

**LEGAL AND INSTITUTIONAL REFORM IN ALBANIA
AFTER THE DEMOCRATIC REVOLUTION
(1991 - 1997)**

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Foreword

Albania is a small country of South-Eastern Europe situated on the West of the Balkans peninsula. It is bordered on the North by Yugoslavia (Montenegro and Serbia) on the East by the Former Yugoslav Republic of Macedonia and on the South by Greece. On the West, the Adriatic separates Albania from Italy.

Albania, mainly mountainous, with just a few plains on the coast, has a surface of 28.000 sq.km and a population of 3.5 mil. inhabitants.

Albanians are among the oldest populations of Europe, descendants of Illyrians and neighbors to the Greeks and Romans. Albanians (Illyrians) were conquered for about 700 years by the Roman Empire, about 1.000 years by Byzantium and 500 years by the Turkish Empire. Albanians made history and were known in Europe with Skanderbeg, the Albanian National Hero, who, at the head of the Albanian army resisted the Ottoman invaders (1443 - 1468).

Albania gained its independence from the Turkish Empire in 1912. The Great Powers defined its boundaries unjustly, leaving out nearly half of the population living in Kosovo (Serbia), Macedonia and Montenegro.

After the First World War (1920 - 1924) a pluralistic and democratic regime was established in Albania. In 1925 Ahmet Zogu was president of Republic and in 1928 he declared himself king and ruled Albania until 1939. Albania was conquered by fascist Italy till 1943 (year in which Italy capitulated) and until 1944 by nazi Germany.

Albania belongs to the European civilization. About 60 % of its population was converted to Islam during the Turkish occupation, the rest is catholic and orthodox.

Due to long periods of occupation there is little governing tradition. History mentions the existence of Illyrian states (IV -II centuries BC), the feudal states during XII - XV centuries with a climax reached with the independent state led by Skanderbeg (XIV century); and the independent Albanian state from 1912 to our date.

Juridical traditions of the Albanians have since ancient times relied on the continental tradition. Since the Roman occupation (II century BC) until the Ottoman occupation (XV century) was used the roman-Byzantine code of rights. Ottoman code of rights replaced it after the Ottoman occupation, for more than five centuries, until the proclamation of independence in 1912. In the period 1925 to 1939 the Ottoman legislation was gradually abrogated and replaced with western models of Italy, France, Germany and Switzerland. Since ancient times, along the acting legislation, in Albania has been preserved a popular customary law (honor, hospitality and blood-feud code), still active in the rural areas and with an important impact on the Albanian mentality. This law has acted along the occupier's or governing legislation, and often has had the upper hand.

During the Second World War, beside the Communist Party (later the Party of Labour of Albania) led by Enver Hoxha, two other parties were created, the National Front (a nationalist liberal democratic party) and Legaliteti (a monarchist party), both annihilated by the partisan forces led by the Communist

Party. After the Second World War, with the installation of the communist regime (1945 - 1990) no other parties were allowed, while the parliament was *de-facto* eliminated being that all powers were in the hands of the one party-state, like in other East European countries (1).

The communist regime in Albania was much tougher than in other communist countries. As concerns economy, an extreme collectivization process, both in towns and rural areas, led to an economic break-down; social policies led by class struggle concepts brought forth severe punishment for the political opponents, massive exiles, massive violation of human rights and prohibition of religious practices and institutions; as concerns foreign policy: it was complete isolation from the outside world. In 1960 Albania broke away from the Soviet block and in 1968 from the Warsaw Pact. Fearing an imaginary attack the country was covered in small bunkers and the population had to undergo continuous military drills.

Due to the long isolation, the political pressure as well as the extreme poverty, the democratic processes started in Albania later than in other Eastern countries. They were relatively peaceful, but explosive as concerns the massive exodus, ravaging of public property and anarchy.

1. PROLOGUE OF A REVOLUTION

The democratic events in the Eastern Europe were perceived in Albania in different ways. To the bulk of the population they were hope and better prospective, to the governing clique confusion.

Of special impact were two major events: the Berlin Wall (October 1989) and the toppling of the Ceausescu's regime in Rumania (December 1989) (2). Live TV transmissions by foreign channels terrified the communist government in Albania.

In order to avoid or delay the democratic revolution the leading Party, traditionally conservative, decided to adopt a milder action line. In the party plenums during 1989 - 90, a few changes that constituted cosmetics to the hard line were anticipated. (3)

On the eve of Mr. Javier Perez De Cuellar's (former Secretary General of UN) visit to Albania, the People's Assembly adopted a few changes to the existing legislation. The major change was the re-creation of the Ministry of Justice (4), which functions were performed by the High Court. (Since 1966 until 1990 there was no Ministry of Justice in Albania). According to the law the Ministry of Justice had to take care and organize the functioning of court-houses, preparation of draft laws as well as training of lawyers.

At the same time, the People's Assembly passed the bill "On Lawyers in the PSR of Albania" (5). The Lawyer's profession was revoked since 1966. According to the law passed the Lawyer's task was to provide juridical assistance on penal and civil cases. The Ministry of Justice was to organize the implementation and starting of work of the lawyers.

Among the special changes was the abrogation of the Article 47 of the Penal Code, which defined fleeing abroad as the crime of high treason against the state. During the 45 years of communist regime this crime was considered one of the worst and sentences ranged from 10 to 25 years imprisonment or capital punishment. This Article has sentenced hundreds of people trying to flee Albania or killed many without trial on the border line. Fleeing the country was considered a political crime with repercussions. The family of the accused was banished. The above article was replaced by a provision according to which crossing the border in non authorized points was a violation.

Article 55 of the Penal Code (envisaging as crime the propaganda against the state) was changed to a certain extent.

The People's Assembly invalidated the Decree "On banishment and exile as administrative procedures" (6). Many political opponents have been banned from their home-places by means of this decree; their families sent to concentration camps in distant rural areas under the strict supervision of the secret police. The decision for the exile was taken by an administrative commission and was irreversible through appeal to any other judiciary body.

The legislative pack was completed with the Decree "On Issuing of Passports to travel abroad and relevant visas" (7). This decree was approved in June 1990. Until that time the travel of Albanians abroad was nearly impossible. Only government authorized trips abroad were allowed and in very rare cases medical purpose or private trips. The new decree allowed for every Albanian to travel abroad in case a visa for this purpose was available.

The above changes in the legislation created the impression that finally Albania was being reformed following the change in all the Eastern Europe. But the hopes were pointless. People requesting passports from the bodies of the Ministry of Interiors were disappointed and exasperated. The hopeless economic situation and the wish to have more contacts with the outside world urged thousands of citizens to seek new approaches.

In July 1990, after a powerful demonstration in Tirana and a clash with the police, about 5000 Albanian citizens stormed the embassies of Germany, Italy, France, etc., seeking political asylum. After a ten days freeze by police and order forces, the asylum seekers were granted travel passports and allowed to leave the country under the supervision of the representatives of the High Commissioner for Refugees of the UN.

The storming of the embassies was a real popular uprising and the first real blow to the communist regime. The conservative wing of the Party of Labour of Albania reacted harshly by prosecuting the families of the subjects involved. In the speeches of the leaders of the Party, at the time by identifying as "traitors of the country" and "gangsters" these people; determination to go on with "building of the socialist society" was demonstrated.

The reaction of the Party of Labour of Albania (PLA) obliterated the illusions that changes could be undertaken from the top. The leadership remained non-progressive and incorrigible. The cosmetics was an effort to keep the situation under control.

The economic situation in the country was close to bankruptcy. The majority of the state enterprises could not work for lack of raw materials and the market was nearly empty. Hundreds and thousands of workers were jobless and unpaid. During those days when people had stormed and found shelter in the foreign embassies, in order to relieve the insurrection, the People's Assembly passed the Decree "Changes in the Labour Code of the Republic of Albania" (8). This decree stated that when the incumbent lost the job for reasons beyond his responsibility, a 80 percent of salary was granted. This stipulation and the drop in production worsened the economic situation.

At the same time, the Council of Ministers issued a decision "To re-organize the handicrafts" (9). The denomination in itself does not reveal the essence of the decision. The communist government, contrary to the usual practices and convictions towards the private property, was trying the first step towards market economy. It was a "self-sacrifice". This decision allowed people to work on their own as private subjects practicing their activity home, or in shops. The limitation of the decision was that the subject undertaking this activity could not employ other people outside the immediate family.

Following this decision the hamburger peddlers made their appearance in the streets of Tirana and other towns. With improvised push-carts they proved to the public the benefits of the market economy, gaining in just a few days what the President of the Republic made in a month.

In order to create the impression that Albania was opening to the world, as well as encourage hope of economic development, in July 1990, the People's Assembly approved the "Protection of Foreign Investments in the PSR of Albania" (10) as well as the Decree "On the Economic Activities of Enterprises in the PSR of Albania sharing foreign capital" (11).

The Decree the "Protection of Foreign Investments in the PSR of Albania" allowed for and granted the protection of foreign investments in Albania, while the "On the Economic Activities of Enterprises in the PSR of Albania sharing foreign capital" decree allowed the creation of joint venture enterprises. Till the end of 1990, because of the difficult economic situation and lack of relevant legislation no serious investors ventured to come. The first contracts were signed with some off-shore oil prospecting German, Austrian and American companies. Both decrees were an open contradiction to the Constitution (at the time the Constitution of 1976 was in power). In that Constitution prohibited foreign investments in Albania, as well as humanitarian aid and credit (12).

In the human rights field a reserved step ahead was taken. In July 1990 the Presidium of the People's Assembly approved the Decree "On Gatherings, Meetings and Manifestations in Public Places" (13). The decree recognized the right of not-armed gatherings and peaceful manifestations in public places. It had a score of limitations such as preliminary police permit, presentation of slogans to be used in the gathering, etc.,. The police had the right to disperse manifestations by use of force even using the arms in special cases.

There are some worth mentioning political events that took place until November 1990. In August, President Ramiz Alia convened a consulting meeting

with a group of Tirana intellectuals on the needs for political pluralism. A few days later a group of Americans arrived in Albania. A delegation of congressmen of the "Human Rights Watch", headed by senator De Concini met with a group of intellectuals in Tirana. In October, at the time when the conference of foreign ministers of Balkan countries was taking place in Tirana, Ismail Kadare, the well known Albanian writer seeks political asylum in France.

On November 13, 1990, in a cold and indifferent ambiance, the People's Assembly was convened. This was the last session of the one-party parliament. The swan song. In order to reflect the changing mood, the Assembly approved two important, but insufficient, documents: the Law "On the Elections for the People's Assembly" (14) and the Decision "Creation of a Special Commission to Consider Completing the Constitution of the PSR of Albania" (15).

The new Law "On Elections for the People's Assembly", as well as all the changes to the legislation during 1990 reflected the new strategy of the PLA to avoid the upcoming revolution and hold the power. The PLA allowed a few changes to create the impression of economic and legal reforms and introduction of pluralism. Until that time a single candidate, designated by the Party, was presented by the Democratic Front in the elections. Customarily the candidate got 99 percent of the votes. The new Law "On Elections for the People's Assembly" was a fake pluralism. According to Article 22 of this law each electoral area was to vote for at least two candidates. Article 23 of the same Law stated that the Party of Labour of Albania and other designated by Law social-political organizations, namely: the Democratic Front, the Professional Unions, the Union of Women, the Youth Union, all transmission bands of the PLA, had the right to present candidates. The law stated that other organizations, legally recognized, had the right to present candidates. Such organizations did not exist at the time being that the political pluralism was not yet introduced.

But events, so far under the control of the PLA, took an unexpected turn. Begin of December 1990 Tirana's University students went on strike requesting political pluralism in the country and creation of a opposition party. The students had to face police oppression and violence. Many lecturers at Tirana's University joined the students. Unable to overcome the strike and the resistance, the PLA at the 13-th plenum of the Central Committee of the Party, on December 12, 1990 was obliged to allow political pluralism in Albania. The following days, the first opposition party, the Democratic Party was registered with the Ministry of Justice (16).

At the time there was no law to regulate functioning of political parties. The Presidium of the People's Assembly approved the Decree "On Creation of Political Parties and Associations" (17), being that the People's Assembly was dissolved. The Decree acknowledged the creation of political parties and associations. The Ministry of Justice was to register the political subjects upon submission of program, statutes and a request bearing the signatures of at least three hundred citizens. In case the request was rejected, appeal could be lodged with the High Court.

The above Decree was the conclusion of a period of changes closing with the occurrence of political pluralism. This period was the prologue to the democratic revolution following the creation of the Democratic Party, the promoter of new historical developments (18).

2. FIRST PLURALISTIC PARLIAMENT THE YEAR OF ANARCHY (1991)

The Democratic Party started a extensive political activity. anti-Communist activists strengthened its ranks immediately. Protest meetings and demonstrations were frequent and popular support increasing. In January 1991 the publication of "Rilindja Demokratike" newspaper of the Democratic Party marked the birth of the opposition press (19). Other political parties were created such as the Republican Party, the Social-Democratic Party and some others but they could never compete the anti-Communist storm raised by the Democratic Party.

February 10, 1991 was designated for the elections, but upon the request of the Democratic Party was postponed to March 31.

In the period January - March 1991 the legislative power was exercised by the Presidium of the People's Assembly acting also as collective form of government. During this period a few decrees were approved to meet the urgent needs of the political situation and the tension build-up. Among them was the Decree "On the Use of arms by border guards, public order forces and armed military and civilian guards" (20). The decree was necessary to meet the confrontation with the police of the popular dissatisfaction and frequent illegal border crossing to Greece or Italy by economic emigrants. The first strikes were organized by the independent unions. In order to regulate the relationship employers - employees the right to strikes was approved the Decree "The Right to Strike" (21). At the time most of the strikes of the state enterprise workers had a political character.

Meetings and spontaneous demonstrations organized mostly by the Democratic Party aimed at destroying communist symbols, especially Enver Hoxha's monuments. In order to halt this phenomenon was approved the Decree "Safeguard and respect historical monuments and state symbols" (22). The decree aimed to establish a framework to protect Albanian historical monuments, which had never been a problem of concern, and focused on Enver Hoxha's figure as leader of the National Liberation movement and founder of the new Albanian state. Judgment of such an infringements had to be carried out with rapid court procedure and the punishment envisaged six months up to three years of imprisonment.

This decree and other measures taken by the PLA could not protect Enver Hoxha's monuments. In February 21, 1991, about 100.000 people gathered in Tirana's main square "Skanderbeg" and knocked over his statue. At the same time, his monuments were demolished all over the country. In Tirana's streets his books were publicly burned.

Toppling of E. Hoxha's monument was the symbolic fall of the communist regime established by the dictator and a culmination of the democratic revolution. The reaction of the conservative side of the PLA was brutal. Within a short time a fanatic's association, called "Enver Volunteers" was established, while the military force of "Enver Hoxha" Military Academy were ready to intervene. The political situation was very tense and the country was on the verge of civil war.

The communist government had no authority and its institutions function was next to nothing. The People's Assembly had no mandate. At the head of the state was still the Presidium of the People's Assembly, a collective body of 15 persons, all of them old regime characters deprived of public trust. New bodies, in order to restructure the political system could not be established before the elections. In such circumstances, upon suggestion of the Republican Party, an eight members Presidential Council was established. The members were mainly new PLA personalities. This Council would serve as advisory body to Ramiz Alia Chairman of the Presidium of the People's Assembly, suggesting steps to be taken and relevant acts to be produced (23).

At the same time the old communist government headed by A. Çarçani resigned. People had become allergic towards the old "nomenclature". The Presidium of the People's Assembly designated a 18 members Provisional Government headed by Fatos Nano. The members of the Government were new characters of PLA and un-compromised intellectuals. The government had the task to prepare normal conditions for the new elections (24).

The activity of the Provisional Government lasted two months (February - April 1991). During this period it endeavored to secure emergency aid. In March the first aid arrived from Italy followed by the European Community. Food commodities and medicaments appeared in the depleted market.

The month of March brought forth a new shocking phenomenon. Mass emigration. Thousands of people, afflicted by the grave economic situation and hoping to reach the "promised land" captured ships found in the Albanian ports of Durrresi, Vlora, Shengjini, etc., and reached the Italian coast. The famous TV views (compared to Biblical journeys) are known the world over.

The uncontrolled exodus impeded the arrival of humanitarian aid. Ships loaded with grain, rice or sugar were kidnapped to travel to Italy. Their loads were badly damaged. In these circumstances the government decided to declare the main ports of Albania as military bases (25). Since the time E. Hoxha's monument was knocked over the public order had experienced a deep change. Anarchy had started (26).

In order to stimulate agricultural production the Council of Ministers decided to allow peasant families rear poultry and animals and use for their own purposes up to 400 sq. meters of agricultural land. This was to take place along with the activity of the agricultural cooperatives of socialist type. The application of this decision was taken by the peasants as an indication to wreck the state cooperatives and state agricultural enterprises. All over the country the property of the agricultural cooperatives, such as beasts of burden, milking cows, etc.

was apprehended and in many cases buildings were damaged or even burned down. Fruit plantations, irrigation or drainage canals and other state property was damaged or destroyed. The anarchy had started. The wave of destruction continued all through 1991. It extended to all state property. Warehouses, that constituted the last supplies of the state were attacked and devastated. In this wave, as a unique case in Albania's history, school buildings were subject to destruction. The explanation was to destroy everything the communist regime had given birth to, start from square one.

The PLA won the first pluralist elections because of the inertia of the rural population. On the other side the Democratic Party was inexperienced and not very well organized all over the country. The conservative representatives of the PLA were elected, former party secretaries and heads of state owned agricultural cooperatives; many of the PLA reformists lost, even President Ramiz Alia was among the losers. The Democratic Party gained many seats in the Parliament and established a powerful opposition made of selected intellectuals, supporters of democratic changes.

A tragic incident followed the elections and stimulated political tension. On April 2, 1991, immediately after the elections a peaceful demonstration was organized in Shkodra by supporters of Democratic Party, in front of the district Headquarters of the PLA. The police fired: shot 4 people and injured 50 others. The shocked demonstrators burned down the PLA building.

In this tense political ambience was held the first session of the first pluralistic Parliament after the fall of communism. One of the first acts was to abrogate the Constitution of 1976 and passed the Law "Major Constitutional Provisions" (28). This law is in power to date with some amendments affected during the period 1992 - 1993 (29).

After the approval of the "Major Constitutional Provisions" and based on it the People's Assembly elected as President of the Republic Ramiza Alia, one of Enver Hoxha's closest collaborators and predecessor, and the government constituted of moderate communists headed of Mr. Fatos Nano, which lasted but 2-3 weeks. Under the pressure exercised by the independent trade unions which paralyzed the country, the government resigned.

The country was facing a difficult and paradoxical situation. The communists had won the elections and were not able to govern. Anarchy and chaos made the country plunge into deep poverty. In order to find a way out a consensus was reached between the two main political parties, the PLA and the DP. Begin June 1991 a Provisional Government, headed by Mr. Ylli Bufi PLA representative in the Parliament, was established. It was denominated Stability Government and in fact was a coalition government. The important positions were shared among the PLA and the DP. Some ministerial posts were conferred to two minor parties, namely the Social-Democratic Party and the Republican Party. Participation of the opposition parties in the government had one aim, lead the country towards new early elections in one year time.

In June 1991, the PLA held its 10-th Congress with the aim to reform. The statutes, program and leadership were changed. The denomination Socialist

Party of Albania was adopted. The changes were just cosmetics and the conservative - nostalgic won. At the head of the Party was elected the former Prime Minister Fatos Nano.

All the changes and the hopes for a better economic performance failed. In August 1991 the exodus to Italy restarted. People were brought back this time but all along a continuous illegal exodus towards Greece was under way. In September 1991 an Italian humanitarian food aid program called "Pelican" played a crucial role to overcome the difficult situation.

Besides "Major Constitutional Provisions", during 1991 the People's Assembly approved a score of Laws that marked the beginning of the legal and institutional reform. "Re-organizing the National Informative Service", "Status of Military Servicemen in the Albanian Armed Forces", "On re-establishing the Grades System in the Albanian Armed Forces", "On the Financial Police", "On the Public Order Police"; some laws regarding economic and social activities such as: "Sanctioning of Private Property Protection, Free Initiative, Free Enterprise and Privatization", "On Innocence, Amnesty and Rehabilitation of Former Politically Persecuted"; the law "On Political Parties", "The Right to Strikes", "Unions in the Republic of Albania", etc. (30)

In September 1991 Albania became member of the OCSE. In October became member of IMF, EBRD as well as a score of international financial institutions. (31)

The economic and political situation in Albania was far from normal, even with the great efforts of the political forces. The functioning of the state enterprises was close to bankruptcy. Agricultural land was being distributed according to law, but this was a slow and difficult process. Expecting clarification of property issues entire areas remained barren. Economic privatization had just started and the public order was seriously in danger. People had lost every hope in the PLA that held the majority in the Parliament.

In December 1991, even before the one year term, the DP withdrew from the coalition and the Stability Government had to resign. A government crisis was on. The former President Ramiz Alia appointed a technical government headed by Mr. Vilson Ahmeti and established March 22, 1992, as date for early parliamentary elections.

3. VICTORY OF THE REVOLUTION (1992). A DIFFICULT TRANSITION TOWARDS THE RULE OF LAW STATE AND MARKET ECONOMY. RECYCLING OF ANARCHY AND CHAOS (1997).

On 22 March early parliamentary elections were held. The conclusion of many observers from European and American international bodies as well as nationals was that the elections were free and fair. DP won an impressive victory. In essence these elections were more of a referendum to change the regime. The 22 March elections that brought the opposition in power was the victory of the democratic revolution in Albania (32).

According to the official results of the elections the Democratic Party got 92 seats (65,71 %), the Socialist Party 38 seats (27,14 %), the Social-Democratic Party 7 seats, the Human Rights Union Party (where the Greek minority is included) 2 seats and the Republican Party 1 seat of the total of 140 seats.

Immediately after the elections the communist President Ramiz Alia resigned. The cardiologist Sali Berisha, head of the Democratic Party was elected President of the Republic of Albania. A DP majority government was established, headed by the Premier Aleksander Meksi. A minister representing the Social-Democratic Party and one representing the Republican Party were also elected to produce the impression of a coalition government.

With the victory of DP in the elections the economic, legal and institutional reform was intensified. The four years period (1992-1996) may be divided in two nearly equal phases. In the first phase the image of DP is on the ascent, enjoying broad support from abroad and inside the country for the successful reforms and transformations. In the second phase (after 1994) authoritarianism looms. Repeated encroachments of democratic norms and shortcomings in governing the country lead to the 1997 rebellion.

In the period 1992 - 1993 the Law "Major Constitutional Provisions" was completed through amendments. With the creation of new structures the central and local government achieved to put under control the anarchy and establish public order.

The economic reform was revitalized and new measures taken. During and after the electoral campaign the DP proclaimed and started a speedy privatization program which began to bear fruit. The law on privatization of the agricultural land created a big number of owners (65% of the population). The state owned dwellings were privatized against a very low price and the privatization of small and medium enterprises went on. The privatization of enterprises marked a resurrection of Albanian economy which was also boosted by the price liberalization and favorable exchange rate of Albanian currency. The results of the economic reform were very rapid. The market was supplied better than ever and the economy was moving.

The economic reform was a painful process for many unemployed Albanians. In the rural areas the land was not sufficient compared to the requirements of the population which lacked agricultural working tools and the government did not have the means of supporting with credit. In towns, to the unemployed of the economic reform were added those of the institutional reform. The old communist bureaucracy was demolished. Thousands of people from the old overburdened administration, army, police, former "security" (or "sigurimi"), lost their jobs. New political criteria based on trustworthiness towards the reform alias Democratic Party were used for the employment. Cost of living went up by the day and existence became difficult for a wide category of people, especially the retired, teachers, health workers and government workers in general those that had no other financial source.

In July 1992 local government elections were held. It was only 3-4 months after the parliamentary elections and the results were much different. The DP won some 50% nearly as many as the SP. The other parties got a very small percentage. The local elections have shown that the electorate had shifted to the left in a very short period of time. To a certain extent this was the price of the ongoing reform.

The SP inspired by the results of the local elections initiated a wide political activity and requested early parliamentary elections on the grounds "the electorate has shifted". In July 1993, Fatos Nano, Chairman of the SP and deputy to the People's Assembly was arrested and after one year was sentenced with the charge of corruption in relation with the humanitarian aid, during his term of office (as Prime Minister) February - May 1991. His culpability was not proven and the sentence was considered political (34). Nano's trial and the oppression towards the SP and other opposition parties increased the political tension in the country.

The first test between the DP and the leftist opposition parties was the referendum on the Constitution on November 6, 1994. The commission designated to prepare the draft never reached the required consensus and its work lasted endlessly. One of the most disputed issues was the articles on the competencies of the President of the Republic. The DP commission members opted for a "strong" President considering the present President. The SP and the other parties were against, considering this a real danger for the fragile Albanian democracy. In these circumstances, the DP, perceiving the uncertainty of approval by the parliament, where the 2/3 of votes were in doubt, made another move. The parliament was avoided with the idea to approve the Constitution through a referendum. The draft of the Constitution did not win in the referendum. As a matter of fact many voters had not read the draft. The polling was in essence a "pro" or "against" voting for the DP. The referendum marked the beginning of the descent.

Even with the heated political climate Albania was experiencing an "economic miracle" compared to the communist past. Albania was considered the best IMF "pupil" as concerns economic reform. According to the official data was ranked first regarding yearly economic growth, remaining the poorest country in Europe. Unemployment was decreasing and inflation was acceptable. This was influenced by many factors such as the market economy, foreign investments, foreign credit and economic assistance from EC, USA, international financial institutions, the income generated by the emigrants in Greece, Italy and elsewhere. It is not to be excluded the income from other "non-legal" sources like the trafficking of oil during the war in the former Yugoslavia and illegal traffic of drugs. In 1995 the pyramid schemes started to thrive. They accumulated the best part of people's life savings. The government could not remain indifferent to this phenomenon carried out in broad daylight, and tolerated it in view of the high interests the creditors received and the relaxing effect it created on social problems and especially unemployment. This was needed especially in view of the upcoming parliamentary elections.

The parliamentary elections of 26 May 1996 were the second test for the DP and the opposition parties. Main argument for the DP to remain in power for another four years was the economic achievements during 1992 - 1996. The comeback of socialists in Albania would produce the failure experienced by the left in Bulgaria. Albania's image abroad, especially the membership in the Council of Europe, cooperation with NATO after the agreement "Partnership for Peace" and in general the support for the DP were also valuable arguments.

The opposition's arguments to win the sympathy of the voters were the incorrect privatization of the state property carried out in favor of DP supporters, the corruption of the administration, corruption and subordination of judicial power, encroachment of human rights - especially misbehavior of the police towards peaceful demonstrations, limitation of freedom of press and shaping up of authoritarianism in Albania.

The DP with the majority in Parliament, in order to obtain the best of the elections, implemented important amendments to the pertaining legislation. The law "On the Genocide..." was approved. This law prohibits to candidate a number of PS members, former (from the communist regime) politicians and administration people. Another law is "Screening of Personalities" according to which a seven member administrative commission (designated by the parliament and the government alias DP) will examine each candidate's curriculum to verify if the subject has, in the past, been Minister, party secretary, collaborator of the security (sigurimi), etc. The law "On the Elections to the People's Assembly" was amended, increasing the control of the government over the polling commissions.

The electoral campaign swarmed with incidents and limitations for the opposition parties. The elections, examined by OSCE, USA and other observers, took place in a strained political atmosphere. The SP and the other opposition parties, surveying the irregularities of the polling process, withdrew their commission members on the day of the elections. Their withdrawal increased the chances of manipulation. A ballot took place in some electoral areas, which evidenced more irregularities, and the Central Commission of the Elections made public the following final results: Of the total of 140, DP won 122 seats, SP 10, Human Rights Union Party 3, Republican Party 3, Balli Kombetar 2 (35).

After the elections a new government was established headed by the premier Aleksander Meksi. The SP refused to take part in the parliament.

The parliamentary elections created a perplex situation and lack of trust towards the DP administration. The opposition labeled the elections unacceptable and anticipated a DP neo-dictatorship. The US State Department requested reiteration of the elections. The Council of Europe expressed more considerately towards the newly elected parliament: they acknowledged the legitimacy of the parliament, requested participation of the socialist party parliamentarians in it, settlement of misunderstandings through dialogue and repeating of elections at a later stage.

On October 20, 1996 the local government elections were held in a generally peaceful atmosphere. Many voters were disappointed and preferred

not to take part in the polling. The results were nearly the same as those of the parliamentary elections. The DP got the majority.

Towards the end of 1996 the pyramid schemes started to collapse. Their fall was a disaster for the Albanian economy. The economic crisis was combined with the political one. Begin of 1997 in the southern port of Vlora and some other districts started a series of demonstrations against the government, which was held responsible for the collapse of the pyramid schemes.

The demonstrations went on during the whole of February. Peaceful at the beginning they transformed into violent revolts. In these districts the army warehouses were broken in and the population was armed. The demands of the insurgents were: resignation of Meksi Government, resignation of the President Sali Berisha and compensation for the loses in the pyramid schemes.

March 1, 1997, the Government resigned and the situation eased down. But the same day the insurgents broke into the arms warehouses of the military base of Pashaliman (Vlora port) and beside Vlora they took control of the towns of Saranda, Himara and Delvina (36).

The following day the parliament passed the Law No. 8194, dated 2 March 1997 "On the State of Emergency and the Cases of Serious Encroachment of Constitutional and Public Order" (37). This law defines the circumstances in which an emergency situation could be proclaimed and the measures to overcome it. According to this law the State of Emergency is proclaimed by decision of the People's Assembly when constitutional order is endangered. In such cases meetings are prohibited and constitutional rights are limited. The Defense Council handles the State of Emergency issues. At the same time the parliament, by means of a special decision proclaimed the Emergency Situation all over the Republic of Albania until re-establishment of constitutional and public order (38), and designated the Armed Forces, the Ministry of Public Order and the National Informative Service (SHIK) to crush the rebellion (39). Commander in Chief of the operation was designated general B. Gazidede, Head of the National Informative Service (SHIK). With the decision No. 299 of 2 March 1997 "On Partial Mobilizing" (40), the Defense Council was appointed to carry out the partial mobilizing of the population.

On March 3, 1997, the People's Assembly re-elected Mr. Sali Berisha as President of the Republic and at the same time approved the law No. 8195 dated 3 March 1997 "On measures to overcome the emergency situation" (41) by means of which the rebels were requested to hand over their arms and press censure was enforced.

Some units of the armed forces made of the army, police and SHIK forces were sent to the Southern districts to repress the rebellion but they refused to fight against the armed population led by the Committees of Public Salvation.

Within a matter of two three days an unprecedented event happened. The armed forces were disbanded not only in the southern districts but all over the country. The population attacked the army arms depots and hundred of thousands of arms were seized. A wave of wreckage and burning down of government buildings and institutions like municipalities, courts, police stations,

SHIK offices, DP headquarters in the districts, customs buildings, banks, prisons, state and private owned enterprises, schools and universities started. The mass exodus towards Italy resumed. The country submerged in anarchy and chaos. It was the verge of a civil war. The revolt, started in the southern districts, after the mutilation of the government spread all over the country. The unprotected population was left in the hands of armed terrorists and ordinary lawbreakers.

On March 9, 1997 ten Albanian political parties reached an agreement according to which a National Reconciliation Government would be established. Primer was designated Mr. Bashkim Fino of the Socialist Party and the Ministers would represent the ten parties that signed the agreement. Early Parliamentary elections would be proclaimed.

The situation of anarchy went on during March with many casualties occurred by the use of arms. The Government of National Reconciliation requested urgent support to the international community. On 28 March 1997 the Security Council of the UN decided to send a multinational task force to support the distribution of the humanitarian aid.

The reasons of dismantling of the state structures in Albania are various. After the democratic revolution, the political parties and especially the DP in power followed a confrontation policy towards the opposition and especially the SP. Democracy was perceived as domination of the majority over the minority. De-politicizing the armed forces by means of the law approved by the parliament did not materialize, on the contrary, the whole of the administration was politicized in favor of the party in power. The degradation of this party was the collapse of the government. The government officials were in the focus of critics for corruption, especially on the privatization of state property. The judicial power corrupted and yielded to the political power becoming a servile servant of the party in power. The electoral process was distorted, especially after the May 26, 1996, elections. During the five years of the DP power frequent violations of human rights were observed and in some cases the use of force against the opposition. The pyramid schemes crisis only triggered the accumulated dissatisfaction.

4. LEGAL REFORM

One of the ideals of the democratic revolution in Albania, as in many other East European countries, was the rule of law and human rights protection. The legal reform was not only the ideal but also the main instrument to accomplish the economic, social and politic changes.

The drafting of the new legislation was oriented towards the Western democracies and USA. The continental system of law seemed to better suit the traditions of the Albanians.

The new legislation according to western models was a precondition to integrate Albania in the European and Euro-Atlantic structures as the Council of Europe, the European Union, OCSE, NATO, etc. Assistance has been requested

and EC and USA experts from many institutions have been providing it. The legal reform at the end of this important stage of transition of Albania from the communist regime to the market economy constitutes one of the most important achievements.

4.1 Constitutional Reform

It is obvious that the legal reform would start with the constitutional reform. As previously mentioned, in April 1991, the first pluralist parliament in Albania invalidated the 1976 Constitution and approved the "Major Constitutional Provisions"

This law of 44 articles constitutes a provisional Constitution until the approval of a final document. By means of this law the proletariat dictatorship is juridically abolished and the parliamentary democracy installed.

The first Chapter "General Provisions" determines main principles of the democracy functioning. By means of this law Albania is proclaimed a parliamentary republic, a democratic state governed by the rule of law. Human rights, constitutional order, being equal before the law and political pluralism are the fundamentals of the state. The law sanctions the division and balancing of powers, free elections, the accountability of the executive power to the Parliament, the independence of the judicial system, control of civilian authorities over the armed forces and police, clear separation of power from political parties.

In the other chapters are defined elections, functioning and competencies of the People's Assembly, the President of the Republic and the Council of Ministers.

In the four and the last chapter is stated that the provisions of this law will be in force until approval of the Constitution of Albania, the draft of which will be formulated by a special commission designated by the People's Assembly.

After the elections of 22 March 1992 the parliament set up a Special Commission to draft the Constitution. This Commission, through endless debates during 1992 - 1994, worked but failed to reach an acceptable consensus from all sides.

In these circumstances, the law "Major Constitutional Provisions" was completed with some amendments. The most important were: Law No. 7596 of 29 April 1992, that defined the new shape of the judicial system and for the first time established in Albania the Constitutional Court, Law No. 7550 dated 3 June 1992, that defined the functioning and organization of the local government; and the Law No. 7692, dated 31 March 1993 on " Fundamental Freedoms and Human Rights" (please refer below to 4.2 Human Rights, 5.5 Judicial System, 5.6 Constitutional Court and 5.7 Local Government).

Following the amendments to the legislation, accomplished during 1992-1993 Albania has a nearly complete juridical - constitutional framework (for the main issues) tailored according to democratic standards, but not yet a final Constitution. The constitutional laws in force have been passed in different

periods and are not sufficiently consistent and complete. Their structure needs to be reconsidered.

After the failure of the 1994 referendum, the issue of drafting and approving of the Constitution remains an open question.

4.2. Human Rights

The Law “Major Constitutional Provisions” recognizes the fundamental human rights and those of the minorities. It sanctions these rights according to the “universally accepted documents” (Article 4).

This law also sanctions the principle that “ The legislation of the Republic of Albania takes into consideration, recognizes, and respects generally accepted principles and norms of international law” . The law does not express explicitly, but implies that the international agreements approved by Albania are part of the juridical order of the country and incorporated in it.

Among the main international documents as concerns human rights is the UN Universal Declaration on Human Rights of 1948. This document was signed by the Albanian Government in 1955 when Albania became a UN member. Other very important human right international agreements were ratified after the establishment of political pluralism, namely: the UN Universal Pact on Civil and Political Rights (42), the UN Universal Pact on Economic, Social and Cultural Rights (43), the European Convention on Protection of Fundamental Human Rights (signed when Albania was became a member of the Council of Europe (44), etc.

The Constitutional Law No. 7692 of 31 march 1993 “Fundamental Freedoms and Human Rights” (45) regulates in detail the human rights. Other laws such as the law on political parties, unions, meetings, media, etc., have elements and details to complement the legislation.

The Law No. 7692 accommodates a complete list of human rights based on international juridical documents (as mentioned above).

- The right to life is protected by law. The death penalty may be administered only by the court for a grave crime committed deliberately. The death penalty shall not apply to juveniles under the age of 18, or to women.

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

- No one shall be subjected to torture, or to degrading or inhuman treatment or punishment. Forced labor is prohibited.

- The law guarantees individual’s freedom and personal security.

- Every detained person shall be given an immediate explanation concerning the reason for the detention and within 48 hours should appear before the judge to decide on the detention measures.

- No punishment without a law is permitted. Presumption of innocence is applied.

- No one, during criminal proceedings, shall be deprived of the right to be defended by himself or by a lawyer that he has chosen.

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

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

- The independence of lawyers is recognized.

- The law protects the individual's freedom, his personal and his domicile security and privacy of correspondence.

- All citizens are equal in law and before the law.

- Freedom of movement is guaranteed by law.

- The law guarantees the freedom of conscience and religion.

- The freedom to organize political parties, associations, meetings and submit petitions is sanctioned.

- No Albanian citizen may be deported from the territory of the state; extradition of a citizen may be allowed only where it is provided for explicitly in International Conventions.

- The minorities have the right of their ethnic cultural, religious and language identity.

- The right to strike and establish unions is sanctioned.

- The right to private property and inheritance is sanctioned.

- Everyone has the right to make a living by lawful employment of his own choice and accord.

- The elementary education is granted free of charge. High school and universities are optional. The University autonomy is recognized.

Protection of fundamental freedoms and human rights, sanctioned by law, shall be carried out in the courts of all levels. In order to guarantee the efficiency of the courts, on the basis of the Constitutional Law No. 7561 of 29 April 1992 "Organizing of the Judicial System and the Constitutional Court" (46) every person may lodge a complaint with the Constitutional Court, in the case his fundamental freedoms are encroached.

Some of the important laws in the human rights field are:

The Law on Political Parties

The first juridical act that marked the establishment of political pluralism was the Decree of the former Presidium of the People's Assembly No. 7442 of 17 December 1990 "Creation of Political Organizations and Associations" (47). By means of this decree were legalized and registered the Democratic Party, the Republican Party and the Social-Democratic Party.

Later on this decree was superseded by means of the Law No. 7502, dated 19 July 1991 "On the Political Parties" still in force with some minor changes (48). On the basis of this law creation of political parties is allowed. Registering is with the Ministry of Justice. Appeal against a decision can be lodged with the Cassation Court. The state supports financially the political parties according to the established criteria.

The law prohibits the creation of political parties on religious, ethnic or regional basis. The law prohibits the political parties that imply in their programs the use of violence as well as the anti-national, chauvinistic, racist, Stalinist, Enver Hoxha communist type or marxist-leninist parties.

On the basis of this law some 35 political parties have been established in Albania. Two of them, the Democratic Party and the Socialist Party (former Party of Labour of Albania or Communist party) are the main players of the political life in the country. There are other minor political parties such as the Republican Party, the Social-Democratic Party, the Democratic Alliance Party, the Human Rights Union Party (where the Greek minority is represented); and other parties that do not have a real say in the political life. During this period are re-established the Balli Kombetar Party and Legality Movement Party (monarchy inclination) abolished in the wake of communist take-over.

After the renovation of the PLA and changing of the name into Socialist Party from the conservative nostalgic wing was established an Enver Hoxha type party, but this party was abrogated after the approval of the law "On Political Parties" in 1992.

According to the Albanian legislation it is not allowed to carry out political activities in the Ministry of Defense, Ministry of Public Order, Ministry of Justice, in the courts and prosecuting bodies. With the exception of the minister and the deputies, the personnel of the army, police and the National Intelligence Service regardless of their political convictions should declare that they are no members of any political party (49).

Freedom of Expression and Freedom of Press in particular

The constitutional law "Fundamental Freedoms and Human Rights" (Article 2) guarantees the freedom of expression, including the right of speech and other mass media and dissemination means. The constitutional law prohibits censorship and recognizes the right of information for everyone.

This right is regulated by means of the law "On the Press" (50), which deals only with the printed matter. According to this law the press is free. Freedom of press is guaranteed by law. The responsibility of the press is to inform and be responsible regarding the truthfulness of the information disseminated. The law recognizes the replication right.

On the basis of this law some 100 newspapers and magazines started to be published in Albania, but only some 35 of them could survive the competition process. There are about 80 publishing houses. Because of lack of democratic tradition in this respect, very often the press ethics is not respected.

There is only one government TV in Albania. Its status is regulated by the law "On the Status of the Albanian Radio-Television" (51). According to which the TV is under the direct dependence and control of the People's Assembly. It is de-politicized and involvement of the political parties in its activities has continually been a bone of contention by the opposition, who claim that this law is not respected.

Establishing private TV has been delayed because of the lack of a law on electronic media, which is expected shortly.

Freedom of Conscience and Religion

This freedom is guaranteed by the Law "Major Constitutional Provisions" (Article 4) and the constitutional law "Fundamental Freedoms and Human Rights" (Article 18).

According to these laws Albania is a secular state; the state respects the freedom of religious faith and creates conditions to exercise it. The law guarantees the equality of different religious communities, protects and assists them to carry out their activities including instituting of religious schools and charitable institutions.

After a thirty year period during which religion and religious institutions were forbidden in Albania; time during which was proclaimed as the only non-religious country in the world (1967); the religions are now active and free. The State Secretariat for Religion has been established at the Council of Ministers. This Secretariat has representatives from the Moslem, orthodox and catholic communities, the three main religions. Other religions have started or re-vitalized their activities but the three above-mentioned are considered as national religions. The relations among the religious communities have traditionally been excellent.

Still there is no legal regulation (no specific law) of the relations state-religion. The religious communities complain on the formalities and sluggishness concerning the process of the restitution of their properties. Some churches have been declared cultural monuments and are protected by law.

The Right to Private Property and Inheritance

This right is recognized by the Law "Major Constitutional Provisions" (Article 11) as well as by the Constitutional Law "Fundamental Freedoms and Human Rights" (Article 27). Subjects that enjoy this right are: the state, the private and the juridical persons. The private property is guaranteed and enjoys the protection of the state. The private property is subject to taxes and this procedure is regulated by means of law. A detailed regulation of the rights of private property is prescribed in the Civil Code and other regular laws.

Foreign investors have the right to carry out economic activity alone or in cooperation with Albanian citizens and transfer the profit to their home country. (52).

Return of nationalized or confiscated property during the years of the communist regime has proceeded speedily; the same goes for the privatization of the economy. A detailed law has been passed by the parliament on this purpose (53).

Protection of Minorities

Albania is a one-nation state. Within its boundaries there are only small minorities, among which, the biggest in number is the Greek minority, about 50.000 people. This minority is located in the South of the country around and in Gjirokastra, Delvina and Saranda regions. Around the Prespa lake (South-East Albania) there are a few villages with about 5.000 Macedonian population. The other minorities are inconsiderable.

The Law "Major Constitutional Provisions" guarantees in principle the rights of the minorities according to international standards. More in detail these rights are defined in the constitutional law "Fundamental Freedoms and Human Rights" (Article 26). Other problems are regulated by means of common laws.

The Albanian legislation guarantees full rights and freedoms to the minorities; without discrimination and complete equality before the law. In a special way is expressed their right to safeguard and freely develop their ethnic cultural, religious, identity. Learn and develop their national language as well as establish organizations and associations to protect their interests and identity are rights guaranteed by law.

The Greek minority in Albania has established the social-political organization OMONIA. This organization publishes its own newspaper in the Greek language. During 1991, 1992 and 1996 parliamentary elections the Greek minority has been represented in the People's Assembly with 2-3 deputies. In the local elections (of 1992 and 1996) this minority has been satisfactorily represented. National language, along with the Albanian language, history, traditions and culture are freely taught to the minority children (54). In the Gjirokastra's University has been established a branch to specialize teachers for the minority schools as well as a chair of Greek language and literature.

4.3 Elections System

The Law for the Elections to the People's Assembly

On the eve of the of the Parliamentary elections of 1992, the DP deputies requested the abrogation of the Law No. 7424 of 14 November 1990 "On the Elections for the People's Assembly" that contained traces of the one-party system, and the Law No. 7556 dated 4 February 1992 "On the Elections for the People's Assembly" was passed. This law is still in force with some minor changes implemented during 1996.

The law sanctions the universally known principles of free, equal, direct and secret elections. All Albanian citizens of 18 and above years of age enjoy the right to vote. In order to be elected a deputy a minimum age of 21 years is required. The candidates are submitted by the political parties, groups of parties or may be independent. In order to carry out the electoral process are established the electoral commissions and the polling stations, area commissions and the Central Elections Commission. Complaints against the

decisions of the commissions of the areas may be lodged with the Central Elections Commission. Its decisions may be appealed at the Cassation Court.

The law has adopted a mixed system for the elections. According to the law (Article 6) the People's Assembly has 140 seats, of which 100 are elected through direct voting on the basis of the majority system in two rounds; the remaining 40 is compensated in relation with the seats won during the first polling. Extra seats may be gained by those parties that have received not less than 4 percent of the ballots in all the country.

The law "On the Elections for the People's Assembly" has had a few essential changes before the elections of 26 May 1996. These changes limited the democratic extent and brought forth undesirable effects (56).

The most important changes to this law were: The Albanian citizens of 18 and above years of age that satisfy the requirements of the law "On Genocide and Crimes against Humanity, Committed in Albania during the Communist Regime on Political, Religious or Ideological Grounds" as well as the law "On the Image of Official Servants and Persons Relevant to the Protection of the Democratic State" (refer below to the laws of Purification). The number of seats remains unchanged - 140. Increases the weight of the majority criterion to the proportional criterion. The number of 100 seats that were (according to the 1992 law) elected of direct polling was increased to 115. Only 25 seats were to be distributed according to the proportional criterion. Its a personal obligation to resign from the duty in case a public servant is elected or candidate. This obligation does not include the ministers but only the local government officials, the judicial system officials, high rank officials of the public order and the National Intelligence Service as well as the military in active service. The deputy to the People's Assembly may be a local government official. The Central Elections Commission is appointed by the President of the Republic upon the proposal of the Prime Minister and the political parties, but the majority remains with the representatives of the party in power (alias DP). The Commissions of the areas are pluralist and are appointed by the chairman of the Central Elections Commission. Their chairmen and deputy-chairmen are appointed by the Central Elections Commission, while their secretaries by the Prefects of the Regions (also from the party in power).

The above changes were severely criticized by the opposition parties, the Council of Europe and the OCSE (ODHIR) observers. Along with other circumstances mentioned above, the changes in the legislation led to questionable elections, with numerous infringements. They were partly repeated; the process was boycotted and the opposition did not participate in the works of the Parliament.

The Local Government Elections Law

On the basis of "Major Constitutional Provisions" (57) the territory of the Republic of Albania is divided into districts, communities and municipalities. In each of the above units is organized and functions the local government.

The same principles of organizing the general elections apply to the local elections. Details regarding local elections organizations are provided by means of the Law No. 7553 dated 16 June 1992 "On the Elections of the Local Government" still in force with some amendments accomplished before the 1996 elections.

For the local elections apply two different systems: the collegial bodies of the local governments such as councils of districts, communities and municipalities are elected through pure proportional system, while the other bodies such as Heads of Communities and Heads of Municipalities are elected through the majority system. In order to implement the local elections commissions and polling stations for the areas are established. A Central Elections Commission is also established for this purpose. The political parties enjoy the right to make public their programs in the press and the only state TV. As in the parliamentary elections observers are allowed to follow the process.

Before the local elections of 1996, some essential changes (59) were made to the Law "On the Local Government Elections" , as well as to the Law "On the Elections to the People's Assembly". According to these changes in order to be elected Mayor (or Head of the Municipality) the subject should comply with the "On the Genocide..." law as well as the Law "On the Image of Official Servants and Persons Relevant to the Protection of the Democratic State" (refer below to the purification laws). The limitations deriving from these two laws were applied only for the election of the Mayors and not the whole number of people that are elected in the local government. The second change regarded the elections commissions, starting with the Central Elections Commission down to the polling stations. The changes in the law were severely criticized by the opposition parties because of the inequalities between the party in power and these parties as concerns the appointment of the election commissions.

Upon the suggestion of the Council of Europe a Central Elections Commission was established. This is a standing body for the local government as well as for the parliamentary elections (60).

The Purification Laws

It is a well known fact that during the years of the communist regime the class struggle was bitter and thousands of people have been punished, banned or prosecuted for political, ideological or religious ideas.

After the victory of the democratic revolution in Albania as well as in other East European countries this issue was raised. After long debates as to what would be the measures and the extent of punishment for the persons involved, the parliament passed two laws, namely:

a) Law No. 8001 dated 22 September 1995 "On Genocide and Crimes against Humanity, Committed in Albania during the Communist Regime on Political, Religious or Ideological Grounds " (61).

According to this law the prosecutor's' offices are instructed to start the investigations relevant to political, ideological and religious related crimes committed in Albania during the communist regime. The investigations and court procedures would proceed according to the actual Penal Procedures Code (approved in 1995).

The law prohibits the election or designation in the central or local government, in the judicial system and in the mass-media, of those persons that have planned or materialized the above crimes and have held key positions during the communist regime such as party leaders, ministers, deputies, authorities or collaborators of the Communist Intelligence (Sigurimi) Service, etc., during the 45 years of the communist regime. The law will remain in effect until 2001.

b) Law No. 8043 dated 30 November 1995 "On the Image of Official Servants and Persons Relevant to the Protection of the Democratic State".

The law reiterates that individuals holding key positions in the communist party and administration since 28 November 1944 (day in which Albania proclaimed liberation from the nazi-fascist occupiers and establishment of the communist regime) cannot be elected or hold important functions in the democratic government. The law explicitly defines the functions that cannot be taken by such individuals. They cannot become journalists of newspapers with a run bigger than 3000 copies, journalists on TV, ministers, deputies, or run for presidency. The persons that seek to get these positions will have to submit to the examination. The examination will be carried out by a seven member State Commission. The Commission is appointed by the parliament and the Council of Ministers. Appeal may be made against the decisions of this Commission in the Cassation Court. The Law will remain in force until the year 2001.

Both laws have been severely criticized by the opposition parties in Albania, by the Council of Europe and other human rights bodies in and outside Albania. The critics consider right the attitude towards the former communist leaders (nomenclature) and the responsibility for the crimes committed in Albania. The critics have stressed a few issues that do not fall in line with today's standards of human rights. Without going into detailed juridical analysis, the critics have especially stressed the denying to a certain category of people the constitutional right to be elected. This category of people belong to the SP (former Communist Party) including the new leaders that became ministers after the political pluralism was established (December 1990 - 31 March 1991). Furthermore the law has effect, even in the case when the subject has not been proved or juridical sentenced for committing crimes, but has only held a function. The activity of the administrative commission, appointed by the party in power (DP) has been criticized.

The government has not modified the law in view of the criticism expressed. With the law No. 8137, dated 31 July 1996, the Albanian parliament ratified the European Convention on the protection of fundamental freedoms and human rights as well as the additional protocols No. 1, 2, 4, 7 and 11, with the observations that protocol No.1, article 3, is recognized as applicable through

the provisions of the laws “On the Genocide...” and “On the Image of Official Servants...” for a five years period, until the year 2001 (63).

4.4. Economic Legislation

The constitutional laws that sanctioned the private property and the free initiative were the foundations of the new economic legislation. Up until 1990 Albania was a completely centralized economy in towns and villages, planned to the smallest details under the absolute control of the state (government). While in the other East and Central European states, after 1960 were observed the first signs of liberalization, in Albania was the time of tightening the screw of centralization and control, what led to the complete breakdown.

Privatization of Land and Dwellings

The first step towards the privatization was the land privatization by means of the law “On the Land” (64). The land had been state property. It was given in use and administration to the agricultural cooperatives of the Russian type of “Kolkhoz” and to the agricultural state farms. The privatization of land was a substantial economic step. It immediately created an owners class of about 65 percent of the population living in the rural areas.

By means of this law the land is categorized in: agricultural land, forests and pastures and non-agricultural land. For each of these categories there is a different juridical regime.

The agricultural land was privatized free of charge with the right of inheritance of the individuals resident in the villages. The surface of land in use in any given village was divided by the number of inhabitants. Therefore the amount of land each family received was not equal. With the land they received the villagers practically abolished the agricultural cooperatives. The law prohibits selling the land. Later on this was allowed for the Albanian citizens. Land may be rented out to foreign investors who enjoy the right to use it for 99 years.

The draft of the law “On the Land” was too much discussed by the political parties. The parties of the right requested a complete restitution to the old owners, referring to the ownership situation of 1946 (year in which the communist land reform was accomplished). This would have created serious social problems. Albania is a mountainous country with a small amount of cultivable land. Moreover the population has tripled since 1945. A population of 1 million in 1945 has become 3,5 million.

In order to protect the rights of the old owners the law “On Restitution and Compensation of Former Owners” (65) was passed by the parliament. According to this law, they will take the free plots of land, nationalized buildings, etc. Agricultural land was compensated with amounts of land of the state owned areas. In the implementation of the law the use of value-papers was also considered (66).

Another important step was the privatization of the state owned dwellings. During the 45 years of one-party state the one family dwellings was limited only in the villages. In towns blocks of flats were the norm and they were owned by the state. By means of the law "Privatizing the State Owned Dwellings" (67) the people living in them became owners. A part of the amortized dwellings were privatized free of charge. The rest at a very small price. To give an example a three room and a kitchen flat, located in the central part of Tirana was sold at 300 US \$. The persons or families that did not have a dwelling or were living in buildings to be returned to the old owners, were considered lacking housing and had the priority to be granted credits by the state to purchase dwellings.

Restitution and Compensation of Former Owners

In order to respect the rights of the old owners the People's Assembly approved the law "On Restitution and Compensation of Former Owners" (68). This law recognizes to the old owners the ownership over the properties nationalized or confiscated by the communist regime. In the implementation of the law property is considered the real estate as land, buildings such as houses, production shops, shops, warehouses, etc. The law recognizes to the old owners the right to own these properties. To the old owners are given free plots of land in towns as well as all buildings that have remained un-altered. In case the plots of land have been built upon during the time of the communist regime (blocks of flats, factories, etc.) to the old owners is recognized the right to be compensated with value-papers that can be utilized during the privatization process or free state owned plots of land near towns or tourist areas (69).

The compensation principle is valid also for the old owners of agricultural land not resident in the villages that do not benefit from the law "On the Land".

To the owners of those plots of land that have been built upon during the communist regime, is recognized the status of the favorite bidder in the case the building occupying the plot is privatized.

To implement this law was established the Albanian Committee for the Compensation of Former Owners, as a subordinate body to the Council of Ministers. The Committee has its branches in all districts of Albania. Against the decisions of the district commissions could be lodged appeal with the court.

The implementation of this law and the guidelines issued by the Council of Minister for this purpose enabled the restitution of property nationalized or confiscated by the communist regime. The compensation of the former owners with state owned plots of land or value-papers has not been satisfactory.

Privatization of the Economy

The privatization of the economy has been the most difficult and complex process in Albania. The economic reform was boosted by means of the law "Sanctioning and Protecting Private Property, Free Initiative, Private Enterprise and Privatization" (70). This law superseded all the previous laws concerning

privatization and regulated the major economic and juridical issues of the transition from a centralized to market economy.

The law sanctions the privatization of the state owned enterprises with the exception of those of national importance that may be privatized by means of special laws. The activity of Albanians and foreign subjects is allowed as well as the creation of joint ventures. Registration of private and juridical persons is carried out in the court and the fiscal bodies. The law liberalizes the prices in the private sector, allows the transfer of profit outside Albania and the working relationships between the parties are regulated by means of contracts. In order to facilitate the transfer of private ownership an its privatization is established the National Agency of Privatization with its branches in the districts, as a body depending from the Council of Ministers. The transfer of state ownership is carried out through auction, free deals or shares, etc. The law sanctions the protection of foreign investments in the country.

With the publication of the law and the establishment of the relevant bodies began the privatization of the economy. The process started with the privatization of small shops of every sort. Their owners became the up-to-then shop keepers, and the shops were privatized against a very small price.

A complete strategy of the privatization was elaborated by the government after the DP got the majority in the Parliament, 22 March 1992 and 26 May 1996. The economic program envisaged a wider scale privatization.

The privatization of the economy was based on the law "Sanctioning and Protecting Private Property, Free Initiative, Private Enterprise and Privatization" mentioned above, as well as other juridical acts, mainly decisions of the Council of Ministers. One of them was the Decision of the Council of Ministers No. 253, dated 22 June 1992 "Measures to Initiate the Economic Reform Program" (71). According to this decision was established to liberalize the exchange of currency; the foreign trade was deeply liberalized; the import-export licenses were discarded and the monopoly of the state owned foreign trade enterprises was abolished. Later on the Council of Ministers issued the Decision No. 284, dated 25 June 1992 "Revitalizing the Privatization Process" (72) which oriented the process in all sectors of economy.

The privatization of state owned enterprises followed some stages. It started with the small and medium enterprises such as workshops, restaurants, hotels, shops, warehouses etc. that did not exceed the total value of 500.000 US \$ or not more that 300 employees. The process went on with the massive privatization by means of privatization bonds. The program conceived by the DP envisaged the privatization of big enterprises like the hydro-power stations, factories, processing combines, banks, etc. but the process was suspended towards the end of 1996 because of the increasing political tension in the country.

A more complete platform of the privatization process is provided by the Decision of the Council of Ministers No. 248, dated 27 May 1993 "Measures to Speed up the Privatization of the Small and Medium Enterprises" (73). The decision defines the rule that the privatization of small and medium enterprises

is carried out by means of auction. The auction should be public, transparent, encouraging firstly the workers of the item to be privatized, secondly the Albanian citizens followed by foreign citizens. Privatization could be carried out without auction only for the former owners of the plot of land, as well as for "special physical and juridical persons". The definition of the "special physical and juridical persons" is decided upon by the privatization Board in the districts as well as in the center. This stipulation creates a loophole for favoritism. The privatization Boards in the districts were composed of officials, including the National Intelligence Service (SHIK) and the public order police branches. The opposition had a very limited number of people in these Boards and could not influence the decision taking process.

The general and speedy privatization process was rightly proclaimed as the only way out of the economic collapse of the past regime. But this process was not supported through a suitable law by the Parliament to take into consideration the social and economic criteria. It relied on decisions and by-laws issued by the Council of Ministers which were not sufficiently respected. As a result from the privatization process benefited a certain group of people close to the party in power who received nearly free of charge part of the national property. The rest of the population was disappointed and jobless. The new owners made drastic cuts of the labour force. Selling through auction did not work the right way and corruption had its impact on the process. Later on, when the most efficient lot of the economy was already privatized, the government proclaimed the massive privatization in order to make use of the privatization shares. The shares were distributed by the state to the town population that had not benefited from the privatization process. These shares were immediately devaluated being that the items to be privatized were old, amortized and of little value. The dissatisfaction produced by this process and the unfair privatization of the state property was one of the reasons of the 1997 insurrection.

Transition to market economy brought forth a gradual liberalization of prices and services, with the exception of certain "basket" essential goods that were liberalized later on. The system of compensation was applied, to match the price increase, along with the progressive increase of the state sector wages. At the same time the pertaining legislation concerning taxes and custom taxes was being completed by means of the "Customs Code of the Republic of Albania" approved with the law No. 7599, dated 2 September 1992 and other laws (74).

Opening of the gates towards the world brought forth foreign investments. The first juridical acts that paved the way for these investments were approved in 1990, during the last days of the communist regime. Later on this legislation was improved and enlarged. The law No. 7594, dated 4 August 1992 "On Foreign Investments" (75) was approved. This law further liberalized foreign investments in Albania. On 2 November 1993 was approved the law No. 7764 "Foreign Investments" (76) that superseded the previous legislation. This law is still in force. According to this law foreign investments are guaranteed and protected by the state, is recognized the right to full compensation in case of nationalization and the right to transfer the profit. Foreign investments are not

subject to preceding authorization. The solution of conflicts could be done in an Albanian court or with the International Center of Conflict Solution established after the Washington agreement of 18 March 1965. Another law approved on 15 December 1996 is Law No. 8072 "On Free Zones" (77). This law allows for greater freedom for foreign investors through excluding them from tax in certain areas of Albania. This law has not yet been materialized because of the political situation in the beginning of 1997.

4.5. Social and Labour Legislation

The privatization of economy was painful for large group of population. A considerable number of workers, employees and military found themselves jobless as a result of the application of the economic and institutional reform. Big state enterprises like the Metallurgical Combine in Elbasan with about 10.000 workers, the Textile Mill in Tirana and Berat, the Tractor Manufacturing Factory in Tirana with more than 5.000 workers each remained paralyzed as a result of the competition and numerous damages. The number of unemployed reached hundreds of thousands at a time when prices were soaring.

In order to assist the most unprotected groups of population the government applied the social assistance policy. In this regard was approved the law No. 7521, dated 30 October 1991 "Social Support for the Persons Affected by the Application of the Economic Reform" (78). According to this law all persons that are jobless as a result of the application of the economic reform, such as: workers of economic enterprises, military that have been declared redundant because of the reorganization of their units, college agriculture specialists working in the state agricultural cooperatives as well as former political prisoners, enjoy the right of social security by the government. This assistance consisted of a year economic support. The salary was minimal. During this period the unemployed started to re-train in order to start other activities or become independent in the private sector.

Economic assistance was also granted to the poor households in towns or in the villages when the family did not own sufficient surface of land (79).

Special attention was bestowed on the former politically prosecuted. During the 45 years of the communist regime many Albanians were sentenced, banned and prosecuted on political charges, violating their basic rights and freedoms. By means of the law No. 7514, dated 30 September 1991, "On Innocence, Amnesty and Rehabilitation of Formerly Politically Persecuted" (80), all politically sentenced and prosecuted are recognized non guilty and a series of rights are granted to them by the state, such as: the time of the sentence suffered in prison or spent in exile is recognized valid in the retirement age, granted the right to live where they used to live before being sentenced, are facilitated their efforts to find a lodging, work or training. They are immediately remunerated for the economic loss inflicted.

Later on was approved the Law No. 7748, dated 29 July 1993, "On the Status of Formerly Sentenced and Prosecuted by the Communist Regime" (81).

This law provides details on the compensation procedures as concerns: the immediate remuneration, salaries, land, economic activity premises as well as other facilities regarding participation in the process of privatization of the state property, credits, etc.

An important juridical act in the social aspect was the Law No. 7703, dated 11 May 1993, "Social Safety Net in the Republic of Albania" (82). The law regulates, in compliance with the current standards, the relationship in the social safety net, with special regard to the compulsory safety wages, voluntary safety wages and special state retirement pensions.

In the conditions of a free market economy was necessary a new regulation concerning the juridical work relationship. Until the time when the Labour Code was approved (in 1995) these relations were temporarily regulated by means of some provisional provisions. A major social and political impact had the Article 24/1 of the Law "On Labour Relations" (83). This article stipulated that the employer, in order to implement the reform in the state sector, had the right to fire or assign to another job every employee and grant him a social safety salary. The administration inherited by the old communist regime was built on political criteria and a radical change was needed. But in the framework of the reform, this article was used to fire the political opponents and their relatives, regardless of their capabilities. By means of this article considerable clean-ups were implemented in the administration bodies, in the army, in the public order, education, etc. Thousands of people were fired or replaced with politically suitable subjects according to political criteria.

A more complete regulation of the labour relations is accomplished with the approval of the Law No. 7961, dt. 12.07.1995, "The Code of Labour of the Republic of Albania" (84). This law superseded the previous legislation of the one party regime and that of the transition period. This Code was conceived according to the western models and with the assistance of foreign specialists. The Code of Labour reflects the deep economic and social changes occurred in Albania. Regulating the labour relations, this code does not only reflect the country's rights but also the international conventions ratified by the Republic of Albania, recognizes and guarantees the right to strikes.

4.6. Civil and Commercial Legislation

The main source of the civil legislation is "The Civil Code of the Republic of Albania" approved with the law No. 7850, dated 29 July 1994 (85). This code is formulated according to the French, German and Swiss codes. It has 168 articles in different chapters. First Chapter is the general part defining the subjects of civil rights, representation, juridical actions and prescription ; Second Chapter is Ownership and its protection; Chapter Three is Legal inheritance and testaments; Chapter Four is Obligations and the Fifth Chapter is Contracts.

The civil legislation was succeeded and completed by the "Code of Civil Procedure of the Republic of Albania", approved with the law No. 8116, dated 29

March 1996 (86). This document is drafted according to the Italian and Dutch models. This code contains 621 articles in four chapters, namely: 1. General Part; 2. First Instance Judgment; 3. Legal Means of Defense; 4. Compulsory Implementation or Execution.

The Code of Civil Procedure contains the main juridical institutions that guarantee fair trial of civil juridical conflicts.

A Commercial Code is still needed for Albania. In order to satisfy and support the market economy and supply a framework for the juridical relations in the commercial activities are approved three main laws, namely: 1. Law No. 7632, dated 4 November 1992 "Provisions Regulating the First Part of the Commercial Code"; 2. the Law No. 7638, dated 19 November 1992 "On the Commercial Companies", 3. the law 7667, dated 28 January 1993 "Commercial Registration and Relative Formalities to Run Commercial Companies" (87) These three laws provide a provisional substitute framework for the Commercial Code. The laws define the main types of the commercial companies which are: general partnership, limited partnership, limited liabilities partnership, and joint stock partnership companies. These laws provide the basic framework to establish commercial companies by Albanians or foreign citizens. The requests are: registering with the court, the financially responsible component, organization and functioning, bankruptcy stipulations, etc.

4.7 Penal Legislation

The main source for the penal law is the Penal Code of the Republic of Albania, passed with the Law No. 7895 of 27 January 1995 (88). This Code was formulated according to the Italian and partly French penal codes. The Penal Code of Albania has 335 articles and falls in two parts: the General Part and the Special Part. In the General Part are affirmed some of the democratic principles of the penal rights and defined the rules of penal responsibility, the stages of crime committing, collaboration in crime and punishment. The majority of sentences are imprisonment and fines. For extraordinary crimes is envisaged the life sentence or the capital punishment. The capital punishment is not applicable for persons under the age of 18 as well as female offenders. In the Special Part are defined concrete crimes and penal violations and respective sentences. The penal acts fall into crimes and penal violations.

With the Law No. 8125 dated 23 December 1996 (89) a few alterations were made to the Penal Code, to toughen some of the sentences concerning smuggling, drugs, arms and prostitution trafficking, kidnapping and corruption, etc., to respond to these crimes that were jeopardizing the society.

For the military as well as for those citizens that commit crimes of military character, the Law No. 8003, dated 28 September 1995 approved the Military Penal Code (90) as a special code made of 100 articles. In the General Part are defined the particularities of this code regarding the object of the penal responsibility. The articles of this code apply in those cases when penal acts are committed against a state ally to Albania. As for other rules concerning penal

responsibility the Military Penal Code refers to the Penal Code (civil) in order not to repeat. In the Special Part are envisaged the penal violations and crimes as well as relative sentences.

The Code of Penal Procedure in the Republic of Albania was approved with Law No. 7905, dated 21 March 1995 (91). This Law superseded the previous relevant legislation. This law was formulated following the Italian model. It sanctions the principles and norms of the penal procedure recognized by all states with democratic traditions, adding features of Albanian concrete conditions. In general it is a modern Law with real values to improve and further democratize the work of the justice bodies. (92) Basic freedom and human rights are sanctioned and concretized in the norms of penal procedure, universally reflected and accepted by international conventions. Such are the application of security measures for house search and sequestration, the rights of the accused, protection, etc. It is worth mentioning that it guarantees independence of the law- courts and equality of the sides, reliable ways of collecting evidence and their assessment by the court. The Code of Penal Procedure relies on the accusatory system, but it also maintains some elements of the inquisitor system, especially as concerns the rights of the sides and the law-court functions. Subjects of penal proceedings are the law-court, the prosecutor's office, the judicial police, the accused and his lawyer.

5. THE INSTITUTIONAL REFORM

Along with the legal reform, efforts were made to carry out an institutional reform. All structures of the totalitarian state were demolished and new institutional structures took their place. In creating these structures Albania without hesitation looked for western models. In choosing the models both opposition and power agreed. The legal reform was carried out gradually and was support by the laws prepared with the assistance of foreign experts and approved by the Parliament. The reform affected the legislative, the executive and the judiciary authorities and reached the smallest administrative units.

While the legal reform could be considered successful in general, the institutional reform did not accomplish the task of establishing the rule of law and creation of a steady democracy. The newly created institutions revealed deficiencies. The Authoritarianism of the old period of the communist regime loomed on the new institutions. An ideology instead of the legal state was being installed, which very soon made people lose confidence. These institutions did not withstand the fire test. In a way they fomented the rebellion of 1997 and disintegrated in the face of the dramatic events generating chaos and anarchy. Establishment of steady and efficient institutions remains a *sine-qua-non* for the functioning of the legal state and pluralistic democracy in Albania. The 1997 crisis was in the first place an institutional crisis.

5.1 Form of Government

With the Law “Major Constitutional Provisions” (of April 1991) and the amendments of April 1992, in Albania was established a parliamentary democracy featuring a balanced division of powers, with Parliament having a slight superiority over the others. This superiority is demonstrated by the fact that Parliament is the only body exercising legislative powers, electing the President of the Republic, the Council of Ministers, Cassation Court and more than half of the Constitutional Court. The Albanian form of government is Parliamentary Republic.

As a matter of fact the parliamentary democracy has little tradition in Albania, because of long periods of Roman, Byzantine and Ottoman occupations. There have been mainly authoritarian regimes after the Independence in 1912. The parliamentarian democracy has been experienced only for a very short period 1920-1924. In the period 1925 - 1939 a fictitious parliament was in place because of lack of political pluralism. After the Second World War and establishment of the communist regime the power, as in other East European countries was concentrated in the hands of one party state.

During 1991-1996 Albanians referred to EC, OSCE and other modern international standards of the parliamentarian democracy, as well as to the universally recognized documents such as the Helsinki Act and the Copenhagen Convention, Charter of Paris for a New Europe, etc. This attitude is reflected in the constitutional provisions and other laws approved by the People’s Assembly after the democratic revolution. These laws sanction the principles of division of powers, free elections, independence of the judicial system and control of the executive power by the Parliament, control of civil authorities over the armed forces and police; a clear separation of political parties from the state. They guarantee the fundamental human rights and freedoms of the individual and ethnic minorities, etc.

The 1997 turmoil are evidence of the Albanian inexperienced and fragile democracy and the encroach of the above principles.

5.2 The Parliament

The People’s Assembly (Parliament) of Albania is made up by only one house. (94).

The present Parliament has 140 deputies elected by means of a mixed system. It convenes in four sessions that last nearly all year round. The status of the deputy is regulated by means of law (95). The deputies receive a salary during their mandate. They enjoy immunity and do not bear legal responsibility for activities they carry out, stands they adopt or vote they cast. They cannot be checked, arrested, detained or penally prosecuted without consent of the People’s Assembly.

Based on the constitutional provisions the deputies represent, through their individual conscience the people, but are not compelled to subdue to their electors (the imperative mandate is not applicable). The deputies follow a party line, of the party that has enabled their election, through its program and support in the Parliament. In special cases, when the convictions of the deputy do not agree with those of his party, he may become an independent deputy. Similar cases have resulted with the Socialist Party (SP) but the majority of them have been from the DP. In September 1992, 14 DP deputies broke away from its parliamentary group and established the Democratic Alliance Party, later on two others broke away and established the Rightist Democratic Party and in April 1997, other 14 DP deputies reacted towards the latest events, breaking away and establishing the Movement for Democracy Party.

The working order of the People's Assembly is established by "Major Constitutional Provisions", as well as by a regulation approved by the deputies. In order to conduct the sessions and regulate the relationship with other bodies the Assembly elects its presidency, which consists of the Chairman (speaker) and two Vice-Chairmen of which one from the opposition.

The Parliament conducts its activity in plenary sessions or in commissions. There are 15 permanent commissions corresponding with the number of Ministries and other main departments. In particular cases ad-hoc commissions may be established. The standing commissions examine draft laws, observe the activity of different ministries and submit issues to the People's Assembly or to the Council of Ministers.

The deputies have established parliamentary groups according to their political and party affiliation.

The People's Assembly elects a Parliamentary Bureau. It represents the Assembly in the international body of Inter-Parliamentary Union.

The People's Assembly is a legislative body. It has the exclusive right to approve the Constitution and other laws. For the approval of common laws a simple majority is required, while for the constitutional laws and their amendment a two third of votes is required. The legislative process may be initiated by the President of the Republic, the Prime Minister, every deputy as well as a group of 20.000 nationals enjoying the right to vote.

The People's Assembly exercises political control over the activity of the Council of Ministers. This is expressed through the vote of confidence to the program and composition of the Council of Ministers. The control of the government's activity is exercised through inquiries, questioning or proposals for the resignation of specific ministers or the whole Council of Ministers.

The People's Assembly enjoys a series of rights that regulate the balancing of powers. The People's Assembly elects every five years the President of the Republic, the members of the Cassation Courts the highest judiciary body in Albania as well as five members of the Constitutional Court (the remaining four are appointed by the President).

The People's Assembly is vested with the authority to declare partial or general mobilization, a state of emergency as well as a state of war in case of an

armed aggression against the Republic of Albania or when such an act remains necessary to fulfill obligations deriving from international treaties. It ratifies treaties and important international agreements, grants amnesty and decides on people's referendums.

5.3 The President of the Republic

The juridical status of the President of the Republic is defined by the Law "Major Constitutional Provisions" (96) (Articles 24 - 32). According to these articles the President is the Head of State and represents the people's unity.

The President of the Republic of Albania is elected by the People's Assembly for a five-year term, without debate, by secret ballot, and a majority of votes equal to two third of all deputies. In the event the majority required is not achieved in the first ballot, a second ballot is held in which the President is elected by the absolute majority of the votes of all the deputies. The candidate is proposed by a group of no less that 20 deputies. The same person cannot be elected President of the Republic more than twice successively. To meet the requirements to be elected the candidate should be 40 or more years of age, be an Albanian national resident in the Republic of Albania. The function of the President of the Republic is irreconcilable with any other public or private function, including the position head of a political party, with the exception of those defined by law.

When the seat of the President of the Republic is vacant for any reason whatsoever, his powers are exercised temporarily by the Chairman of the Presidency (speaker) of the People's Assembly. Reasons could be resignation, illness or death that make impossible the exercise of the functions of the President.

The President of the Republic is not responsible for the acts undertaken during his office. Therefore neither the Government nor the Parliament could request his impeachment or a vote of confidence. The President is conferred with wide and important competencies. He cannot be impeached or forced to resign but for two reasons: when he has committed high treason or infringed the constitutional laws. As a matter of fact none of the existing constitutional or other laws do not specify the procedure of dismissing the President of the Republic.

On the basis of the law, the President of the Republic has wider competencies than presidents of a parliamentary republic elsewhere. He is vested with these competencies in order to have real possibilities to exercise the function of balancing the political sides and safeguarding the constitutional order. With the exception of a few exclusive presidential competencies he does not directly exercise any of the fundamental functions of governing, but has the right to intervene in a relatively limited extent.

The President of the Republic proclaims the date of the elections for the People's Assembly and convenes the first session of the new legislature. He enjoys the right to dissolve the Parliament in case this assembly cannot exercise

its function. Declares laws and referendums decided upon by the People's Assembly. Enjoys the right to initiate a legislative process and may send back the law to the People's Assembly no more than once. When it is impossible for the People's Assembly to convene, he declares partial or general mobilization, state of emergency or state of war. He makes international treaties and agreements, ratifies and denounces those not examined by the People's Assembly itself.

The President nominates the Chairman of the Council of Ministers and accepts his resignation. Upon the proposal of the Chairman of the Council of Ministers, he appoints, discharges or dismisses by decree ministers and other members of the Government and other important bodies or institutions heads. In specific cases enjoys the right to chair the meeting of the Council of Ministers. He appoints and discharges diplomatic representatives and accepts the letters of credence submitted by the diplomatic representatives of foreign states. He exercises the power of pardon and grants the right of political asylum.

The President of the Republic is General Commander of the Armed Forces, Chairman of the Council of Defense and Chairman of the High Council of Justice.

5.4 The Council of Ministers

The functioning of the Council of Ministers is regulated by the law "Major Constitutional Provisions" (97) (Articles 33-41), as well as by means of a regulation approved by the Council itself (98). To date there is no specific law concerning the organization and functioning of the Council.

According to the "Major Constitutional Provisions" the Council of Ministers is the highest executive body and ordering executive (Articles 5, 33, 36).

The Chairman of the Council of Ministers is nominated by the President of the Republic. Generally he belongs to the majority party, but in times of political crisis and anarchy (such as during 1991 and 1997) coalition governments have been established with the goal to lead the country to early elections. Such examples are the Stability Government (1991) and currently (1997) the Government of National Reconciliation. Both these governments have had a interim task.

Upon the proposal of the Chairman of the Council of Ministers the President of the Republic nominates the ministers.

The People's Assembly exercises political control over the Council of Ministers by approving its program and its composition. The Government resigns in case it does not obtain the vote of confidence by the parliament. The political control of the parliament is continuous.

The Council of Ministers is composed of the Chairman, the deputy-Chairmen, the Ministers and other persons determined by law. The number and the organization of the Council of Ministers has changed from time to time. Currently the Government has its chairman and 15 ministers. The members of

the Government may be deputies at the People's Assembly, but they should have no other state or professional functions and should not take part in executive boards of economic and trade organizations.

The Council of Ministers acts as a collective body. The decisions are adopted only when approved by the absolute majority. The ministers are heads of the respective ministries. They are collectively responsible for the decisions of the Council of Ministers and individually responsible for the acts of the relevant ministry. The ministers bear political responsibility towards the parliament which has the right to dismiss them. They also may be subject to criminal prosecution for violations of the law, but criminal prosecution is undertaken with the consent of the People's Assembly.

The competencies of the Council of Ministers are defined by the law "Major Constitutional Provisions" (Article 36). This law defines the main functions of the Council of Ministers which are: the Political Function - the Government leads the activity to implement the domestic and foreign policy of the state based on the program approved by the parliament; the Administrative Function - the Government is the tip of the administrative pyramid of the state, in this regard it issues decisions and orders that are compulsory for the other state bodies and citizens. The Council of Ministers may abrogate unlawful orders issued by any of the ministers, while the ministers enjoy the right to abrogate the unlawful decisions of their dependent bodies. The third function is the Legislative Function - the law "Major Constitutional Provisions" sanctions that only the Parliament may issue laws and juridical acts. The Government enjoys the right to initiate legislative action and prepares most of the drafts submitted to the parliament.

5.5 The Judicial Power

The judicial power is regulated by means of the law "Major Constitutional Provisions" (99), the law No. 7574 dated 24 June 1992 "On the Organization of the Judiciary" (100), the law "Code of Penal Procedure", "Code of Civil Procedure" and some other ordinary laws.

The fundamental principles of the judicial power are sanctioned in the constitutional law. Among the most important principles introduced by the new legislation are: the independence of the judicial power from the other powers; the judicial power is exercised only by the courts on the basis of the law; the trials are open and public and the courts are obliged to conduct fair and equitable trials according to the international standards abiding by the principles of legality and equality on the basis of the due observance of the law. The judges of every rank are independent and may be dismissed from the duty, for encroaching the law and in cases envisaged in the law, only by the body that has appointed them. They enjoy penal immunity.

The judicial system has three instances or ranks.

The first instance courts are organized in each district. They carry out trials of penal, civil, and administrative issues. There is no division of work according to the issues. Lately an effort was done to establish separate divisions for the administrative or civil cases (101).

The Court of Appeals examines the appeals against the decisions of the first instance courts. There is only one Court of Appeals based in Tirana. The examination of issues is carried out by a three member court.

The Cassation Court is the highest judicial system authority. It has nine members appointed by the People's Assembly for a seven year term and enjoying the right to be reelected. The members of the Cassation Court cannot be dismissed, arrested, detained or punished without prior consent of the People's Assembly and only when proved that the member has committed a serious criminal act or is mentally disabled. The Cassation Court examines only the legal basis of the court decisions.

By law is forbidden the establishment of extraordinary courts.

The General Prosecutors Office is the authority that exercises criminal prosecution during investigation and trial. It is organized and functions within the judicial branch as a unique and centralized body. The investigation of the penal cases is carried out by this office and by the judiciary police under the monitoring of the prosecutor (102).

In order to become lawyer or prosecutor a degree in law is compulsory. After the victory of the democratic revolution all the officials that had served during the communist regime were dismissed. Most of them became independent lawyers. In order to fill the gap created by such a radical action of the reform, were conceived intensive six months training courses for lawyers (103). After following the training courses some 400 persons started and graduated the Faculty of Justice for another six months. These persons were appointed in the structures of the judiciary system. In 1996, under the auspices of the Council of Europe was established the Magistrate School for the training and re-training of lawyers and prosecutors (104).

The changes in the organization of the judicial system paved the way to democratize the system, but presently other hazards loomed. During the last 4-5 years the justice bodies did not observe their independence and their submission to the political power was obvious. The new lawyers and prosecutors showed lack of professionalism and under the pressure of corruption many of them gave in and lost the trust of the public. This marked the failure of the judicial system. During the 1997 events in many districts the court and prosecutor's office buildings were burned down and their documentation destroyed.

The Supreme Council of Justice

By means of the law "Major Constitutional Provisions" and the law "On Organizing the Judicial System" a new body was established, the Supreme

Council of Justice. This body does not make part, but has a great impact on the judicial system.

The Supreme Council of Justice is chaired by the President of the Republic and has 12 members. Three of these are ex-officio members, such as the Chairman of the Cassation Court, the Ministers of Justice and the General Prosecutor. The other nine members are elected for a five years term in a joint meeting of the Cassation Court and the General Prosecution Office.

The Supreme Council of Justice is the sole authority that decides the appointment dismissal and disciplinary measures for the court lawyers and prosecutors of the first instance and the Court of Appeals. The members of the Cassation Court and key position holding officials of the General Prosecutors Office are considered and examined by the parliament.

As it may be noticed the law defines two different attitudes for the Cassation Court lawyers on one side, and other lawyers and prosecution officials of the first instance and Court of Appeals on the other. But in both cases there is the risk, that their attitude, appointment or dismissal may be considered on the basis of political criteria. In the case of the Cassation Court members, because the parliament is a political body. In the case of the Supreme Council of Justice chaired by the President, the three ex-officio members are not protected against possible risks.

The Bar

The lawyers (solicitors) were in Albania until 1966 year in which this institution was abolished by the communist regime creating a dangerous void as concerns safeguarding of human rights.

This institution was re-established on the eve of the democratic revolution by means of the law No. 7382, dated 8 May 1990 "Lawyers in the People's Socialist Republic of Albania" (105). It was a step forward, even though the law had a series of limitations in its application. Followed other laws that served to widen the extent and improve the application (106). The actual law No. 7827, dated 31 May 1994 "Lawyers in the Republic of Albania" (107) defines the profession of the lawyer as a free and private profession acting on behalf of the defendant in a penal process or on one of the sides in a civil case.

This profession guarantees a real protection of the human rights and is a sign of the democratization of the judicial system.

5.6 The Constitutional Court

The Constitutional Court was established for the first time in Albanian history by means of the law "Major Constitutional Provisions" (108) in 1992. To date there is no organic law to regulate in detail its functioning. Until such law will be passed an internal regulation has been approved and is in use.

According to the law the Constitutional Court has nine members of which five are appointed by the People's Assembly and the remaining four by

the President of the Republic. The members of the Constitutional Court elect, through secret ballot, their chairman, who holds this office for three years with the right of reelection. Members of the Constitutional Court are elected among lawyers noted for their capabilities, who have been working no less than ten years in juridical activity or as lecturers at the Faculty of Law, and who have a high moral reputation. The Constitutional Court member cannot be member of the Parliament, member of the Council of Ministers, judge, investigator, or prosecutor, member of any political party or other political organizations or trade unions, nor be engaged in other private or public activities which may affect his impartiality or independence. The members hold their offices for a 12 year term and cannot be reelected. The members of the Constitutional Court enjoy penal immunity.

The Constitutional Court is the highest authority that protects and guarantees the Constitution and the legislation, as well as provides the final interpretation of the Constitution. Its decisions are final.

The Constitutional Court of the Republic of Albania is tailored according to the European models. It is not part of the judicial system and takes a special position among the three powers; the function of balancing the powers confirming the cohesion of their acts with the Constitution.

According to the law the Constitutional Court has considerable competencies. Considering the compatibility of laws and by-laws with the Constitution the Constitutional Court may decide their abrogation or invalidity.

The Constitutional Court decides on the compatibility with the Constitution of international agreements before being concluded in the name of the Republic of Albania. It considers compatibility with the Constitution and universally accepted norms of the laws passed by the Parliament as well as with agreements to which Albania is a party.

Last but very important function of the Constitutional Court is to decide about questions connected with the constitutionality of political parties and other political and social organizations and can prohibit their activity. It resolves questions concerning the lawfulness of the election of the President of the Republic and the members of the Parliament, and questions concerning the people's referenda, proclaiming the final result. This body investigates criminal accusations raised against the President of the Republic.

The Constitutional Court may initiate constitutional review either upon its own initiative or upon the request of the President of the Republic, a parliamentary group, from one fifth of the deputies, the Council of Ministers, the Courts or local government and any person claiming violation of his or her constitutional rights or freedoms.

During its five years of life (1992 - 1997) the Constitutional Court has been criticized several times by the opposition political parties for not being impartial.

5.7 The Local Government

After the democratic revolution deep changes were undertaken in organization of the local government system. The fundamental principles of functioning and organization of the local government are defined in the law "Major Constitutional Provisions" (109) and a more detailed regulation is done by means of the Law No. 7572, dated 10 June 1992 "On the Functioning and Organization of the Local Government"

According to these laws the local government bodies are elected by direct polling and function on the basis of autonomy from the central government and decentralization. The political autonomy is expressed by the fact that the local bodies are representatives of the people in the relevant areas. Coalitions different from those of the central government may be established in these bodies. Normative autonomy is expressed by the fact that these bodies may issue juridical acts compulsory within their relevant area. The administrative autonomy consists in the power of the local bodies to issue administrative acts for their areas of jurisdiction. It goes without saying that the acts issued by the local government have the element of autonomy and are compatible with the general legislation. This autonomy does not encroach the national unity of the Albanian state.

The Republic of Albania is divided in 37 districts. Each district is divided in communities and each community into municipalities. The community is composed of a number of villages or of a small town with some villages, while the municipalities are set up in towns which have not been included in communities.

The local government bodies possess their property and budget. In the case when constitutional encroachments or violations of the law are verified, the elected body of the local government may be dismissed through a reasoned decree of the President of the Republic, according to a proposal submitted by the Council of Ministers.

The highest local government body in the district is the District Council. It functions as a local parliament. It is elected by direct voting for a four years term on the basis of a proportional system. In its first meeting it elects the chairman of the Council who acts as the speaker of the parliament, and the executive body. The District Council approves the social and economic development programs, town planning schemes, decides on different local taxes and implements what has been approved. The District Council can suspend inappropriate or unlawful decisions of the communities and municipalities and request their abrogation. In case of a conflict between them the issue is brought to the court.

The local government in the communities are the Community Council and the Head of the Community. In the municipalities there are the Municipal Council and the Mayor.

The Prefectures

Albania is divided in 12 prefectures, each of them has two to three districts which are geographically close to each others and have similar governing traditions (111).

The Prefect is the head of the prefecture. The juridical status of the Prefect is defined by means of the Law No. 7608, dated 22 September 1992, "On the Prefectures" (112). According to this law, the Prefect is not elected and does not make part in the local government bodies. The Prefect is representative of the central government at local government level, that is appointed and discharged by the Council of Ministers. His task is to coordinate the activities of the local and central government. Observe that this activity is in compliance with the legislation, and monitor the lawfulness of the normative acts of the local government.

According to the law "On the Prefectures", in the cases when the ministries do not agree with the orders issued by the Prefect, the issue is cleared by the Prime Minister. The Prefect may suspend the implementation of acts issued by the local government, when he observes that they are not in line with the legislation, and take the issue to the court for consideration. The Prefect is advised by an Administrative Council. This Council is constituted of the Heads of the District Councils and other bodies subordinate to different ministries and located in the area of jurisdiction of the Prefect. The Administrative Council takes decisions that are compulsory even for the bodies that depend from the ministries.

5.8 The Armed Forces

The legal reform was extended in the Armed Forces. The reformation of the army, of the Ministry of Interiors and the former Security (Sigurimi) service was supported with legal acts that were issued from time to time. These documents aimed at converting the armed forces from an instrument of violence into a mechanism to serve the democratic development.

By means of the law "Major Constitutional Provisions" (Article 6) in the armed forces and the bodies depending from the Ministry of Interiors was prohibited the activity of the political parties. This was necessary to separate the armed forces from the politics and place them in a position to fully serve the interests of the country. This was sanctioned also by the law No. 7492, dated 8 June 1991 "On De-politicizing some Governmental Bodies" (113).

By means of the law "Major Constitutional Provisions" was established the Council of Defense, to direct, organize and mobilize all the country's forces and resources for the defense of the homeland. According to this law the President is the General Commander of the armed forces and Chairman of the Council of Defense. The composition of the Council of Defense is approved by the People's Assembly upon the suggestion of the Prime Minister. By means of this law the armed forces are under the control of the civilians. According to the

internal regulation of the Parliament the Parliamentary Commission of the Armed Forces, Public Order and National Intelligence Service has been established. This commission effectuates the qualified control.

The law No. 7499, dated 6 July 1991, "Re-Establishing the Grades System in the Armed Forces of the Republic of Albania" re-introduced this system. The grades, under the influence of the Chinese Cultural Revolution, were abolished in Albania in 1966. According to this law a grade is endowed by order of the Minister of Defense, the Minister of Public Order and the Head of the National Intelligence Service in each of these arms. High rank grades are granted or removed by the President of the Republic upon the proposal of the Council of Ministers. The law No. 7750, dated 13 September 1993 "On the Grades System in the Republic of Albania" (115) defines the grades range.

In order to define the status of the military, their rights, limitations and obligations was approved the Law No. 7496, dated 3 July 1991 "The Status of the Military in the Armed Forces" (116). According to this law the main tasks of the military are faithfulness towards the homeland, military skills, willingness to sacrifice, obey the Constitution and the law, keep the military and state secret and safeguard the military property. Among the major limitations are participation in political parties and trade-unions, prohibition of strike and collective objection, etc. The military have the right to hold and use the arms according to determined provisions. The law defines the wages and extra payments, the right to retire and the right to accommodation by the state for the military and their families. The military enjoy special protection because of their assignment. The media is obliged to keep the military and state secret. The above laws regulate different aspects of the Armed Forces. Later on was approved the Law No. 7978, dated 26 July 1995 "The Armed Forces in the Republic of Albania". This is a juridical document of general importance. According to this law the armed forces are divided in three parts: the army, the forces of the Ministry of Public Order and the forces of the National Intelligence Service (SHIK). Their main task is to protect the territorial sovereignty of the Republic of Albania as well as the constitutional order. The organization and functioning of the armed forces is based on the Constitution, laws and relevant legislation.

The army is defined as the major force to protect the homeland against a foreign aggression. The army has the Infantry Force, the Air Force, the Naval Force and the Territorial Forces. The armed forces may also be used for peace-keeping, humanitarian and rescue operations inside and outside the country.

In an emergency situation the armed forces may be used to assist the public order forces.

After the democratic revolution the Albanian army underwent a deep reformation in order to be organized according to the armies of the western democracies and prepare to join the NATO structures. The reform brought forth drastic but necessary reductions in the number of soldiers and officers. But it also created social problems. A number of officers remained jobless. Furthermore the requirement of the status of the military was not respected as

concerns retirement income granting. Recruiting into the army ranks was not accomplished according to the skills but observing political and provincial criteria. The army could not escape the application of the political criteria. Faced with the popular insurrection, the army was not able to withstand the pressure and the population got hold of the arms and ammunition creating a very dangerous incident. The army was the worse damaged sector of the country.

The Forces of the Ministry of Interiors

The forces of the Ministry of Interiors comprise several types of police, specialized in their activities.

Public Order Police

The activity of this force is regulated by the law No. 7498, dated 5 July 1991, "Safeguarding the Public Order" (119), that defines general concepts of public order; and on the law No. 7504, dated 30 July 1991 "On the Public Order Police" (120).

This police has the task of safeguarding the public order, prevent and discover criminal activities. Special attention is paid to protect the life of the individuals, both state and private properties, safeguard the peaceful political manifestations, circulation of vehicles, ect. The public order police is subordinate to the Ministry of Interiors and cooperates closely with the local government.

Prompt Intervention Forces

Their juridical status is regulated by means of the law No. 7551, dated 22 January 1992, "On the Prompt Intervention Forces" (121). They are subordinate to the Ministry of Interiors. These special trained units are used for prompt intervention when grave encroaches of the public order are verified, violence acts, terror, vandalism, as well as when other means of public order are not efficient. Among others, these forces may be used to protect important objects like sea ports, airports, and railway stations in cases of violence and grave disorders, re-establish order in prisons in cases of insurrection, participate in rescue operations in case of earthquakes, water floods, massive fires, etc.

Police of Surveillance of Important Objects

This force is part of the public order and subordinate to the Ministry of Interiors. Its task id to safeguard important economic, political, cultural state or private buildings. The list of these objects is determined by the Council of Ministers. Other objects that may be added are defined through agreements with other ministries, political parties and private persons (122).

Criminal Police

Make part of the public order police as a specialized body to control and fight criminality. In this respect it uses different means of information, special detection means and methods. Information may be obtained even by persons incriminated or involved in criminal activities. The use of detection means is authorized by the prosecutor (123).

Judiciary Police

Is a body established in 1995, after the approval of the Penal Procedure Code. Its task is to detect and inquire criminal activities through their initiative or by authorization of the prosecutor. Officials and agents of this body are administratively subordinate to the Ministry of Interiors, but carry out services for the prosecutor's office or the court on the basis of the Code of Penal Procedure (124).

Military Police

The military police safeguards order in the military units. It depends from the Ministry of Defense. This body serves to get hold of those militaries that disregard and desert their tasks, secures military transport and camps (in case) of war prisoners (125).

Beside the above mentioned bodies of police that are directly linked to the armed forces, there are other types of police such as:

Customs and Tax Police

During the period 1991-1995 was established and is functioning the Financial Police. This body depends from the Ministry of Finance (126). Its task is to control the clearance of taxes and customs, as well as discover the illegal importing and exporting of goods, drugs, arms, art pieces trafficking, etc. In 1995 this police was replaced by establishing two other separate bodies: The Tax Police and the Customs Police, both subordinate of the Ministry of Finances (127).

As a separate body is established the Construction Police (128) depending from the Ministry of Construction and the Forests Police, depending from the Ministry of Food and Agriculture (129). The private surveillance is another system organized by private firms, licensed by the public order bodies, used to secure private companies' premises (130).

The police forces, especially those of public order and prompt intervention have contributed considerably in re-establishing order after the anarchy of 1991. But contrary to their lawful status and position, they were politicized and were used against the political opponents of the Democratic Party. The human rights organizations like the Helsinki International Federation,

Helsinki Human Rights Watch, Amnesty International and the Albanian Helsinki Committee have frequently observed encroachments of human rights by the Albanian police, especially regarding use of violence in the opposition manifestations and in the police stations. After the beginning of the insurrection in the Southern regions of Albania, in a matter of days, the public order police was dispersed, leaving the citizens, the institutions and the country in absolute anarchy.

The National Intelligence Service

The National Intelligence Service (SHIK) is an informative-detective body, part of the Armed Forces of the Republic of Albania. Its juridical status is defined by means of the law No. 7495, dated 2 July 1991 "Organizing the National Intelligence Service" (131). After the democratic revolution this body was completely reorganized. The former communist security service (Sigurimi) was abolished; the juridical acts on which its activity was based were also abolished. Nearly 98 percent of the force were released from duty.

According to the law SHIK is a central institution with its branches in the districts and subordinate to the Council of Ministers. Its Head is appointed by the President of the Republic upon the proposal of the Prime Minister. The Head of this body cannot be member of any political party and the force should be depoliticized.

The task of the SHIK is to detect, prevent, and interrupt anti-constitutional activities intended against the freedom, independence, defense capabilities, territorial integrity and national property of the Republic of Albania. These anti-constitutional activities may consist of: espionage, political and economic corruption, attempt to overthrow the constitutional order, illegal preparation of war, provocation to destroy diplomatic relations, territorial allegations, transgression of borders.

SHIK has the right to carry out inquisitor actions. After sufficient evidence the matter is handed over to the legal bodies of prosecuting attorney.

SHIK cannot undertake any informative action in the People's Assembly, office of the President, Council of Ministers, Ministries, Chairmen of the political parties, with the exception when a special warrant has been issued by the Presidency of the People's Assembly, the President of the Republic or the Prime Minister.

In its activity during these 5-6 years SHIK did not observe the requirements defined by law, especially the political independence. It became an instrument of the party in power against the political opponents, especially against the Socialist Party. Leaders of the opposition parties, foreign and Albanian journalists, independent intellectuals have been kept under surveillance, beaten or ill-treated. SHIK along with the public order police have dispersed the peaceful manifestations of the opposition and participated in the manipulation of the 26 May 1996 elections. After the beginning of the

insurrection, similarly to the army and police, SHIK was neutralized in a matter of days.

5.9. Albania and the Euro-Atlantic Institutions

After the democratic revolution Albania emerged from the long communist isolation and intensified its relations with other countries, especially the USA, the European Community countries and the neighboring countries. At the same time were taken the first steps towards integration with the Euro-Atlantic institutions.

Albania is a UN member since 1955 (132). It has been a Warsaw Pact Member since the establishment of this Pact. After the political disagreements with the Soviet Union (1960) and especially after the occupation of Czechoslovakia, Albania broke away from the Warsaw Pact and the Eastern Block Economic Treaty in 1968. Afterwards the isolation policy deepened and became total after the split in the Albanian-Chinese relations in 1976.

Albania was the only country not to join OSCE or sign the Helsinki Final Act in 1975. Albania joined the OSCE after the first pluralist elections. The Helsinki Final Act was signed by the former-President R. Alia on 16 September 1991. Returning from Finland he signed on behalf of Albania the Paris Chart (133).

Albania contacted the Council of Europe immediately after the event of political pluralism. The Council of Europe has provided to Albania continuous support to implement the legal and institutional reform, as well as increase the necessary democratic standards to join this organization. Albania was admitted as member of the Council of Europe on 29 July 1995 (134). The observation done on this occasion was that Albania had to approve the Constitution and adopt a few aspects of internal legislation in compliance with the requests of the Council of Europe. One year later, in July 1996, Albania ratified the European Convention to Protect the Basic Freedoms and Human Rights (135). Along with the Convention were also ratified the additional protocols No. 1, No. 2, No. 4, No. 7 and No. 11 of the Convention, with the remark that the election right in Albania is recognized in compliance with the provisions of the laws "On Genocide and Crimes against Humanity, Committed in Albania during the Communist Regime on Political, Religious or Ideological Grounds" as well as the law "On the Image of Official Servants and Persons Relevant to the Protection of the Democratic State" (136) for a five year period. It is recognized the competence of the European Commission of the Human Rights to accept petitions from Albania, as well as the right of the European Tribunal on Human Rights to interpret the application of the Convention in cases of encroaches of the rights covered in it after this document enters in force in the Republic of Albania.

In 1992 the "Agreement Between the Republic of Albania and the European Community on Commerce, Commercial and Economic Cooperation" (137). Following the signature of this agreement the EC has assisted Albania

with credit lines, humanitarian and economic aid. Important has been the implementation of the PHARE program. The relations with the European Union have remained at an initial stage. The negotiations to reach an association agreement during 1996 were interrupted because of the political situation in Albania.

After the democratic revolution Albania was among the first Central and Eastern Europe countries that expressed the wish and request to join NATO. The request expressed the will of the Albanian public as well as both power and opposition political parties. The Albania-NATO relations are outlined in "Framework Document of Partners for Peace", ratified by the People's Assembly by means of the Law No. 7816, dated 20 April 1994 (138). Later on, by means of the Law No. 8034, dated 22 November 1995, the Parliament ratified: the "Relations Between Parties of the NATO Regarding the Forces Status", signed in London on 19 June 1951, the "Agreements Between Governments Parties in the NATO and Other Governments Requesting to Participate in the Partners for Peace and the Status of their Forces" signed in Brussels, on 10 January 1994; as well as the additional Protocol of the agreement between governments parties of NATO and other governments requesting to become part of the Partners for Peace and the status of their forces (139). Based on these fundamental documents the cooperation between Albania and NATO has advanced. Albania has participated in some multinational military drills. An Albanian military company has participated in the operation "Joint Support" in the former-Yugoslavia (140).

CONCLUSIONS

After the democratic revolution (1991-1997) a deep institutional and legal reform has been accomplished in Albania. The aim of this reform was to establish the foundations for radical democratic transformations, to speed up the transition to a market economy and a state governed by rule of law.

The legal reform regarded nearly all components of the system of law, the constitutional law, the human rights, the civil and commercial law, labour and social law, the civil and penal procedure law, the administrative law, etc. The old communist legislation was abrogated and replaced with a democratic legislation according to European standards. Regardless of some partial limitation and the lack of Constitution, in general the legal reform in Albania can be considered successful and a precondition of democratic progress.

The major disadvantage of the legal reform has been the non-consistent application of law and democratic principles. There are many components that have contributed such as lack of democratic tradition, grave economic shortages, the old mentality of the customary law that do not coincide with the modern principles of right, etc. The major factor has been the weakness of the legal institutions and their ineffectiveness to apply this new system of law.

As mentioned above the legal reform was accompanied with efforts to accomplish an institutional reform to achieve a reformation of the society in a

democratic framework. In these five-six years the structure of politic and juridical institutions changed. Instead of one-party a multi-party system was established. Instead of the one-party fake parliament, under the complete control of the former communist party, Albania has now a pluralistic parliament. The judicial and executive powers, the local government, the Armed Forces were completely regenerated. Nonetheless the tradition of authoritarianism obstructed the democratic progress. The request of de-politicizing the judicial system, the Armed Forces and some important administrative bodies was not successfully accomplished. They were politicized to support the DP that had the majority in the Parliament. If we consider other factors such as corruption, provincialism and nepotism, the disorders of the beginning of 1997 become more perceptible. With the decline of the DP, the institutions created to serve particular political interests dissipated. The 1997 crisis in Albania was an economic, politic but above all an institutional crisis.

The way of Albania to progress and democracy is winding and laborious and may be compared to that of Syziphus of the Greek mythology.

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**LEGAL AND INSTITUTIONAL REFORM IN ALBANIA
AFTER THE DEMOCRATIC REVOLUTION
(1991 - 1997)**

/ Abstract /

Albania is a small country of South- Eastern Europe. The communist regime in Albania (1945-1990) was much tougher than in other Eastern countries. Due to the long isolation from the world, the political pressure as well as the extreme poverty, the democratic processes started later than in other Eastern countries. They were relatively peaceful, but explosive as concerns the massive exodus, ravaging of public property and anarchy.

After the democratic revolution a deep legal and institutional reform has been accomplished (1991-1997). The aim of this reform was to establish the foundation for radical democratic transformations, to speed up the transition of the country to a market economy and a state governed by rule of law.

Albania belongs to the European civilization. Juridical traditions of the Albanians have since ancient times relied on the continental system of law. During this period (1991-1997) almost all the communist legislation is abrogated and a new democratic one is adopted. The models of the new legislation were oriented towards the Western European countries. The legal reform regarded nearly all components of the system of law : constitutional law, human rights, civil and commercial law, labour and social law, penal law, civil and penal procedure law, administrative law etc. Regardless of some partial limitations and the lack of the Constitution, in general the legal reform in Albania can be considered successful and a precondition of democratic process.

The major disadvantage of the legal reform has been the non consistent application of law and democratic principles. There are many components that have contributed such as lack of the democratic traditions, grave economic shortages, mentalities of customary law of rural regions that do not coincide with the modern concepts of law, the weakness of the legal institutions to apply the new legislation.

The institutional reform was also deep and broad. In these five-six years the structure of political and juridical institutions changed. The legislative, executive and judicial powers, the local government and Armed Forces were regenerated. But the tradition of authoritarianism obstructed the democratic progress. All the state institutions were politicized to support the Democratic Party that had the majority in the Parliament. With the decline of this Party, the institutions created to serve particular political interests dissipated. The 1977 crisis in Albania was economical, political but above all an institutional crisis.