

ConFinder Note:

As it appears below, the original text of the Law on the Major Constitutional Provisions has been modified by the following amendments:

Law No. 7559 (April 9, 1992) [Enhancing the Powers of the President]

Law No. 7561 (April 29, 1992) [The Organization of Justice and the Constitutional Court]

Law No. 7692 (March 31, 1993) [Charter of Rights]

Original text eliminated by amendment appears in the following brackets: { } ; new text created by amendment appears in italics.

Attached herewith is the Law on the Major Constitutional Provisions, which will be in force till the adoption of the Constitution of the Republic of Albania, whose draft will be worked out by the Special Commission charged by the People's Assembly.

The Constitution will be adopted by the People's Assembly during the first quarter of 1992.

Tirana, 21st May 1991

**LAW
ON THE MAJOR CONSTITUTIONAL PROVISIONS
THE PEOPLE'S ASSEMBLY
OF THE REPUBLIC OF ALBANIA**

DECIDED:

CHAPTER ONE

GENERAL PROVISIONS

ARTICLE 1

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

ARTICLE 2

The Republic of Albania is a democratic state, based on the rule of law.

Man's dignity, his rights and freedoms, free development of his personality as well as the constitutional order, equality before the law, social justice, social assistance and pluralism are the foundations of this state, whose duty is to respect and protect them.

ARTICLE 3

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

The people exercise their power through their representative organs and the referendum as well.

The representative organs are elected by free, general, equal, direct and secret ballot.

State activity is exercised only by the state organs recognized by law.

ARTICLE 4

The Republic of Albania recognizes and guarantees the human rights and fundamental freedoms of the individual and of national minorities, accepted by international documents.

ARTICLE 5

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

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

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

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

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

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

ARTICLE 6

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

The political parties and other organizations, are created and exercise their activity according to the law. They are fully separated from the state.

The activity of political parties in military units and institutions of the Ministry of Defense and the Ministry of the Interior, the Ministry for Foreign affairs and diplomatic representations abroad, the attorney's offices, investigation offices, courts, etc., is prohibited. The departization and depoliticizing of these organs is done by law.

ARTICLE 7

The Republic of Albania is a secular state.

The state respects the freedom of religious faith and creates conditions to exercise it.

ARTICLE 8

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

The strict and equal application of juridical norms is compulsory for all the state organs, political parties, other organizations, employees as well as for other physical and juridical persons.

All the citizens are equal before the law.

ARTICLE 9

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

The Republic of Albania pays attention to the recognition of and respect for the national and democratic rights of the Albanians residing outside the state borders of the Republic.

ARTICLE 10

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

Economic initiative of juridical and physical persons cannot develop contrary to the social interest and should not impair the security, freedom and dignity of man.

ARTICLE 11

Subjects of the right to ownership are the state, juridical and physical persons.

All kinds of ownership are equally protected by law.

The assets which are objects of the state property are set by law.

ARTICLE 12

The foreign juridical and physical person may gain the right to ownership under the conditions foreseen and guaranteed by law.

The foreign physical and juridical person is guaranteed the right to carry out independent economic activity, to invest in Albania, to form joint or his/her own ventures under the conditions provided for in the law. He/she is also guaranteed the right to transfer the profits to his/her own country.

ARTICLE 13

It is incumbent upon the juridical and physical persons to contribute to defray the state expenditure in proportion to their income.

No tax or levy can be imposed except by law.

ARTICLE 14

The trade unions recognized by law are juridical persons and may sign collective working contracts with the public or private subjects. The way of reaching contracts is defined by law.

CHAPTER II THE SUPREME ORGANS OF THE STATE POWER

A. THE PEOPLE'S ASSEMBLY

ARTICLE 15

The People's Assembly is the highest organ of the state power and the only law-making organ.

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

ARTICLE 16

The People's Assembly has the following main competencies:

1. It defines the main directions of the internal and foreign policy of the state.
2. It adopts and amends the Constitution and the laws, decides definitely upon the compatibility of the laws with the Constitution and makes their interpretation.
3. It adopts the economic and social draft programs of the country's development and the synthetic indices, as well as the state budget.
4. It decides on the partial and general mobilization, the state of emergency and state of war in case of armed aggression against the Republic of Albania or when this is necessary to fulfill obligations deriving from the international treaties.
5. It ratifies and denounces:
The treaties or [of?] political character;
The treaties or agreements of military character;
The treaties or agreements related with the borders of the Republic of Albania; The treaties or agreements concerning the fundamental rights and duties of the citizens;
The treaties from which derive financial obligations for the state;
Treaties or agreements which bring about changes to the legislation;
Treaties or other agreements which foresee that their ratification or denunciation be done by the People's Assembly.
6. It grants amnesty.
7. It decides on people's referendums.
8. It elects and discharges the president of the Republic of Albania.
9. It elects, appoints and discharges the Supreme Court, the Attorney General and his substitutes.
10. It controls the activity of the Council of Ministers and the Attorney General's office.
11. It controls the activity of RTV, ATA and other official media of public information which are dependent on it. The status of these organs is set by law.
12. It defines the administrative-territorial structure of the country.
13. It decides on the creation or dissolution of the ministries or other organs equal to them.

ARTICLE 17

The People's Assembly is made up of 250 deputies.

The People's Assembly is elected for a four-year term.

The People's Assembly convenes the first session no later than two months from the day of its election.

The elections to the People's Assembly are held no later than three months from the day its mandate expires.

In case of war or state of emergency, the People's Assembly can function regardless of the scheduled term, so long as the war or the state of emergency continues.

The activity of the People's Assembly shall end on the day of the first meeting of the new Assembly.

ARTICLE 18

The People's Assembly elects its presidency, which consists of the chairman and two vice-chairmen.

The activity of the People's Assembly and its Presidency is conducted according to the regulation it has adopted.

ARTICLE 19

The People's Assembly convenes its sessions no less than four times a year.

The sessions of the People's Assembly convene on the decision of its Presidency. The Presidency convenes the session of the People's Assembly when this is also requested by the President of the Republic, the Council of Ministers or by one-fourth of the deputies.

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

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

ARTICLE 20

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

It is first session the People's Assembly elects a commission to examine the mandates of the deputies. At

the proposal of this commission, the People's Assembly confirms or annuls the mandates of the deputies.

It is incumbent upon the permanent commissions to examine the draft laws and normative decrees of the President of the Republic, to follow and control the activity of the ministries and other state organs according to the respective sectors and to forward problems to the People's Assembly or the Council of Ministers. The temporary commissions are set up for certain issues.

ARTICLE 21

It is the duty of the deputy to the People's Assembly in his activity to serve the people and the homeland conscientiously. the rights and duties of the deputy are defined by law.

ARTICLE 22

The deputy to the People's Assembly enjoys immunity.

The deputy cannot be prevented from accomplishing his duties, nor from obtaining the data which are not a state secret.

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

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

ARTICLE 23

The law-making initiative belongs to the President of the Republic, to the Council of Ministers, to every deputy, as well as to a group of 20,000 nationals enjoying the right of voting.

B. THE PRESIDENT OF THE REPUBLIC OF ALBANIA

ARTICLE 24

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

ARTICLE 25

The President of the Republic {of Albania is elected by the People's Assembly with no less than two

candidates running for five years, by secret ballot, and by a two-thirds majority of the votes of all the deputies. } *shall be elected for five years by the people's Assembly, without debate, by a secret ballot, and with a majority of two-thirds of the votes of all deputies.* {In case the required majority is not ensured in the first ballot, a second voting is held in which the president of the republic is elected by the absolute majority of all the deputies votes.} *If the necessary two thirds majority is not secured on the first ballot, a second ballot will be made in which the President shall be elected by an absolute majority of the votes of the deputies.*

{The candidate for president is proposed to the People's Assembly by a group of no less than thirty deputies.} *Candidates for President must be proposed by a group of deputies consisting of no less than 20 persons.*

A deputy is not permitted to take part in more than one of the groups proposing a candidate for the Presidency.

In case there are more than two candidates for the post of the President of the Republic, in the second voting the two candidates who have on the greatest number of votes in the first voting have the right to run. The candidate who wins the absolute majority of all the deputies' votes is considered elected.

ARTICLE 26

President of the Republic may be elected every Albanian national who has completed the age of 40 and meets the conditions to be elected as deputy.

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

The election of the President of the Republic is held no later than thirty days before the mandate of the out-going President of the Republic expires.

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

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

The function of the President *of the Republic* is {irreconcilable} *incompatible* with any other *state* function {with the exception of those foreseen by this law.}, *except those foreseen in this law and that of the head of the party.*

ARTICLE 27

The President of the Republic is discharged or released before the expiry of his mandate only when:
a) He has committed the crime of betrayal of the Homeland or has violated this law.

- b) His health condition prevents him from performing the duties.
- c) He has given his resignation of his own free will.

ARTICLE 28

The President of the Republic has these main competencies:

1. Guarantees the respect for this Law, for other laws, as well as for the rights and freedoms of citizens.
2. Convenes the first session of the new legislature of the People's Assembly.
3. Fixes the date of elections to the People's Assembly and local power organs.
4. Declares the laws and referendums decided upon by the People's Assembly.
4A. Proposes to the People's Assembly to decide upon popular referenda.
5. {Enjoys the right, within fifteen days from the adoption of the law by the People's Assembly, to put it up for re-examination by the People's Assembly only once.} *Within 15 days of its approval, by the People's Assembly, he [the President] has the right, if properly motivated, to refer a law back to the People's Assembly for reexamination, but he may do so only once.*
6. He nominates the Chairman of the Council of Ministers and accepts his resignation.
7. {Upon the proposal of the Chairman of the Council of Ministers between the two sessions of the People's Assembly, he appoints, discharges or releases separate members of the Government. The President of the Republic submits this decree for approval to the People's Assembly in its nearest meeting.} *On the proposal of the Chair of the Council of Ministers, he [the President] nominates, dismisses or sets free through decree ministers and other official members of the Government. Within 10 days, this decree must be presented by the President of the Republic to the People's Assembly for approval.*
7A. In special cases, he [the President] has the right to participate in the meetings of the Council of Ministers and to place on its agenda questions which he deems important for deliberation. When he takes part in the meeting, he directs it and signs the decision taken.
8. He appoints and discharges, upon the proposal of the Chairman of the Council of Ministers, leaders of other central institutions, *and the chief and the deputy chief of the National Information Service.*
8A. Requests the opinion and written testimony from heads of executive institutions as to problems connected with their tasks.
9. After getting the opinion of the Chairman of the Council of Ministers and the Chairman of the Presidency of the People's Assembly, he may dissolve the People's Assembly prior to the expiry of the legislature, when its composition does not allow the performance of the functions of the Assembly itself and makes impossible the country's running. In this case, the elections to the People's Assembly are held again no later than 45 days since the day of dissolution.
The President cannot exercise this competence over the last six-month period of his mandate.
10. {He signs international treaties, ratifies and denounces those not examined by the People's Assembly itself.} *Enters into and ratifies treaties and international agreements, and denounces those that are not approved by the People's Assembly.*
11. He appoints and discharges the diplomatic representatives upon the proposal of the Chairman of the Council of Ministers.
12. Accepts the credentials and letters of call of the diplomatic representatives of foreign states.
13. Endorses the requests for granting or giving up Albanian nationality.

14. Exercises the right of pardon.
15. Awards decorations and honourable titles.
16. Grants the right of political asylum.
17. When it is impossible for the People's Assembly to convene he declares the partial and general mobilization as well as the state of emergency. In such cases, the declaration is submitted for approval to the People's Assembly within five days.
18. When the convocation of the People's Assembly is impossible, he declares the state of war in case of armed aggression against the Republic of Albania.
- 18A. He communicates with the People's Assembly through messages which are read in the plenary sessions.*
19. Issues decrees of individual character and decisions; in urgent cases he even issues decrees of normative character, which are submitted for approval to the People's Assembly in its nearest session.

ARTICLE 29

The acts issued by the President of the Republic on the exertion of competencies foreseen in the items 10, 11, and 19 of Article 28 of this Law assume juridical force after undersigned, depending on the case, by the Chairman of the Council of Ministers or by the respective minister or by the persons equalled with them.

ARTICLE 30

When the seat of the President of the Republic is vacant for any reason whatsoever, his competencies are exercised temporarily by the Chairman of the Presidency of the People's Assembly, excluding those foreseen in the items 5,6,7, 9 and 19 of Article 20 of this Law.

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

ARTICLE 31

The President of the Republic is not responsible for the actions taken during his function with the exception of the cases of treason to the homeland or violation of this law.

In such cases, the question of responsibility might be discussed at the People's Assembly at the request of no less than one-fourth of the deputies. the respective decision is adopted by secret ballot with a majority of two-thirds of the deputies.

ARTICLE 32

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

The Council of Defence is set up to direct, organise and mobilise all the forces and the country's resources for the defence of the Homeland.

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

ARTICLE 32A

The President of the Republic can establish bodies to advise and aid him.

CHAPTER III SUPREME ORGANS OF STATE ADMINISTRATION

ARTICLE 33

The Council of Ministers is the highest executive and legislative organ.

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

The President of the Republic assigns the Chairman of the Council of Ministers and, upon the proposal of the latter, the ministers too.

The composition of the government and its programme are adopted by the People's assembly with majority of votes, within five days from the date it is submitted.

In case he does not get the vote of confidence, the Chairman of the Council of Ministers immediately submits his resignation to the President of the Republic, who assigns the new Chairman of the Council of Ministers.

Before resuming the functions, the Chairman of the Council of Ministers and the ministers swear an oath before the President of the Republic.

ARTICLE 34

The deputies enjoy the right to forward at any time a lack of confidence motion towards the Council of Ministers or its separate members. the lack of confidence motion should be signed by at least one-tenth of the deputies and can be examined by the People's Assembly only after three days of its presentation.

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

ARTICLE 35

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

Any Albanian citizen residing permanently in the Republic of Albania and enjoying the right to be elected might by in the composition of the Council of Ministers.

The member of the Council of Ministers should not have, except for the mandate of the deputy, any other state or professional function and should not take part in leading bodies of economic and trade organisations.

The member of the Council of Ministers may leave his seat vacant even when the does not ensure the vote of confidence or when he resigns.

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

The ministers respond collectively for the acts of the Council of Ministers and individually for acts of their institutions.

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

ARTICLE 36

The Council of Ministers has the following main competencies:

1. Directs the activity for the realisation of the domestic and foreign policy of the state.
1A. He leads the state administration.
2. Issues the decisions, orders and instructions in compliance with the Constitution and laws and on their implementation; they are signed by the Chairman of the Council of ministers and, when having a normative character, are published in the Official Gazette, excluding separate cases foreseen by law.
3. Guides and controls the activity of ministries and other central organs of the state administration. Coordinates and monitors the activity of local organs of administration ensuring the compulsory and similar implementation of the laws and acts of the Government.
4. Directs the activity for the fulfillment of the tasks in the field of the country's defence in conformity with the decisions of the Council of Defence.
5. Adopts measures on security, the preservation and strengthening of juridical order and of the citizens' rights.
6. Reaches international agreements, adopts and denounces those that are not subjected to ratification.
7. Works out economic and social programmes for the country's developments and the synthetic economic indices, the state budget, pursues and controls the state finances and the monetary and credit

system.

8. Makes the division or unification of the administrative-territorial units.

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

ARTICLE 37

The Council of Ministers invalidates the illegitimate acts of the ministries and other central organs of state administration.

ARTICLE 38

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

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

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

ARTICLE 39

The ministers and other persons equalled with them direct the ministries and the other central institutions in certain branches of the respective ministries.

The ministers bear responsibility for the activity of respective ministries.

The ministers, on questions under their competencies, issue orders, regulations and instructions based on the laws, ordinances and decisions of the Council of Ministers and on their implementation. The acts of ministers of normative character are issued in the Official Gazette, special cases foreseen by law excluded.

ARTICLE 40

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

ARTICLE 41

The members of the Council of Ministers respond penally to the violation of this law as well as other laws related to the exercise of their function. The penal prosecution is approved by the People's Assembly.

CHAPTER IIIA

THE ORGANIZATION OF JUSTICE AND THE CONSTITUTIONAL COURT

I. THE JUDICIAL SYSTEM

Article 1

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

Article 2

The court is the authority that decides questions and disagreements connected with the implementation of the law "On the Principal Constitutional Provisions" and of the laws by means of fixing penal punishments, civil indemnifications, the recognition of the rights and obligations of the parties as well as the ordering of measures to establish and protect them, after a fair, equal, legally ordered legal process in compliance with international standards.

Article 3

Justice is rendered in the name of the people.

The occasions and the manner of participation of the people in the granting of justice shall be specified by law.

Article 4

Justice shall be controlled by the principles of legality and equality of persons before the law on the basis of respect for the law.

Article 5

The judicial system consists of the Court of Cassation, the appellate court, the courts of the first level and the military courts.

The creation of extraordinary courts is forbidden.

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

Article 6

The court of Cassation is the highest judicial authority. Only Albanian citizens with a degree in law, distinguished for their professional ability and who have at least seven years experience in the organs of justice or as pedagogues in the Faculty of Law may be members of it.

The chairman and the vice chairmen of the Court of Cassation are elected by the People's Assembly on the proposal of the President of the Republic. Its judges are elected by the People's Assembly.

The chairman and the members of the Court of Cassation are elected to office one time for seven years,

with the right of reelection. they may not be impeded, arrested or punished for acts connected with the fulfillment of their duties.

A judge of the Court of Cassation may be removed from office only on the basis of a reasoned decision of the People's Assembly when it is verified that he has committed one of the serious criminal acts specifically provided by law or when he is mentally incompetent.

Article 7

The Court of Cassation may not investigate any question at the first level, while at the second level it judges only questions contemplated by law. It investigates only the legal basis of judicial decisions that are presented by way of objection or to which it, itself, draws attention.

Article 8

In the carrying out of their competencies, judges are independent and subject only to the law "On the Principal Constitutional Provisions" and the laws.

When during their investigation of a question, the court reaches the conclusion that the normative act does not comply with the law "On the Principal Constitutional Provisions" and with the laws, it suspends the judging and sends the materials on the question to the Constitutional Court.

Article 9

Judicial decisions must be reasoned. They may be annulled, declared void or amended only on the decision of a higher court, under conditions specified by law.

All state organs and other public authorities are obligated to secure the implementation of judicial decisions and acts.

Article 10

Judges of the first and appellate level have immunity and may not be removed from duty during the conduct of their functions.

The lifting of immunity as well as their removal may be done only by a competent organ, in cases and according to procedure set by law. No law may limit the guarantees of judges provided by this constitutional law and by international regulations.

Article 11

Judges are obliged not to take part in the decision of questions, when there is a legal reason that compromises their impartiality and also they shall avoid every position that puts real justice in doubt and lowers his [sic] dignity.

Article 12

Adjudication of questions is done orally in a public manner. A law may prohibit the attendance of an adjudication of the public or the media only in special circumstances, when this is utterly necessary for the needs of national security, public order or for the protection of the interests of minors, private parties and justice.

Procedure in the organs of justice shall take place in the Albanian language. The defendant, the parties, a witness and other participants in the judicial procedure who do not know or do not understand

Albanian have the right to speak with the assistance of an interpreter.

Article 13

The office of the prosecutor is the authority that conducts penal prosecution in investigation and in court.

In judicial activity, the office of the prosecutor protects the general interests of society, the juridical order and as well the rights and freedoms of citizens.

The office of the prosecutor is organized and functions within the judicial power as a single and centralized organ.

In the carrying out of their competencies, prosecutors are subject to law, to the orders of higher prosecutors and to decisions of the relevant judicial authorities.

Prosecutors have immunity.

Article 14

The General Prosecutor and his deputies are elected by the People's Assembly on the proposal of the President of the Republic. they enjoy immunity and the rights specified by article 6 of this constitutional law for judges of the Court of Cassation.

The organization and other competencies of the office of the prosecutor shall be regulated by law.

Article 15

The Supreme Council of Justice is headed by the President of the Republic and consists of the Chairman of the Court of Cassation, the Minister of Justice, the General Prosecutor and of nine jurists recognized for their ability, elected one time for five years in a joint meeting of the Court of Cassation and the General Prosecutor, without the right of immediate re-election.

The Supreme Court of Justice is the sole authority that decides on the nomination, removal and general discipline of judges of the first level, appellate judges as well as prosecutors.

The manner of functioning and carrying out of the activity of the Supreme Council of Justice shall be specified in regulations approved by it.

Article 16

Advocacy shall [be] conducted as a free profession. the activity of advocacy shall be regulated by a law of its own.

It is the obligation of advocates to give assistance and necessary legal counsel to their clients in accordance with law and the norms of professional ethics.

II. THE CONSTITUTIONAL COURT

Article 17

The Constitutional Court is the highest authority, that protects and guarantees respect for the Constitution and the legislation, as well as making definitive interpretation of the Constitution.

In the carrying out of its functions, it is independent and subject only to the Constitution.

Article 18

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

The members of the Constitutional Court shall elect, by secret vote, its chairman, who serves in this office for three years with the right of re-election.

The term of three members of the Constitutional Court selected in the first election shall end in three years. Their names shall be selected by lot, in each group of judges elected by the People's Assembly and by the President of the Republic. After three other years, they shall be replaced in the same manner, by lot, by three other judges. The replacement judges shall serve for 12 years, without the right of re-election.

Article 19

Before they begin to carry out their functions, the constitutional judges shall take an oath before the President of the Republic.

(The formula of the oath is: "I solemnly swear that during the performance of my duties I shall at all times be faithful to the constitution of the Republic of Albania").

Article 20

Members of the Constitutional Court shall be jurists recognized for their ability, who have worked for at least ten years in juridical activity or as pedagogues in the Faculty of Law and who have a high more reputation.

Article 21

A constitutional judge may not be a deputy, a member of the Council of Ministers, a judge, an investigator or a prosecutor, a member of a party or other political organization or a union, nor may he conduct other public and private activity that may compromise his independence or impartiality.

Article 22

A Constitutional judge is not responsible for decisions and for opinions given in the conduct of his functions. He may not be proceeded against, impeded, arrested or punished without the authorization of the Constitutional Court.

Article 23

The function of the constitutional judge ends when:

a) he does not perform his functions for more than six months without justifiable cause; b) he hands in his resignation; c) when he is designated for a position that is incompatible with his function; d) [c in Albanian] the term for which he was elected ends.

In this case the judge continues to perform his functions even after the term only when a question begun cannot be concluded within this time.

When, for one of the causes specified above, the function of a constitutional judge ends before the conclusion of the term for which he was elected, the People's Assembly or the President of the Republic, as appropriate, shall elect a new judge, who shall serve in this office until the day when the term of the replaced judge would have ended.

Article 24

The Constitutional Court has these competencies:

1. It makes interpretations of the Constitution and constitutional laws.

2. It judges whether laws and acts that have the force of law are compatible with the Constitution.

3. It judges whether acts and regulatory provisions are compatible with the Constitution and with the law.

4. It decides on the compatibility with the Constitution of international agreements that are concluded in the name of the Republic of Albania before their ratification, as well as on the compliance of the laws with generally accepted norms of international law and with agreements to which the Republic of Albania is a party.

5. It resolves disagreements of competency between the [executive, legislative and judicial] powers as well as those between local authorities and the central power.

6. It decides questions connected with the constitutionality of parties and other political and social organizations and can prohibit their activity.

7. It resolves questions on the legality of the election of the President of the Republic, the deputies and also popular referenda, promulgating the conclusive results.

8. It investigates penal accusations raised against the President of the Republic.

9. It resolves conclusively complaints of persons presented by way of constitutional control for violation of their basic rights by illegal acts.

10. It decides on the suspension of the implementation of a law when it observes that it is not compatible with the law "On the Principal Constitutional Provisions" and on the suspension or repeal of acts and other provisions, when it observes that they are not compatible with the law "On the Principal Constitutional Provisions" or with law, as well as taking measures that it deems appropriate for the question that it is adjudicating.

When the court observes that one of the rights protected by the constitutional law has been violated, it declares its recognition and guarantee and, when it is the case, the repairing of the consequences and due compensation for the damage incurred.

The Constitutional Court, also, may decide that every state organ, every social organization or juridical person shall annul, repeal or amend an individual decision by which the constitutional rights of a person have been infringed.

Article 25

The Constitutional Court starts action on a complaint or on its own initiative.

For the initiation of the procedure, the President of the Republic, a parliamentary group, one-fifth of the deputies, the Council of Ministers, the judges, local organs of power, as well as every person whose freedoms and rights provided in the Constitution have been violated, have the right to bring a complaint.

Article 26

The Constitutional Court reaches its decisions by majority vote. A judge in the minority has the right to join to the decision his own written opinion.

Decisions of the court are conclusive and final. They must be reasoned. In case of doubt or disagreement as to the meaning of a decision, the court has the right to interpret it, on its own initiative or on the request of interested parties within 30 days from the date of notification of the request.

Laws, acts that have the force of law, sub-legal acts and their particular provisions that are decreed as incompatible with the law "On the Principal Constitutional Provisions" or with the law, with generally accepted norms of international law or agreements to which the Republic of Albania is a party, lose force the day after the promulgation of the decision in the "Official Gazette" [sic, even though the name of the publication has been changed].

In other cases the decision of the constitutional Court is effective at the time specified by it. When the annulment, repeal or amendment of laws or other acts is decided and the resulting relations require juridical regulation, the decision of the Constitutional Court shall be made known to the People's Assembly or other competent organs which shall take the measures provided by the Constitution.

Article 27

The acts of the Constitutional Court express the constitutionality and legality of the questions that it resolves.

Article 28

The organization and functioning of the Constitutional Court, the procedure of resolving questions as well as other basic questions on the performance of [its] duties shall be regulated by law.

III. TRANSITIONAL PROVISIONS

Article 29

The judicial administration is subordinate to the Ministry of Justice.

The judicial power shall have its own budget, which shall be approved by the People's Assembly on the proposal of the Council of Ministries and shall be set in the amount that permits it to function normally.

Article 30

The pay of judges and prosecutors shall be set by law.

Article 31

In Article 16 of the law "On the Principal Constitutional Provisions" [dealing with powers of the People's Assembly], these amendments shall be made:

Point 2 shall be changed as follows: "It approves and amends the Constitution and laws."

Point 9 is repealed [dealing with the nomination and discharge of the Supreme Court and the General Prosecutor and his deputies].

Article 32

In the law "On the Principal Constitutional Provisions," the first paragraph of Article 42 is changed: "The organs of local power shall be administered freely and elected according to rules set by special law."

Article 33

*This law is effective immediately.
Tirana, April 29, 1992 No. of law: 7561
Promulgated as decree no. 171, dated April 30, 1991 of the President of the Republic of Albania, Sali
Berisha.*

*Fletorja Zyrtare e Republikës së Shqipërisë, No. 2, Maj 1992, fage 81.
Official Notebeook of the Republic of Albania, No. 2, May 1992, page 81.*

CHAPTER IV FINAL PROVISIONS

ARTICLE 42

The creation, organisation and activity of the local organs, of power, administration, courts and Attorney General are made according to certain regulations with existing legal provisions, excluding those that run contrary to this law.

The investigator's office depends administratively on the Minister of Justice.

ARTICLE 43

The drafts for amendments to this law might be forwarded by the President of the Republic of Albania, the Council of Ministers or one-fourth of all the deputies.

The adoption of amendments is done by the People's Assembly with a majority of two-thirds of all the deputies.

ARTICLE 44

The provisions of this Law operate till the adoption of the Constitution of the Republic of Albania, whose draft will be worked out by the Special Commission charged by the People's Assembly.

The composition of the Commission and the schedule of the presentation of the draft-constitution is defined by special decision of the People's Assembly.

ARTICLE 45

The Constitution of the PSRA, adopted on 28.12.1976, as well as its later amendments, are invalidated.

ARTICLE 46

This Law enters into force immediately.

Tirana, 29.4.1991

Law No: 7491

Chapter V
FUNDAMENTAL FREEDOMS AND HUMAN RIGHTS

The fundamental freedoms and human rights are sanctioned and guaranteed by means of the following provisions:

Article 1

The right to life

The right to life of any individual shall be protected by law. No-one shall be deprived of his life, except when a judgment is to be enforced because of an extremely grave crime committed deliberately, where the law provides for the death penalty. The death penalty shall not apply to juveniles under age of 18 at the time the crime is committed, or to women.

Article 2

Freedom of expression

The freedom of expression may not be violated. Any prior censorship is prohibited.

No law may be enacted to restrict the freedom of speech, press or any other mass media, except in those cases where the protection of children's interests or the lives of people are concerned. Everyone enjoys the right to freely express his opinions by speaking, writing or any other means of dissemination. The right to be informed may not be denied to anyone. The exercise of these freedoms and rights may not be restricted, except in those cases prescribed by law, which constitute necessary means in a democratic society in the interests of national security, territorial integrity, public safety and order, or for the prevention of crime, for the protection of health or morals, the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 3

The abolition of torture

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

Article 4

The prohibition of forced labor

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

Article 5

An individual's freedom and personal security

An individual's freedom and personal security may not be violated. No one may be taken into custody without sufficient evidence. The detained person shall be given an immediate explanation concerning the reasons for the detention and, within a reasonable time, shall appear before a judge. No one may be kept in custody for more than 48 hours. Every person kept in custody or under arrest shall be given the explanation that he is under no obligation to submit a declaration and that he has the immediate right to communicate with a lawyer. The arrested person shall have the right of appeal against his arrest in a court.

Article 6

No punishment without a law

No one may be accused of or found guilty for an offence which was not punishable by law at the time the offence was committed. No sentence graver (heavier) than the one provided for by law at the time the offence was committed may be imposed. The favorable criminal law shall have a retroactive effect.

Article 7

Presumption of innocence

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

Article 8

Criminal procedural guarantees

No one, during criminal proceedings, shall be deprived of the right to: a) be informed immediately and in detail about the nature of the charge he is accused of; b) have sufficient time and facilities to prepare for his own defense; c) have the aid, free of charge, of a translator in those cases where the accused cannot speak or understand Albanian; d) be defended by himself or by a lawyer that he has chosen, and be able to speak freely and privately with the latter, and be provided with a legal aid by any lawyer, where the accused does not possess sufficient means; e) question witnesses and request the appearance of further witnesses, expert and other persons who can clarify the matter by giving evidence.

Article 9

No enforcement to confess one's guilt

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

Article 10

Invalidity of unlawful evidence

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

Article 11

The right to speech before a trial

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

Article 12

Prohibition to judge a single offence twice

No one may be judged or sentenced more than once for a single offence, except for where a higher court rules that the case shall be judged again.

Article 13

The right to appeal

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

Article 14

The right to rehabilitation and compensation

Anyone being punished due to a misjudgment or due to encroachment by an unlawful administrative act shall have the right to rehabilitation and compensation in compliance with the law. Anyone suffering damage due to the act of another shall have the right to be compensated in accordance with the law. No prisoner may be denied humane treatment or moral rehabilitation.

Article 15

Prohibition to encroach on the private life and dignity of the individual

The private life and dignity of an individual may not be encroached. Information concerning private life of an individual may be collected only with his permission, or where this is indispensable in carrying out the investigation for an offence, or by approval of a competent governmental body, assigned by law, for reasons of national security. The collection, handling and final use of personal data, as well as the supervision and secrecy thereof, are governed by law. No one may be denied the right to know the content of the information collected about him, except for where the interests of criminal proceedings or national security are involved. It is prohibited to use personal data for purposes other than those for which they were collected.

Article 16

Untouchability of dwelling and individual

The dwelling is untouchable. Entry into a dwelling without the consent of the dweller is possible only by a court decision in cases prescribed by law, or this is necessary to avoid any imminent danger to the life or health of dwellers, to protect property, or when a crime is being, or has just been committed. No one may be subjected to a personal search, except in cases of entering or leaving the territory of the state, or in cases where public security is imminently threatened.

Article 17

Privacy of correspondence

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

Article 18

Freedom of conscience and religion

The freedom of thought, conscience and religion may not be violated. Everyone may freely change his religion or beliefs and may manifest them, either alone or in community with others and in public or in private, in worship, teaching, practice and observance. Freedom to manifest one's religion or beliefs shall be subjected only to such limitations as are prescribed by law and are necessary in a democratic society, for the protection of public order, health and morals, or the rights and freedoms of others.

Article 19

The right to elect or to be elected

Every citizen above the age of 18 has the right to elect and be elected. Those citizens who have forfeited their legal and civil capacity are excluded from these rights. Those persons arrested and those who are serving a sentence shall have the right to elect only. The vote is personal, equal and secret.

Article 20

The right to organization

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

Article 21

The right to assembly

Peaceful assembly, without arms, may not be restricted. Assemblies in squares and public passages may be organized with the prior permission of a competent body, which may refuse permission where there is sufficient ground to believe that security and public order are seriously threatened.

Article 22

The right to movement

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

Article 23

Prohibition of deportation and extradition

No Albanian citizen may be deported from the territory of the state. Extradition of a citizen may be allowed only where it is provided for explicitly in international documents to which the Republic of Albania is a party. Mass deportation of foreigners is prohibited. Foreign individuals may be deported in cases prescribed by law.

Article 24

Citizenship

No one may be deprived of his Albanian citizenship without his consent, or of the right to maintain his citizenship. The terms for gaining and giving up citizenship are governed by law. All Albanian citizens

residing abroad enjoy the protection of the state.

Article 25

Equality before the law

All persons are equal by law before the law. No one may be discriminated against on account of sex, race, ethnic belonging, language, religion, economic and financial, educational and social conditions, political opinions, parental belonging, or any other personal circumstances.

Article 26

The right of minorities

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

Article 27

The right to private property and inheritance

No one may be denied the right to own private property, either alone or jointly with others, or the right to inheritance. The acquisition, enjoyment and transition of property, and the right to inheritance are governed by law. No one may be expropriated, except in the public interest and against full compensation.

Article 28

The right to employment

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

Article 29

Trade-union freedom

The employees shall have the right to freely associate in trade unions to protect their interests in matters concerning labor and social insurance.

Article 30

The right to strike

The right to strike by employees, when they intend to ameliorate their working conditions, to demand higher wages or any other profit obtained through work, may not be restricted. The terms and rules for exercising such a right and the guarantees to provide the necessary services for society, are laid down by law.

Article 31

The right to insurance and social assistance

Everyone reaching the retirement age or suffering from a disability to work shall have the right to social insurance, in conformity with a system laid down by law. Employees becoming unemployed for a reason beyond their will and control shall have the right to compensation according to the terms prescribed by law.

Article 32

Marriage and the family

Everyone of marriageable age shall have the right to freely choose his/her partner and found a family. Marriage and family shall enjoy special protection by the state. Contracting and dissolving of a marriage shall be governed by law.

Article 33

Protection of children and women

Children, juveniles, pregnant women and young mothers shall enjoy the right to special protection provided by law. Children born out of wedlock shall have equal right to children born within wedlock.

Article 34

Health care by the state

Everyone shall have the equal right to health care by the state. Compulsory medication shall be administered only for the benefit of the patient, in those cases envisaged by law. No one shall be subjected to a medical or scientific experiment without his consent.

Article 35

The right to education

Everyone shall have the right to an education, free of charge, which lasts no less than 8 years. General secondary education shall be open to everyone. Secondary and higher vocational training shall be conditioned only on professional criteria. Pupils and students shall have the right to be educated in private schools, too. University autonomy shall be guaranteed.

Article 36

The freedom of creation and the intellectual property rights

Everyone shall enjoy freedom of creation in science, technicality, literature and arts. Copyright shall be protected by law.

Article 37

The right to petition

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

Article 38

Fair legal process

The freedom, the property or the rights acknowledged by law may not be encroached without a fair legal

process.

Article 39

Judicial restriction of the right

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

Article 40

The guarantees to a fair trial

No one may be denied the right to a fair, public and quick trial by a competent, impartial and independent court. The presence of the public and mass media during the trial may be restricted when the interests of the public order or morality, national security, the private life of the parties in court or the justice demand it.

Article 41

Temporary restriction of rights

The exercising of some specific rights may be temporarily restricted by law in a situation of national emergency or war, with the exclusion of the rights provided for in articles 1 (right to life), 2 (freedom of expression), 3 (abolition of torture), 6 (no enforcement to confess one's guilt), 19 (freedom of conscience and religion), 25 (equality before the law), 39 (judicial restitution of the right), and 40 (guarantee to a fair trial).

Article 42

The present law becomes effective 15 days after its publication in the Official Gazette.