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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

**CONSTITUTIONAL LAWS OF THE
REPUBLIC OF ALBANIA**

CHAPTER I

GENERAL PROVISIONS

Article 1

Albania is a parliamentary republic. National sovereignty derives from and belongs to the people.

Article 2

The Republic of Albania is a democratic state, based on the rule of law.
Man's dignity, his rights and freedoms, free development of his personality as well as the constitutional order, equality before the law, social justice, social protection and pluralism are the foundations of this state, whose duty is to respect and protect them.

Article 3

The fundamental principle of state organization is the separation of the legislative, executive and judicial powers.

The people exercises power through the representative bodies as well as by means of referendums.

The representative bodies are elected by free, general, equal, direct and secret ballot.
State activity is exercised only by the state bodies recognized by law.

Article 4

The Republic of Albania recognizes and guarantees the fundamental human rights and liberties of the individual and ethnic minorities as recognized by international documents.

Article 5

The legislative power belongs to the People's Assembly of the Republic of Albania.

The Head of State is the President of the Republic elected by the People's Assembly.

The rights and duties of the President are defined by this Law.

The supreme body of the Executive Power is the Council of Ministers.

The rights and duties of the Council of Ministers are defined by this Law.

The judicial power is exercised by the courts which are independent and guided solely by Law.

Article 6

Political pluralism is one of the fundamental conditions of democracy in the Albanian state.

The political parties and other organizations are created and exercise their activity in accordance with the law. They are fully separated from the state.

The activity of political parties in military units and institutions of the Ministry of Defence and the Ministry of Interior [currently the Ministry of Public Order], the Ministry of Foreign Affairs and diplomatic representations abroad, the General Prosecutor's Office, investigation offices, courts, etc, is forbidden. The way of depoliticizing and making such bodies non-partisan is defined by law.

Article 7

The Republic of Albania is a secular state.
The state respects the freedom of religious faith and creates conditions to exercise it.

Article 8

The legislation of the Republic of Albania takes into consideration, recognizes, and respects generally accepted principles and norms of international law.

The strict and equal application of legal norms is compulsory for all state bodies, political parties, other organizations and employees, as well as for other physical and juridical persons.
All citizens are equal before the law.

Article 9

In its foreign policy, the Republic of Albania protects its independence and national interests, pursues a policy of cooperation and good neighborliness, international peace and security.

The Republic of Albania is attentive to the recognition and respect of the national and democratic rights of Albanians residing outside the state borders of the Republic.

Article 10

The country's economy is based on the diversity of ownership, the free initiative of all economic subjects and the regulatory role of the state.

Economic initiative of physical and juridical persons can not run against the social interest and must not encroach security, freedom and the dignity of man.

Article 11

Entities enjoying the right to ownership are the state, physical and juridical persons.

All forms of ownership enjoy equal protection by law.

The assets comprising state property are defined by law.

Article 12

Foreign physical and juridical person may acquire the right to ownership under the conditions foreseen and guaranteed by law.

Foreign physical and juridical person is guaranteed the right to carry out independent economic activity, to invest in Albania, to set up joint ventures or sole partnerships under the conditions provided for by law. They are also guaranteed the right to transfer profits to their home country.

Article 13

Physical and juridical persons are required to contribute to meeting state expenditures in proportion to their income.

No tax or levy can be imposed except by law.

Article 14

The trade unions recognized by law are juridical persons and may enter into collective employment contracts with public or private subjects. The way of stipulating these contracts is defined by law.

CHAPTER II

THE PEOPLE'S ASSEMBLY

Article 15

The People's Assembly is the highest body of state power and the only legislative body.
The People's Assembly exercises sovereignty on behalf of the people and the state, in forms and limits provided for under this law.

Article 16

The People's Assembly has the following main powers

1. It defines the main directions of the domestic and foreign policy of the state.
2. It adopts and amends the constitution and laws.
3. It adopts the economic and social draft programs for the country's development, synthetic indices, and state budget included.
4. It is vested with the authority to declare partial or general mobilization, a state of emergency as well as a state of war in case of an armed aggression against the Republic of Albania or when such remains necessary to fulfil obligations deriving from international treaties.
5. It ratifies or denounces:
 - treaties of political character;
 - treaties or agreements of military character;
 - treaties or agreements related to the borders of the Republic of Albania;
 - treaties or agreements concerning the fundamental rights and duties of citizens;
 - treaties of which financial obligation toward the state is a result;
 - treaties or agreements of which changing of legislation is a result;
 - treaties or other agreements which foresee that ratification or denunciation be executed by the People's Assembly.
6. It grants amnesty.
7. It decides on people's referendums.
8. It elects and removes the President of the Republic of Albania.
9. {Abrogated by means of Law No. 7561, dt. 29 April 1992, Article 31}.
10. It controls the activity of the Council of Ministers and the General Prosecutor's Office.
11. It controls the activity of the Albanian Radio Television, the Albanian News Agency, and other official media for public information which are under its authority. The status of these institutions is defined by law.
12. It determines the administrative-territorial structure of the country.
13. It decides on the creation or dissolution of ministries or other bodies equal to them.

Article 17

The number of deputies of the People's Assembly and the electoral system are defined by law.
The People's Assembly is elected for a 4-year term.
The People's Assembly convenes the first session no later than two months from the day of its election.

Elections to the People's Assembly are held no later than 3 months from the day its mandate expires.

In case of war or state of emergency the People's Assembly can function longer than the

scheduled term, until the war or the state of emergency ceases to exist.

The activity of the People's Assembly ends on the same day the new People's Assembly holds its first session.

Article 18

The People's Assembly elects its presidency, which consists of the Chairman and two Vice-Chairmen.

The activity of the People's Assembly and its Presidency is conducted in accordance with the regulations adopted by the People's Assembly.

Article 19

The People's Assembly holds its sessions no less than 4 times a year.

The sessions of the People's Assembly are convened upon the decision of its Presidency. The Presidency also convenes the session of the People's Assembly when requested by the President of the Republic, the Council of Ministers or by one fourth of the deputies.

Meetings of the People's Assembly start when the majority of the deputies is present.

Meetings of the People's Assembly are open, except in special cases when the People's Assembly decides otherwise.

Article 20

The People's Assembly elects from its ranks permanent and temporary commissions.

In its first session the People's Assembly elects a commission to examine the mandates of the deputies. At the proposal of the commission, the People's Assembly confirms or annuls the mandates of the deputies.

The permanent commissions are required to examine the draft laws and normative decrees of the President of the Republic, monitor and control the activity of the ministries and other state bodies in accordance with their respective areas and submit issues to the People's Assembly or the Council of Ministers. The temporary commissions are set up for specific matters.

Article 21

It is the duty of a deputy to the People's Assembly to serve the people and the homeland conscientiously. The rights and duties of deputies are defined by law.

Article 22

The deputy to the People's Assembly enjoys immunity.

The deputy cannot be prevented from accomplishing his duties, nor from obtaining information which is not a state secret.

The deputy cannot be checked, arrested, detained or penally prosecuted without the consent of the People's Assembly. The deputy may be arrested without the consent of the People's Assembly only in cases when he commits an obvious and serious crime.

The deputy bears no legal responsibility for the activities he carries out and the stands he adopts while performing his duty as deputy or for the vote he casts.

Article 23

The legislative process may be initiated by the President of the Republic, Council of Ministers, every deputy, as well as a group of 20 000 nationals enjoying the right to vote.

The laws and other acts of the People's Assembly, except for constitutional acts, are considered adopted, when voted for by the majority of the deputies present, but no less than one third of the deputies.

The laws are announced no later than 15 days following approval and enter into force 15 days after being published in the Official Gazette, unless otherwise stated in the laws themselves or in the case of organic laws.

CHAPTER III

THE PRESIDENT OF THE REPUBLIC

Article 24

The President of the Republic of Albania is the Head of State and represents all the people.

Article 25

The President of the Republic of Albania is elected by the People's Assembly for a five-year term, without debate, by secret ballot, and a majority of votes equal to two third of all deputies. In the event the required majority is not achieved in the first ballot, a second ballot is held in which the President is elected by the absolute majority of the votes of all the deputies.

The candidate for President is proposed by a group of no less than 20 deputies.

A deputy cannot take part in more than one group of deputies who propose a candidate for President.

In the event there are more than two candidates for the post of the President of the Republic, the two candidates who have won the greatest number of votes on the first ballot are eligible for the second ballot. The candidate who wins the absolute majority of the votes of all the deputies is declared elected.

Article 26

Every Albanian national who has reached the age of 40 and meets the requirements to be elected as deputy may be elected President.

After being elected by the People's Assembly, the President of the Republic takes an oath before it.

The election of the President of the Republic is held no later than 30 days before the mandate of the outgoing President of the Republic expires.

The same person cannot be elected President of the Republic more than twice successively.

In the event the President is elected from among the ranks of the deputies, he gives up the mandate of the deputy.

The function of the President of the Republic is irreconcilable with any other function, with the exception of those foreseen by this law, and with the function of the President of the Party.

Article 27

The President of the Republic is discharged or dismissed before the expiry of his mandate only when:

- a) he has committed the crime of high treason or has violated this Law.
- b) health conditions prevent him from performing his duties.
- c) he has resigned of his own free will.

Article 28

The President of the Republic has these main powers:

1. He guarantees the due observance of this law, of other laws as well as the respect of rights and freedoms of citizens.
2. He convenes the first session of the new legislature of the People's Assembly.

3. He fixes the date of elections to the People's Assembly and to local authorities.
4. He declares the laws and referendums decided upon by the People's Assembly.
- 4/a. He proposes referendums to the People's Assembly which decides on them.
5. He enjoys the right, through a message explaining his reasons, and within 15 days from the adoption of the law by the People's Assembly, to send back the law to the People's Assembly no more than once.
6. He nominates the Chairman of the Council of Ministers and accepts his resignation.
7. Upon the proposal of the Chairman of the Council of Ministers, he appoints, discharges or dismisses by decree ministers and other members of the Government. Within 10 days this decree is presented to the People's Assembly by the President of the Republic for approval .
- 7/a. In specific cases, he enjoys the right to participate in the meeting of the Council of Ministers and to propose the inclusion in the agenda of topics which, he deems, need to be treated. When he takes part in the meeting, he chairs it and signs the decisions taken.
8. Upon the proposal of the Chairman of the Council of Ministers, he appoints and discharges directors of other central institutions, the director and the vice director of the National Intelligence Service.
- 8/a. He asks from directors of institutions of the executive power to provide him with written opinions and information about problems relevant to their duties.
9. After obtaining the opinion of the Chairman of the Council of Ministers and of the Chairman of the Presidency of the People's Assembly, he may dissolve the People's Assembly prior to the expiry of the legislature, when its composition does not permit the performance of the functions of the Assembly itself and makes impossible the country's governance. In this case, the elections to the People's Assembly are held once again no later than 45 days after the day of dissolution.
The President cannot exercise this authority during the last six months of his mandate.
10. He makes international treaties and agreements, ratifies and denounces those not examined by the People's Assembly itself.
11. He appoints and discharges diplomatic representatives upon the proposal of the Chairman of the Council of Ministers.
12. Accepts letters of credence and letters of recall submitted from the diplomatic representatives of foreign states.
13. Approves requests for granting or giving up Albanian nationality.
14. Exercises the power to pardon.
15. Awards decorations and titles.
16. Grants the right of political asylum.
17. When it is impossible for the People's Assembly to convene, he declares partial and general mobilization as well as the state of emergency. In such cases, the declaration is submitted for approval to the People's Assembly within five days.
18. When it is impossible for the People's Assembly to convene, he declares a state of war in the event of an armed aggression against the Republic of Albania.
- 18/a. He communicates with the People's Assembly through messages which are read in plenary sessions.
19. He issues decrees of individual character as well as decisions; in urgent cases he also issues decrees of normative character, which are submitted for approval to the People's Assembly at the earliest possible session.

Article 29

The acts issued by the President of the Republic on the exertion of power stated in the items 10, 11 and 19 of Article 28 of this law take legal effect after being signed, on a case-by-case basis, by the Chairman of the Council of Ministers or by the respective minister or by persons of equal rank.

Article 30

When the seat of the President of the Republic is vacant for any reason whatsoever, his powers are exercised temporarily by the Chairman of the Presidency of the People's Assembly, those stated in items 5, 6, 7, 9 and 19 of Article 28 of this law excluded.

The election of the President of the Republic takes place no later than 15 days from the day when the seat of the President has become vacant.

Article 31

The President of the Republic is not responsible for the acts undertaken during his office with the exception of the cases of high treason or violation of this law.

In such cases, the question of responsibility may be discussed in the People's Assembly upon the request of no less than one fourth of the deputies. The respective decision is adopted by secret ballot with a majority equal to two third of deputies.

Article 32

The President of the Republic is the General Commander of the Armed Forces and Chairman of the Council of Defence.

The Council of Defence is set up to direct, organize and mobilize all the country's forces and resources for the defense of the Homeland.

The composition of the Council of Defense is assigned by the People's Assembly on the proposal of the Chairman of the Council of Defence.

Article 32/a

The President of the Republic can set up advisory bodies of assisting character which will be attached to his office.

CHAPTER IV

GOVERNMENT

Article 33

The Council of Ministers is the highest executive body and ordering authority.

The Council of Ministers is nominated in the first session of the People's Assembly.

The President of the Republic nominates the Chairman of the Council of Ministers and, upon the latter's proposal, the Ministers also.

The composition of the Government and its programme are approved by the People's Assembly by majority vote within 5 days starting from the date on which they were submitted.

In the event the Chairman of the Council of Ministers does not receive the vote of confidence, he shall submit immediately his resignation to the President of the Republic, who nominates the new Chairman of the Council of Ministers.

Before commencing their offices, the Chairman of the Council of Ministers and the Ministers swear on oath before the President of the Republic.

Article 34

The deputies enjoy the right to forward at any time a lack-of-confidence motion to the Council of Ministers or any of its members. The lack-of-confidence motion should be signed by at least one tenth of the deputies and cannot be acted upon by the People's Assembly before three days after its presentation.

Non approval by the People's Assembly of a proposal forwarded by the Government does not bring about the compulsory resignation of the Government.

Article 35

The Council of Ministers is composed of the Chairman, Vice-Chairman, the Ministers and other persons defined by law.

Any Albanian citizen permanently domiciled in the Republic of Albania and who enjoys the right to be elected to the People's Assembly may become member of the Council of Ministers.

A member of the Council of Ministers should not have, except for the mandate of the deputy, any other state or professional functions and should not take part in executive boards of economic and trade organizations.

A member of the Council of Ministers may leave his seat vacant also in cases when he does not receive a vote of confidence or when he resigns.

The Council of Ministers is a collective body. The decisions are adopted when approved by the absolute majority of its members.

The ministers are collectively responsible for the acts of the Council of Ministers and individually for acts of their own institutions.

The composition, attributes and organization of the Council of Ministers are provided for by law.

Article 36

The Council of Ministers has the following powers:

1. Directs the activity for the implementation of the domestic and foreign policy of the state.
- 1/a. Realizes the general governance of the state administration.

2. Issues decisions, orders and instructions in compliance with the Constitution and laws and for their implementation; they are signed by the Chairman of the Council of Ministers and, if having a normative character, are published in the Official Gazette, except in specific cases foreseen by law.

3. Directs and controls the activity of ministries and other central bodies of state administration.

Coordinates and monitors the activity of local bodies of administration ensuring the compulsory and fair implementation of the laws and acts of the Government.

4. Directs activities related to the fulfillment of tasks in the field of national defence in conformity with the decisions of the Council of Defence.

5. Adopts measures for the security, preservation and strengthening of legal order and of citizens' rights.

6. Makes international agreements, adopts and denounces those that are not subject to ratification.

7. Prepares economic and social programmes for the country's development and the synthetic economic indices, the state budget, pursues and controls public finances and the monetary and credit system.

8. Determines the division or unification of administrative territorial units.

9. Adopts measures to ensure the preservation and protection of the environment, suitable working conditions and the protection of citizens' health.

Article 37

The Council of Ministers abrogates illegitimate acts of the Ministries and other central bodies of state administration.

Article 38

The Chairman and the Vice-Chairman of the Council of Ministers constitute the Presidency of the Council of Ministers.

By decision of the Council of Ministers, the Presidency may be charged to examine and solve various questions under its responsibility.

The Chairman of the Council of Ministers represents the Council of Ministers, presides over its meetings, directs its general activity and is responsible for it, ensures the unity of political and administrative management of the Government, coordinating the affairs of the other Ministries and central institutions.

Article 39

The ministers and other persons of equal rank with them, direct the ministries and the other central institutions in specific branches of the respective ministries.

The ministers bear responsibility for the activity of the respective ministries.

On questions within their powers the ministers issue orders, regulations and instructions based on the laws, ordinances and decisions of the Council of Ministers as well as on their implementation. The acts of Ministers of normative character are published in the Official Gazette, except in specific cases foreseen by law.

Article 40

The ministers abrogate unlawful orders and instructions of subordinate bodies, enterprises and institutions.

Article 41

The members of the Council of Ministers may be subject to criminal prosecution for the violation of this law as well as of other laws related to the exercise of their functions. Criminal prosecution is undertaken with the consent of the People's Assembly.

Article 41/a

The State Control Service is the highest body of the economic and financial control.

The State Control Service is independent; it is subject only to the Constitution and to the laws.

The State Control Service reports and gives account to the People's Assembly.

The Chairman and the Vice-Chairmen of the State Control Service are appointed and discharged by the People's Assembly according to regulations foreseen by law.

The organization and of the State Control Service are defined by special law.

CHAPTER V

LOCAL GOVERNMENT

Article 1

The territory of the Republic of Albania is divided in communities, municipalities and districts.

In every community, municipality and district local government is organized and functions

Article 2

Local government bodies are elected directly by the people through free, general, equal and secret vote.

The way in which the local government bodies are elected is defined by law.

Article 3

The organization and functioning of the local government is based on the principles of self-government, independence, local autonomy and decentralization.

In their activity, the local government bodies are based on the constitutional provisions and on the laws and acts issued according to them and for their implementation.

The principles of the organization and functioning of the local government cannot affect the unified national character of the Albanian state.

The powers of local government bodies are defined by law.

Article 4

The community and the municipality are the smallest units in the organization of local government.

The community is composed of a number of villages or of a small town with some villages.

The community's bodies are: the council of the community and the chairman of the community.

Change of the community's borders is made with the prior consent of its inhabitants who have the right to vote.

Article 5

The municipalities are set up in towns which have not been included in communities.

The bodies of the municipalities are: the council of the municipality and the mayor.

The organization and the functioning of the municipality in the capital is defined by law.

Article 6

Administrative-territorial subdivisions are set up in communities and municipalities. The way their bodies are set up and function is defined by law.

Article 7

The district is composed of a number of communities and municipalities which are interdependent.

The representative body in the district is the district council.

The district council elects the presidency and its head, which are executive bodies.

Article 8

The local government in the district has the duty to coordinate the activity of the communities and municipalities within their territory.

Article 9

The members of the councils are not held responsible for the opinions expressed and the votes cast during the exercise of their functions.

Cases in which the function of the member of the council is incompatible with other functions are defined by law.

Article 10

Local government bodies are legal entities. They have assets and property recognized by law and exercise economic activity within and outside their territory.

Article 11

Local government bodies have their own budget.

Financial sources and their use as well as the obligations toward the state are defined by law. For special communities and municipalities the state advances financial contributions.

Article 12

The elected bodies of the local government may be dismissed only in cases provided for by law.

The dismissal of the elected body of the local government is made through a reasoned decree of the President of the Republic, according to a proposal submitted by the Council of Ministers.

Article 13

Local government bodies may issue normative acts which have effect within the area of the respective administrative-territorial unit.

CHAPTER VI

THE ORGANIZATION OF JUDICIARY AND THE CONSTITUTIONAL COURT

I. THE JUDICIAL SYSTEM

Article 1

The judicial power is separate and independent from other powers. It is exercised only by the bodies recognized by the law "On the Major Constitutional Provisions"

Article 2

Courts are the sole authorities to resolve cases and disputes concerning the law "On the Major Constitutional Provisions" and other laws by imposing criminal punishment, civil liability, and by recognizing the rights and obligations of the parties, as well as by ordering the measures to protect and establish the above mentioned rights after a fair and equitable legal process and in conformity with international standards.

Article 3

Justice shall be granted in the name of the people.

The instances and the manner in which the people may participate in the granting of justice shall be defined by law.

Article 4

Justice abides by the principles of legality and equality before the law on the basis of the due observance of law.

Article 5

The judiciary consists of the Court of the Cassation, the Courts of Appeals, the Courts of the First Instance and Military Courts.

The establishment of extraordinary courts is prohibited.

The organization and the powers of the courts are regulated by law.

Article 6

The Court of Cassation is the highest judicial authority. A member must be an Albanian citizens, holding a degree in law, distinguished by his/her the professional capabilities and with no less than seven years of experience in legal institution or as lecturer at the Faculty of Law.

The President and the Vice Presidents of the Court of Cassation are elected by the People's Assembly on the proposal of the President of the Republic. The Judges of the Court of Cassation are elected by the People's Assembly.

The President and the Members of the Court of Cassation are elected for a term of seven years and may be reelected. They cannot be arrested, detained or punished for actions connected with the fulfillment of their duties as member of the Court of Cassation.

The Judge of the Court of Cassation may be removed from his office only on the basis of a reasoned decision of the People's Assembly when proved that he has committed a serious criminal act, specifically provided for by law, or when he is mentally disabled.

Article 7

The Court of Cassation cannot try cases in the first instance whereas it enjoys appellate power only for cases provided for by law. It can review only for errors of law of court decisions which are either presented on appeal or requested by the Court itself.

Article 8

In exercising their powers, the judges are independent and subject only to the law " On the Major Constitutional Provisions" and to other laws in general.

When, during the hearing of a case, the court judges that an act is not compatible with the law "On the Major Constitutional Provisions" or the laws in general, it suspends the trial and submits the case to the Constitutional Court.

Article 9

Judicial decisions must be reasoned. They cannot be annulled, overturned or changed, except by a decision of a higher court, as provided for by law.

All state bodies and other public authorities are obliged to enforce judicial decisions and acts.

Article 10

The judges of the Court of the First Instance and of the Court of Appeals have immunity and cannot be removed from their office while performing their functions.

Their immunity may be withdrawn and they may be removed from office only by a competent body, consistent with circumstances and procedures provided for by law.

No law may limit the guarantees of judges as provided for by this constitutional law as well as by international standards.

Article 11

Judges are obligated not to take part in trials where there exists legal reasons compromising their impartiality and avoid any conduct which raises serious doubts upon the judicial system or diminishes its dignity.

Article 12

Trials are conducted orally and in public. The law may prohibit the presence of the public or of the mass media only in special circumstances, when this is necessary for national security, public order, or for the best interest of minors, of private parties and justice.

All the procedures in the bodies of justice are carried out in the Albanian language. The defendant, witnesses and other participants in the trial who do not know or understand the Albanian language, enjoy the right to communicate through an interpreter.

Article 13

The General Prosecutors Office is the authority which exercises criminal prosecutions during investigation and trial.

In judicial activity, prosecutors protect the public interest, the juridical order and the rights and liberties of citizens.

Prosecutors are organized and function within the judicial branch as a unique and centralized body.

In exercising their powers, prosecutors are subject to the law, to the orders of superior prosecutors, and to the decisions of the respective judicial authorities.

Prosecutors enjoy immunity.

Article 14

The General Prosecutor and his assistants are elected by the People's Assembly on the proposal of the President of the Republic. They enjoy immunity as well as rights foreseen by Article 6 of this constitutional law for the judges of the Court of Cassation.

The organization and other powers of the General Prosecutor's office are regulated by law.

Article 15

The Supreme Council of Justice is headed by the President of the Republic and is composed of the President of the Court of Cassation, the Minister of Justice, the General Prosecutor and nine lawyers distinguished by their capabilities, who are elected once in five years at the general meeting of the Court of Cassation and General Prosecutor's office without enjoying the right of immediate reelection.

The Supreme Council of Justice is the sole body that determines the nomination, replacement and disciplinary responsibility of judges of the Courts of the First Instance and of the Courts of Appeal as well as the Prosecutors.

The manner in which the Supreme Council of Justice functions and acts is defined by a statute approved by the Supreme Council of Justice.

Article 16

The legal profession is exercised as a free profession. Its activity is regulated by a special law.

The task of lawyers is to give to clients necessary legal assistance and advice in conformity with the law and norms of professional ethics.

II. THE CONSTITUTIONAL COURT.

Article 17

The Constitutional Court is the highest authority that protects and guarantees the Constitution and the legislation. It also gives final interpretation to the Constitution.

In exercising its functions it is independent and subject only to the Constitution.

Article 18

The Constitutional Court is composed of nine members, five elected by the People's Assembly and four by the President of the Republic.

The members of the Constitutional Court elect, through a secret ballot, their chairman, who holds this office for three years with the right of reelection.

The term of the three members of the Constitutional Court, selected in the first election, ends in three years. They are selected by casting lots among each group of judges elected by the People's Assembly and by the President of the Republic. After three other years, three other judges are replaced in the same way, by casting lot. The newly elected judges hold their offices for a 12 year term.

Article 19

The Constitutional Court judges, before commencing the exercise of their functions, take an oath before the President of the Republic.

The oath is as follows: "I SOLEMNLY SWEAR THAT DURING THE ACCOMPLISHMENT OF MY DUTY, I WILL ALWAYS REMAIN LOYAL TO THE CONSTITUTION OF THE REPUBLIC OF ALBANIA."

Article 20

Members of the Constitutional Court are elected among lawyers noted for their capabilities, who have been working no less than ten years in juridical activity or as lecturers at the Faculty of Law, and who have a high moral reputation.

Article 21

The Constitutional Court Judge cannot be a member of the Parliament, member of the Council of Ministers, judge, investigator, or prosecutor, member of any political party or other political organizations or trade unions, nor be engaged in other private or public activities which may affect his impartiality or independence.

Article 22

The judges of the Constitutional Court do not bear responsibility for decisions taken or opinions issued while exercising their functions. They may not be prosecuted, arrested, detained or condemned without the authorization of the Constitutional Court.

Article 23

The functions of the Constitutional Court Judge cease when:

- a) he does not exercise his duty for justified reasons for more than six months;
- b) he presents his resignation;
- c) he is appointed to another position which is not compatible with his function;
- d) his term ends. In this case the judge may continue to perform his functions beyond this term only if a case that has begun cannot be concluded within this term;

When, for one of the above mentioned reasons, the function of the Constitutional Court Judge ends before the end of his term, either the People's Assembly or the President of the Republic, depending on the means by which the judge was initially elevated to the Court, elects a new judge who will remain in this office until the end of the term of the replaced judge.

Article 24

The Constitutional Court has the following powers:

- 1) It interprets the Constitution and the Constitutional laws.
- 2) It judges whether laws and acts that have the force of law are compatible with the Constitution.
- 3) It judges whether acts and regulatory provisions are compatible with the Constitution and with the law.
- 4) It decides on the compatibility with the constitution of international agreements concluded in the name of the Republic of Albania, as well as before their ratification, as well as on the compliance of the laws with generally accepted norms of international law and with agreements to which Albania is a party.
- 5) It resolves disagreements of competency between the executive, legislative, and judicial powers as well as those between local authorities and the central powers.
- 6) It decides questions connected with the constitutionality of parties and other political and social organizations and can prohibit their activity.
- 7) It resolves questions concerning the lawfulness of the election of the President of the Republic and of the members of Parliament, and questions concerning the people's referenda, proclaiming the final results.
- 8) It investigates criminal accusations raised against the President of the Republic.
- 9) It resolves conclusively complaints of persons presented by way of constitutional control for violation of their basic rights by illegal acts.
- 10) It decides on the suspension of the implementation of a law if such a law is incompatible with the law "On the Major Constitutional Provisions", and on the suspension or repeal of acts and other provisions when it observes that they are not compatible with the law "On the Major Constitutional Provisions" or with law, as well as taking measures it deems appropriate for the question it is adjudicating.

When the Court determines that there has been a violation of a right protected by constitutional law, it decides the recognition of this right and guarantees it and, if necessary, takes action to remedy the consequences and to make appropriate compensation.

The Constitutional Court can also request that state bodies, social organizations or juridical persons abrogate, cancel or change the individual decision that caused the infringement of the constitutional right of the person.

Article 25

The Constitutional Court may initiate constitutional review either upon a motion or on its own initiative.

The President of the Republic, a parliamentary group, one fifth of the Deputies, the Council of Ministers, judges and local government bodies, as any person claiming violation of his or her constitutional rights or freedoms may trigger constitutional review.

Article 26

The Constitutional Court decides by a majority of the judges' votes. The judges in the minority have the right to attach to the court decision their dissenting opinion in writing. The decisions of the court are final and irrevocable. They must be reasoned. In cases of doubt or disagreements concerning the content of the decision, the Court has the right to interpret it, either ex officio or on the request of interested persons, within 30 days from the date of request.

Laws, acts having the force of law, regulatory provisions and their particular dispositions which are proclaimed incompatible with the law "On Major Constitutional Provisions" and with the law, with the generally accepted norms of international law, or with the agreements to which Albania is a party, are considered null and void the day following the publication of the decision in the "Official Gazette".

In other cases, the decision of the Constitutional Court comes into force as provided for by law.

When laws or other acts are abrogated, canceled or changed, therefore requiring legal adjustments due to the new circumstances, the decision of the Constitutional Court shall be made known to the People's Assembly and to other competent bodies so that measures foreseen by the constitution may be taken by them.

Article 27

The acts of the Constitutional Court express the constitutionality and legality of the cases that this Court judges.

Article 28

The organization and functioning of the Constitutional Court, its procedures for the resolution of cases, and other fundamental issues concerning the accomplishment of its tasks are determined by law.

III. TRANSITORY PROVISIONS

Article 29

The administration of justice is under the authority of the Ministry of Justice.

The judiciary has its own budget, which is fixed in order to be sufficient for its normal function, and is proposed by the Council of Ministers and approved by the People's Assembly.

Article 30

The salary of the judges and the prosecutors is determined by law.

CHAPTER VII

"FUNDAMENTAL FREEDOMS AND HUMAN RIGHTS"

Article 1

The right to life

The right to life of any individual shall be protected by law.

No one shall be deprived of his life, except where a judgement is to be enforced because of an extremely grave crime committed deliberately, where the law provides for the death penalty.

The death penalty shall not apply to juveniles under the age of 18 at the time the crime was committed, or to women.

Article 2

Freedom of expression

The freedom of expression may not be violated.

Any prior censorship is prohibited.

No law may be enacted to restrict the freedom of speech, press or any other mass media, except in those cases where the protection of children's interests or the lives of people are concerned.

Everyone enjoys the right to freely express his opinions by speaking, writing or any other means of dissemination.

The right to information may not be denied to anyone.

The exercise of these freedoms and rights may not be restricted, except in those cases prescribed by law, which constitute necessary means in a democratic society in the interests of national security, territorial integrity, public safety and order, or for the prevention of crime, for the protection of health or morals, the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 3

The abolition of torture

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

Article 4

The prohibition of forced labour

No one may be compelled to undertake any forced labour, except for cases where a judgement is to be enforced, or during military service or any other service deemed necessary in a situation of emergency, or where any natural calamity threatens the life or the health of people.

Article 5

An individual's freedom and personal security

An individual's freedom and personal security shall not be violated.

No one may be taken into custody without sufficient evidence.

The detained person shall be given an immediate explanation concerning the reasons for the detention and, within a reasonable time, shall appear before a judge.

No one may be kept in custody for more than 48 hours.

Every person kept in custody or under arrest shall be given the explanation that he is under no obligation to submit a declaration and that he has the immediate right to communicate with a lawyer.

The arrested person shall have the right to appeal against his arrest in a court.

Article 6

No punishment without a law

No one may be accused of or found guilty for an offence which was not punishable by law at the time the offence was committed.

No sentence graver than the one provided for by law at the time the offence was committed may be imposed.

The advantageous modifications to criminal law shall have a retroactive effect.

Article 7

Presumption of innocence

Everyone shall be presumed innocent until otherwise proved and a final judgement delivered.

Article 8

Criminal procedural guarantees

No one, during criminal proceedings, shall be deprived of the right to :

- a) be informed immediately and in detail about the nature of the charge he is accused of;
- b) have sufficient time and facilities to prepare for his own defence;
- c) be granted help of an interpreter for free unless the accused either speaks or understands Albanian;
- d) be defended by himself or by a lawyer that he has chosen, and be able to speak freely and privately with the latter, and be provided with legal aid by a lawyer, unless the accused is in possession of sufficient means;
- e) question witnesses and request the appearance of further witnesses, expert and other persons who can clarify the matter by giving evidence.

Article 9

No enforcement to confess one's guilt

No one may be forced to give evidence against himself or to confess his guilt.

Article 10

Invalidity of unlawful evidence

No one may be found guilty on evidence collected and produced unlawfully.

Article 11

The right to speech during a trial

No one may be denied the right to speech prior to being sentenced.

Article 12

Prohibition to judge a single offence twice

No one shall be judged or sentenced more than once for a single offence unless a higher court has ruled that the case be judged again.

Article 13

The right to appeal

Everyone shall have the right of appeal against a judgement, to a higher court established by law.

Article 14

The right to rehabilitation and compensation

Anyone being punished due to a misjudgment or due to encroachment by an unlawful administrative act shall have the right to rehabilitation and compensation in compliance with the law.

Anyone suffering damage due to the act of another shall have the right to be compensated in accordance with the law.

No prisoner may be denied humane treatment or moral rehabilitation.

Article 15

Prohibition against encroaching on the private life and dignity of the individual

The private life and dignity of an individual may not be encroached upon.

Information concerning the private life of an individual may be collected only with his permission, or where this is indispensable in carrying out investigations for an offence, or by the approval of a competent governmental body, assigned by law, for reasons of national security.

The collection, handling and final use of personal data, as well as the supervision and secrecy thereof are governed by law.

No one may be denied the right to know the content of information collected about him, except where the interests of criminal proceedings or national security are involved.

It is prohibited to use personal data for purposes other than those for which they were collected.

Article 16

Inviolability of dwellings and individuals

The dwelling is inviolable.

Entry into a house without the permission of the dweller is possible only by a court decision in cases prescribed by law, or where this is necessary to avoid any imminent danger to the life or health of dwellers, to protect property, or when a crime is being, or has just been, committed.

No one may be subject to personal search, except in cases of entering or leaving the territory of the state, or in cases where public security is imminently threatened.

Article 17

Privacy of correspondence

The privacy of correspondence or of any other means of private communication may not be encroached, except for a judgement in the interest of criminal proceedings or by the approval of a competent governmental body, assigned by law, in cases where it is considered indispensable for reasons of national security.

Article 18

Freedom of conscience and religion

The freedom of thought, conscience and religion may not be violated.

Everyone may freely change his religion or beliefs and may manifest them either alone or in community with others and in public or in private life, in worship, teaching, practice and observance.

Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interest of public safety, for the protection of public order, health and morals, or the rights and freedoms of others.

Article 19

The right to elect and to be elected

Every citizen above the age of 18 has the right to elect and be elected. Those citizens who have forfeited their legal and civil capacity are excluded from this right.

The persons arrested and those who are serving a sentence are entitled only to elect.

The vote is personal, equal and secret.

Article 20

The right to organization

No one may be denied the right to collective organization for any lawful purpose. Restrictions on civil servants exercising such a right may be prescribed by law.

Article 21**The right to assembly**

Peaceful assembly, without weapons, may not be restricted.

Assemblies in squares and public passages may be organized with the prior permission only of competent bodies, who may refuse permission only when there is sufficient ground to believe that security and public order are seriously threatened.

Article 22**The right to free movement**

Everyone has the right to choose his dwelling and to freely move around the territory of the country, except in the cases where the law provides restrictions, for reasons of health and public security.

Everyone shall be free to travel abroad and return.

Article 23**Prohibition of deportation and extradition**

No Albanian citizen may be deported from the territory of the state.

Extradition of a citizen may be allowed only where it is provided for explicitly in International Conventions to which the Republic of Albania is a party.

Mass deportation of foreigners is prohibited. Foreign individuals may be deported in cases prescribed by law.

Article 24**Citizenship**

No one may be deprived of his Albanian citizenship without his consent, or of the right to renounce his citizenship.

The terms for gaining and giving up citizenship are governed by law.

All Albanian citizens residing abroad enjoy the protection of the state.

Article 25**Equality before the law**

All persons are equal in law and before the law.

No one may be discriminated against on account of sex, race, ethnicity, language, religion, economic and financial, educational and social conditions, political opinions, parentage, or any other personal circumstances.

Article 26

The rights of minorities

Individuals belonging to minorities shall enjoy, with no discrimination and in equality before the law, fundamental human rights and freedoms. They may freely express, preserve and develop their own ethnic, cultural, religious, and linguistic identity, teach and be taught in their mother tongue, and associate in organizations and societies to protect their interests and identity.

Nationality shall be determined on the basis of accepted international norms.

Article 27

The right to private property and inheritance

No one may be denied the right to own private property, either alone or jointly with others, or the right to inheritance.

The acquisition, enjoyment and alienation of property, and the right to inheritance are governed by law.

No one may be expropriated unless this is done in favour of public interest and remains subject to full compensation.

Article 28

The right to employment

Everyone shall have the right to make a living by lawful employment of his own choice and accord. Everyone shall be free to choose his profession, working place and system of professional training.

Article 29

Trade union freedom

Employees shall have the right to freely associate in trade unions to protect their interest concerning labour and social insurance.

Article 30

The right to strike

The right of employees to strike, when they intend to ameliorate their working conditions, demand higher wages or any other profit obtained through work, may not be restricted.

The terms and rules for exercising such a right and the guarantees to provide the necessary services for society, are defined by law.

Article 31

The right to insurance and social protection

Everyone reaching retirement age or suffering from disability to work shall have the right to social insurance, in compliance with a system defined by law.

Employees becoming unemployed for reasons beyond their will and control shall have the right to compensation according to the terms envisaged by law.

Article 32**Marriage and the family**

Everyone of marriageable age shall have the right to freely choose his/her partner and found a family.

Marriage and the family shall enjoy special protection by the state.

Contracting and dissolving of a marriage shall be governed by law.

Article 33**Protection of children and women**

Children, juveniles, pregnant women and young mothers shall enjoy the right to special protection provided by law.

Children born out of wedlock shall have equal rights as those born within wedlock.

Article 34**Health care by the state**

Everyone shall have the equal right to health care provided by the state.

Compulsory medication shall be conducted only to the benefit of the patient in those cases envisaged by law.

No one shall be subject to a medical or scientific experiment without his consent.

Article 35**The right to education**

Everyone shall have the right to a free education which lasts no less than 8 years.

General secondary education shall be open to everyone.

Secondary and higher vocational training shall be conditioned only on professional criteria.

Pupils and students shall have the right to acquire education in private schools, too.

University autonomy shall be guaranteed.

Article 36**The freedom of creation and the intellectual property rights**

Everyone shall enjoy the freedom of creation in science, technology, literature and arts.

Copyright shall be protected by law.

Article 37**The right to petition**

Everyone, alone or jointly with others, shall have the right to address requests, claims, or suggestions to competent government bodies.

Article 38

Fair legal process

Freedom, property or rights acknowledged by law may not be encroached without a fair legal process.

Article 39

Judicial restitution of the right

No one, suffering encroachment of a right acknowledged by this Constitutional Law, may be denied judicial restitution of such a right.

Article 40

The guarantee to a fair trial

No one may be denied the right to a fair, public and quick trial by a competent, impartial and independent court.

The presence of the public and mass media during the trial may be restricted when the interests of public order or morality, national security, the private life of the parties in court or justice require it.

Article 41

Temporary restriction of rights

The exercise of some specific rights may be temporarily restricted by law in a situation of national emergency or war, with the exclusion of the rights provided for by Articles 1 (right to life), 2 (freedom of expression), 3 (abolition of torture), 6 (no punishment without law), 8 (criminal procedural guarantees), 9 (no enforcement to confess one's guilt), 18 (freedom of conscience and religion), 25 (equality before the law), 39 (judicial restitution of the right), and 40 (guarantee to a fair trial).

CHAPTER VIII

THE FLAG, EMBLEM, NATIONAL ANTHEM, NATIONAL DAY, AND CAPITAL OF THE REPUBLIC OF ALBANIA

Article 2

National flag of the Republic of Albania shows a double-headed black eagle with open wings situated in the heart of a red field in accordance with the traditional type of this century.

Article 3

Emblem of the Republic of Albania shows a double-headed black eagle placed on a shield of "variaz" type and red colour. The shield shall have a straight black line above which grows narrow at the bottom. The words "Republic of Albania" are inscribed on it in black.

Article 4

National Anthem of the Republic of Albania is the Anthem of the National Flag.

Article 5

National Day of the Republic of Albania is November 28.

Article 6

Capital of the Republic of Albania is Tirana.

CHAPTER IX

FINAL PROVISIONS

Article 42

The local authorities are freely administered and elected in accordance with the rules defined by special law.

The investigation office depends administratively on the Minister of Justice.

Article 43

Draft amendments to this law may be submitted by the President of the Republic of Albania, by the Council of Ministers or by one fourth of all the deputies.

The adoption of amendments is made by the People's Assembly with a majority equal to two third of all the deputies.

Article 44

The provisions of this law operate until the adoption of the Constitution of the Republic of Albania, whose draft will be prepared by the Special Commission appointed by the People's Assembly.

The members of the commission and the deadline for submitting the draft constitution shall be defined by a special decision of the People's Assembly.

Article 45

The Constitution of the People's Socialist Republic of Albania, adopted on 28 December 1976, as well as its later amendments, are abrogated.

Article 46

This law enters into force immediately.

ALBANIAN CONSTITUTIONAL LEGISLATION

LIST OF LAWS :

Law on Major Constitutional Provisions, No. 7491, dt. 29 April 1991;

as amended by Law No. 7555, dt. 4 February 1992

as amended by Law No. 7558, dt. 9 April 1992

as amended by Law No. 7561, dt. 29 April 1992

as amended by Law No. 7570, dt. 3 June 1992

as amended by Law No. 7596, dt. 31 August 1992

as amended by Law No. 7637, dt. 13 November 1992

as amended by Law No. 7692, dt. 31 March 1993.

Note : The Constitutional Provisions included in this compendium maintain their original numbering.