

23 JANUARY 1993

DRAFT CONSTITUTION FOR ALBANIA

PREAMBLE

We, the people of Albania, desiring to construct a democratic and pluralist state based upon the rule of law, to guarantee the free exercise of the fundamental rights and liberties of the individual, and to protect free development of the personality of each individual towards the goals of peace, welfare, culture and social solidarity; being aware that peace, understanding and collaboration between peoples are the highest values of the entire community of nations, define and establish this Constitution:

PART I

BASIC PRINCIPLES

Article 1

The Republic of Albania is a unitary, sovereign and independent state; its territory is indivisible.

Article 2

The Constitution is the Fundamental Law of the Republic of Albania. The People shall protect the integrity and the spirit of the Constitution.

Article 3

The national sovereignty belongs to the people, who shall exercise it in the forms and limits foreseen by the Constitution.

Article 4

Legislative, executive and judicial powers are separated and distinguished.

Article 5

The Republic of Albania shall recognize and respect generally accepted norms of international law, as well as principles and provisions of the treaties and agreements to which it is a party. Article 6 Political parties participate in the forming of the political will of the people through elections. They may be freely

established. Their organization must accord with democratic principles.

Parties whose activities aim or seek to endanger the existence of the Republic of Albania or to impair or abolish fundamental democratic institutions, are forbidden.

Article 7

In foreign relations, the Republic of Albania shall defend its independence and national interests, and pursue a policy of cooperation, good neighbourliness, peace and international security.

The Republic of Albania shall protect the rights of Albanian citizens living abroad. It shall support the recognition and preservation of the national rights of the Albanian population living beyond the state's frontiers.

Article 8

The Republic of Albania shall not have an official religion. Religious activity which threatens the Republic of Albania or its fundamental democratic institutions is forbidden.

Article 9

State power shall be exercised by public organs established by law.

No state function or official status may be created or abolished except by law.

Article 10

Public organs and citizens shall implement the Constitution and laws.

Article 11

The Armed Forces of the Republic of Albania shall guarantee its sovereignty and independence and safeguard its territorial integrity and constitutional order.

Article 12

The Country's economy shall be based on the market principle to the extent that it is compatible with the public interest.

Article 13

The official language is Albanian.

Article 14

The national flag is red with a double-headed eagle in the middle.

Article 15

The national anthem is "Round Our Flag United".

Article 16

The capital city of Albania is Tirana.

PART II

HUMAN RIGHTS AND FREEDOMS

Article 17

Freedom of thought, conscience, and belief is inviolable.

No law may be passed imposing a prior restraint on speech, press or other means of communication except to protect children or save human life. Everyone may freely express his thoughts by speaking, writing and other forms of dissemination, but he may be liable according to law for abuse of this freedom.

The right to be informed may not be denied to anyone.

Article 18

The state may not infringe the privacy of any person.

Data about the private life of a person may not be collected without his permission except when necessary for a criminal investigation, or, with the approval of the Attorney General, when necessary for national security. No person shall be denied examination of data about him except by a court order when necessary to protect a criminal investigation or the national security.

The state may not infringe the privacy of correspondence or other forms of private communication unless a court has determined it is necessary for a criminal investigation or the Attorney General has determined it is necessary for the national security. A home can be entered without consent of the

occupant only with a court order as provided by law or to prevent an immediate danger to life.

No one shall be subject to personal control except when he enters or leaves the territory of the state, or to eliminate an immediate danger to the public security. Article 19

No one may be denied the right to organize collectively for any lawful purpose.

Restrictions on the exercise of this right by civil servants may be imposed by law.

Article 20

The right of peaceful assembly, without arms, may not be restricted.

Assemblies in locations for free use by the public may be held without applying in advance for permission.

Assemblies in other places of public circulation may be limited by a requirement for prior permission from the relevant authority which may refuse permission only on well-grounded reasons seriously endangering public order and security.

Article 21

No one shall be denied the right to private property individually or jointly.

Acquisition, enjoyment, alienation and inheritance of property may be regulated by law.

No one may be deprived of property except in the public interest, in which case appropriate compensation shall be provided.

Article 22

The right of workers to strike for improvement of labor conditions, salary or other employment benefits cannot be restricted.

Restrictions may be imposed by law for special categories of workers.

Article 23

No one shall be denied the right to address individually or collectively any state organ.

Article 24

Everyone born in Albania is an Albanian citizen.

No one born of even one Albanian parent may be denied Albanian citizenship.

No one may lose Albanian citizenship except with his explicit consent.

Article 25

No one may be denied the right to change residence or to circulate within Albania for any lawful purpose.

Citizens may freely leave the country and return.

No Albanian citizen can be expelled.

Foreigners may not be deported en masse. Deportation of individual foreigners is allowed in circumstances defined by law.

Article 26

Every citizen aged 18 and over has the right to vote and be elected to office.

Every vote is personal, equal and secret.

Article 27

Everyone's right to life shall be protected by law.

[VARIANT: No one may be deprived of life except by sentence of a court following conviction of a very serious crime for which this penalty is provided by law.

Capital punishment does not apply to women or to young men aged under 18.]

Article 28

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

Article 30

No one shall be required to perform forced labour except in execution of a sentence by a court, or in

service exacted in an emergency or natural calamity threatening human life or health.

Article 31

Freedom, property and rights granted by law cannot be abridged without due process of law.

No one shall be deprived of his right to a fair, public and speedy hearing by a competent, independent, and impartial court.

The press and the audience can be excluded from part or all of a trial when their presence would jeopardize public order or morals, national security, the privacy of the litigants or the interest of justice.

Article 32

No one may be accused or declared guilty of a crime which at the time of its commission was not considered such by the law.

No one may be given a more severe penalty than the one provided by law at the time of the commission of the offense.

Article 33

No one shall be detained without good cause.

When detained, a person must be immediately informed of the reason and presented within a reasonable time to a judicial authority.

No one shall be detained more than 72 hours without judicial approval.

Everyone detained or arrested has a right to communicate immediately with a defense counsel.

An arrested person may appeal his arrest.

Article 34

No one shall be forced to testify or confess against himself.

Article 35

No one may be found guilty so long as his guilt has not been proven.

No one may be found guilty on the basis of data collected by unlawful means.

Article 36

No one may be convicted unless he is present in court.

Article 37

During criminal proceedings, no one may be deprived of the right: (a) to be informed at once and in detail of the accusation; (b) to have adequate time and facilities to prepare a defence; (c) to have the free assistance of an interpreter, if he does not understand or does not speak the Albanian language; (d) to defend himself personally, or with the assistance of a defence counsel chosen by him, and to communicate freely and privately with him; to have a defence counsel supplied without charge when he cannot afford the cost; (e) to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts.

Article 38

No one may be convicted or punished more than once for the same offence, except when the retrial of a case is ordered by a higher court.

No one who has been acquitted may be tried again for the same offense.

Article 39

No one may be denied the right of an appeal to a higher court established by law.

Article 40

No one may be denied the right of rehabilitation and compensation in accordance with law in the event he has been sentenced by a miscarriage of justice.

No prisoner may be denied humane treatment and moral rehabilitation.

Article 41

No one shall be denied at least eight years of education paid for by the state.

Secondary education is open to all.

Higher education may only be conditioned on achievement in learning.

Pupils and students have the right to attend private schools instead.

Article 42

Every one has the right to social security on old age or when disabled, according to a system established by law.

Article 43

Every one who has come of marriage age is entitled to choose a spouse and create a family.

Marriage, family and children shall enjoy special protection of the state.

Divorce shall be regulated by law.

Article 44

Children, youths, pregnant women, and new mothers are entitled to special protection by law.

Article 45

No one shall be denied equal access to any medical care provided by the state.

Forced medical treatment may be administered only for the sake of the patient in cases established by law.

Article 46

All citizens are equal before the law.

No one may be discriminated against on the basis of sex, race, religion, ethnicity, political opinion or parentage.

Article 47

The state may not limit the expression, preservation or development of the cultural, religious, or language identity of ethnic minorities.

This right may not be interpreted to justify acts which foster ethnic division or strife.

No one may be forced to declare his nationality.

Article 48

No one who is deprived of a right recognized in this Constitution may be denied an effective remedy in court.

PART III

STRUCTURE OF GOVERNMENT

PARLIAMENT

Article 49

The legislative power is exercised by Parliament which consists of one chamber, with not less than 140 members.

At least one hundred members shall be elected by majority vote, but each district shall contain at least one constituency.

The remaining memberships shall be distributed among parties in proportion to the votes cast for their slates in the first round. Article 50

The Parliament shall be elected for a term of four years.

In case of a state of war or emergency, the term can be extended only with approval of the President of the Republic. The election of a new Parliament shall be held not later than sixty days after either the expiration of the mandate of the previous Parliament or the day it is dissolved.

The mandate of a Parliament shall continue until the first meeting of a new Parliament.

Article 51

Within twenty days after elections are concluded, Parliament shall be convened for the first session by a decree of the President of the Republic.

Parliament shall meet for two sessions each year. The first session shall begin on the third Monday of January and the second session shall begin on the first Monday of September.

Parliament shall meet in extraordinary session when called by the President of the Republic, the Prime

Minister, or one-third of the Deputies.

Article 52

Parliament shall elect its Speaker and Vice-speaker.

Parliament shall establish from its membership permanent and temporary committees.

Decisions of Parliament shall require a majority vote of its members unless otherwise provided by this Constitution.

Parliament shall adopt its own regulations.

Article 53

Meetings of Parliament shall be public. A meeting of Parliament can be closed to the public upon a motion by the President of the Republic, the Prime Minister, or one-fifth of the Deputies, which is approved by two-thirds of its Members.

Article 54

Every Albanian citizen who has resided in Albania at least the last two years and reached the age of twenty-one can be elected to Parliament.

Article 55

The status of Deputy shall be incompatible with any other public or private function.

If a Deputy is appointed minister, he shall be replaced in Parliament during the time he holds this office.

Article 56

A Deputy represents the whole people and is not bound by any obligatory mandate.

A Deputy may not be responsible for his votes or for opinions expressed by him in Parliament.

A Deputy may not be subject to criminal proceedings without the authorization of the Parliament. A Deputy may be detained without authorization when he is apprehended during the commission of a felony.

Article 57

Parliament may pass any law it finds necessary and proper to the exercise of its power under this Constitution.

Article 58

The Government [Prime Minister] and any Deputy have the right to introduce draft laws into Parliament.

Draft laws which bring about financial effect can be introduced only by the Government [Prime Minister].

Article 59

A draft law shall be read at least twice, on different days. Article 60

Acts of Parliament shall be signed by the Speaker.

Article 61

A law is considered enacted when, within fifteen days after it is presented to the President of the Republic, he has not exercised his veto.

A law enters in force no earlier than ten days after its publication in the official gazette.

When Parliament so directs by a vote of two-thirds of its Members and the President of the Republic consents, a law passed in response to an emergency or war may enter into force immediately after it has been publicly announced. It must appear in the next issue of the official gazette.

Article 62

The President of the Republic shall have the right to return the law to Parliament only once, accompanied by his reasons. The veto of the president can be overridden by a vote of no less than two-thirds of the Members of Parliament.

Article 63

On behalf of the Government, the Prime Minister shall propose a budget at the beginning of the autumn session which shall not close without approving it.

If the budget law has not been approved by the beginning of the next fiscal year, the government may carry out the budget of the last year until a new budget is approved.

Article 64

Within the first session of the next year, the Government shall present to Parliament the consumptive budget of the last year.

No expenditure shall be authorized except by law.

Duties and taxes shall be determined by law and only for public purposes.

Article 65

Parliament shall have the power to ratify treaties which bring about changes in legislation, grant amnesty, declare a state of war or emergency, or call for a referendum. This power may only be exercised by law.

During a state of war or emergency, Parliament may by law abridge human rights except for those provided in articles eight, eleven, twelve, fifteen, twenty-nine, and thirty-one of this Constitution.

THE PRESIDENT OF THE REPUBLIC

Article 66

The President of the Republic is the Head of State.

Every Albanian citizen who has resided in Albania at least ten years and reached the age of thirty-five can be elected President of the Republic.

Article 67

The President shall be elected by secret vote of an electoral body composed of the Members of Parliament and two representatives elected from each district as provided by law.

The President shall be considered elected when a majority of all members of the electoral body have voted for him.

If, in the first round, none of the candidates has obtained a majority, the candidate who obtains the most votes in a second round, held within seven days, is considered elected. In the case of a tie, the older candidate is considered elected.

The President shall take office after an oath in front of the electoral body as provided by law, but not before the previous President leaves.

After the President takes office, the electoral body shall be dissolved.

Article 68

The President shall be elected to a term of five years, and may be reelected only once. The new election of the president shall be held no later than thirty days before the mandate is over.

The mandate of the President can be extended only when Parliament cannot convene because of war or natural disaster.

Article 69

The duty of President of the Republic shall be incompatible with any other public, party or private function.

Article 70

The President of the Republic shall answer only for felonies.

Removal of the President for serious violations of the Constitution shall be proposed by not less than one-fourth of the Deputies and shall be decided by no less than two-thirds of them.

Article 71

When resignation, discharge, death, or serious incapacitation renders the President unable to exercise his duties, the Speaker of Parliament shall take his place and exercise his powers except the power to dissolve Parliament.

In this case, the election of a new President shall take place within forty-five days.

Article 72

Upon a proposal by the Prime Minister, the President may dissolve Parliament.

Article 73

The President signs treaties and international agreements. Those subject to Article 65 must first be ratified by the Parliament.

The President appoints the diplomatic representatives of Albania and receives foreign diplomatic

representatives.

Article 74

The President has the power to pardon, to grant citizenship or permit its renunciation according to law, to give decorations and titles of honour, to promote military officers to general grade, and to fix the date of elections of Parliament, organs of local government, and the Electoral Body.

Article 75

The President is Commander-in-Chief of the Armed Forces. For the purpose of national defense, he may create consultive bodies.

(Variant: The President is Commander-in-Chief of the Armed Forces and heads the Council of Defense as created by law.)

Article 76

No act of the President is valid without the countersignature of the prime minister or of the relevant minister except as provided in Article 83.

Article 77

The President shall send to Parliament messages concerning important questions of state policy.

GOVERNMENT

Article 78

The Executive power shall be exercised by a government composed of a Prime Minister and ministers. The Prime Minister shall be elected by Parliament upon the nomination of the President of the Republic. If the proposed candidate is rejected twice, the President shall dissolve Parliament.

Article 79

The function of criminal prosecution is executive in nature and vests in the Minister of Justice. Article 80

Ministers are appointed and removed by the President upon the proposal of the Prime Minister. The Government takes office after an oath administered in front of Parliament as provided by law.

Article 81

Anyone qualified to be a Deputy can be appointed minister. The duty of minister is incompatible with any other private or public function. Ministers enjoy Parliamentary immunity and cannot be prosecuted without the authorization of the President of the Republic.

Article 82

The Prime Minister shall represent the Government, conduct the general policy of the state, and control or supervise the different branches of public administration. The Prime Minister shall appoint one of the ministers as his deputy. The Prime Minister shall appoint other high executive officers as prescribed by law.

Article 83

If the Parliament, by a majority of its members, approves a motion of no confidence or rejects a motion of confidence, the President of the Republic, within ten days, either nominates a new Prime Minister or dissolves Parliament. In this case, all ministers must resign.

Article 84

The Government shall continue in office until the members of a new government have taken their oaths.

Article 85

When Parliament is not in session and cannot convene, the Government may issue decree laws, which must be approved by Parliament in the next session. Otherwise, they expire. A decree law can take effect only after it has been publicly announced and the President of the Republic has given his consent. The decree law must be published in the next issue of the official gazette.

Article 86

The Prime Minister shall be responsible and account to Parliament for the general policy of government, and each minister for his respective activity. THE JUDICIARY

Article 87

The judicial power is exercised by the Supreme Court and other courts established by law.

The Supreme Court shall consist of nine judges.

Article 88

Judges shall be appointed by Parliament upon the nomination of the President of the Republic.

Their tenure may not be limited and their pay and benefits may not be reduced.

Parliament may not remove them from office except for commission of a serious crime. Article 89

Judges are forbidden political activity.

They can be removed for political activity only by an order of the Supreme Court.

Article 90

Every judge has the power, in a case properly within his competence, to apply directly the Constitution.

Article 91

Every judgment shall contain a statement of the law and facts on which it is based.

Every court shall publish judgments and any opinions concurring and dissenting unless all parties agree otherwise.

Article 92

Parliament shall define the legal procedure for judicial cases, as well as the assignment of penalties, but cannot resolve a specific case.

Article 93

Parliament may create specialized courts, but not ad hoc courts.

Article 94

No judge shall be liable for his decisions except with the approval of the Supreme Court. He shall not be responsible for his concurring or dissenting opinions.

Article 95

The judiciary shall have its own budget.

Article 96

Being a judge is incompatible with any state or private function.

PART IV

RATIFICATION AND AMENDMENT OF THE CONSTITUTION

Article 97

This Constitution shall be effective when approved by no less than two-thirds of the members elected to a Constitutional Convention.

The Constitutional Convention shall consist of the members of the People's Assembly and two representatives elected by each District Council.

ARTICLE 98

Amendments to this Constitution can be introduced by one-fifth of the members of Parliament.

An amendment becomes effective when approved by two-thirds of the members of two consecutive Parliaments.

The President of the Republic cannot return a Constitutional amendment.
