DISCLAIMER

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The integration of the draft law amendments does not express in any case that this is considered a final draft. It is just supposed to facilitate the discussion during the consultation events.

This text of the Constitution of the Republic of Albania reflects the following (draft) amendments:
Amending Law no 9675, dated 13.1.2007
Amending Law no 9904, dated 21.4.2008

**Draft law amendments sent to the Venice Commission**

**CONSTITUTION OF THE REPUBLIC OF ALBANIA**

(Article 1 of the Amending Draft-law)\(^2\)

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

with responsibility for the future,

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

\[1\] Project funded by the European Union

\[2\] The draft law on some amendments in Law No. 8417, dated 21.10.1998 “Constitution of the Republic of Albania” as amended, sent to the Venice Commission
with determination to build a state of law, social and democratic, to guarantee the
fundamental human rights and freedoms,
with a spirit of religious coexistence and tolerance,

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

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

with a deep conviction that European values, 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
(Article 2 of the Amending Draft-law)

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.
along with other member states the state powers, based on an agreement ratified
with majority of all Members of 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 7
The system of government in the Republic of Albania is based on the separation and balancing of legislative, executive and judicial powers.

Article 8
1. The Republic of Albania protects the national rights of the Albanian people who live outside its borders.
2. The Republic of Albania protects the rights of its citizens with a temporary or permanent residence outside its borders.
3. The Republic of Albania assures assistance for Albanians who live and work abroad in order to preserve and develop their ties with the national cultural inheritance.

Article 9
1. Political parties are created freely. Their organization shall conform to democratic principles.
2. Political parties and other organizations, whose programs and activity are based on totalitarian methods, that incite and support racial, religious, regional or ethnic hatred, that use violence to take power or influence state policies, as well as those with a secret character, are prohibited pursuant to the law.
3. The financial sources of parties as well as their expenses are always made public.

Article 10
1. In the Republic of Albania there is no official religion.
2. 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**

(Article 3 of the Amending Draft-law)

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 no Albanian military force may be sent abroad, except by a law approved by a majority of all members of the Assembly.
4. “The military forces of the allied states may be deployed and pass through the Albanian territory, as well as the Albanian military forces may be dispatched abroad, upon a decision of the Council of Ministers in compliance with the ratified international agreements”.

**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."
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
(Article 4 of the Amending Draft-law)
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, sexual orientation, 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 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;
   c) 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;
   d) 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;

c') 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
(Article 5 of the Amending Draft-law)
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 as well as in case it is provided by the legislation of the European Union”.
3. The collective expulsion of foreigners is prohibited. The expulsion of individuals is permitted under the conditions specified by law.
Article 40
Foreigners have the right of refuge in the Republic of Albania according to law.

Article 41
1. The right of private property is guaranteed.
2. Property may be gained by gift, inheritance, purchase, or any other classical means provided by the Civil Code.
3. The law may provide for expropriations or limitations in the exercise of a property right only for public interests.
4. The expropriations or limitations of a property right that are equivalent to expropriation are permitted only against fair compensation.
5. For disagreements connected with the extent of the compensation, a complaint may be filed in court.

Article 42
1. The freedom, property, and rights recognized in the Constitution and by law may not be infringed without due process.
2. Everyone, for the protection of his constitutional and legal rights, freedoms, and interests, or in the case of an accusation raised against him, has the right to a fair and public trial, within a reasonable time, by an independent and impartial court specified by law.

Article 43
(Article 6 of the Amending Draft-law)
Anyone shall be entitled to file a complaint against a judicial decision before a higher court except when the Constitution provides otherwise, provided in case the court decision is final. The law can provide differently in cases of minor significance or value.

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.
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;
   ē) 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
(Article 7 of the Amending Draft-law)
1. Assembly is composed of 140 deputies, elected on proportional system with multi-names electoral zones.
2. The multi-name electoral zone corresponds to the administrative division of one of the levels of the administrative-territorial organization.
3. Criteria and rules on the implementation of the proportional electoral system, on the determination of electoral zones and on the number of seats to be obtained in each electoral zone shall be defined by the law on elections.
4. “Albanian citizens shall elect their representatives to the European Parliament by direct voting”.

Article 65
1. The Assembly is elected every four years. The mandate of the Assembly starts with its first meeting after the elections and ends on the same date, of the same month of the fourth year from the date of the first meeting. In any case, the Assembly remains on duty until the first meeting of the newly elected Assembly.
2. Elections for the new Assembly are held in the nearest electoral period that precedes the date of the ending of the mandate of the Assembly. Electoral periods and the rules for holding the elections for the Assembly are determined by the law on elections.
3. If the Assembly is dissolved prior to the ending of its full mandate, elections are held no later than 45 days after its dissolution.
4. The Assembly may not approve laws during the period 60 days prior to the termination of its mandate until the first meeting of the new Assembly, except in cases when extraordinary measures have been imposed.”

Article 66
The mandate of the Assembly is extended only in the case of war and for so long as it continues. When the Assembly is dissolved, it recalls itself.

Article 67
1. The President of the Republic convenes the newly elected Assembly not earlier than the date of the termination of the mandate of the preceding Assembly, but no later than 10 days after such mandate has expired. If the preceding Assembly has been dissolved before the ending of its mandate, the President of the Republic convenes the new Assembly not later than 10 days since the announcement of the election results.
2. If the President of the Republic does not exercise such a competence, the Assembly convenes itself on the tenth day of the period of time provided in point 1 of this Article.

CHAPTER II--THE DEPUTIES

Article 68
1. Candidates for deputies shall be presented at the level of the electoral zone by political parties, electoral coalitions of political parties as well as by voters. A candidate may be presented by only one of the proposing subjects according to this section. The ranking of the candidates in the multi-name lists may not be changed after the submission of the list to the respective electoral commission. The rules for the registration of the candidates for deputies are determined by the law on elections.
2. The law on elections shall also determine other necessary criteria and rules on the organization and conduct of elections, including those on registration of voters, conduct of electoral campaign, administration and validity of elections and declaration of their results.

Article 69
1. Without resigning from duty, the following may not run as candidates nor be elected deputies:
   a) judges, prosecutors;
   b) military servicemen on active duty;
   c) police and National Security employees;
   ç) diplomatic representatives;
   d) mayors and heads of communes as well as prefects in the places where they carry out their duties;
dh) chairmen and members of the electoral commissions;
e) the President of the Republic and the high officials of the State Administration 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;
   c) when the mandate of the Assembly ends;
   d) when he is absent for more than six consecutive months in the Assembly without reason.
   dh) when he is convicted by a final court decision for commitment of a crime.

Article 72
Before beginning the exercise of the mandate, the deputies take the oath in the Assembly.

Article 73
1. The deputy is not held responsible for opinions expressed in the Assembly and votes cast by him in the exercise of the function. This provision is not applicable in the case of defamation.
2. A deputy cannot be arrested or deprive him of liberty in any form nor may a personal search or a search of the residence be exercised against him without the authorisation of the Assembly.
3. A deputy can be arrested or detained without authorisation when he is captured during or immediately after the commission of a crime. In those cases, the General Prosecutor immediately notifies the Assembly, which, when it finds that there is no room for proceedings, orders the lifting of the measure.
4. For the cases provided in paragraphs 2 and 3 of this article, the Assembly may hold discussions in closed sessions for reasons of data protection. The decision is taken by open voting.”

CHAPTER III
ORGANIZATION AND FUNCTIONING

Article 74
1. The Assembly conducts its annual work in two sessions. The first session begins on the third Monday of January and the second session on the first Monday of September.
2. The Assembly meets in extraordinary session when it is requested by the President of the Republic, the Prime Minister or by one-fifth of all the deputies.
3. Extraordinary sessions are called by the Speaker of the Assembly on the basis of a determined agenda.

Article 75
1. The Assembly elects and discharges its chairman.
2. The Assembly is organized and functions according to regulations approved by the majority of all the members.

Article 76
1. The Chairman chairs debates, directs the work, assures respect for the rights of the Assembly and its members, as well as represents the Assembly in relations with others.
2. The highest civil employee of the Assembly is the General Secretary.
3. Other services necessary for the functioning of the Assembly are carried out by other employees, as specified in the internal regulation.

Article 77
1. The Assembly elects standing committees from its ranks and may also establish special committees.
2. The Assembly has the right and, upon the request of one-fourth of its members is obliged, to designate investigation committees to review a particular issue. Its conclusions are not binding on the courts, but they may be made known to the office of the prosecutor, which evaluates them according to legal procedures.
3. Investigation committees operate according to the procedures set by law.

Article 78
1. The Assembly decides with a majority of votes, in the presence of more than half of its members, except for the cases where the Constitution provides for a qualified majority.
2. Meetings of the deputies, which are convened without being called in accordance to the regulations, do not have any effect.
Article 79

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

Article 80

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

Article 80/1

(Article 8 of the Amending Draft-law)

“[The Council of Ministers shall report to the Assembly on the decisions being prepared in the context of participating at the institutions of European Union, whereof the Assembly shall draw conclusions and draft resolutions]

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;
   ê) the law on amnesty;
   f) the law on administrative divisions of the Republic.
Article 82
1. The proposal of laws, when this is the case, must always be accompanied by a report that justifies the financial expenses for its implementation.
2. No non-governmental draft law that brings about an increase in the expenses of the state budget or diminishes income can be approved without taking the opinion of the Council of Ministers, which must be given within 30 days from the date of receiving the draft law.
3. If the Council of Ministers does not give an answer within the above term, the draft law passes for review according to the normal procedure.

Article 83
1. A draft law is voted on three times: in principle, article by article, and in its entirety.
2. The Assembly may, at the request of the Council of Ministers or one-fifth of all the deputies, review and approve a draft law with an expedited procedure, but not sooner than one week from the beginning of the procedure of review.
3. The expedited procedure is not permitted for the review of the draft laws provided for in Article 81, paragraph 2, with the exception of subparagraph a.

Article 84
1. President of the Republic promulgates the approved law within 20 days from its presentation.
2. The law shall be considered as promulgated, if the President does not assume the entitlements provided for in paragraph 1 of this Article and in paragraph 1 of Article 85.
3. The law shall enter into effect not earlier than 15 days since its publication in the Official Journal.
4. In the event of the extraordinary measures, as well as in case of need and emergency, the law shall enter into effect immediately, after being announced publicly. The law shall be published in the upcoming edition of the Official Journal.

Article 85
1. The President of the Republic has the right to return a law for review only once.
2. The decree of the President for the review of a law loses its effect when a majority of all the members of the Assembly vote against it.

PART FOUR
THE PRESIDENT OF THE REPUBLIC

Article 86
1. The President of the Republic is the Head of State and represents the unity of the people.
2. Only an Albanian citizen by birth who has been a resident in Albania for not less than the past 10 years and who has reached the age of 40 may be elected President.

Article 87
1. The candidate for President is proposed to the Assembly by a group of not less than 20 MPs. One MP is not allowed to propose more than one candidate at the same time.

2. The President of the Republic is elected by secret vote and without debate by the Assembly. The Assembly conducts up to five voting rounds for the election of the President. The first voting takes place not later than seven days from the beginning of the procedure for the election of the President. Each of the other voting takes place not later than seven days from the unsuccessful completion of the preceding voting. A voting is deemed as completed even when no candidates are running in the competition. New candidates may run in the second, third and fourth voting, in accordance with the conditions of point 1 of this article.

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

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

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

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

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

**Article 88**

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

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

2/1. The procedure for the election of the President begins not later than 60 days before the termination of the preceding presidential mandate. When the presidential mandate ends during the six months preceding the end of the mandate of the existing Assembly, the procedure for the election of the President starts no later than 60 days prior to the ending of the mandate of the Assembly.
3. The President begins his duties after he takes the oath before the Assembly, but not before the mandate of the President who is leaving has been completed. The President swears as follows:
"I swear that I will obey to the Constitution and laws of the country, that I will respect the rights and freedoms of citizens, protect the independence of the Republic, and I will serve the general interest and the progress of the Albanian People." The President may add: "So help me God!"
4. A President who resigns before the end of his mandate cannot be a candidate in the presidential election that takes place after his resignation.

Article 89
The President of the Republic cannot hold any other public post, cannot be a member of a party or carry out other private activity.

Article 90
1. The President of the Republic is not held responsible for acts carried out in the exercise of his duty.
2. The President of the Republic may be discharged for serious violations of the Constitution and for the commission of a serious crime. In these cases, a proposal to discharge the President may be made by not less than one-fourth of the members of the Assembly and must be supported by not less than two-thirds of all its members.
3. The decision of the Assembly is sent to the Constitutional Court, which, when it proves the culpability of the President of the Republic, declares his discharge from duty.

Article 91
1. When the President of the Republic is temporarily unable to exercise his functions or his post remains vacant, the Chairman of the Assembly takes his post and exercises his powers.
2. In case the President cannot exercise his duty for more than 60 days, the Assembly by two-thirds of all its members decides on sending the issue to the Constitutional Court, which conclusively proves the fact of his incapacity. When the incapacity is proved, the post of the President remains vacant and the election of the new President begins within 10 days from the date the incapacity is proved.

Article 92
The President also exercises these powers:

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

Article 93
The President of the Republic, in the exercise of his powers, issues decrees.

Article 94
The President of the Republic cannot exercise other powers besides those recognized expressly in the Constitution and granted by laws issued in compliance with it.

PART FIVE
THE COUNCIL OF MINISTERS

Article 95
1. The Council of Ministers consists of the Prime Minister, deputy prime minister, and ministers.
2. The Council of Ministers exercises every state function that is not given to other bodies of State power or local government.

Article 96
1. The President of the Republic, at the beginning of the legislature, as well as when the post of the Prime Minister remains vacant, appoints the Prime Minister on the proposal of the party or coalition of parties that have the majority of seats in the Assembly.
2. When the appointed Prime Minister is not approved by the Assembly, the President appoints a new Prime Minister within 10 days.
3. When even the newly appointed Prime Minister is not approved by the Assembly, the Assembly elects another Prime Minister within 10 days. In this case, the President appoints the new Prime Minister.
4. If the Assembly fails to elect a new Prime Minister, the President of the Republic dissolves the Assembly.
Article 97
The Prime Minister appointed according to Article 96, Article 104 or Article 105 presents to the Assembly for approval, within 10 days, the policy program of the Council of Ministers together with its composition.

Article 98
1. A minister is appointed and dismissed by the President of the Republic, on the proposal of the Prime Minister, within 7 days.
2. The decree is reviewed by the Assembly within 10 days.

Article 99
Before the Prime Minister, deputy prime minister, and ministers take the office, they swear before the President of the Republic.

Article 100
1. The Council of Ministers determines the principal directions of the general state policy.
2. The Council of Ministers takes decisions upon the proposal of the Prime Minister or the respective minister.
3. Meetings of the Council of Ministers are closed.
4. Acts of the Council of Ministers are valid when signed by the Prime Minister and the proposing minister.
5. The Council of Ministers issues decisions and instructions.

Article 101
The Council of Ministers, in cases of necessity and emergency, may issue, under its responsibility, normative acts having the force of law for taking temporary measures. These normative acts are immediately submitted to the Assembly, which is convened within 5 days if it is not in session. These acts lose force retroactively if they are not approved by the Assembly within 45 days.

Article 102
1. The Prime Minister:
a) represents the Council of Ministers and chairs its meetings;
b) outlines and presents the principal directions of general state policy and is responsible for them;
c) assures the implementation of legislation and policies approved by the Council of Ministers;
ç) coordinates and supervises the work of the members of the Council of Minister and other institutions of the central state administration;
d) performs other duties prescribed in the Constitution and the laws.
2. The Prime Minister resolves disagreements between ministers.
3. The Prime Minister, in the exercise of his powers, issues orders.
4. The minister, within the principal directions of general state policy, directs, under his responsibility, actions for which he has powers. The minister, in the exercise of his powers, issues orders and instructions.

**Article 103**
1. Anyone who has the capacity to be a deputy may be appointed a minister.
2. A minister may not exercise any other state function nor be a director or member of the bodies of profit-making companies.
3. Members of the Council of Ministers enjoy the immunity of a deputy.

**Article 104**
1. The Prime Minister is entitled to present to the Assembly a motion of confidence for the Council of Ministers. If the motion of confidence is voted by less than half of all the members of the Assembly, the Prime Minister, within 48 hours from the voting of the motion, requests the President of the Republic to dissolve the Assembly.
2. The President dissolves the Assembly within 10 days from the receipt of the request. A request for a motion of confidence may not be presented while a motion of no confidence is being examined according to article 105.
3. The voting of the motion may not take place unless three days have passed since its submission.

**Article 105**
1. One-fifths of the Members of 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
(Article 9 of the Amending Draft-law)

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.
3/1. “This right shall be mutually recognized to the European Union citizens being resident in Albania, under the legislation of the European Union and the rules set out in the Electoral Code
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;
   c) 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;
   d) the undertaking of financial obligations by the Republic of Albania;
   e) 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
(Article 10 of the Amending Draft-law)
(Article 11 of the Amending Draft-law)
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.

2/1. “The European Union law shall prevail over the domestic law of the Republic of Albania

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
(Article 14 of the Amending Draft-law)

1. The Constitutional Court shall guarantee the observation of the Constitution and make its final interpretation.
2. The Constitutional Court shall be subject only to the Constitution.
3. The Constitutional Court shall have a separate budget, which it administers independently.

Article 125
(Article 15 of the Amending Draft-law)

1. The Constitutional Court shall consist of 9 (nine) members, which are appointed by the President of the Republic with the consent of the Assembly from which three (3) shall be appointed by the President, three (3) members by the Assembly of Albania and three (3) members shall be elected by the joint meeting of the High Court and the High Administrative Court. The members being appointed by the
President and the Assembly shall be selected from the list drafted by the Justice Appointments Council. The appointment procedure of the members of the Constitutional Court shall be foreseen by law.

2. The judges of the Constitutional Court shall be appointed for a 12 year mandate without the right to re-appointment and they shall be selected out of the ranks of the lawyers with high qualification and of at least 15 years' experience as judges, prosecutors, advocates, law professors, senior employees in the public administration, with a renowned activity in the constitutional, human rights and other areas of law. The candidates shall not have been sentenced before in connection with the commission of a criminal offence and they shall not have been involved in the leading forums of the political parties. The detailed criteria for the appointment of the members of the Constitutional Court shall be provided for by law.

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

4. The Chairman of the Constitutional Court shall be elected from the ranks of its members by the President of the Republic with the consent of the Assembly for a 3-year term by secret voting, by the absolute majority of the members of the Constitutional Court, for a period of 4 years, without the right to re-election. The election procedure of the Constitutional Court Chairman shall be provided for by law.

5. The Constitutional Court judge shall continue to stay in office until the appointment of his successor.

**Article 126**

(Article 16 of the Amending Draft-law)

The Constitutional Court judge shall enjoy immunity in connection with the opinions expressed and the decisions made in the course of assuming 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.”

**Article 127**

(Article 17 of the Amending Draft-law)
1. The mandate of Constitutional Court judges shall end, upon:
   a) reaching the age of 70 years;
   b) not showing up for duty, without reason, for more than 6 months;
   b) the expiry of the 12 year mandate;
   c) his resignation;
   ç) being declared incapable to act by final court decision;
   d) being sentenced by final judicial decision in connection with the commission of a
   crime or by a final decision in a disciplinary procedure;
2. The end of the mandate of the Constitutional Court member shall be declared upon the decision of the Constitutional Court.
3. Where the position of a judge remains vacant, the President of the Republic with the consent of the Assembly appoints a new judge. If the body having appointed the preceding judge under Article 125/1 shall appoint a new judge, the latter staying in office until the expiry of the mandate of the outgoing judge.
4. Where the mandate of the judge ends due to one of the causes set out in sub-paragraphs c), ç) and d) of paragraph 1 of this Article or as a consequence of the disciplinary violation under Article 128, the procedure for appointing the next judge shall start immediately and it shall end within 60 days since the declaration of the end of the mandate upon the decision of the Constitutional Court.

**Article 128**
*(Article 18 of the Amending Draft-law)*

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.

The Constitutional Court member shall be disciplinarily liable under the law.

**Article 128/a**
*(Article 19 of the Amending Draft-law)*

In the case of the member of the Constitutional Court resigning, he shall submit his resignation to the Chairman of the Constitutional Court, the latter immediately informing the appointment body to the effect of having the vacancy filled in under Article 125.
Article 129
(Article 20 of the Amending Draft-law)

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

Article 130
(Article 21 of the Amending Draft-law)

Being a Constitutional Court judge shall not be compatible with any other state, political or private activity compensated professional activity, unless otherwise provided by law.

Article 131
(Article 12 of the Amending Draft-law)
(Article 22 of the Amending Draft-law)
(Article 23 of the Amending Draft-law)

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) constitutionality of the referendum and verification of its results;
f) final examination of the complaints of individuals for the violation of their constitutional rights to a fair hearing, after all legal means for the protection of those rights have been exhausted against judicial acts and the acts of the public power, impairing the fundamental rights and freedoms guaranteed by the Constitution, following exhausting the entire legal remedies for the protection of these rights, unless provided elsewhere by the constitution.
g) examination of jurisdictional, as well as material and functional power disputes between the High Court and the High Administrative Court, as well as between the Constitutional Court itself and the High Administrative Court

“The Constitutional Court cannot declare unconstitutional a law approved by Assembly to the effect of revising the Constitution”.

Article 132
(Article 24 of the Amending Draft-law)

1. The decisions of the Constitutional Court have general binding force and shall be final and binding for enforcement. The Constitutional Court has only the right to invalidate the acts it reviews.

2. Unless otherwise provided by the law, the decisions of the Constitutional Court shall, normally, enter in force on the day of their publication in the Official Journal. The Constitutional Court may decide that the law or any other normative act be repealed on another date. The minority’s opinion shall be published along with the decision.

Article 133
(Article 25 of the Amending Draft-law)

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

2. The Constitutional Court shall decide with the majority of all its members.

Article 134
(Article 26 of the Amending Draft-law)

1. Recourse to the Constitutional Court shall be only upon the request of:
   a) President of the Republic;
   b) Prime Minister;
   c) Not less than one-fifth of the members of parliament;
   c) Ombudsman;
   d) Head of High State Audit;
   dh) Any court, in the event of Article 145, point 2, of this Constitution;
   e) Personal Data Protection Commissioner;
   e) Commissioner against Discrimination;
   f) High Judicial Council and High Prosecutorial Council;
   g) Local governance units;
   gj) Religious communities forums;
   h) Political parties and their organization;
i) Individuals.

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

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### PART NINE

#### THE COURTS

### Article 135

(Article 27 of the Amending Draft-law)

1. The judicial power shall be assumed by the High Court, High Administrative Court, as well as by the Appeal Court, first instance courts, which shall be set up by law.

2. The administrative adjudication shall be organized in two instances and it shall encompass the Administrative Court of First Instance and the High Administrative Court.

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

### Article 136

(Article 28 of the Amending Draft-law)

1. The members of the High Court and High Administrative Court shall be appointed by the President of the Republic with the consent of the Assembly, upon the proposal of the High Judicial Council, with a 12 year mandate, without the right to re-appointment.

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

3. The members of the High Court and High Administrative Court shall be selected from the ranks of the judges with at least 15 years’ experience and from among the renowned lawyers with not less than 20 years’ experience having worked as advocates, law professors, or in the senior public administration. They shall not have been sentenced earlier in connection with the commission of a criminal offence, as well as not be involved with the leading forums of the political parties.

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

4. The Chairman and members of the High Court and that of the High Administrative Court hold the office for 9 years shall be elected for a 5-year period without the right to re-election, by secret voting and by the absolute majority of the members. The procedure of election shall be provided for by law.
4. The other judges shall be appointed by the President of the Republic upon the proposal of the High Council of Justice the High Judicial Council.

5. Judges may only be Albanian citizens with higher legal education. The selection conditions and procedures shall be set out by law.

**Article 137**
*(Article 29 of the Amending Draft-law)*

1. The judges of the High Court shall enjoy immunity in connection with the opinions expressed and decisions made in the course of assuming their 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. The judges shall be disciplinarily liable under the law.

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

5. 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.

**Article 138**
*(Article 30 of the Amending Draft-law)*

The time of stay in office for judges cannot be restricted, unless provided for differently in the Constitution. The salary and other benefits cannot be reduced, except in cases of a sanction given to the judge.

**Article 139**
*(Article 31 of the Amending Draft-law)*

1. The mandate as High Court or High Administrative Court judge shall end, upon:
a) reaching the age of 65 years; 
b) does not appear for duty without reason for more than 6 months; 
c) the expiry of the 12 year mandate; 
d) his resignation; 
ç) being declared incapable to act upon final court decision; 
d) being sentenced by final court decision in connection with the commission of a crime or by a final decision in a disciplinary procedure.

2. The end of the mandate of the High Court or High Administrative Court member shall be declared upon the decision of the High Court or High Administrative Court respectively.

3. Where the position of a judge remains vacant, the body having appointed the preceding judge under Article 136/1 shall appoint a new judge, the latter staying in office until the expiry of the mandate of the outgoing judge.

4. Where the mandate of the judge ends due to one of the causes set out in sub-paragraphs c), ç) and d) of paragraph 1 of this Article as well as a consequence of the disciplinary violation, the procedure for appointing the next judge shall start immediately and it shall end within 60 days since the declaration of the end of the mandate upon the decision of the High Court or High Administrative Court.

Article 139/a
(Article 32 of the Amending Draft-law)

Where the member of the High Court or High Administrative Court resigns, he shall submit his resignation to the Chairman of the High Court or High Administrative Court, the latter immediately informing the appointment body, while the latter filling in the vacancy within 60 days.

Article 140
(Article 33 of the Amending Draft-law)

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.

Article 141
(Article 34 of the Amending Draft-law)
The High Court and the High Administrative Court shall have original and revising 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, and ensure the unified implementation of the law by the lower courts. Falling under its scope of their jurisdiction shall be the judicial matters being examined by the lower courts, except those matters falling under the jurisdiction 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.

**Article 142**
*(Article 35 of the Amending Draft-law)*

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

**Article 143**
*(Article 36 of the Amending Draft-law)*

Being a judge shall be compatible with no other state, political or private activity, compensated professional activity, unless otherwise provided by law.

**Article 144**
*(Article 37 of the Amending Draft-law)*

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

**Article 145**
*(Article 38 of the Amending Draft-law)*

1. Judges are independent and subject only to the Constitution and the laws.
2. When judges find that a law comes into conflict with the Constitution, they do not apply it. In this case, they suspend the proceedings and send the case to the Constitutional Court. Decisions of the Constitutional Court are binding for all courts.
3. Interference in the activity of the courts or the judges entails liability according to law.
Article 146  
(Article 39 of the Amending Draft-law)

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

Article 147  
(Article 40 of the Amending Draft-law)

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 guarantee the independence, accountability as well as appropriate functionality of the judicial power in the Republic of Albania
2. The High Judicial Council shall be composed of 11 members. Six of the members are judges being elected by the judges of all levels of the judicial power. The criteria and procedure of election of the judge members shall be regulated by law. Five other members come from: from the legal profession, 1 member; from law professors, 2 members; from lay professors of the School of Magistrates, 1 member; and from the civil society, 1 member. The lay members shall be appointed by the Assembly with three fifth of all the members and based on the proposals from the respective structures and the opinion of the Justice Appointments Council.
3. The Assembly shall vote separately for each group of candidates. When the
Assembly fails to reach the three-fifths majority in the first voting, the proposing body shall make a new proposal within 15 days. The Appointments Council shall provide an opinion within 7 days of the submission of the new proposals. The Assembly shall vote on the new candidates within 7 days of the submission of the opinion of the Appointments Council. If this majority is not reached even in the second voting, the candidates ranked highest by the Appointments Council shall be deemed appointed.

4. The Minister of Justice shall attend the meetings of the High Judicial Council as an observer. The Minister of Justice may request the initiation of the investigation of disciplinary misconduct against judges.

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

6. The Chairman of the High Judicial Council is elected in the first meeting of the Council from the ranks of the lay members by a 2/3 vote of all members. When in the first voting, the High Judicial Council does not reach a two-thirds majority, within 7 days from the first voting, a second voting shall be held. If even in the second voting this majority is not reached, the Chairman of the High Judicial Council is elected by a simple majority within 7 days. The mandate of the Chairman shall match that of the member of the High Judicial Council.

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**Article 147/a**

*(Article 41 of the Amending Draft-law)*

1. The High Judicial Council shall exercise the following powers:
   a) Appoints, evaluates, promotes and transfers judges, except judges of the Constitutional Court;
   b) decides on disciplinary measures on judges, except judges of the Constitutional Court;
   c) Proposes to the President of the Republic candidates for members of the High Court and High Administrative Court, according to the procedure established by law.
   d) Approves the rules of judicial ethics and monitors their observation.
   e) Directs and manages the administration of the courts;
   f) Proposes and administers the budget of the courts;
2. The High Judicial Council shall do the strategic planning for the judicial system, reports publicly and before the Assembly on the state of the judicial system and exercises other powers defined by law.

**Article 147 / b**
*(Article 42 of the Amending Draft-law)*

1. The mandate of the member of the High Judicial Council shall end upon:
   a) Reaching the pension age;
   b) Expiry of the 5 year mandate;
   c) His resignation;
   d) Being convicted upon final judicial decision in connection with the commission of a crime or by a final disciplinary decision;
   e) Is declared by the court unable to fulfil the function.

2. The expiry of the mandate 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. Where the mandate of the member ends due to the causes provided for in points c), c) and e) of this Article and due to the disciplinary violations under Article 147/c, the appointment procedure for the new member shall start immediately and end within 60 days since the entry into effect of the decision declaring the end of the mandate of the preceding member.

5. Where a member of the High Judicial Council resigns, he shall submit his resignation to the Chairmen of the High Judicial Council, the latter shall inform forthwith the appointment body, the latter filling in the vacancy under Article 147.

**Article 147 / c**
*(Article 43 of the Amending Draft-law)*

The member of the High Judicial Council shall be held disciplinarily liable under the law.

**Article 147/ç**
*(Article 44 of the Amending Draft-law)*

Being a High Judicial Council member shall be compatible with no other compensated professional activity, unless otherwise provided by law.
1. The High Inspectorate of Justice shall be responsible for investigating the disciplinary violations and complaints against the judges, prosecutors, members of the High Judicial Council, High Prosecutorial Council and Prosecutor General, as well as for the initiation of the disciplinary proceedings against them. The High Inspectorate of Justice shall also be responsible for inspecting the courts and prosecution offices.

2. The High Inspectorate of Justice shall be composed of 5 members, 3 coming from the judiciary and 2 from prosecution office. They shall be appointed by the Assembly with three-fifths of all the members, from among the candidates selected by the High Judicial Council and the High Prosecutorial Council.

3. The High Judicial Council shall select and rank six candidates from among the ranks of the judges or former judges with at least 20 years’ experience as a judge, demonstrating good performance and high integrity, based on the proposals of the judges. The selection and ranking procedure for the candidates shall be regulated by law.

4. The High Prosecutorial Council shall select and rank four candidates from among the ranks of the prosecutors and former prosecutors with at least 20 years’ experience as prosecutors, demonstrating good performance and high integrity, based on the proposals of the prosecutors. The selection and ranking procedure for the candidates shall be regulated by law.

5. The Assembly shall vote separately for each group of candidates. Where in the first voting the Assembly does not reach the majority of three-fifths for any of the candidates of each group, the candidates ranked on the first three positions by the High Judicial Council and first two positions by the High Prosecutorial Council shall be deemed appointed.

6. The members of the High Inspectorate of Justice shall have the status of the High Court member.

7. The candidates for the High Inspectorate of Justice shall be subject to a thorough verification of the property, integrity and their past.

8. The procedures for making the decisions by the High Inspectorate of Justice shall be regulated by law.

9. The Minister of Justice shall attend the meetings of the High Inspectorate of Justice as an observer and he may request the initiation of the investigation of the disciplinary misconduct against judges, prosecutors, members of the High Judicial Council, High Prosecutorial Council, Prosecutor General as well as the conduct of inspection and verification of complaints.

10. The members of the High Inspectorate of Justice shall assume their office on
full time basis for a period of nine years, without the right to immediate re-election. Upon the expiry of the mandate, the members shall return to their previous working positions.

11. The Inspector General of the High Inspectorate of Justice shall be elected from among the ranks of the judge members with two-thirds of the votes of the members of the Inspectorate. Where in the first voting the majority of two-thirds is not reached, a second voting shall occur within 7 days from the first voting only for the candidate having obtained more votes in the first voting. Where this majority is not obtained in the second voting, the Inspector General shall be elected by the Assembly by simple majority within 7 days.

12. The Inspector General shall preside over the meetings of the High Inspectorate of Justice and it shall coordinate and supervise the activity of the administration.

Article 147/dh
(Article 46 of the Amending Draft-law)

1. The mandate of the member of the High Inspectorate of Justice ends when that member:
   a) Reaches the age of retirement;
   b) Ends the mandate of 9 years;
   c) Resigns;
   ç) Is declared by the court unable to fulfil the function;
   d) Is punished by a final court decision for committing a crime or by a final decision in a disciplinary procedure.

2. The end of the mandate of a member is declared by decision of the High Inspectorate of Justice. When a member of the High Inspectorate of Justice resigns, he submits it to the Inspector General, who shall immediately notify the appointing authority to fill the vacancy in accordance with article 147 / d, item 2/3/4.

3. When the seat of the member remains vacant, the body that has appointed the previous member, according to Article 147 / d, shall appoint a new member, who remains in office until the end of the mandate of the outgoing member.

4. When the member's mandate is terminated for reasons provided in items ç), ç) and d) of this Article or for disciplinary offenses according to Article 147/e, the procedure of appointment of the new member begins immediately and ends within 60 days from the date of entry into force of the decision declaring the end of the mandate of the previous member.

Article 147/e
(Article 47 of the Amending Draft-law)
A member of the High Inspectorate of Justice bears disciplinary responsibility according to law. The inspection in this case is done by the Minister of Justice.

**Article 147/ë**
*(Article 48 of the Amending Draft-law)*

Being a member of the High Inspectorate of Justice is incompatible with any other compensated professional activity, unless provided otherwise by law.

**Article 147/f**
*(Article 49 of the Amending Draft-law)*

1. The Disciplinary Tribunal of Justice reviews the cases of disciplinary violations and takes disciplinary measures against members of the High Judicial Council, the High Prosecutorial Council and the Prosecutor General, the High Inspectorate of Justice and Independent Qualification Commissioners and their staff, and considers appeals against disciplinary measures imposed on judges and prosecutors by the High Judicial Council and the High Prosecutorial Council.
2. The Disciplinary Tribunal consists of the Chairman of the Constitutional Court, the Chairman of the High Court, the Chairman of the High Administrative Court, the Prosecutor General, the Minister of Justice, the Chairman of the National Chamber of Advocacy, the oldest member of the Constitutional Court, the oldest member of High Court and the oldest member of the High Administrative Court.
3. The Chairman of the Constitutional Court is the Chairman of the Disciplinary Tribunal of Justice. The Chairman of the High Court is Vice Chairman of the Disciplinary Tribunal of Justice.
4. Organization and functioning of the Disciplinary Tribunal of Justice is regulated by law.
5. The appeals against decisions of the Disciplinary Tribunal shall be adjudicated by the Constitutional Court.

**PART TEN**
**PROSECUTOR’S OFFICE**

**Article 148**
*(Article 50 of the Amending Draft-law)*

1. The Prosecutor’s Office exercises criminal prosecution and represents accusation in court on behalf of the state. The Prosecutor’s Office performs other duties as prescribed by law.
2. Prosecutors are organized and operate by the judicial system as a centralized body.

2. Prosecutor’s office is an independent body and it functions on the principle of decentralization, according to the law.

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

4. Prosecutors are appointed by the High Prosecutorial Council after finishing the School of Magistrates and after a passing an evaluation and audit of their assets and their background.

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

**Article 148/a**

(Article 51 of the Amending Draft-law)

1. The High Prosecutorial Council is responsible for issues of the status and career of prosecutors. Elements of the status, modes of assessment and professional development of prosecutors are regulated by law.

2. The High Prosecutorial Council consists of 11 members. Six of them are prosecutors elected from among prosecutors at all levels of prosecution. The criteria and procedure for selecting the prosecutor members shall be regulated by law. Five other members come from: advocacy, one member; from professors of law, two members; from teachers of the School of Magistrates, one member; and from civil society, one member. The non-prosecutor members are appointed by the Assembly by three-fifths of all members, based on proposals from the relevant structures and the opinion of the Justice Appointments Council.

3. The Assembly votes separately for each group of candidates. In the event that the Assembly, in the first voting, fails to reach the three-fifths majority, the proposing structure makes a new proposal within 15 days. The Appointments Council gives a new opinion within 7 days from the submission of new proposals. The Assembly votes on the new nominations within 7 days from the submission of the opinion of the Appointments Council. If even in the second voting the majority is not reached, the candidate ranked highest by the Appointments Council is considered appointed.

4. The Minister of Justice takes part in meetings of the Prosecutorial Council as an observer. The Minister of Justice may request the initiation of the investigation of disciplinary misconduct against prosecutors.

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

6. The Chairman of the High Prosecutorial Council is elected at the first meeting of the Council from among the lay prosecutor members by 2/3 of the votes of all members. When in the first voting, the High Prosecutorial Council does not reach the two-thirds majority, within 7 days from the first voting there is a second voting. If even in the second voting this majority is not reached, the Chairman of the High Prosecutorial Council is elected by simple majority within 7 days.

**Article 148/b**
*(Article 52 of the Amending Draft-law)*

1. The High Prosecutorial Council exercises these responsibilities:
   a) Appoints, evaluates, promotes and transfers prosecutors;
   b) Decides on disciplinary measures against prosecutors;
   c) Proposes to the Assembly candidates for Prosecutor General in accordance with the procedures prescribed by law.
   c) Adopts rules of ethics for prosecutors and supervises their observance.

2. The High Prosecutorial Council drafts strategic plans for the Prosecutor’s Office, reports publicly and before the Assembly on the state of the Prosecutor’s Office and other responsibilities defined by law.

**Article 148/c**
*(Article 53 of the Amending Draft-law)*

1. The Prosecutor’s Office of the Special Anti-Corruption Structure is responsible for the criminal prosecution and representation of accusation against judges, prosecutors and senior officials, as established by law, at the Anti-Corruption Court of First Instance and the Court of Appeal.

2. Prosecutors of the Special Anti-Corruption Structure are independent.

3. Prosecutors of the Special Anti-Corruption Structure must have 10 years of experience as prosecutors, should not be convicted, should have high reputation for integrity, and must complete a statement and successfully pass a review of their assets and their background, as well as periodic reviews of their financial accounts and telecommunications as well as of their close family members.

4. Prosecutors of the Special Anti-Corruption Structure shall be appointed for a term of 10 years by the High Prosecutorial Council.

5. The National Bureau of Investigation conducts investigations under the direction of prosecutors of the Prosecution Office of the Special Anti-Corruption Structure.

**Article 149**
1. The Prosecutor General is appointed by the President of the Republic with the consent of the Assembly three-fifths of members of Parliament, upon the proposal of the High Prosecutorial Council and with the opinion of the Justice Appointments Council, for a five-year mandate for a 9-year term with the right to be reappointed with no right of re-appointment on duty. The procedure for selection and appointment of the Prosecutor General is determined by law.

2. The prosecutor general 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 shall be selected among highly qualified lawyers, with no less than 15 years of professional experience, of high moral and professional integrity, that have graduated from the school of magistrates or have a university degree in law at the master’s level or above in a reputable university in Albania or abroad. He must not have been punished before for a criminal offence and not to have held a political post or a post in a political party during the last 10 years before running for the position of Prosecutor General.

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

3. The Prosecutor General bears disciplinary responsibility under the law.

4. The Prosecutor General exercises these powers:
   a) Represents accusation in the High Court and the Constitutional Court;
   b) Issues only written general guidance to prosecutors of the Prosecutor’s Office, with the exception of those of the Special Anti-Corruption Structure;
   c) Represents the Prosecutor’s office before foreign countries, with the exception of the Special Anti-Corruption Structure;
   c) Manages the Prosecutor’s Office administration, with the exception of the Special Anti-Corruption Structure;
   d) Proposes and administers the budget of the Prosecutor’s Office;
   dh) Makes the strategic planning for the Prosecutor’s Office, reports publicly to the Parliament on the state of the Prosecutor’s Office, and exercises other powers defined by law.

Article 149/a
(Article 55 of the Amending Draft-law)

1. The mandate of the Prosecutor General ends when:
a) Reaches the age of 70;
b) Resigns;
c) Is declared by the court unable to fulfil the function;
c) Is convicted with a final decision for a criminal offense or by a final decision in a disciplinary procedure.

2. The termination of the mandate of the Prosecutor General is declared by decision of the High Prosecutorial Council or occurs after a decision of the Disciplinary Tribunal that the Prosecutor General has committed a serious disciplinary offense.

3. After the end of a 9-year mandate, the Prosecutor General shall be appointed as a judge in the Court of Appeal.

PART TEN/1

Article 149/b
(Article 56 of the Amending Draft-law)

1. The Justice Appointments Council is responsible for verifying the fulfilment of legal requirements and professional and moral criteria of lay members of the High Judicial Council, lay members of the High Prosecutorial Council, the candidate for Prosecutor General as well as the candidates for members of the Constitutional Court. In the exercise of its responsibilities, the Justice Appointments Council examines and ranks the candidates proposed by the proposing institutions and advises the Assembly and the President in making appointments.

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

3. The Justice Appointments Council is composed of the Chairman of the Constitutional Court, the Chairman of the High Court, the Chairman of the High Administrative Court, the Chairman of the High Judicial Council, the Prosecutor General, the Chairman of the High Prosecutorial Council, the Minister of Justice, the Chairman of the National Chamber of Advocacy, the oldest judge of the Constitutional Court, the oldest judge of the High Court and the oldest judge of the High Administrative Court.


5. The Chairman of the High Judicial Council, through the administration of the Council, creates working conditions for the operation of the Appointments Council as well as for the documentation of this activity.

6. The functioning of the Appointments Council is regulated by law.
PART ELEVEN
REFERENDUM

Article 150
1. The people, through 50 thousand citizens, who enjoy the right to vote, have the right to a referendum for the abrogation of a law, as well as to request the President of the Republic to hold a referendum about issues of special importance.
2. The Assembly, upon the proposal of not less than one-fifth of the deputies or the Council of Ministers, can decide that an issue or a draft law of special importance be presented for referendum.
3. Principles and procedures for holding a referendum, as well as its validity, are provided by law.

Article 151
1. A law approved by referendum is promulgated by the President of the Republic.
2. Issues related to the territorial integrity of the Republic of Albania, limitations of fundamental human rights and freedoms, budget, taxes, financial obligations of the state, declaration and abrogation of the state of emergency, declaration of war and peace, as well as amnesty, cannot be voted upon in a referendum.
3. A referendum upon the same issue cannot be repeated before 3 years have passed since it was held.

Article 152
(Article 24 of the Amending Document)
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 THIRTEEN
PUBLIC FINANCES

Article 155
Taxes, fees, and other financial obligations, national and local, reductions or exemptions of certain categories of taxpayers as well as the method of their collection are specified by law. In such cases, the law may not be given retroactive effect.

**Article 156**

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

**Article 157**

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

**Article 158**

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

**Article 159**

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

**Article 160**

1. During the financial year, the Assembly may make changes in the budget.
2. The changes in the budget are made based on defined procedures for drafting and approving it.
3. Expenses foreseen in other laws cannot be reduced as long as these laws are in force.

**Article 161**

*(Article 13 of the Amending Draft-law)*
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.

2/1. “The Bank of Albania shall, in compliance with the agreements with the European Union, delegate to the institutions of this Union powers from those provided for in point 1 of this Article”.

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 LAST PROVISIONS

Article 178
1. Laws and other normative acts approved before the date this Constitution enters into force will be applied as long as they have not been abrogated.
2. The Council of Ministers presents to the Assembly draft laws necessary for implementing this Constitution.

Article 179
(Article 57 of the Amending Draft-law)

2. Members of the Court of Cassation Constitutional Court shall continue their activity as members of the High Court Constitutional Court, in accordance with the previous mandate. The composition renewal of Constitutional Court shall be as follows:
   a) the new members who are due to replace the members whose mandate expires in 2016 shall be appointed, respectively, by the President and by the Assembly, and they shall stay in office until 2026.
   b) the new member who is due to replace the member whose mandate ends in 2017 shall be appointed by the meeting of the High Court and the High Administrative Court, and shall stay in office until 2026.
   c) the new members who are due to replace the members whose mandate ends in 2019 shall be appointed, respectively, by the President, by the Assembly and by the meeting of the High Court and the High Administrative Court, and they shall stay in office until 2030.
   c) the new member who is due to replace the member whose mandate ends in 2020 shall be appointed by the President, and he shall stay in office until 2030.
   d) the new members who are due to replace the members whose mandate ends in 2022 shall be appointed, respectively, by the Assembly and by the meeting of the
High Court and the High Administrative Court, and they shall stay in office until 2034.

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

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

4. The members of the High Administrative Court shall be appointed within 3 months since the constitution of the High Judicial Council under this law. The initial appointments to the High Administrative Courts shall be staggered to ensure continuity in the work of the Court.

5. Members of the High Council of Justice shall end their activity as members of the High Council of Justice three months after the entry into force of this law. Election of new members to the High Judicial Council shall be made within 3 months after the entry into force of this law. Three judge members and two lay members of the High Judicial Council shall be appointed initially for a 3-years term, with the purpose of partial renewal of this body.

6. The Prosecutor General shall hold office until the appointment of the new Prosecutor General, in accordance with this law. The current Prosecutor General shall be appointed as a judge at the Tirana Court of Appeal within three months from the date of termination of the mandate.

7. The High Prosecutorial Council shall be established within 3 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.

**Article 179/1**

(Article 58 of the Amending Draft-law)

In accordance with the provisions of Annex ‘Transitional Qualification Assessment of Judges and Prosecutors’ all judges, including members of the High Court and Constitutional Court, prosecutors, members of the High Council of Justice unless replaced according to Art. 179 no. 5 of this Constitution, the Prosecutor General of the Republic of Albania unless replaced according to Art. 179 no. 6 of this Constitution and their legal advisors shall be, *ex officio*, assessed and re-evaluated in order to re-establish public trust and confidence in these essential democratic institutions.
Article 180
1. International agreements ratified by the Republic of Albania before this Constitution enters into force are considered ratified according to this Constitution.
2. The Council of Ministers presents to the Constitutional Court the international agreements which contain provisions that come in conflict with the Constitution.

Article 181
1. The Assembly, within two to three years from the date this Constitution enters into force, issues laws for the fair resolution of different issues related to expropriations and confiscations done before the approval of this Constitution, guided by the criteria of Article 41.
2. Laws and other normative acts, adopted before the date this Constitution enters into force, that relate to the expropriations and confiscations shall be applied when they do not come in conflict with it

Article 182
Law No. 7491, dated 29.4. 1991, "On the Main Constitutional Provisions" as well as the other constitutional laws are abrogated the day this Constitution enters into force.

Article 183
This Constitution enters into force with its promulgation by the President of the Republic.
Approved by referendum on 22.11.1998
Promulgated by Decree no 2260, dated 28/11/1998, of the President of the Republic of Albania, Rexhep Meidani
Annex

Transitional Qualification Assessment of Judges and Prosecutors

Article 1
(Article 59 of the Amending Draft-law)

Measures to Establish Public Trust

1. In order to safeguard the rights of the citizens of Albania to equally and fairly access courts and to have crimes fairly prosecuted, but to address grounded concerns that this right is denied by corruption, criminal influence and the poor proficiency of some members of the judiciary or prosecution, the application range of some articles of this Constitution, in particular Articles 128, 131 f, 135, 138, 140, 145 Nr. 1, 147 Nr. 6, 149 Nr. 2 of the version before the entry of this amendment, are limited to the extent necessary to give effect to this Part. All judges, including members of the High Court and Constitutional Court, prosecutors, members of the High Council of Justice (unless replaced according to Art. 179 Nr. 5 of this Constitution), the Prosecutor General of the Republic of Albania (unless replaced according to Art. 179 Nr. 6 of this Constitution) and legal advisors shall be, ex officio, assessed and re-evaluated in order to re-establish public trust and confidence in these essential democratic institutions. The re-evaluation shall cover all persons listed in sentence 2, regardless of whether they are on secondment or other leave from their position.

2. An Independent Qualification Commission shall be established and a Qualification Assessment shall be conducted.

3. The Independent Qualification Commission shall operate and decide independently according to the provisions of this Part. The procedure followed by the President to eliminate candidates not matching the criteria, the structure, jurisdiction and procedures of the Independent Qualification Commissions, the personal protection and the timing of the assessments shall be regulated by special law.

Article 2
(Article 60 of the Amending Draft-law)

International Monitoring Operation

1. The international monitoring operation is a cooperation between the European Commission, the United States of America, other international
organizations and bilateral international assistance. It shall be empowered to appoint International Observers in both instances of the Independent Qualification Commissions. It is chaired by and acts through the European Commission, who coordinates international assistance.

2. International Observers shall have qualifications similar to the Commissioners of the Independent Qualification Commission. International Observers shall have full access to the files at all levels of the Qualification Assessment, may file findings or opinions at any stage of the Qualification Assessment, may present and request evidence.

3. International observers may send unreasonable decisions to the alternative commission of first instance or the extended appeal commission, in particular if the international observer finds sufficiently convincing indications that the proposed decision is inappropriate, ignores facts or important evidence, is not based in law, or results from improper influence. If the International Observer sent the case to the alternative or extended commission, that commission shall decide instead of the one which was previously competent. The assessees can appeal the decision of the international observer of the first instance commission to the international observer of the appeal commission within a week.

4. In the case that Parliament selects one Commission of first instance, the alternative commission of first instance consists of the three substitute Commissioners. If Parliament selects two Commissions of first instance, the alternative commission of first instance for a case shall be the Commission that has not heard the case. If Parliament selects three Commissions of first instance, the alternative Commission for a case shall consist of one of the other Commissions of first instance.

Article 3
(Article 61 of the Amending Draft-law)

Independent Qualification Commission

1. An Independent Qualification Commission shall consist of two public commissioners, up to three First Instance Commissions consisting of three first instance commissioners each, and a Second Instance Commission with three appeal instance commissioners, and at least three substitute commissioners (“Commissioners”). If only one Commission of first instance is implemented, then at least six substitute commissioners must be appointed. They shall serve from January 1, 2016 until December 31, 2019. The commissions cease to have effect automatically by this date if their duration is not prolonged with simple majority by Parliament.
2. The Independent Qualification Commission shall operate with accountability, integrity and transparency and with the objective of promoting an independent and competent system of justice free from corruption.

3. All commissioners, directors, and other personnel as set by law must consent to the yearly disclosure of their assets, constant monitoring of their financial accounts and waiver of the privacy of their communication related to their work for the period of ten years. All asset declarations shall become public.

4. All commissioners shall have a university degree in law at the master’s level or above, obtained in Albania or abroad, and no less than fifteen years’ experience as a judge, prosecutor, advocate, notary, law professor or attorney in ministries or public administration, or other legal profession related to the judiciary, and shall have a high reputation for integrity. Nominees for commissioner may not have been judges, prosecutors or legal advisors in the two years prior to their nomination. Nominees for commissioner may not have been an elected official, as a political appointee, or as an official of a political party in the ten years prior to their nomination. Nominees shall not have been convicted for a crime which may have been punished with imprisonment, either inside or outside of Albania.

5. All candidates applying for the position of commissioner shall provide their curriculum vitae, copies of their degrees and passport, and a signed recent full asset declaration in accordance with the Law, No. 9049, Date 10.04.2003, “On the declaration and audit of assets, financial obligations of elected persons and certain public officials,” as amended.

6. Within one month of the entry into force of this Part, the Ombudsperson shall invite the public to apply for the position of commissioners within one month of the advertisement. All Albanian courts and State institutions may propose candidates and include their consent to be nominated and any Albanian citizen meeting the qualification requirements may apply. Within one month, the Ombudsperson shall assess whether the criteria are met, and compile the applications which meet all criteria into a list of names of those who are qualified, and send the list with the applications to Parliament. International Observers shall have the necessary access to people and documents to monitor the application and qualification process for commissioners.

7. Within one month of receiving the pool, Parliament shall decide with a simple majority whether to have one, two or three first instance committees, shall decide the number of substitute commissioners with a simple majority, and shall appoint with a 3/5 majority the First Instance and Appeal Instance Commissioners and the two Public Commissioners from the pool of qualified candidates provided by the Ombudsperson. Parliament shall also select at least three substitute Commissioners by 3/5 majority with a priority numbering to facilitate the assignment. If the Parliament fails to select all or some commissioners with a 3/5
majority within one month of the pool being received by Parliament, the President of the Republic shall select in public the missing commissioners out of the pool of those candidates matching the criteria by lot within a month. International Observers shall have the necessary access to people and documents to monitor the appointment process for commissioners.

8. All Commissioners shall work full time and may not hold any other position or employment during their mandate, in accordance with Article 143 of this Constitution. All Commissioners shall have a status equal to that of a High Court Judge for the duration of their mandate. All commissioners shall receive a gross salary of 600,000 ALL monthly. The commissioners shall receive their salary, regardless of the duration of their active mandate, for ten years, unless they have been removed by the disciplinary tribunal. They shall receive an additional yearly pension, which is for each complete year of service 2% of the annual salary. For periods of less than a year the pension shall be calculated accordingly. The pension shall be paid monthly after the end of the tenth year.

9. The Public Commissioner shall represent the public interest before each instance of the commission, may request and present evidence and may appeal the decision of the first instance commission.

10. The Independent Qualification Commission shall have a Registrar and at least three Directors, one who shall oversee the asset declarations, one to oversee the proficiency assessments and one who shall oversee background assessments. They shall submit reports on each person’s assessment and recommend action to the Commission, with other duties established by law.

11. The Independent Qualification Commission and the international observers shall have a budget, staff and facilities established by law sufficient to support their duties.

12. The official language of the Independent Qualification Commission shall be Albanian and English, and it shall have translators and interpreters accordingly.

13. The Commissioners of the Independent Qualification Commission are subject to disciplinary liability to be determined by the Disciplinary Tribunal established under Article 147/g.

14. Commissioners, international observers, Commission staff, and their families shall be protected at highest level in accordance with the law.

Article 4
(Article 62 of the Amending Draft-law)

Qualification Assessment

1. All officials subject to re-evaluation under Art. 59, paragraph 1, shall be subject
to Qualification Assessment by the Independent Qualification Commission. They shall undergo an Asset Assessment under Article 63, a Background Assessment under Article 64 and a Proficiency Assessment under Article 65. At any time before or during the qualification assessment, an assessee may resign from their office and is not assessed any further. Assessee who resign under this provision may no longer serve as a judge at any level, prosecutor, member of the High Judicial Council or High Prosecutorial Council, or Prosecutor General for the duration of ten years.

2. The Commission may publish information and take into account comments obtained from the public. It respects the balance between privacy and investigation needs.

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

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

5. The Registrar shall compile a dossier of the reports, recommendations and files on the asset, background and proficiency assessments, and shall submit it to the Commission.

6. The Commission shall review all three assessment dossiers in accordance with procedures established by law, and shall decide, based on an assessment of all three reports and the information obtained.

7. International Observers shall have access to all stages of the Asset Assessment, Background Assessment, and Proficiency Assessment, as well as the First Instance and Appeals Instance of the Independent Qualification Commission.

**Article 5**

(Article 63 of the Amending Draft-law)
Asset Assessment

1. The Independent Qualification Commission shall conduct an assessment of assets of the officials subject to re-evaluation under Art. 59, paragraph 1, with the purpose of identifying assessees who possess or have the use of assets greater than can be legitimately explained, or those assessees who have failed to accurately and fully disclose their assets and those of their families.


3. The High Inspectorate for the Declaration and Audit of Assets and Conflict of Interests shall review the asset declaration and submit to the Registrar of the Commission a report about the legitimacy of the assets and the accuracy and fullness of the disclosure, and may submit a recommendation about disciplinary measures.

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

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

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

Article 6
(Article 64 of the Amending Draft-law)

Background Assessment

1. The Independent Qualification Commission shall conduct a background assessment of the officials subject to re-evaluation under Art. 59, paragraph 1, with the purpose of identifying assessees with regular and inappropriate contacts with members of organized crime.

2. Assessees shall submit a detailed background questionnaire and declaration to the Commission for the period January 1, 2012 to December 31, 2015, as
regulated by law.

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

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

**Article 7**

(Article 65 of the Amending Draft-law)

**Proficiency Assessment**

1. The Independent Qualification Commission shall conduct a proficiency assessment of the officials subject to re-evaluation under Art. 59, paragraph 1, with the purpose of identifying assessees with who are not qualified to perform their role and those who have deficiencies which can be remedied with education.

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

3. The Commission’s director overseeing proficiency assessments shall review the documents and information and shall provide a report to the Commission and may submit a recommendation of disciplinary measures.

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

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

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

Article 8
(Article 66 of the Amending Draft-law)
First Instance Qualification Assessment

1. For each assessee, the Registrar of the Commission shall combine the files, reports and recommendations from the Asset, Background and Proficiency Assessments. The Commission shall assign according to transparent criteria one member of the First Instance Commission to be a Rapporteur.

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

3. The first instance commission shall provide the assessee with a hearing. It can include oral or written tests based on the field of work experience of the assessee.

Article 9
(Article 67 of the Amending Draft-law)
Disciplinary Measures

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

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

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

4. An assessee filing an appeal of a disciplinary measure is suspended pending the decision of the Appeal Instance Commission.

5. An assessee can agree with the Commission to retire early and to receive pension immediately. The pension amount is reduced and takes into account the years served by the official, and the years remaining until the standard pension age.

**Article 10**  
*(Article 68 of the Amending Draft-law)*

**Appellate Instance Qualification Assessment**

1. The assessee and each of the Public Commissioners shall have the right to appeal to the appellate instance of the commission within the period provided by the law.

2. The international observer takes part with the same rights like those in first instance. If the observer exercises the right to transfer the decision to the extended Commission. In the case one first instance commission exists, he extended Commission shall be the original members of the appeal Commission and those three substitute members, who have not decided in first instance. If two or three commissions of first instance exists, the extended Commission shall be the original members of the appeal Commission and another Commission, or if not available, those three substitute members, who have not decided in first instance.

3. The Appeal Instance Commission shall uphold or modify the decision of the first instance commission in a reasoned, written decision. It may not impose a more strict disciplinary measure without providing the assessee with sufficient notice to prepare and respond in a hearing.

4. If an assessee resigns, retires or agrees to a report and recommendation, there can be no appeal.
5. The Appeal Instance Commission is the final instance. There is no further remedy within Albanian jurisdiction.