are present and to seek the presentation of witnesses, experts and other persons who can clarify the facts.

### **Article 32**

1. No one may be obliged to testify against himself or his family or to confess his guilt.
2. No one may be declared guilty on the basis of data collected in an unlawful manner.

### **Article 33**

1. Everyone has the right to be heard before being adjudicated.
2. A person who is hiding from justice may not take advantage of this right.

### **Article 34**

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

### **Article 35**

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

4. Everyone has the right to request the correction or expunging of untrue or incomplete data or data collected in violation of law.

#### **Article 36**

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

#### **Article 37**

1. The inviolability of the residence is guaranteed.
2. Searches of a residence, as well as the premises that are equivalent to it, may be done only in the cases and manner provided by law.
3. No one may be subjected to a personal search out of a criminal proceeding, with the exception of the cases of entry and exit of the territory of the state, or to avoid a risk that threatens public security.

#### **Article 38**

1. Everyone has the right to choose his place of residence and to move freely to any part of the territory of the state.
2. No one may be hindered to go freely out of the state.

#### **Article 39**

1. No Albanian citizen may be expelled from the territory of the state.
2. Extradition may be permitted 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 public interests.
4. The expropriations or limitations of a property right that are equivalent to expropriation are permitted only against fair compensation.
5. For disagreements connected with the extent of the compensation, a complaint may be filed in court.

#### **Article 42**

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

#### **Article 43**

~~Everyone has the right to appeal a judicial decision to a higher court, except when the Constitution provides otherwise.~~

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 articles 17 of the Constitution.

#### **Article 44**

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

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

**Article 45**

1. Every citizen who has attained the age of 18, even on the date of the elections, has the right to elect and be elected.

2. Citizens who have been declared mentally incompetent by a final court decision are excluded from the right of election.

~~3. Convicts that are serving a sentence that deprives them of freedom have only the right to elect.~~  
“3. Exempted from the right to be elected shall be the citizens being sentenced to imprisonment upon a formally and substantially final decision, in connection with the commission of a crime, under the rules set out in a law being approved by three fifth of all the members of the Parliament. In exceptional and justified cases, the law may provide for restrictions of the election right for citizens serving an imprisonment sentence or the right to be elected prior to a final decision being rendered, or the citizens having been deported 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. The registration of organizations or associations in court is done according to the procedure provided by law.

3. Organizations or associations that pursue unconstitutional purposes are prohibited pursuant to law.

**Article 47**

1. Freedom and unarmed participation in peaceful gatherings is guaranteed.

2. Peaceful gatherings in public squares and places are held in conformity with the law.

#### **Article 48**

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

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

#### **Article 49**

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

#### **Article 50**

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

#### **Article 51**

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

#### **Article 52**

1. Everyone has the right to social insurance in old age or when he is unable to work, according to a system set by law.
2. Everyone, who remains jobless for reasons independent of his/her volition, and has no other means of support, has the right to assistance under the conditions provided by law.

#### **Article 53**

1. Everyone has the right to get married and have a family.
2. Marriage and family enjoy special protection of the state.

3. The entering into and dissolution of marriage are regulated by law.

#### **Article 54**

1. Children, the young, pregnant women and new mothers have the right to special protection by the state.

2. Children born out of wedlock have equal rights with those born within marriage.

3. Every child has the right to be protected from violence, ill treatment, exploitation and use for work, especially under the minimum age for work, which could damage their health and morals or endanger their life or normal development.

#### **Article 55**

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

2. Everyone has the right to health insurance pursuant to the procedure provided by law.

#### **Article 56**

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

#### **Article 57**

1. Everyone has the right to education.

2. Mandatory school education is determined by law.

3. Public general high school education is open for all.

4. Professional high school education and higher education can be conditioned only on criteria of abilities.

5. Mandatory education and general high school education in public schools are free.

6. Pupils and students may also be educated in private schools of all levels, which are created and operated according to the law.



7. The autonomy and academic freedom of higher education institutions are guaranteed by law.

#### **Article 58**

1. Freedom of artistic creation and scientific research, the use and profits deriving from them are guaranteed for all.

2. Copyright is protected by law.

### **CHAPTER V--SOCIAL OBJECTIVES**

#### **Article 59**

1. The state, within its constitutional powers and the means at its disposal, aims to supplement private initiative and responsibility with:

- a) employment under suitable conditions for all persons who are able to work;
- b) fulfilment of the housing needs of its citizens;
- c) the highest health, physical and mental standards possible;
- ç) education and qualification according to ability of children and the young, as well as unemployed persons;
- d) a healthy and ecologically adequate environment for the present and future generations;
- dh) rational exploitation of forests, waters, pastures and other natural resources on the basis of the principle of sustainable development;
- e) care and help for the aged, orphans and persons with disabilities;
- ë) development of sports and recreation activities;
- f) health rehabilitation, specialized education and integration in society of disabled people, as well as continual improvement of their living conditions;
- g) protection of national cultural heritage and particular care for the Albanian language.

2. Fulfilment of social objectives may not be claimed directly in court. The law defines the conditions and extent to which the realization of these objectives can be claimed.

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

### **Article 60**

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

### **Article 61**

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

### **Article 62**

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

### **Article 63**

1. The People's Advocate presents an annual report before the Assembly.

2. The People's Advocate reports before the Assembly when it is requested from the Assembly, and he may request the Assembly to hear him on matters he deems important.

3. The People's Advocate has the right to make recommendations and to propose measures when he observes violations of human rights and freedoms by the public administration.

4. Public bodies and officials are obligated to present to the People's Advocate all documents and information requested by him.

## **PART THREE THE ASSEMBLY**

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

#### **Article 64**

~~1. The Assembly consists of 140 deputies. One hundred deputies are elected directly in single-member electoral zones with an approximate number of voters. Forty deputies are elected from the multi-name lists of parties or party coalitions according to their respective order.~~

~~2. The total number of deputies of a party or a party coalition shall be, to the closest possible extent, proportional to the valid votes won by them on the national scale in the first round of elections.~~

~~3. Parties that receive less than 2.5 per cent, and party coalitions that receive less than 4 per cent, of the valid votes on the national scale in the first round of elections do not benefit from their respective multi-name lists.~~

1. Assembly is composed of 140 deputies, elected on proportional system with multi-names electoral zones.

2. The multi-name electoral zone corresponds to the administrative division of one of the levels of the administrative-territorial organization.

3. Criteria and rules on the implementation of the proportional electoral system, on the determination of electoral zones and on the number of seats to be obtained in each electoral zone shall be defined by the law on elections.

## Article 65

~~1. The Assembly is elected for four years.~~

~~2. Elections for the Assembly are held within 60 to 30 days before the end of the mandate and not later than 45 days after its dissolution.~~

~~3. The mandate of the Assembly continues until the first meeting of the new Assembly. In this interval, the Assembly may not issue laws or take decisions, except when extraordinary measures have been established.~~

1. The Assembly is elected every four years. The mandate of the Assembly starts with its first meeting after the elections and ends on the same date, of the same month of the fourth year from the date of the first meeting. In any case, the Assembly remains on duty until the first meeting of the newly elected Assembly.

2. Elections for the new Assembly are held in the nearest electoral period that precedes the date of the ending of the mandate of the Assembly. Electoral periods and the rules for holding the elections for the Assembly are determined by the law on elections.

3. If the Assembly is dissolved prior to the ending of its full mandate, elections are held no later than 45 days after its dissolution.

4. The Assembly may not approve laws during the period 60 days prior to the termination of its mandate until the first meeting of the new Assembly, except in cases when extraordinary measures have been imposed.”

## Article 66

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

## Article 67

~~1. The newly elected Assembly is called to its first meeting by the President of the Republic no later than 20 days from the conclusion of the elections.~~

~~2. If the President of the Republic does not exercise this power, the Assembly must convene itself within 10 days from the end of the term provided in paragraph 1 of this article.~~

1. The President of the Republic convenes the newly elected Assembly not earlier than the date of the termination of the mandate of the preceding Assembly, but no later than 10 days after such mandate has expired. If the preceding Assembly has been dissolved before the ending of its mandate, the

President of the Republic convenes the new Assembly not later than 10 days since the announcement of the election results.

2. If the President of the Republic does not exercise such a competence, the Assembly convenes itself on the tenth day of the period of time provided in point 1 of this Article.

## CHAPTER II--THE DEPUTIES

### Article 68

~~1. Candidates for deputy may be presented only by political parties, coalitions of parties, and voters.~~

~~2. The rules for the designation of candidates for deputy, for the organization and conduct of the elections, as well as the definition of electoral zones and the conditions of validity for elections, are regulated by the electoral law.~~

1. Candidates for deputies shall be presented at the level of the electoral zone by political parties, electoral coalitions of political parties as well as by voters. A candidate may be presented by only one of the proposing subjects according to this section. The ranking of the candidates in the multi-name lists may not be changed after the submission of the list to the respective electoral commission. The rules for the registration of the candidates for deputies are determined by the law on elections.

2. The law on elections shall also determine other necessary criteria and rules on the organization and conduct of elections, including those on registration of voters, conduct of electoral campaign, administration and validity of elections and declaration of their results.

### Article 69

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

a) judges, prosecutors;

b) military servicemen on active duty;

c) police and National Security employees;

ç) diplomatic representatives;

d)-mayors and heads of communes as well as prefects in the places where they carry out their duties;

dh) chairmen and members of the electoral commissions;

e) the President of the Republic and the high officials of the State Administration AS as provided by law.

2. A mandate gained in violation of paragraph 1 of this article is invalid.

### **Article 70**

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

2. Deputies may not simultaneously exercise any other public duty with the exception of that of a member of the Council of Ministers. Other cases of incompatibility are specified by law.

3. Deputies may not carry out any profit-making activity that stems from the property of the state or of local government, nor may they profit from this property.

4. For every violation of paragraph 3 of this article, on the motion of the chairman of the Assembly or one-tenth of its members, the Assembly decides on sending the issue to the Constitutional Court, which determines the incompatibility.

### **Article 71**

1. The mandate of the deputy begins on the day when he is declared elected by the respective electoral commission.

2. The mandate of the deputy ends or is invalid, as the case may be:

a) when he does not take the oath;

b) when he resigns from the mandate;

c) when one of the conditions of ineluctability provided for in articles 69, and 70, paragraphs 2 and 3 is ascertained;

ç) when the mandate of the Assembly ends;

d) when he is absent for more than six consecutive months in the Assembly without reason.

dh) when he is convicted by a final court decision for commitment of a crime.

## Article 72

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

## Article 73

~~1. A deputy does not bear responsibility for opinions expressed in the Assembly and votes given. This provision is not applicable in the case of defamation.~~

~~2. A deputy may not be criminally prosecuted without the authorization of the Assembly. Authorization is also required when he is to be arrested.~~

~~3. A deputy may be detained or arrested without authorization when he is apprehended during or immediately after the commission of a serious crime. In these cases, the General Prosecutor immediately notifies the Assembly, which, when it determines that the proceeding is misplaced, decides to lift the measure.~~

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

~~1. The deputy is not held responsible for opinions expressed in the Assembly and votes cast by him in the exercise of the function. This provision is not applicable in the case of defamation.~~

~~2. A deputy cannot be arrested or deprive him of liberty in any form nor may a personal search or a search of the residence be exercised against him without the authorisation of the Assembly.~~

~~3. A deputy can be arrested or detained without authorisation when he is captured during or immediately after the commission of a crime. In those cases, the General Prosecutor immediately notifies the Assembly, which, when it finds that there is no room for proceedings, orders the lifting of the measure.<sup>6</sup>~~

3. A deputy can be detained or arrested without authorisation when captured 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 room for proceedings, orders the lifting of the measure.

4. For the cases provided in paragraphs 2 and 3 of this article, the Assembly may hold discussions in closed sessions for reasons of data protection. The decision is taken by open voting."

---

<sup>6</sup> Amended previously by the law amending Article 73

**CHAPTER III**  
**ORGANIZATION AND FUNCTIONING**

**Article 74**

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

**Article 75**

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

**Article 76**

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

**Article 77**

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



3. Investigation committees operate according to the procedures set by law.

#### **Article 78**

1. The Assembly decides with a majority of votes, in the presence of more than half of its members, except for the cases where the Constitution provides for a qualified majority.

2. Meetings of the deputies, which are convened without being called in accordance to the regulations, do not have any effect.

#### **Article 79**

1. Meetings of the Assembly are open.

2. At the request of the President of the Republic, the Prime Minister or one-fifth of the deputies, meetings of the Assembly may be closed, when a majority of all its members have voted in favour of it.

#### **Article 80**

1. The Prime Minister and any other member of the Council of Ministers is obligated to answer to interpellations and questions of the deputies within three weeks.

2. A member of the Council of Ministers has the right to take part in meetings of the Assembly or of its committees; he is given the floor whenever he requests it.

3. The heads of state institutions, on request of the parliamentary committees, give explanations and inform on specific issues of their activity to the extent that law permits.

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

#### **Article 81**

1. The Council of Ministers, every deputy, and 20,000 electors each have the right to propose laws.

2. The following are approved by three-fifths of all members of the Assembly:

- a) the laws for the organization and operation of the institutions provided for in the Constitution;
- b) the law on citizenship;
- c) the law on general and local elections;
- ç) the law on referendum;
- d) the codes;
- dh) the law for the state of emergency;
- e) the law on the status of public functionaries;
- ë) the law on amnesty;
- f) the law on administrative divisions of the Republic.

#### **Article 82**

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

#### **Article 83**

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

#### **Article 84**

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

#### **Article 85**

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

### **PART FOUR THE PRESIDENT OF THE REPUBLIC**

#### **Article 86**

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

#### **Article 87**

~~1. A candidate for President is proposed to the Assembly by a group of not less than 20 of its members. A member is not permitted to take part in more than one proposing group.~~

~~2. The President of the Republic is elected by secret vote and without debate by the Assembly by a majority of three-fifths of all its members.~~

~~3. When this majority is not reached in the first voting, a second voting takes place within 7 days from the day of the first voting.~~

~~4. When this majority is not reached even in the second voting, a third voting takes place within 7 days.~~

~~5. When there is more than one candidate and none of them has received the required majority, within 7 days, a fourth voting takes place between the two candidates who have received the greatest number of votes.~~

~~6. If even in the fourth voting neither of the two candidates has received the required majority, a fifth one takes place.~~

~~7. If even in the fifth voting neither of the two candidates has received the required majority, the Assembly is dissolved and new general elections take place within 60 days.~~

~~8. The new Assembly elects the President pursuant to the procedure contemplated by paragraphs 1 to 7 of this article. If even the new Assembly does not elect the President, the Assembly is dissolved and new general elections take place within 60 days.~~

~~9. The subsequent Assembly elects the President of the Republic by a majority of all its members.~~

~~“1. The candidate for President is proposed to the Assembly by a group of not less than 20 MPs. One MP is not allowed to propose more than one candidate at the same time.~~

~~2. The President of the Republic is elected by secret vote and without debate by the Assembly. The Assembly conducts up to five voting rounds for the election of the President.~~

~~The first voting takes place not later than seven days from the beginning of the procedure for the election of the President. Each of the other voting takes place not later than seven days from the unsuccessful completion of the preceding voting. A voting is deemed as completed even when no candidates are running in the competition. New candidates may run in the second, third and fourth voting, in accordance with the conditions of point 1 of this article.~~

~~3. The President is elected in the first, second or third voting when one candidate receives not less than three fifths of the votes of all the members of the Assembly. In the fourth and fifth voting, the candidate that receives more than half of the votes of all the members of the Assembly is elected President.~~

~~4. The fifth voting takes place when none of the candidates receive the required majority of votes in the fourth voting. The fifth voting takes place only between the two candidates who have received the highest number of votes in the fourth voting. If there are more than two candidates with the same number of votes, the candidate who will run in the voting shall be determined by lot.~~

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

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

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

### **Article 88**

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

~~2. The procedure for the election of the President begins no later than 30 days before the end of the previous presidential mandate.~~

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

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

3. The President begins his duties after he takes the oath before the Assembly, but not before the mandate of the President who is leaving has been completed. The President swears as follows:

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

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

### **Article 89**

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

### **Article 90**

1. The President of the Republic is not held responsible for acts carried out in the exercise of his duty.
2. The President of the Republic may be discharged for serious violations of the Constitution and for the commission of a serious crime. In these cases, a proposal to discharge the President may be made by not less than one-fourth of the members of the Assembly and must be supported by not less than two-thirds of all its members.
3. The decision of the Assembly is sent to the Constitutional Court, which, when it proves the culpability of the President of the Republic, declares his discharge from duty.

### **Article 91**

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

### **Article 92**

The President also exercises these powers:

- a) address messages to the Assembly;
- b) exercise the right of pardon according to the law;
- c) grant Albanian citizenship and permits it to be given up according to the law;
- ç) gives decorations and titles of honour according to the law;
- d) accord the highest military ranks according to the law;

- dh) appoint and release plenipotentiary representatives of the Republic of Albania to other states and international organizations on the proposal of the Prime Minister;
- e) accept letters of credentials and the withdrawal of diplomatic representatives of other states and international organizations accredited to the Republic of Albania;
- ë) sign international agreements according to the law;
- f), appoint the director of the State Intelligence Service upon proposal of the Prime Minister;
- g) nominate the Chairman of the Academy of Sciences and the rectors of universities pursuant to law;
- gj) set the date of the elections for the Assembly, local government bodies and the conduct of referendums;
- h) request opinions and information in writing from the directors of State institutions for issues that have to do with their duties.

#### **Article 93**

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

#### **Article 94**

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

### **PART FIVE THE COUNCIL OF MINISTERS**

#### **Article 95**

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

#### **Article 96**

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

#### **Article 97**

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

#### **Article 98**

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

#### **Article 99**

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

#### **Article 100**

1. The Council of Ministers determines the principal directions of the general state policy.
2. The Council of Ministers takes decisions upon the proposal of the Prime Minister or the respective minister.



3. Meetings of the Council of Ministers are closed.
4. Acts of the Council of Ministers are valid when signed by the Prime Minister and the proposing minister.
5. The Council of Ministers issues decisions and instructions.

#### **Article 101**

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

#### **Article 102**

1. The Prime Minister:

- a) represents the Council of Ministers and chairs its meetings;
- b) outlines and presents the principal directions of general state policy and is responsible for them;
- c) assures the implementation of legislation and policies approved by the Council of Ministers;
- ç) coordinates and supervises the work of the members of the Council of Minister and other institutions of the central state administration;
- d) performs other duties prescribed in the Constitution and the laws.

2. The Prime Minister resolves disagreements between ministers.

3. The Prime Minister, in the exercise of his powers, issues orders.

4. The minister, within the principal directions of general state policy, directs, under his responsibility, actions for which he has powers. The minister, in the exercise of his powers, issues orders and instructions.

### Article 103

1. Anyone who has the capacity to be a deputy may be appointed a minister.
2. A minister may not exercise any other state function nor be a director or member of the bodies of profit-making companies.
3. Members of the Council of Ministers enjoy the immunity of a deputy.

### Article 104

~~1. If a motion of confidence presented by the Prime Minister is refused by a majority of all the members of the Assembly, the Assembly elects another Prime Minister within 15 days. In this case, the President appoints the new Prime Minister.~~

~~2. When the Assembly does not succeed in electing a new Prime Minister, the President of the Republic dissolves the Assembly.~~

~~3. The vote for the motion cannot be done if three days have not passed from the day it was presented.~~

1. The Prime Minister is entitled to present to the Assembly a motion of confidence for the Council of Ministers. If the motion of confidence is voted by less than half of all the members of the Assembly, the Prime Minister, within 48 hours from the voting of the motion, requests the President of the Republic to dissolve the Assembly.

2. The President dissolves the Assembly within 10 days from the receipt of the request. A request for a motion of confidence may not be presented while a motion of no confidence is being examined according to article 105.

3. The voting of the motion may not take place unless three days have passed since its submission.

### Article 105

~~1. In cases where a motion of no confidence presented by one-fifth of the members of the Assembly is approved by the majority of all its members, the Assembly elects another Prime Minister within 15 days. In this case, the President appoints the new Prime Minister.~~

~~2. When the Assembly fails to elect the new Prime Minister, the President of the Republic dissolves the Assembly.~~

~~3. The vote for the motion cannot be done if three days have not passed from the day it was presented.~~

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

2. The Assembly may vote a motion of no confidence towards the Prime Minister only by electing a new Prime Minister with the votes of more than half of all the members of the Assembly.

3. The President of the Republic decrees the dismissal of the incumbent Prime Minister and the appointment of the elected Prime Minister not later than 10 days from the voting of the motion at the Assembly.

#### **Article 106**

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

#### **Article 107**

1. Public employees apply the law and are in the service of the people.

2. Employees in the public administration are selected through competition, except when the law provides otherwise.

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

### **PART SIX LOCAL GOVERNMENT**

#### **Article 108**

1. The units of local government are communes or municipalities and regions. Other units of local government are regulated by law.

2. The territorial-administrative division of the units of local government are established by law on the basis of mutual economic needs and interests and historical tradition. Their borders may not be changed without first taking the opinion of the inhabitants.

3. Communes and municipalities are the basic units of local government. They perform all the duties of self-government, with the exception of those that the law gives to other units of local government.

4. Self-government in the local units is exercised through their representative organs and local referenda. The principles and procedures for the organization of local referenda are provided by law in accordance with article 151, paragraph 2.

### **Article 109**

~~1. The representative organs of the basic units of local government are councils that are elected every three years by general direct elections and with secret voting.~~

1. The representative authorities of the basic local governance shall be the councils, which are elected in every four years, through general, direct and secret voting.

2. The executive organ of a municipality or commune is the Chairman, who is elected directly by the people in the manner provided for in paragraph 1 of this article.

3. Only citizens who have a permanent residence in the territory of the respective local entity have the right to be elected to the local councils and as chairman of the municipality or commune.

4. The organs of local government units have the right to form unions and joint institutions with one another for the representation of their interests, to cooperate with local units of other countries, and also to be represented in international organizations of local powers.

### **Article 110**

1. A region consists of several basic units of local government with traditional, economic and social ties and joint interests.

2. The region is the unit in which regional policies are constructed and implemented and where they are harmonized with state policy.

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

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

#### **Article 111**

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

#### **Article 112**

1. Powers of state administration by law may be delegated to units of local government. Expenses that are incurred in the exercise of the delegation are covered by the state.
2. Bodies of local government are assigned duties only in compliance with law or according to agreements achieved by them. The expenses that are connected with the duties assigned by law to the bodies of local government are covered by the budget of the state.

#### **Article 113**

1. The councils of the communes, municipalities and regions:
  - a) regulate and administer in an independent manner local issues within their jurisdiction;
  - b) exercise the rights of ownership, administer in an independent manner the income created, and also have the right to exercise economic activity;
  - c) have the right to collect and spend the income that is necessary for the exercise of their functions;
  - ç) have the right, in compliance with law, to establish local taxes as well as their level;
  - d) establish rules for their organization and functioning in compliance with law;
  - dh) create symbols of local government as well as local titles of honour;
  - e) undertake initiatives for local issues before the bodies defined by law.
2. The bodies of local government issue directives, decisions and orders.

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

#### **Article 114**

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

#### **Article 115**

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

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

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

## **PART SEVEN NORMATIVE ACTS AND INTERNATIONAL AGREEMENTS**

### **CHAPTER I NORMATIVE ACTS**

#### **Article 116**

1. Normative acts that are effective in the entire territory of the Republic of Albania are:

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

2. Acts that are issued by the bodies of local government are effective only within the territorial jurisdiction exercised by these bodies.

3. Normative acts of ministers and steering bodies of other central institutions of the state are effective in the entire territory of the Republic of Albania within the sphere of their jurisdiction.

#### **Article 117**

1. The laws, normative acts of the Council of Ministers, ministers, other central state institutions, acquire juridical force only after they are published in the Official Journal.

2. The promulgation and publication of other normative acts is done according to the manner provided by law.

3. International agreements that are ratified by law are promulgated and published according to the procedures that are provided for laws. The promulgation and publication of other international agreements is done according to law.

#### **Article 118**

1. Sub-legal acts are issued on the basis of and for implementation of the laws by the bodies provided for in the Constitution.

2. A law must authorize the issuance of sub-legal acts, designate the competent body, the issues that are to be regulated, as well as the principles on the basis of which these sub-legal acts are issued.

3. The body authorized by law to issue sub-legal acts as specified in paragraph 2 of this article may not delegate its power to another body.

#### **Article 119**

1. The rules of the Council of Ministers, of the ministries and other central state institutions, as well as orders of the Prime Minister, of the ministers and heads of other central institutions, have an internal character and are binding only on the administrative entities that are subordinated to these bodies.

2. These acts are issued on the basis of law and may not serve as a basis for taking decisions connected with individuals and other subjects.

3. The rules and orders are issued on the basis of, and for implementation of, acts that have general juridical force.

## **Article 120**

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

## **CHAPTER II INTERNATIONAL AGREEMENTS**

### **Article 121**

1. The ratification and denunciation of international agreements by the Republic of Albania is done by law if they have to do with:

- a) territory, peace, alliances, political and military issues;
- b) freedoms, human rights and obligations of citizens as are provided in the Constitution;
- c) membership of the Republic of Albania in international organizations;
- ç) the undertaking of financial obligations by the Republic of Albania;
- d) the approval, amendment, supplementing or repeal of laws.

2. The Assembly may, with a majority of all its members, ratify other international agreements that are not provided for in paragraph 1 of this article.

3. The Prime Minister notifies the Assembly whenever the Council of Ministers signs an international agreement that is not ratified by law.

4. The principles and procedures for ratification and denunciation of international agreements are provided by law.

### **Article 122**

1. Any international agreement that has been ratified constitutes part of the internal juridical system after it is published in the Official Journal of the Republic of Albania. It is implemented directly, except for cases when it is not self-executing and its implementation requires issuance of a law. The amendment, supplementation and repeal of laws approved by the majority of all members of the Assembly, for the effect of ratifying an international agreement, is done with the same majority.



2. An international agreement that has been ratified by law has superiority over laws of the country that are not compatible with it.

3. The norms issued by an international organization have superiority, in case of conflict, on the laws of the country, when the agreement ratified by the Republic of Albania for its participation in this organization, expressly provide for the direct applicability of the norms issued by this organisation.

### **Article 123**

1. The Republic of Albania, on the basis of international agreements, delegates to international organizations state powers for specific issues.

2. The law that ratifies an international agreement as provided for in paragraph 1 of this article is approved by a majority of all members of the Assembly.

3. The Assembly may decide that the ratification of such an agreement be done through a referendum.

## **PART EIGHT CONSTITUTIONAL COURT**

### **Article 124**

~~1. The Constitutional Court guarantees respect for the Constitution and makes final interpretations of it.~~

~~2. The Constitutional Court is subject only to the Constitution.~~

1. The Constitutional Court settles constitutional disputes and makes the final interpretation of the Constitution.

2. The Constitutional Court is subject only to the Constitution.

3. The Constitutional Court shall have a separate budget, which it administers independently.

### **Article 125**

~~1. The Constitutional Court is composed of 9 members, which are appointed by the President of the Republic with the consent of the Assembly.~~

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

~~3. One-third of the composition of the Constitutional Court is renewed every 3 years, according to the procedure determined by law.~~

~~4. The Chairman of the Constitutional Court is appointed from the ranks of its members by the President of the Republic with the consent of the Assembly for a 3-year term.~~

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

1. The Constitutional Court shall consist of 9 (nine) members. Three members shall be appointed by the President of the Republic, three members shall be elected by the Assembly and three members shall be elected by the High Court. The members shall be selected among the three first ranked candidates by the Justice Appointments Council, in accordance with the law.

2. The Assembly shall elect the Constitutional Court judges by no less than three-fifth majority of its members. If the Assembly fails to elect the judge within 30 days of the submission of the list of candidates by the Justice Appointment Council, the first ranked candidate in the list shall be deemed appointed.

3. The judges of the Constitutional Court shall hold office for a 9 year mandate without the right to re-appointment.

4. The judges of the Constitutional Court shall have a law degree, at least 15 years of experience as judges, prosecutors, advocates, law professors or lecturers, senior employees in the public administration, with a renowned 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 and the procedure for the appointment and election of judges of the Constitutional Court shall be regulated by law.

6. The composition of the Constitutional Court shall be renewed every 3 years to one-third thereof, in accordance with the procedure determined by law.

7. The Constitutional Court judge shall continue to stay in office until the

appointment of the successor, except for the cases provided for in Article 127, paragraph 1, subparagraph c, ç), d), and dh).

### **Article 126**

~~The judge of the Constitutional Court cannot be criminally prosecuted without the consent of the Constitutional Court. The judge of the Constitutional Court can be detained or arrested only if apprehended in the commission of a crime or immediately after its commission. The competent organ immediately notifies the Constitutional Court. If the Constitutional Court does not give its consent within 24 hours to send the arrested judge to court, the competent organ is obliged to release him.~~

~~A judge of the Constitutional Court enjoys immunity for opinions expressed and decisions taken in the exercise of his functions. A judge of the Constitutional Court cannot be arrested or be deprived of liberty in any form nor may a personal search or a search of the residence be exercised against him without the authorisation of the court itself, except when he is captured during or immediately after the commission of a crime. In that case, the General Prosecutor immediately informs the Constitutional Court. When the Constitutional Court does not give consent within 24 hours to send the arrested judge to court, the competent body is obliged to release him<sup>7</sup>.~~

The Constitutional Court judge shall enjoy immunity in connection with the opinions expressed and the decisions made in the course of assuming the functions, except where the judge acts based upon personal interests or malice.

### **Article 127**

~~1. The term of a judge of the Constitutional Court ends when he:~~

- ~~a) is convicted with a final decision for commission of a crime;~~
- ~~b) does not show up for duty, without reason, for more than 6 months;~~
- ~~c) reaches 70 years of age;~~
- ~~ç) resigns;~~
- ~~d) is declared incompetent to act with a final judicial decision.~~

---

<sup>7</sup> Amended previously by the law amending Article 126.

~~2. The end of the term of a judge is declared with a decision of the Constitutional Court.~~

~~3. If the seat of a judge is vacant, the President of the Republic with the consent of the Assembly appoints a new judge, who remains on duty until the mandate of the dismissed judge ends.~~

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

a) Reaching the age of 70 years;

b) The 9 year mandate expires;

c) He/she resigns;

ç) Dismissed in accordance with the provisions of article 128 of the Constitution;

d) Establishing the conditions of inelectability and incompatibility in assuming the function;

dh) Establishing the fact of incapacity to exercise the duties;

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

3. Where the position of a judge remains vacant, the appointing body shall appoint a new judge, the latter staying in office until the expiry of the mandate of the outgoing judge.

### **Article 128**

~~The judge of the Constitutional Court can be removed from office by the Assembly by two thirds of all its members for violations of the Constitution, commission of a crime, mental or physical incapacity, acts and behaviour that seriously discredit the position and reputation of a judge. The decision of the Assembly is reviewed by the Constitutional Court, which, upon verification of the existence of one of these grounds, declares the removal from duty of the member of the Constitutional Court.~~

1. The Constitutional Court judge shall be disciplinary liable under the law.

2. The disciplinary proceedings against the judge shall be carried out by the Constitutional Court, which decides on his/her dismissal when:

- a) It finds serious professional and ethical misconduct which discredit the position and the image of a judge in exercising the mandate;
- b) Sentenced by a final court decision for commission of a crime.

3. The Constitutional Court judge shall be 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 the defendant for an offence committed intentionally;
- c) Disciplinary proceedings being initiated under the law”.

#### **Article 129**

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

#### **Article 130**

~~Being a judge of the Constitutional Court is incompatible with any other state, political or private activity.~~

Being a Constitutional Court judge shall not be compatible with any other political, state activity, as well as any other professional activity exercised against payment, except for teaching, academic and scientific activities, in accordance with the law.

#### **Article 131**

The Constitutional Court decides on:

- a) compatibility of the law with the Constitution or with international agreements as provided for in Article 122;

b) compatibility of international agreements with the Constitution, prior to their ratification;

c) compatibility of normative acts of the central and local bodies with the Constitution and international agreements;

ç) conflicts of competencies between powers, as well as between central government and local government;

d) constitutionality of the parties and other political organizations, as well as their activity, according to Article 9 of this Constitution;

dh) dismissal from duty of the President of the Republic and verification of his inability to exercise his functions;

~~e) issues related with the election and incompatibility in exercising the functions of the President of the Republic and of the deputies, as well as the verification of their election;~~

~~“e) the issues bearing a connection to the electability and compliance in assuming the functions of the President of the Republic, MPs, 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) final adjudication of the individual complaints for the violation of their constitutional rights to a fair hearing, after all legal means for the protection of those rights have been exhausted.~~

f) final examination of the complaints of individuals against the acts of the public power or judicial acts impairing the fundamental rights and freedoms guaranteed by the Constitution, after all effective legal means for the protection of those rights have been exhausted, unless provided otherwise by the Constitution.

2. The Constitutional Court shall, when recourse being sought for examining a law on the revision of the Constitution approved by the Assembly according to Article 177, control only the compliance with the procedural requirements foreseen in the Constitution.

## Article 132

~~1. The decisions of the Constitutional Court have general binding force and are final. The Constitutional Court has only the right to invalidate the acts it reviews.~~

~~2. The decisions of the Constitutional Court enter in force the day of their publication in the Official Journal. Constitutional Court can decide that the law or normative act is to be invalidated on another date. The minority's opinion is published together with the decision.~~

1. The decisions of the Constitutional Court shall be final and binding for enforcement.

2. The decisions of the Constitutional Court shall 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, gives effect on another date.

3. The dissenting opinion shall be published along with the final decision.

## Article 133

1. Acceptance of complaints for adjudication is decided by a number of judges as determined by law.

~~2. The Constitutional Court decides with the majority of all its members.~~

2. The Constitutional Court makes its final decisions by the majority of all its members, unless otherwise provided for by law.

## Article 134

~~1. The Constitutional Court is put into motion only on the request of:~~

~~a) the President of the Republic;~~

~~b) the Prime Minister;~~

~~c) not less than one fifth of the deputies;~~

~~ç) the Chairman of High State Audit;~~

~~d) every court according to Article 145, paragraph 2 of this Constitution;~~

~~dh) the People's Advocate;~~

~~e) organs of the local government;~~

~~ë) organs of religious communities;~~

~~f) political parties and other organizations;~~

~~g) individuals.~~

~~2. The subjects provided for in subparagraphs dh, e, ë, f, and g of paragraph 1 of this article may make a request only for issues related with their interests.~~

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

a) President of the Republic;

b) Prime Minister;

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

ç) People's Advocate;

d) Head of High State Audit;

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

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

ë) High Judicial Council and High Prosecutorial Council;

f) Local governance units;

g) Religious communities' forums;

gj) Political parties;

h) Organizations;



i) Individuals.

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

## **PART NINE THE COURTS**

### **Article 135**

~~1. The judicial power is exercised by the High Court, as well as the courts of appeal and courts of first instance, which are established by law.~~

~~2. The Assembly may by law establish courts for particular fields, but in no case an extraordinary court.~~

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

2. Specialized courts shall be competent to adjudicate corruption and organized crime, as well as criminal charges against the President of the Republic, Speaker of the Assembly, Prime minister, the member of the Council of Ministers, the judge of the Constitutional Court and High Court, the Prosecutor General, High Justice Inspector, the Mayor, Deputy of the Assembly, deputy minister, the member of the High Judicial Council and High Prosecutorial Council, and heads of central or independent institutions as defined by the Constitution or by law, as well as charges against former officials as mentioned above.

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

4. Judges of the specialized courts provided for in paragraph 2 of this Article shall be appointed by the High Judicial Council in accordance with the law. Judges of the specialized courts may be dismissed from office with a 2/3 majority of the members of the High Judicial Council. The candidates for judges and judicial civil servants in the specialized courts, as well as their close family members, prior to their appointment, shall be subject to the verification of their assets and their background checks and shall consent to periodic reviews of their financial accounts and personal telecommunications, in accordance with the law.

### Article 136

~~1. The members of the High Court are appointed by the President of the Republic with the consent of the Assembly.~~

~~2. One of the members is appointed Chairman following the procedure provided for in paragraph 1 of this article.~~

~~3. The Chairman and members of the High Court hold the office for 9 years without the right of re-appointment.~~

~~4. The other judges are appointed by the President of the Republic upon the proposal of the High Council of Justice.~~

~~5. Judges may only be citizens with higher legal education. The conditions and procedure for selection are defined by law.~~

1. The judges of the High Court shall be appointed by the President of the Republic upon proposal of the High Judicial Council, for a 9 year term, without the right to re-appointment.

2. The President of the Republic, within 10 days following the day of the decision of the High Judicial Council, shall appoint the judge of the High Court, except for the cases where the President finds out that the candidate fails to meet the qualification criteria 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 effect when the majority of the members of the High Judicial Council vote against the decree. In this case, as well as in case the President is silent, the candidate shall be deemed appointed and shall take office within 15 days following the date of the High Judicial Council's decision.

3. The judges of the High Court shall be selected from the ranks of the judges with at least 13 years of experience in practicing the profession. One-fifth of the judges in this court shall be selected from among those prominent jurists with not less than 15 years of experience as advocates, law professors or lectors, high level lawyers in the public administration or other fields of law. The candidates selected from among the ranks of lawyers must have a law degree.

4. The candidates who are not judges 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 a candidate. Further criteria and the procedure of selection of the judges shall be provided for by law.

5. The High Court judge shall stay in office until the appointment of the successor,

except for the cases provided for in Article 139, paragraph 3, subparagraph c), ç), d) and dh).

### **Article 136/a**

1. Judge can be an Albanian citizen appointed by the High Judicial Council after graduating the School of Magistrates and after the conduction of a preliminary process of verification of their assets and their background checks, in accordance with the law.

2. Further criteria for the selection and appointment of the judges are provided for by law.

### **Article 137**

~~1. A judge of the High Court may be criminally prosecuted only with the approval of the Assembly.~~

~~2. A judge of the High Court may be detained or arrested only if apprehended in the course of committing a crime or immediately after its commission. The competent organ immediately notifies the Constitutional Court. If the Constitutional Court does not consent within 24 hours to the sending of the arrested judge before a court, the competent organ is obliged to release him.~~

~~3. Other judges may be criminally prosecuted only with the approval of the High Council of Justice.~~

~~4. A judge may be detained or arrested only if apprehended in the course of committing a crime or immediately after its commission. The competent organ immediately notifies the High Council of Justice. If the High Council of Justice does not consent within 24 hours to the sending of the arrested judge before a court, the competent organ is obliged to release him.~~

~~1. A judge of the High Court enjoys immunity for opinions expressed and decisions taken in the exercise of his functions.~~

~~2. A judge of the High Court cannot be arrested or be deprived of his liberty in any form nor may a personal search or a search of the residence be exercised against him without the authorisation of the Constitutional Court, except when he is captured during or immediately after the commission of a crime. In this case, the General Prosecutor immediately informs the Constitutional Court. When the Constitutional Court does not give consent within 24 hours to send the arrested judge to court, the competent body is obliged to release him.~~

~~3. Judges enjoy immunity for opinions expressed and decisions taken in the exercise of their judicial functions.~~

~~4. A judge cannot be arrested or deprived of his liberty in any form nor may a personal search or a search of the residence be exercised against him without the authorisation of the High Council of Justice, except when he is captured during or immediately after the commission of a crime. In that case, the General Prosecutor immediately informs the High Council of Justice, which may order the lifting of the measure.<sup>8</sup>~~

The judge shall enjoy immunity in connection with the opinions expressed and the decisions made in the course of assuming the functions, except for the cases where the judge deliberately issues a decision as result of a self-interest or in bad faith.

### **Article 138**

~~The time a judge stays on duty cannot be limited; their pay and other benefits cannot be lowered.~~

The salary and other benefits of judges cannot 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 the previous position which he or 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**

~~1. The term of a High Court judge ends when he:~~

- ~~a) is convicted of a crime with a final judicial decision;~~
- ~~b) does not appear for duty without reason for more than 6 months;~~
- ~~e) reaches the age of 65;~~

---

<sup>8</sup> Amended previously by the law amending Article 137

~~ç) resigns;~~

~~d) is declared incompetent to act with a final judicial decision.~~

~~2. The end of the term of a judge is declared with a decision of the High Court.~~

1. The mandate of the High Court judge shall end, when:

a) Reaching the retirement age;

b) The 9 year mandate expires;

c) He/she resigns;

ç) Dismissed as provided in Article 140 of the Constitution;

d) Establishing the conditions of inelectability and incompatibility in assuming the function;

dh) Establishing the fact of incapacity to exercise the duties;

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

3. The procedure for the appointment of the judge to another court upon the expiry of the mandate is regulated by law.

#### **Article 140**

~~A judge of the High Court may be discharged by the Assembly with two thirds of all its members for violation of the Constitution, commission of a crime, mental or physical incapacity, or acts and behaviour that seriously discredit the position and image of a judge. The decision of the Assembly is reviewed by the Constitutional Court, which, upon verification of the existence of one of these grounds, declares his discharge from duty.~~

1. The judge shall be disciplinarily liable under the law.

2. The judge shall be dismissed by decision of the High Judicial Council when:

a) Committing serious professional or ethical misconduct which discredit the position and the image of the judge in the course of performing the duty;

b) Sentenced by a final court decision for commission of a crime.

3. The judge shall be 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 commission of a criminal offence;

b) He/she obtains the capacity of the defendant for a serious offence committed intentionally;

c) Disciplinary proceedings being initiated under the law”.

4. Against the dismissal decision may be appealed to the Constitutional Court.

#### **Article 141**

~~1. The High Court has original and review jurisdiction. It has original jurisdiction when adjudicating criminal charges against the President of the Republic, the Prime Minister, members of the Council of Ministers, deputies, judges of the High Court, and judges of the Constitutional Court.~~

~~2. For a unification or change of judicial practice, the High Court has the right to select specific judicial issues for examination in the joint college.~~

1. The High Court shall examine issues concerning the meaning and application of the law in order to ensure the unification or development of case law, in accordance with the law.

2. For the amendment of the case law, the High Court shall review in the Joint Chambers specific judicial issues decided by the chambers, in accordance with the law.

#### **Article 142**

1. Judicial decisions must be reasoned.

2. The High Court must publish its decisions as well as the minority opinions.

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

### **Article 143**

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

Being a judge shall not be compatible with any other political or state activity, as well as any professional activity exercised against payment, except for teaching, academic, scientific activities, or secondment to justice system institutions in accordance with the law.

### **Article 144**

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

### **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**

~~1. The High Council of Justice consists of the President of the Republic, the Chairman of the High Court, the Minister of Justice, 3 members elected by the Assembly, and 9 judges of all levels who are elected by the National Judicial Conference. Elected members stay in office for 5 years, without the right of immediate re-election.~~

~~2. The President of the Republic is the Chairman of the High Council of Justice.~~

~~3. The High Council of Justice, with the proposal of the President, elects a vice-chairman from its ranks. The vice chairman organizes the activity of the High~~

~~Council of Justice and chairs its meetings in the absence of the President of the Republic.~~

~~4. The High Council of Justice decides on the transfer of the judges as well as their disciplinary responsibility pursuant to law.~~

~~5. The transfer of judges may not be done without their consent, except when the needs of reorganization of the judicial system dictate this.~~

~~6. A judge may be removed from office by the High Council of Justice for commission of a crime, mental or physical incapacity, acts and behaviour that seriously discredit the position and image of a judge, or professional insufficiency. The judge has the right to complain against this decision to the High Court, which decides by joint colleges.~~

1. The High Judicial Council shall ensure the independence, accountability and appropriate functionality of the judicial power in the Republic of Albania.

2. The High Judicial Council shall be composed of 11 members, six of which are elected by the judges of all levels of the judicial power and five members are elected by the Assembly among the ranks of lawyers who are not judges.

3. The judge members shall be selected from 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 lay members shall be 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 last past 10 years before running as candidates. Further criteria and the procedure for selecting the candidates shall be regulated by law.

4. Two lay members shall be elected from 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, shall announce the vacancies in accordance with the law.

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



6. The Secretary General of the Assembly, upon completion of the verification, shall immediately send 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 shall select the candidates with the support of at least 4 members. In case the required majority cannot be reached, the candidates shall be selected by lot.

8. The names of the candidates selected by the subcommittee are consolidated into one list and sent to the Speaker of the Assembly. Within ten days, the Assembly shall approve the list of candidates by two-thirds of all the members. In case the list is rejected, the procedure shall be repeated in the subcommittee under paragraph 7 of this Article, but not more than two times. In case the Assembly shall, after conducting the procedure for the third time, not approve the presented list, the candidates of this list shall be deemed elected. Detailed procedures shall be regulated by law.

9. The Chairperson of the High Judicial Council shall be elected at the first meeting of the Council from among the lay members in accordance with the law.

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

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

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

- a) Appoints, evaluates, promotes and transfers judges of all levels;
- 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 manages the administration of the courts with the exception of the management of the information technology structure of the courts, which is regulated upon 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**

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

- a) Reaching the retirement age;
- b) The 5 year mandate expires;
- c) He/she resigns;
- ç) Dismissed in accordance with the provisions of Article 147/c of the Constitution;
- d) Establishing the conditions of inelectability and incompatibility in assuming the function;
- dh) Establishing the fact of incapacity to exercise the duties;

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

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

4. The member of the High Judicial Council shall stay in office until the appointment of the successor, except for the cases provided in subparagraph c), ç), d) and dh) of paragraph 1 of this Article.

#### **Article 147/c**

1. The member of the High Judicial Council shall be disciplinarily liable in accordance with the law.

2. The member shall be dismissed upon decision of the Constitutional Court when:

- a) Committing serious professional or ethical misconduct;
- b) Sentenced by a final court decision for commission of a crime.

3. The member of the High Judicial Council shall be 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 being initiated under the law”.

#### **Article 147/ç**

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

#### **Article 147/d**

1. The High Justice Inspector shall be 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 Justice Inspector shall also be responsible for the institutional inspection of courts and prosecution offices.

3. The High Justice Inspector is elected upon three fifth majority of all members of the Assembly, for a nine year term, 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 or she 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.

4. The High Justice Inspector 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 shall be declared appointed.

5. The High Justice Inspector shall enjoy the status of the High Court judge.

6. The procedures for the decision making of the High Justice Inspector are regulated by law. Appeals against decisions relating to disciplinary measures against other inspectors shall be examined by the Constitutional Court.

#### **Article 147/dh**

1. The mandate of the High Justice Inspector shall end when:

a) Reaching the retirement age;

b) The 9 year mandate expires;

c) He/she resigns;

ç) Dismissed in accordance with Article 147/e of the Constitution;

d) Establishing the conditions of inelectability and incompatibility in assuming the function;

dh) Establishing the fact of incapacity to exercise the duties;

2. The end of the mandate of the High Justice Inspector is declared by decision of the joint meeting of the High Judicial Council and High Prosecutorial Council.

3. The High Justice Inspector shall stay in office until the appointment of the new Inspector, except for the cases under paragraph 1, subparagraph c, ç), d), and dh).

4. Upon completion of the mandate, upon his or her request, the High Justice Inspector shall return to the position he or she held before the appointment or in a position equivalent to it.

### **Article 147/e**

1. The High Justice Inspector shall be disciplinarily liable in accordance with the law.
2. The High Justice Inspector shall be dismissed upon decision of the Constitutional Court when:
  - a) Committing serious professional or ethical misconduct;
  - b) Sentenced by a final court decision for commission of a crime;
3. A parliamentary inquiry commission shall investigate allegations of misconduct by the High Justice Inspector, respecting his or her rights to a fair trial. The inquiry commission shall, in case it finds out misconduct as provided in paragraph 2 of this Article, propose to the Constitutional Court the dismissal of the High Justice Inspector, in accordance with the law.
4. The High Justice Inspector shall be 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 being initiated under the law”.

### **Article 147/ë**

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

## **PART TEN THE OFFICE OF THE PROSECUTOR**

### **Article 148**

- ~~1. The office of the prosecutor exercises criminal prosecution and represents the accusation in court in the name of the state. The office of the prosecutor also performs other duties set by law.~~
- ~~2. Prosecutors are organized and operate by the judicial system as a centralized body.~~

~~3. In the exercise of their powers, the prosecutors are subject to the Constitution and the laws.~~

1. The Prosecution Office exercises criminal prosecution and represents 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 shall ensure 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 is organized and functions 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 crimes in accordance with Article 135 paragraph 2 of the Constitution shall be independent from the Prosecutor General. The Special Investigation Unit shall be subordinated to the Special Prosecution Office.

#### **Article 148/a**

1. The Prosecutor General is appointed by 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 shall select and rank the three most qualified candidates, based on an open and transparent procedure and forwards them to the Assembly, in accordance with the law.

3. The Prosecutor General shall be 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 an academic degree in law. The candidate 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.

4. In case the Assembly fails to elect the Prosecutor General within 30 days of receiving the proposals, the candidate ranked first by the High Prosecutorial Council, shall be declared appointed.

5. Upon completion of the mandate and upon his or her request, the Prosecutor General shall be appointed in the position he or she held before the appointment

or as judge in the Court of Appeal.

#### **Article 148/b**

The Prosecutor General exercises these powers:

1. Represents accusation before the High Court and cases before the Constitutional Court, except for the case where the representation is made by the Special Prosecution Office;
2. Issues written general guidance to prosecutors, with the exception of prosecutors of the Special Prosecution Office;
3. Manages the Prosecution Office administration, with the exception of the administration of the Special Prosecution Office. The establishment and management of the information technology structure is regulated upon decision of the Council of Ministers;
4. Proposes and administers the budget of the Prosecution Office, with the exception of the budget for the Special Prosecution Office;
5. Reports to the Assembly on the situation of criminality;
6. Exercises other powers defined by law.

#### **Article 148/c**

1. The mandate of the Prosecutor General shall end when:
  - a) Reaching the retirement age;
  - b) The 7 year mandate expires;
  - c) He/she resigns;
  - ç) Dismissed according to a procedure provided in Article 149/c of the Constitution;
  - d) Establishing the conditions of inelectability and incompatibility in assuming the function;
  - dh) Establishing the fact of incapacity to exercise the duties;

2. The termination of the mandate of the Prosecutor General is declared by decision of the High Prosecutorial Council.

#### **Article 148/ç**

1. Prosecutor can be Albanian citizens appointed by the High Prosecutorial Council after being graduated from the School of Magistrates and after the conduction of a preliminary process of verification of their assets and their background checks, in accordance with the law.

2. Further criteria for the selection and appointment of prosecutors are provided for by law.

#### **Article 148/d**

1. The prosecutor shall be disciplinarily liable in accordance with the law.

2. The prosecutor shall be dismissed upon decision of the High Prosecutorial Council when:

a) Committing serious professional or ethical misconduct which discredit the position and the image of the prosecutor in the course of performing the duty;

b) Sentenced by a final court decision for commission of a crime.

3. Against the dismissal decision may be appealed to the Constitutional Court.

4. The prosecutor shall be 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 commission of a criminal offence;

b) He/she obtains the capacity of the defendant for a serious offence committed intentionally;

c) Disciplinary proceedings being initiated under the law”.

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

1. The Special Prosecution Office exercises criminal prosecution and represents accusation before the specialized courts under article 135 paragraph 2 of the Constitution as well as before the High Court.



2. The Special Prosecution Office shall consist of at least 10 prosecutors, who shall be 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 shall be 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 commission of a crime or serious disciplinary misconduct by a 2/3 majority of the members of the High Prosecutorial Council.

5. The candidate for prosecutor, investigation officer, administrative staff of the Special Prosecution Office, Special Investigation Unit, as well as their close family members, prior to their appointment, shall be subject to a verification of their assets and their background checks, shall consent to periodic reviews of their financial accounts and personal telecommunications, in accordance with the law.

#### Article 149

~~1. The General Prosecutor is appointed by the President of the Republic with the consent of the Assembly.~~

~~1. The General Prosecutor is appointed by the President of the Republic with the consent of the Assembly, for a five year mandate, with the right to be reappointed.~~

~~2. The General Prosecutor may be discharged by the President of the Republic upon the proposal of the Assembly for violations of the Constitution or serious violations of the law during the exercise of his duties, for mental or physical incapacity, for acts and behaviour that seriously discredit the position and reputation of the Prosecutor.~~

~~3. The other prosecutors are appointed and discharged by the President of the Republic upon the proposal of the General Prosecutor.~~

~~4. The General Prosecutor informs the Assembly from time to time on the status of criminality.~~

~~4. The General Prosecutor reports to the Assembly on the situation of criminality.<sup>9</sup>~~

1. The High Prosecutorial Council shall guarantee the independence, accountability,

---

<sup>9</sup> Amended previously by the law amending Article 149.

discipline, status and career of Prosecutors in the Republic of Albania.

2. The High Prosecutorial Council shall be composed of 11 members, six of whom shall be elected by the prosecutors of all levels of the Prosecution Office and five members shall be elected by the Assembly among lawyers who are not prosecutors.

3. The prosecutor members shall be selected from 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 lay members shall be selected among 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 last past 10 years before running as a candidate. Further criteria and the procedure for selecting the candidates shall be regulated by law.

4. Two lay members shall be elected from 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, shall announce the vacancies in accordance with the law.

5. The Secretary General of the Assembly, not later than 10 days from the submission of candidatures, shall verify if the candidates fulfil the criteria foreseen in the Constitution and the law and shall assess the professional and moral criteria to be a member of the High Prosecutorial Council and shall prepare the list. In case the candidates do not fulfil the criteria and conditions to be elected, the Secretary General of the Assembly shall not include their names in the list.

6. The Secretary General of the Assembly, upon completion of the verification, shall immediately send 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 shall select the candidates with the support of at least 4 members. In case the required majority cannot be reached, the candidates shall be selected by lot.

8. The names of the candidates selected by the subcommittee are consolidated into one list and sent to the Speaker of the Assembly. Within ten days, the Assembly shall approve the list of candidates by two-thirds of all the members. In case the list is rejected, the procedure shall be repeated in the subcommittee under paragraph 7 of this Article, but no more than two times. In case the Assembly, after conducting the procedure for the third time, shall not approve the presented list, the candidates of this list shall be deemed elected. Detailed procedures shall be regulated by law.

9. The Chairperson of the High Prosecutorial Council shall be elected at the first meeting of the Council from among the lay members in accordance with the law.

10. Members of the High Prosecutorial Council shall practice their duty full-time for a period of five years, without the right of immediate re-election. At the end of the term, the prosecutor members return to their previous working positions. The mandate of the special prosecutor shall be suspended during the period of time of the exercise of the function as member of High Prosecutorial Council. The lay members, who before the appointment worked full time in the public sector, shall return to the previous working positions or, if not possible, to positions equivalent to them.

#### **Article 149/a**

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

- 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**

1. The mandate of the member of the High Prosecutorial Council shall end when:

- a) Reaching the retirement age;
- b) The 5 year mandate expires;
- c) He/she resigns;
- ç) Dismissed according to the provisions of article 149/c of the Constitution;
- d) Establishing the conditions of inelectability and incompatibility in assuming the function;
- dh) Establishing the fact of incapacity to exercise the duties;

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

3. Where the position of the member remains vacant, the body having appointed the preceding member, shall under Article 149, appoint the new member, the latter staying in office until the expiry of the member of the outgoing member.

4. The member of the High Prosecutorial Council shall stay in office until the appointment of the successor, except for the cases provided in subparagraph c), ç), d) and dh) of paragraph 1 of this article.

#### **Article 149/c**

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

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

- a) Committing serious professional or ethical misconduct;
- b) Sentenced by a final court decision for commission of a crime.

3. The Prosecutor General and the members of the High Prosecutorial Council shall be 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 being initiated under the law”.

#### **Article 149/ç**

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

#### **Article 149/d**

1. The Justice Appointments Council is responsible for verifying the fulfillment of legal requirements and assessment of professional and moral criteria of the candidates for the High Justice Inspector, as well as for the members 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 shall consist of nine members selected by lot from the ranks of judges and prosecutors, who are not under disciplinary measures. They shall 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 shall select 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 Speaker of the Assembly shall make the selection by lot before December 10 of that calendar year. The People’s Advocate shall participate as an observer in the selection by lot and in the meetings and operations of the Justice Appointment Council.

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

5. Further criteria on the scale of qualification of candidates participating in the lot shall be provided by law. The organization and functioning of the Justice Appointments Council shall be regulated by law.

## **PART ELEVEN REFERENDUM**

### **Article 150**

1. The people, through 50 thousand citizens, who enjoy the right to vote, have the right to a referendum for the abrogation of a law, as well as to request the President of the Republic to hold a referendum about issues of special importance.
2. The Assembly, upon the proposal of not less than one-fifth of the deputies or the Council of Ministers, can decide that an issue or a draft law of special importance be presented for referendum.
3. Principles and procedures for holding a referendum, as well as its validity, are provided by law.

### **Article 151**

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

### **Article 152**

1. The Constitutional Court reviews preliminarily the constitutionality of the issues presented for a referendum according to Article 150, paragraphs 1 and 2, Article 151, paragraphs 2 and 3, as well as Article 177, paragraphs 4 and 5, within 60 days.
2. The importance of special issues, as provided in paragraphs 1 and 2 of article 150, is not subject to adjudication in the Constitutional Court.
3. The date of the referendum is set by the President of the Republic within 45 days after the promulgation of the positive decision of the Constitutional Court or after the term within which the Constitutional Court had to have expressed itself has expired. Referenda can be held only in one day of the year.

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

**Article 153**

~~The Central Election Commission is a permanent organ that prepares, supervises, directs, and verifies all aspects that have to do with elections and referenda and declares their results.~~

**Article 154**

~~1. The Commission consists of 7 members who are elected with a mandate of 7 years. Two members are elected by the Assembly, 2 by the President of the Republic, and 3 other members by the High Council of Justice.~~

1. The Commission shall consist of 9 members, being elected for a 7-year mandate, 4 members being elected by the Assembly, 2 by the President of the Republic and 3 other members by the High Council of Justice.<sup>10</sup>

2. The membership of the Central Election Commission is renewed every three years pursuant to the procedure established by law.

3. The membership in the Commission is incompatible with any other state and political activity.

4. Electoral subjects appoint their representatives to the Commission. They do not have the right to vote.

5. A member of the Commission enjoys the immunity of a member of the High Court.

6. The Commission has its own budget.

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

**Article 155**

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

---

<sup>10</sup> Also repealed with the entire part by the amending law no 9904, dated 21.4.2008

### **Article 156**

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

### **Article 157**

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

### **Article 158**

1. The Prime Minister, on behalf of the Council of Ministers, presents to the Assembly the draft law on the budget during the autumn session, which cannot be closed without approving it.
2. If the draft law is not approved until the beginning of the next financial year, the Council of Ministers implements every month one-twelfth of the budget of the previous year, until the new budget is approved.
3. The Assembly approves the new budget within three months from the last day of the previous financial year, except when extraordinary measures have been decided.
4. The Council of Ministers is obligated to present to the Assembly a report about the implementation of the budget and about the state debt from the previous year.
5. The Assembly takes a final decision after having also listened to the High State Audit report.

### **Article 159**

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

### **Article 160**

1. During the financial year, the Assembly may make changes in the budget.



2. The changes in the budget are made based on defined procedures for drafting and approving it.
3. Expenses foreseen in other laws cannot be reduced as long as these laws are in force.

#### **Article 161**

1. The Central State Bank is the Bank of Albania. It has the exclusive right to issue and circulate the Albanian currency, to independently implement monetary policy, and maintain and administer the exchange reserves of the Republic of Albania.
2. The Bank of Albania is directed by a council, which is chaired by the Governor. The Governor is elected by the Assembly for 7 years, upon proposal of the President of the Republic, with the right of re-election.

### **PART FOURTEEN THE HIGH STATE AUDIT**

#### **Article 162**

1. The High State Audit is the highest institution of economic and financial control. It is subject only to the Constitution and laws.
2. The Head of the High State Audit is appointed and dismissed by the Assembly upon proposal of the President of the Republic. He stays in office for 7 years, with the right of re-election.

#### **Article 163**

The High State Audit supervises:

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

#### **Article 164**

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

#### **Article 165**

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

### **PART FIFTEEN ARMED FORCES**

#### **Article 166**

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

#### **Article 167**

1. Military servicemen on active duty cannot be chosen or nominated for other state duties nor participate in a party or political activity.
2. Members of the armed forces or persons who perform an alternative service enjoy all the constitutional rights and freedoms, apart from cases when the law provides otherwise.

### **Article 168**

1. The Armed Forces of the Republic of Albania are composed of the army, navy, and air force.
2. The President of the Republic is the General Commander of the Armed Forces.
3. The National Security Council is an advisory body of the President of the Republic.

### **Article 169**

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

## **PART SIXTEEN EXTRAORDINARY MEASURES**

### **Article 170**

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

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

5. During the situations that require extraordinary measures to be taken, none of these acts may be changed: the Constitution, the laws on the election of the Assembly and local government organs, as well as the laws on extraordinary measures.

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

#### **Article 171**

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

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

#### **Article 172**

1. In the case of paragraph 1 of Article 171, the President of the Republic presents to the Assembly the decree for establishing the state of war within 48 hours from its signing, specifying the rights to be limited.

2. The Assembly immediately reviews and decides with the majority of all its members, upon the decree of the President.

#### **Article 173**

1. In case of danger to the constitutional order and to public security, the Assembly, with request of the Council of Ministers, may decide for a state of emergency in one part or the whole territory of the state, which lasts for as long as this danger continues, but not longer than 60 days.

2. Upon establishment of the state of emergency, the intervention of armed forces is done with a decision of the Assembly and only when police forces are not able to restore order.

3. The extension of the term of the state of emergency may be done only with the consent of the Assembly, for each 30 days, for a period of time not longer than 90 days.

#### **Article 174**

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

2. The extension of the state of natural disaster can be done only with the consent of the Assembly.

#### **Article 175**

1. During the state of war or state of emergency the rights and freedoms provided for in Articles: 15; 18; 19; 20; 21; 24; 25; 29; 30; 31; 32; 34; 39, paragraph 1; 41, paragraphs 1, 2, 3, and 5; 42; 43; 48; 54; 55 may not be limited.

2. During the state of natural disaster the rights and freedoms provided for in Articles: 37; 38; 41, paragraph 4; 49; 51 may be limited.

3. The acts for declaring the state of war, emergency or natural disaster must specify the rights and freedoms which are limited according to paragraphs 1 and 2 of this Article.

#### **Article 176**

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

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

#### **Article 177**

1. Initiative for revision of the Constitution may be undertaken by not less than one-fifth of the members of the Assembly.

2. No revision of the Constitution may be undertaken during the time when the extraordinary measures are taken.

3. The draft law is approved by not less than two-thirds of all members of the Assembly.
4. The Assembly may decide, with two-thirds of all its members that the draft constitutional amendments be voted in a referendum. The draft law for the revision of the Constitution enters into force after ratification by referendum, which takes place not later than 60 days after its approval in the Assembly.
5. The approved constitutional amendment is put to a referendum when this is required by one-fifth of the members of the Assembly.
6. The President of the Republic does not have the right to return for review the law approved by the Assembly for revision of the Constitution.
7. The law approved by referendum is declared by the President of the Republic and enters into force on the date provided for in this law.
8. Revision of the Constitution for the same issue cannot be done before a year from the day of the rejection of the draft law by the Assembly and 3 years from the day of its rejection by the referendum.

## **PART EIGHTEEN TRANSITORY AND FINAL DISPOSITIONS**

### **Article 178**

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

### **Article 179**

- ~~1. The mandate of the existing constitutional bodies with the entering into force of this Constitution ends pursuant to the terms provided for in Law No. 7491, dated 29.4.1991, "On the Main Constitutional Provisions" and its respective amendments.~~
- ~~2. The members of the Court of Cassation continue their activity as members of the High Court pursuant to their previous mandate.~~

~~3. The members of the High Council of Justice elected from the ranks of the prosecutors are replaced with new members elected by a general meeting of the judges.~~

~~4. The organs of local government continue their activity until their mandate terminates.~~

1. Members of the Constitutional Court shall 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 shall be appointed by the President of the Republic, the second shall be elected by the Assembly and the third shall be appointed by the High Court. This shall be the order for all future appointments after the entry into force of this law.

3. Aiming at the regular renewal of the Constitutional Court, the new judge who shall succeed the judge whose mandate will end in 2017 shall remain in office until 2025 and the new judge who will succeed the judge whose mandate will end in 2020 shall remain in office until 2028. The other Constitutional Court judges shall be appointed for the entire duration of the mandate in accordance with the law.

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

5. The High Judicial Council shall be established within 8 months from the entry into force of this law. Three judge members and two lay members of the High Judicial Council shall be appointed initially for a 3-year term, with the purpose of partial renewal of this body. The members of the High Council of Justice shall end their mandate after the establishment of the High Judicial Council, but not later than after all members of the High Judicial Council are elected as determined by law. For the first appointment of the lay members of the High Judicial Council that shall be made after the entry into force of this law, the verification of the candidates as provided in article 147 of the Constitution shall be conducted by the General Secretary of the Assembly and the International Monitoring Operation.

6. The High Prosecutorial Council shall be established within 8 months from the entry into force of this law. Three prosecutor members and two lay members of the High Prosecutorial Council shall be appointed initially for a 3-years term, with the purpose of partial renewal of this body. For the first appointment of the lay members of the High Prosecutorial Council that shall be made after the entry into force of this law, the verification of the candidates as provided in article 149 of the Constitution shall be 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 under Article 179/b shall have disciplinary jurisdiction over all Constitutional Court judges, the members of High Judicial Council, the High Prosecutorial Council, the Prosecutor General, and the High Justice Inspector. The Appeal Chamber shall also have jurisdiction on the appeals against decisions of the High Judicial Council, High Prosecutorial Council as well as High Justice Inspector, 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 shall be done in accordance with the law. The incumbent judges of these courts shall be 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 shall be 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 shall be done in accordance with the law.

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

10. Judges and prosecutors who have not finished the School of Magistrate shall hold their office and shall be 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. Within 5 days of the entry into force of this law, the President of the Republic shall elect 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 Speaker of the Assembly shall select them by lot within 10 days of the entry into force of this law. Those selected shall hold office until December 31 of the year that this law enters into force. The People's Advocate shall participate as an observer in the selection by lot, as well as in the meetings and operations of the Justice Appointments Council. The members of the Justice Appointments Council shall be 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 shall remain 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 shall appoint the judges of the High Court in accordance with Article 136 of the Constitution. The President of the Republic shall fill 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 Justice Inspector and the Prosecutor General, shall be made by 2/3 of the members of the Assembly. Other elections shall be made by 3/5 of the members of the Assembly.

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

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

2. The Assembly shall, under procedure of Article 81, point 2, of the constitution, within 30 days since the entry of this law into effect, approve the law setting out the conditions and rules for guaranteeing the integrity of the bodies being elected, appointed or assuming public functions.”

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

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

2. The re-evaluation shall be carried out on the basis of the principles of the fair trial and conducted by respecting the fundamental rights of the assessee.

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

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 *ex officio* be re-evaluated. 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 regulated by law.

5. The re-evaluation shall be conducted by an Independent Qualification Commission, while the appeals filed by the assesseees or the Public Commissioners shall be considered 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 shall be 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, shall hold the office or will be appointed judges and prosecutors. All other assesseees, who successfully pass the re-evaluation shall be appointed as judges or prosecutors under the law.

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

9. The Assembly shall decide 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 state of affairs of the pending cases or at the end of the mandate of the Special Qualification Chamber.

10. Re-evaluation procedures and criteria shall be regulated in compliance with the provisions of the Annex and the law.

### **Article 180**

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

### **Article 181**

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

### **Article 182**

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

### **Article 183**

This Constitution enters into force with its promulgation by the President of the Republic.

Approved by referendum on 22.11.1998

Promulgated by Decree no 2260, dated 28/11/1998, of the President of the Republic of Albania, Rexhep Meidani

## **Annex**

### **Transitional Qualification Assessment**

#### **Article A**

##### **Limitation of the constitutional rights**

1. To the extent necessary to carry out the re-evaluation the application range of some articles of this Constitution, in particular provisions regarding privacy, to include Articles 36 and 37, provisions related to the burden of proof, and other provisions including Articles 128, 131, paragraph f, 135, 138, 140, 145 paragraph 1, 147/a paragraph 1, letter b), 149/a paragraph 1, letter b), are partly limited in accordance with Article 17 of the Constitution.
2. Persons who have passed the re-evaluation as provided in this Annex, are subject to the permanent accountability system regulated by the ordinary rules contained in the Constitution and the relevant Laws.

#### **Article B**

##### **International Monitoring Operation**

1. An International Monitoring Operation shall support the re-evaluation process by monitoring and overseeing the entire process of the re-evaluation. It shall include, partners, within the framework of the European integration process and Euro-Atlantic cooperation and shall be led by the European Commission.
2. The International Monitoring Operation shall perform its tasks in the framework of international arrangements. The International Monitoring Operation will appoint International Observers following a notification to the Council of Ministers. The International Observers shall be 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 shall only be revoked for gross misconduct, by the International Monitoring Operation.
3. International Observers shall have the following duties:
  - a. They may issue recommendations to the Assembly concerning the qualification and selection of the candidates for the position of members of the Commission, the Appeal Chamber judge and Public Commissioners;

b. They are entitled to file findings and opinions on issues examined by the Commission and the Appeal Chamber and contribute to the background assessment regulated in Article DH. In those findings, the International Observers may request that the Commission or the Appeal Chamber consider evidence or may present evidence obtained from state bodies, foreign entities or private persons, in accordance with the law;

c. they are entitled to submit a written recommendation to the Public Commissioners to file an appeal. If the latter decides not to follow this recommendation, the Public Commissioner is required to issue a written report giving the reasons for the refusal;

ç. they 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 shall consist of four permanent panels having three members each.

2. Two Public Commissioners shall represent the public interest and may file appeals against the decisions of the Commission.

3. The Commission and the Special Appeal Chamber shall both operate with accountability, integrity and transparency and with the objective of promoting an independent and competent system of justice free from corruption. During their mandate, the members of the Commission and Public Commissioners shall have the status of the member of the High Court. The Appeal Chamber judges shall have the status of judges 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 and judges of the Appeal Chamber, the Public Commissioners and other employees of these institutions shall sign a written declaration, under the law, authorising the annual audit of their assets, constant monitoring of their financial accounts and waiver of the privacy of their communication throughout the duration of their stay in office. All asset declarations shall become public.

5. Members of the Commission and the judges of the Appeal Chamber shall have a university degree in law, and no less than fifteen years' experience as a judge, prosecutor, law professor, advocate, notary, senior lawyer in public administration, or other legal profession related to the justice sector. Candidates for member of the Commission and judges at 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 should 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 shall conduct an open and transparent application process for the positions of the members in the Independent Qualification Commission, judges of the Special Appeal Chamber and Public Commissioners. All candidates shall send applications and all declarations in accordance with the law to the President. Within 7 days from the deadline for the submission of applications, the President shall compile a candidate list of applicants who meet the formal criteria for each position and a separate list of applicants who do not meet the formal criteria. This process is monitored by the International Monitoring Operation. If the President cannot complete the process within 45 days of the entry into force of this Annex, the duty shall revert to the People's Advocate.

7. A commission composed of at least three representatives of the International Monitoring Operation (IMO) shall assess the candidates, in accordance with the law. Not later than 14 days from the day of submission of the 2 lists by the President, the Commission shall, on the basis of its assessment, submit its recommendations to the President, who then forwards them to the Parliament. If the President cannot exercise his competences within 5 days, the competence shall revert to the People's Advocate.

8. Within three days of receiving the list of applicants who meet the formal criteria, the list of applicants who do not meet the formal criteria and the list of IMO recommendations, the Assembly shall create an ad hoc committee with six members consisting of equal representatives from the 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. The committee may with at least five votes move an applicant from the IMO's recommendations list to the candidate list for voting. Within ten days of its establishment, the ad hoc committee shall forward the candidate list for

voting for each position to the ad hoc committees for selection. The other two lists shall not be forwarded for voting.

9. The Assembly shall establish within ten days two ad hoc committees for selection consisting of equal representatives from the 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 shall select, from the candidate list for voting, a candidate for commissioner, without debate and in a secret and electronic vote that ensures that one member may elect one candidate. The committee shall then select two candidates from the candidate list for voting 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 shall be 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 shall select from the candidate list for voting a candidate for judges 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 shall then select the seventh judge from the remaining candidates on the candidate list for voting, 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 shall be 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 Speaker of the Assembly. Within ten days, the Assembly shall approve the entire list of candidates as a block by a majority of three-fifths. If the Assembly fails to approve the list of candidates as a block, the Speaker of the Assembly shall send it to the ad hoc committees to repeat their selection process and submit a second list within 10 days. Within ten days, the Assembly may reject the entire list of candidates as a block by a majority of two-thirds. If the list is not rejected, those selected shall be 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 shall work full time and

may not hold any other position or employment during their mandate.

14. The Commission, the Appeal Chamber and the Public Commissioners shall have a budget, staff and facilities sufficient to support their duties and the duties of the international observers, in accordance with the law.

15. The official languages of the Commission, the Appeal Chamber and Public Commissioners shall be 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 shall be 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 shall be guaranteed protection of the highest level in accordance with the law.

### **Article Ç** **Re-evaluation**

1. The re-evaluation will include an Asset Assessment, a Background Assessment and a Proficiency Assessment under Article D, DH, and E of this Annex and the law.

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

3. Official bodies of the Republic of Albania shall cooperate with the Commission and Appeal Chamber by putting at their disposal the information required and granting direct access to their databases. They may provide opinions and 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, shall review the assessee's completed background declarations, may interview people named in the declaration or other persons, and shall seek cooperation with other state or foreign institutions to confirm the veracity and accuracy of the



disclosure. The Commission, the Appeal Chamber and the international observers shall have direct access to all relevant government databases and files, except for those classified as “state secret”, including the assessee’s personal files, statistical data, files selected for evaluation, self-evaluations, opinions of supervisors, training records and complaints, verification of complaints, disciplinary decisions against the assessee, data on the assessee’s property, bank accounts, tax records, car registration data bases, data on entry and exits at the border as well as any other relevant 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 shift of the burden of proof to the assessee applies only for this assessment excluding any other process, in particular, criminal proceedings.

#### **Article D** **Asset Assessment**

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

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

3. The assessee has to credibly explain the lawful origin of assets, property and income. Income shall only be considered legitimate if it has been declared and taxes have been paid. Other elements of the legitimate property shall be defined by law.

4. If the assessee has assets greater than twice the amount of the legitimate property, he or she shall be presumed guilty of disciplinary misconduct, unless he or she presents evidence to prove the contrary.

5. If the assessee has not submitted the asset declaration in time in accordance with the law, he or she shall be dismissed from office. If the assessee takes steps to inaccurately disclose or hide assets in his or her ownership, possession or use, a presumption for the disciplinary measure of dismissal shall be established which the assessee shall have the burden to dispel.

**Article DH**  
**Background Assessment**

1. Assesses shall be required to submit a background declaration and be subject to a background assessment with the purpose of identifying the assessee with inappropriate contacts with persons involved in organized crime. The background assessment on persons involved in organized crime will be based on the background declaration and other evidence as appropriate, including Albanian or foreign court decisions.

2. Assessee shall submit a duly filled-in detailed background declaration to the Commission for the period January 1, 2012 to the day of the declaration, as regulated by law. The completed background declaration can only be used as evidence in this procedure and in no case in a criminal proceedings.

3. If the assessee has inappropriate contacts with persons involved in organized crime, a presumption for the disciplinary measure of dismissal shall be established, which the assessee shall have the burden to dispel.

4. If the assessee does not submit the duly completed background declaration in time in accordance with the law, he or she shall be 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 shall be established, which the assessee shall have the burden to dispel.

**Article E**  
**Proficiency Assessment**

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

2. The Proficiency Assessment shall be conducted with the assistance of the officials in charge of the ethical and professional evaluation of judges or prosecutors at the time of the assessment. The Proficiency Assessment for judges, legal advisors or legal assistants shall assess judicial capacity, organizational skills, ethics and commitment to judicial values, personal quality and professional commitment, based on standards provided by law. The Proficiency Assessment for prosecutors shall assess prosecutorial capacity, organizational skills, ethics and commitment to prosecutorial values, personal quality and professional commitment based on standards

provided by law. The Proficiency Assessment for legal advisors or legal assistance includes a test at the School of Magistrate. The Proficiency Assessment shall not consider pending cases.

3. If the assessee has demonstrated poor knowledge, skill, judgment, or aptitude, or there is a pattern of work which is non-compliable with his/her position, then it shall be considered as professional deficiency and a presumption for the disciplinary measure of suspension shall be established coupled with an obligation to attend the education program, which the assessee shall have the burden to dispel.

4. If the assessee has demonstrated inadequate knowledge, skill, judgment, or aptitude, or there is a pattern of work which is non-compliable with his/her position, and the noticed deficiency is unlikely to be remedied through the one year education program, a presumption for the disciplinary measure of dismissal shall be established, which the assessee shall have the burden to dispel.

5. If the assessee acts to substantially prevent or confound his or her assessment, or has demonstrated such insufficient knowledge, skill, judgment, aptitude, or a pattern of work so weak that it endangers or violates the rights of citizens, the assessee shall be considered inconvenient to perform the duty. In this case, a presumption for the disciplinary measure of dismissal shall be established, which the assessee shall have the burden to dispel.

### **Article E** **Disciplinary Measures**

1. The Commission or the Appeal Chamber, after reviewing the matter, determines disciplinary measures, the assessee's suspension from duty for one year coupled with compulsory education or his/her dismissal from office. In any case, the decision shall be reasoned.

2. A decision ordering suspension from duty coupled with an obligation to attend the education program shall identify the assessee's deficiencies. During the suspension period, the assessee shall be entitled to 75 % of the relevant salary. The assessee shall be ordered to attend a one year education program to the School of Magistrates, which is designed to remedy the deficiencies. At the end of the education program, the assessee shall be tested on his skills. This testing shall be overseen by the International Monitoring Operation. The Commission shall dismiss the assessee failing to pass the

test.

3. In any case, the dismissal of a judge or prosecutor does 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 can be requested according to the procedural codes.

## **Article F** **Appeal Chamber**

1. The Appeal Chamber shall consist of seven judges and it is the only judicial body that considers appeals against the decisions of the Commission in accordance with the Annex and the law. The Chamber decides in panels composed of five members each.

2. The assessees 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 E, paragraph 2, of the Annex.

3. The Appeal Chamber may require the collection of facts or evidence and remedy any procedural errors committed by the Commission taking into account the assessee's fundamental rights. The Appeal Chamber shall decide the case and may not transfer the case back to the Commission. This constitutional jurisdiction does not allow to call into question the constitutionality of the principles on which the re-evaluation process is based on, and as such, it is based and 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 examination of the appeal, the assessee shall be 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 shall be paid to the assessee for the entire period of interruption. A final decision ordering dismissal from office has *ex lege* immediate effect.

6. An assessee filing an appeal against the disciplinary measure of dismissal shall be suspended from duty pending the decision of the Appeal Chamber.

7. The Appeal Chamber shall uphold, modify or overrule the decision of the Commission giving a reasoned written decision. In cases of appeals by the

Public Commissioners, the 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. Assesseees may exercise the right of appeal to the European Court of Human Rights.

### **Article G Resignation**

1. An assessee may resign from office, and in this case, the re-evaluation process is terminated.

2 An 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 Justice Inspector, or Prosecutor General for a duration of fifteen years.