

CONSTITUTIONAL DEVELOPMENT OF ALBANIA SINCE 1945-1991

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SUMARIO: I. I. INTRODUCTION. - II. CONSTITUTIONAL DEVELOPMENT IN ALBANIA AFTER THE VICTORY OF THE COMMUNIST FORCES FROM 1944 TO 1946, - 2. 1. The first Communist Constitution of Albania of 1946. - 2.2. The second Communist Constitution of Albania of 1950. - 2. 3. The third Communist Constitution of Albania of 1976.- III. CONCLUSION.

Abstract: Following the departure of the occupying fascist and Nazi armies from Albania on November 28, 1944, a new political order was established. Partisan brigades instituted what came to be known as “popular power.” On May 24, 1944, the Provisional Government was formed, governing Albania in accordance with the decisions of the Anti-Fascist National Liberation Congress. During this time, People’s Courts were created, sentencing opponents of communism to harsh imprisonment and executions by firing squad. On May 14, 1946, Albania adopted its first constitution as a socialist monist state, modeled after Yugoslavia’s constitution. The second communist constitution, approved on July 5, 1950, declared Albania a People’s Republic representing the working class and peasants. On December 28, 1976, the third communist constitution was adopted, declaring Albania a People’s Socialist Republic under the dictatorship of the proletariat. These three constitutions institutionalized political monism, the communist dictatorship, state-enforced terror under the guise of the dictatorship of the proletariat, and adherence to the ideology of global socialism.

Keywords: Communism, political monism, dictatorship of the proletariat, working class, etc.

I. INTRODUCTION

The constitutional system in the Communist Albania was developed during some main phases: First phase has begun from the First Congress

of National Liberation Anti-Fascist Army, on May the 24th 1944, when the Temporary Government of Albania was formed, and ended with the approval of the first communist Constitution on the 14th of May 1946. Therefore, the Communist Albania has exercised its state power without a Constitution.

The decisions of the Anti-Fascist Congress of the National Liberation of Albania held in Permet were considered as the starting point for the organization of the new constitutional system. The National Liberation Antifascist Congress took the number one decision which stated: “KANÇ (National Liberation Antifascist Council) as the main legislative and executive body, which represents the people’s sovereignty and of the Albanian state”. The Congress banned the return of King Zog to Albania and recognized the People’s Councils as the only bodies of legitimate power in Albania.

A year later (1945) parliamentary elections were held and representative bodies were elected. Apart from the Albanian Communist Party, other political parties also had the right to participate in the elections, however, they were terrorized by the so-called special courts which executed most of the intellectuals who did not support the establishment of communism in Albania. On January 10, 1949, the Communist Government approved and signed the first decree no. 649 on “evictions and confiscations”. This decree had legalized the evictions of the political opponents from their homes as well as the confiscation of their property in the cities and their placement in deep and isolated mountain villages. In 1946, the Constitutional Assembly approved the first communist Statute (constitution) in Albania, which declared Albania as People’s Democratic Republic.

It was a typical communist constitution drafted by an expert from Socialist Yugoslavia. Later on, after the breakdown of political relations with Yugoslavia, in 1950 Albania approved the second communist constitution which did not differ much from the constitution of the 1946. The first difference was in the naming of that constitution. From that time the highest legal act of Albania was not called the Statute but the Constitution. But the state regulation form and governance form remained the same, where the People’s Assembly was the highest body of the state power of the People’s Republic of Albania.¹

The 1950 constitution was a continuation of the 1946 constitution, where all other state bodies were subordinate to the People’s Assembly. It modified the 1946 constitution and officially banned the multi-party system. In order to draft this constitution, the constitution of the Soviet Socialist Republic of Ukraine approved on 1936 was taken as model. Through this constitution, the aim was to abolish private property and

¹ Statute of the People’s Republic of Albania, May 15, 1946, Article 37.

create a proletarian state, where in its introduction it was written “Albania is a country of peasants and workers” and where the element of Albanian ethnicity was not mentioned at all. During the period from the adoption of the new constitution of 1950 until 1976, Albanian a severe communist dictatorship was established. The constitution of 1976 was a continuation of the previous constitutions that further legitimized the communist dictatorship, through the so-called dictatorship of the proletariat. This constitution went even further by sanctioning: the extinction of private property, proclaiming Marxism as a world revolution and banning religious beliefs, because even in this constitution, religious beliefs were compared to fascism and terrorism.

II. CONSTITUTIONAL DEVELOPMENT IN ALBANIA AFTER THE VICTORY OF THE COMMUNIST FORCES, FROM 1944 TO 1946

The occupation of Albania by the Fascist Italy on April the 7th, 1939 put an end to the formal monarchy that the Albanian state had at that time, and instead of that monarchy the jurisdiction of the Italian state was established.²

The fascist regime capitulated on September the 13th, 1943, therefore the fascist army left Albania within September. At the end of September, the German Nazi army completely occupied Albanian. However, the resistance of the Albanian people against the occupying fascist and Nazi armies had never stopped. Anti-fascist resistance had grown considerably in late 1943 and early 1944. Thus, in the spring of 1944, Albanian partisan forces under the leadership of the Albanian Communist Party had taken control of several territories in the southern Albania. These forces already made their plans that with the departure of the fascist German forces from Albania, they would march towards middle (central) Albania and to liberate the capital of Albania, Tirana.

On May the 24th, 1944, the National Congress of Permet was held in the city of Permet.³ During this period, the bodies of the Communist Party of Albania and the bodies which led the National Liberation War

² Dhimo Dhima, Constitutional Law in the People's Republic of Albania, p. 61.

³ The Congress of Permet was held on May 25, 1944 in the city of Permet. 188 delegates participated in the Përmet congress, except for 5-6 of them, all the others were from South Albania. More specifically, they came from: 18 delegates, members of the General Staff and the National Liberation Council; 25 delegates from Korça, 48 from the area of I Operative Vlorë-Gjirokastrë, 15 from the area of Berat, 8 from the area of Elbasan, 10 from Tirana, 3 from Peza, 2 delegates from Durrës. The others were: 10 delegates from Anti-Fascist Youth, 5 from Anti-Fascist Women, 6 from I Brigade, 4 from II Brigade, 4 from III Brigade, 4 from IV, 7 from V Brigade, 5 from VI Brigade, 6 from Brigade VII, 3 from Brigade VIII and 5 delegates from Brigade XII. It should be emphasized that the representatives of the partisan brigades were their leaders. With rare exceptions, say that all were members of the Communist Party of Albania. <http://shekulliagency.com/histori/kongresi-i-permetit-projekti-sllav-mbi-shqiperine/>

issued a series of legal acts, firstly in the form of resolutions, directives and circulars and later in the form of decisions and laws (even though was no parliament), through which were aimed at solving many problems and issues,⁴ under the political circumstances of a state which was in an institutional chaos. The Congress took a number of decisions such as:

- a) The decision on the formation and character of the Anti-Fascist National Liberation Council of Albania.
- b) The decision of the construction of the new Albanian state, as a people's democratic state.
- c) The decision regarding the form of the political issue that the new Albanian state should have.⁵
- d) The decision to prohibit the return of the king to Albania.

Through these decisions, was aimed to establish the legal system in Albania until the approval of the new written constitution. The decision to ban the return of the king to Albania was analogous to the decision to ban the return of the king of monarchist Yugoslavia, which decision was made at the meeting of the Anti-Fascist National Liberation Council of Yugoslavia (AVNOJ) on November 29th, 1943.⁶ So, here it is clearly seen that the Communist Party of Albania was under the full influence of the Communist Party of Yugoslavia. The National Liberation Councils that were formed in Albania were analogous to the National Liberation Councils that shortly were formed shortly before in Yugoslavia and the General Staff of the National Liberation Army of Yugoslavia had a permanent representative at the General Staff of the National Liberation Army of Albania.⁷

The first anti-fascist congress from its composition elected the National Liberation Council as the highest legislative and executive body. In this way, in the general form of exercise of state power, Congress finally sanctioned the principle of the system of unity of state power.⁸ According to this principle, state power means that form of state government, where state power is concentrated in a supreme state body, which forms and supervises all other forms of power.⁹ In the formal sense, the National

⁴ Dhimo Dhima, Constitutional Law in the People's Republic of Albania, op.cit. p. 62.

⁵ Declaration of the first Antifascist National Liberation Congress, published in the Official Gazette; volume one, issue 1, pages 1-3.

⁶ See: Branko Petranović, Revolutionary Change of Power (1942-1945), Belgrade, 1973; Prof. Dr. Ratko Marković, Prof. dr. Milutin Srdić - Constitutions and constitutional documents of socialist Yugoslavia 1942-1981, Scientific book, Belgrade 1981, p. 12-15. Ali Hadri, Creation of the Communist Party of Albania. Review "Contributions to the History of Socialism", 3, Belgrade, 1966, f, 243.

⁷ Spasoje Djakovic, Conflicts in Kosovo, first edition, -1984. p. 48-56

⁸ Dhimo Dhima, Constitutional Law in the People's Republic of Albania, op.cit. p. 62

⁹ Arsim Bajrami, Parliamentarism - comparative aspects, College "FAMA" Prishtina, -2010, p. 78.

Liberation Council controlled and supervised the work and activity of the executive power exercised by the National Liberation Councils, in already liberated territories.

Considering that at this time the partisan forces had liberated South-Eastern Albania and were close to liberating middle Albania, the necessity to form the Provisional Government of Albania increased.

After the liberation of some territories of southern and middle Albania, by a special decision of the Presidency of the Anti-Fascist National Liberation Council of Albania was invited the meeting of the Anti-Fascist National Liberation Council. This meeting was held in the liberated city of Berat, on October the 13th, 1944. "Allied military missions were also stationed in Berat in those days: Ivanov (Soviet Union), Smith, (Great Britain), Thoma Stefan (United States of America) as well as the Yugoslav colonel Velimir Stoiniç.¹⁰ The National Liberation Anti-Fascist Council approved a number of legal acts, which in their entirety contain constitutional legal norms. There were made the following decisions:

- a) The decision on the transformation of the Anti-fascist National Liberation Committee into the Democratic Government of Albania
- b) Law on National Liberation Councils of prefectures, sub-prefectures and localities
- c) The decision on the Regulation of the Anti-Fascist National Liberation Council, as well as
- d) Declaration on the citizens rights.¹¹

Considering that the German military forces were leaving Albania in the following weeks, the establishment of a Provisional Government was a necessity. This government had the duty to create conditions for the construction of state institutions in Albania. The transformation of the executive power from the Anti-Fascist National Liberation Committee to the Democratic Government of Albania gave a signal that a new executive power was being placed in Albania.

Through the Law on the election of National Liberation Councils was claimed that the military power would be established in administrative, political and territorial units. This power in prefectures, sub-prefectures and localities was claimed to be elected through the will of the people, whereas the lowest link of the national liberation councils were the village councils, which included only one village, while the local national liberation councils included jurisdiction over several villages.

¹⁰ Shih: <http://www.panorama.com.al/te-fshehtat-e-tetorit-44-si-genjeu-enver-hoxha-per-qeverine-e-beratit-pjesa-i/>

¹¹ Dhimo Dhima, Constitutional Law in the People's Republic of Albania, op.cit. p. 79.

The law on the elections of national liberation councils of localities, sub-prefectures and prefectures determined the first form of election of local power bodies through free elections until the approval of the new constitution of Albania. For the first time in the state of Albania, the organization of elections was determined by law, where citizens would participate equally in the elections, regardless of: ethnicity,¹² gender, social origin, etc.

The Citizens Rights Declaration announced: the equality of citizens before the law; the equality of women with men, both in political and social life; the guarantee of private property; freedom of private initiative in economic life; religion and conscience freedom and the equality of all religious beliefs as well as guaranteeing the personal safety of citizens.¹³ But in the following years, not only that these rights were not only not respected at all but also were violated in the most brutal way. The decisions taken of the Anti-Fascist Council of Berat meeting, legalized and legitimized the transformation of military power into civilian power as well as established the new constitutional system, according to the new political circumstances. These aforementioned acts paved the way of the institutionalization of political and constitutional power in Albania. Although the Provisional Government was created, which extended its power to most of Albania, with the claim of creating popular power, the events that followed later, argued in a contrary way the activity of this power. After the establishment of the Provisional Government in the capital of Albania in Tirana, arbitrarily killing and imprisonment of anti-communist political opponents began. A campaign of execution of intellectuals without a trial began, in the name of alleged collaboration with the Italian and German occupiers. So, the intellectuals who opposed the establishment of the monist system in Albania were arrested. The Criminal Code of Enver Hoxha's regime foreseen 34 crimes punishable with the death penalty, among which 12 were political crimes, such as "escape from the state" (Article 47), sabotage of the "socialist economy and the organization of State administration" (Article 53) or "fascist, anti-democratic, clerical, warmongering and anti-socialist agitation and propaganda" (Article 55) etc.¹⁴ Against them were held Military trials and very severe punishments

¹² In Albania, the first electoral law was approved on December 20, 1920. That law sanctioned the right for only male voters to participate in elections. Women, the poor and the illiterate were excluded. Even the election system was an indirect form of elections. https://www.academia.edu/35179528/Parlamenti_i_par%C3%AB_i_zgjedhur_n%C3%AB_Shqip%C3%ABri_1921_1923

¹³ Dhimo Dhima, Constitutional Law in the People's Republic of Albania, op.cit. p. 83.

¹⁴ See: Criminal Code of the People's Republic of Albania, Tirana, -1952; Criminal Code of Socialist Albania, published by "Mihal Duri" printing house, Tirana, - 1982. p. 647. https://searchworks.stanford.edu/catalog?q=%22Albania.+Kodi+Penal+%281977%29+1983.%22&search_field=author_title; https://bunkart.al/2/ekspozita_historike/policia-dhe-sigurimi-ne-kohen-e-diktatures-/te-denuarit-me-vdekje-dhe-te-zhdukurit

were imposed. In particular, the persecution of the Muslim, Catholic and Orthodox clergy began. Catholic priests suffered the worst scenario, because they had collaborated closely with Nazi fascists. The truth was that the government was slowly preparing to declare religious beliefs illegal. In the period of 1944–1991, over 6,000 people were executed in Albania with or without a court order (mostly by shooting or hanging) and their bodies were almost never returned to their families for burial.¹⁵ It is still not known about the destiny of many high state personalities who were killed by the communist regime, among of them is the body of former Prime Minister of Mehmet Shehu, who is not known wheather was killed or committed suicide on 1981, and who was prime minister of communist Albania for 27 years in a row. During the second world war, he was the Commander of the first National Liberation Assault Brigade of Albania, as well as one of the volunteers of Albania in the Spanish war, for the protection of the republican government system. He participated in this war from December 1937 to February 1939 and was assigned to the 7th International Volunteer Brigade named “Garibaldi”.

2. 1. The first Communist Constitution of Albania of 1946

During the years 1939-1944 Albania was occupied, but political movements in Albania had not stopped functioning. They created several political parties, dominated by military organization and agenda. These were the Communist Party, the National Front, the Legality Movement, as well as some small political and military groups. The programmatic differences were ideological and had to do with the way of building political power after the end of the war, where the future national issue status played a dominant role. The need for war and of the control of power after the war ignored their operating rules dominating the fierce political and military conflict between them. After the capitulation of fascist Italy on 8th of September, 1943 and the departure of its military troops from Albania, the military troops of Nazi Germany were immediately deployed in Albania. During the period of October 1943 to October 1944 under the German occupying power, several governments were established and regular elections were held for the Supreme Council of State in Albania.¹⁶ However, in May 1944, another parallel reality was born, from which the political fate of Albania and for its people would be determined, for the next 45 years. On the ground, the communist partisan brigades had taken control of several territories and established their power. Their aim was to establish a communist regime and the dictatorship of the proletariat.

¹⁵ https://bunkart.al/2/ekspozita_historike/policia-dhe-sigurimi-ne-kohen-e-diktatures-/te-denuarit-me-vdekje-dhe-te-zhdukurit

¹⁶ The High Council in Albania was the regency of Albania, founded by the German Nazi occupier, after the year of the occupation of Albania by the German fascist military troops in September 1943.

So, this put an end to the monarchist model in Albanian history and with it to the constitutions that this model produced as well.¹⁷ The Communist Provisional Government in Albania was formed on October 1944. This government did not recognize the preliminary constitution of Albania before the Italian occupation. It functioned through legal acts approved by the National Liberation Anti-Fascist Council of Albania. These acts were: The decision on the transformation of the anti-fascist national liberation committee into the democratic government of Albania; Law on National Liberation Councils of prefectures, sub-prefectures and localities; The decision on the Regulations of the Anti-Fascist National Liberation Council, as well as the Declaration on the Rights of Citizens which could not cover a wide range of issues that had to be regulated in the new communist state. On the 29th of September, 1945, was approved the Law on the elections of people's representatives for the Constituent Assembly.¹⁸ Also, the new constitution had to be approved which would sanction the organization and scope of the new state institutions. On December the 2nd, 1945, were held the elections for the Constitutional Assembly of Albania. In addition to the Communist Party, in these elections participated also the political parties with a pro-Western political orientation also. Thus, in the conditions of a complete control of the country by the communists, the elections were held on December the 2nd, 1945.¹⁹ According to this Law, the elections of people's representatives for the Constitutional Assembly were held in electoral districts, where one deputy was elected for every 12,000 voters.²⁰ The candidate who won the relative majority of votes was considered elected²¹. So, the candidate who had won at least 1 vote more than the other candidates in the deputy election won the race. During the period of 1944-1946, Albania has been ruled without a Constitution. Governance and party-state decision-making in this period were based on the decisions of the Përmet Congress held in May 1944. Because Albania was officially liberated in November 1944, the decisions of the Përmet Congress were considered legitimate and as the starting point of the communist constitutional legislation in Albania.²²

¹⁷ Ibid, p. 3.

¹⁸ Law no. 124 on the Election of People's Representatives for the Constituent Assembly, published in the official gazette, volume II, no. 54.

¹⁹ Musta Agim, "The Black Book of Albanian Communism", Naim Frashëri, Tirana, 2007, page 25.

²⁰ Law no. 124 on the Election of People's Representatives for the Constituent Assembly, Article 3, published in the official gazette, volume II, no. 54.

²¹ Dhimo Dhima, Constitutional Law in the People's Republic of Albania, Law Faculty, State University of Tirana, 1963, p. 88.

²² Afrim Krasniqi, Basis and Constitutional Concepts in Decisions on the Government System: comparative analysis of the first years (1945-1946) and the last (1990) of the communist regime. Issue, 1 Volume, 1 Publication, date: 2021 https://www.academia.edu/78702166/BAZA_DHE_KONCEPTET_KUSHTETUESE_N%C3%8BVENDIMMARRJET_MBI_SISTEMIN_QEVERIS%C3%8B

On 14th of March, 1946, the Constitutional Assembly of Albania approved the Statute (Constitution) of the People's Republic of Albania, while on March 15, the Presidium of the Constitutional Assembly approved the statute (Constitution) of the People's Republic of Albania.²³ Through this constitution, Albania got its political orientation, taking as a model the one-party political system of the Soviet type.

The first chapter of this constitution sanctions Albania as a people's republic, where all power originates from the people and belongs to the people. On Article 2 of this constitution it is stated that: In the People's Republic of Albania, the people exercise their power through the representative bodies of state power, that are the people's councils, which were established in the national liberation war, against fascism and reaction, and represent the greatest victory of the main masses of the Albanian people. These bodies are elected freely by the people, starting from local councils to the People's Assembly. Given that all political parties were banned, except the Communist Party, Albania now even more formally sanctioned the Stalinist-type political regime, which unfortunately ruled Albania until the beginning of 1991. According to this constitution, the social economic system was created taking the model of the Bolshevik system of property, starting with the nationalization of private property. So, the main assets in the state were nationalized. In the People's Republic of Albania, the means of production consisted of the common wealth of the people that was in the hands of the state, the wealth of popular cooperative organizations and the wealth of private, physical or moral persons. According to this constitution, all mines and other underground assets, waters, natural resources, forests and pastures, air communication means, post offices, telegraphs, telephones, radio stations and banks are the common property of the people. Also, the foreign trade was completely under the control of the state.²⁴ From this year, the public goods and later private goods began to be nationalized, gradually almost everything becoming state property. In this context, the first 5-year plan was also approved, which began to implement practically these profound social and economic changes.

Although according to Article 9 of the Constitution, private property was guaranteed, this Article further provided that private property can be nationalized in the interest of the state. In this context, the state had violently nationalized the lands of large owners, factories, commercial enterprises, corporations, etc., leaving private agricultural lands and livestock herds enough for survival.

²³ Presidium of the Constitutional Assembly, Tirana, decree no. 24, dated March 15, 1946.

²⁴ Statute of the People's Republic of Albania, Tirana, March 15, 1946, chapter 2, Article 5.

This constitution equalizes all citizens regardless of language, ethnicity, religious belief, etc. However, the religious representatives of the Orthodox, Catholic and Muslim clergy, who were committed to the preservation and cultivation of religious values, were constantly persecuted. Their persecution was on the grounds that they violated the Marxist-Leninist doctrine in order to build a socialist state, or they were accused of being collaborators of foreign state agencies. This constitution had formally advanced to formal and factual equality of women and men. Regarding this women were considered equal to men in every sphere of private, political and social life. A woman has the right to get paid equally as a man for the same job. The state particularly protects the interests of the mother and the child by ensuring the right to a paid leave before and after childbirth and by ensuring homes for women who give birth, for raising and sheltering children.²⁵

For the first time in Albania, women were guaranteed the right of active and passive voting which means: the right to choose and the right to be chosen,²⁶ which was prohibited during the organization of free elections before the second world war by the former election laws.²⁷ In this context, women became an active part of public life, taking various political positions. Although according to Article 17 of the constitution to all citizens is guaranteed freedom of speech, of the press, of organization, the right to assemble and public manifestation, however, in reality these rights were not enforced. No one had the right to speak out against the decisions taken by the state bodies or party bodies (of the Communist Party). Thousands of citizens who thought differently from the representatives of communist ideology were arrested, imprisoned, tortured, sentenced to life imprisonment, executed or interned in concentration camps. The well-known Russian academic, Andrei Sakharov, has described the “gulags” or labor camps in the Soviet Union as “places where human life had no worth and everything that was human ceased to exist”.²⁸ These kind of concentration camps existed also in Albania. Until this time in Albania, political pluralism was banned and a communist dictatorship was established, while in neighboring Italy the fascist constitution was abrogated and the republican system of government was established.²⁹

²⁵ Ibid., Article 15.

²⁶ Sadik Haxhiu, Elections, electoral systems – Legal, political and comparative aspect, Prishtina, 2013, p. 403.

²⁷ History of the Albanian People, v. III, publication of the Academy of Sciences of Albania, Institute of History, Tirana: Toena, 2007, p. 178-179; Arben Puto, Political Albania 1912-1939, Tirana: Toena, 2009, p. 316.

²⁸ Jay Bergman, Meeting the demands of reason; the life and thought of Andrei Sakharov, New York: Cornell University Press, 2009, p. 308.

²⁹ See more widely: Diletta Tega, The Constitution of the Italian Republic: Not revolution, but principled liberation,

p. 691. <https://watermark.silverchair.com/moz047.pdf?token>

According to the Institute for Study of Crimes and Consequences of Communism in Albania (ISKK), 5577 men and 450 women were sentenced to death and executed. There are many testimonies that show a lot of political prisoners who died in prisons or labor camps, mainly from torture or other causes, and a number among them committed suicide.³⁰

According to this constitution, in Albania was applied the system of unity of power where all other state bodies were elected, supervised and could be dismissed by the People's Assembly. The People's Assembly was the highest body of the state power on the People's Republic of Albania. It exercised the sovereignty of the nation and of the state, as well as exercised all sovereign rights based on the Statute, with the exception of only those rights that the Statute itself has left under the competence of the Presidium of the People's Assembly or the Government.³¹

The People's Assembly was elected by secret and direct voting, according to the "one-citizen-one-vote" system. Given that only the Communist Party was the legal party that had the right to participate in the elections, they were held to legitimize the communist dictatorship. The People's Assembly worked divided into two sessions. After the convocation of the new Assembly, it first elected the Presidium of the People's Assembly, which exercised the function of the Collegial Head of the state. The Presidium of the People's Assembly represented the People's Assembly and had broad, representative and decision-making powers.

The Government represented the state Administration Bodies. It was the highest executive and order-giving body of the People's Republic of Albania. The government was appointed and dismissed by the People's Assembly. The government was responsible before the People's Assembly and was hold on accountability for its activity. Between the two sessions of the People's Assembly, it was responsible before the Presidium of the Assembly, to which it must give an account for all its activity.³² The constitution in a formal sense determined the division of competences and authorizations of the state power bodies: the Parliament, the government and judicial bodies, however, the actual power was exercised by the Political Bureau of the Communist Party which was led by the dictator Enver Hoxha.

The relationship between the central government and the subordinate bodies of the administration was based on the principle of subordi-

³⁰ Bogdani, Mirela, *Disappeared Persons during the Communist Regime in Albania, International Standards and National Context*. p. 9. This publication is part of the contribution of the OSCE Presence in Albania to transitional justice, and was financed by the Konrad Adenauer Foundation. cited according to *Guide for the rights of family members of missing persons during the communist period, Authority for information on the files of the former State Security*, p. 5.

³¹ Statute of the People's Republic of Albania, Tirana, March 15, 1946, Chapter 2, Article 37, 38.

³² *Ibid*, Article 57.

nation. The Presidium of the People's Assembly could abrogate or suspend at any time the decrees, instructions or decisions of the government when they were contrary to the provisions of the constitution or laws in force. On the other hand, the Government could abrogate or suspend at any time the regulations, ordinances, instructions and decisions of the ministers when those acts were in conflict with the basic provisions or in conflict with the decrees, instructions and decisions of the Government.³³ Considering that Albania applied the System of Unity of the State Power, the Presidium of the People's Assembly and the higher People's Councils had the right to dissolve the lower People's Councils and schedule new elections for the upcoming People's Councils. They could also dissolve the lower executive committees and order the new election for those executive committees. In this way, clearly was shown the Stalinist dictatorial political type of regime. In addition, the central power bodies, the constitution also foresees the organization of local government, which was divided into the following levels: localities, municipalities, sub-prefectures and prefectures. Their election was organised by direct and secret voting by all citizens who had the right to vote. Those bodies exercised their power in accordance with laws, decrees, directives and other legal acts approved by the central power bodies. So, they did not exercise resource power as it is foreseen in states with consolidated representative democracy.

The Court and the Prosecutor's Office represented the third power, the judicial and prosecutorial power. The judicial bodies in the People's Republic of Albania are: The Supreme Court, the people's courts of prefectures and sub-prefectures and military courts. Special courts could also be established by law for a certain category of cases.

Courts bring verdicts on the name of People.³⁴ Although the constitution stipulated that special courts could be formed for a certain category of cases. These trials were organized especially for the persecution of anti-communist political opponents, but also to purge various officials in the high state segment, or at local levels of the state power. The judicial system was divided into three levels: the Subprefecture Court, the Prefecture Court and the Supreme Court. The Sub-prefecture judges were elected by the People's Councils of the Sub-prefecture; the Prefecture judges were elected by the People's Councils of the Prefecture, while the Supreme Court judges were elected by the People's Assembly of the People's Republic of Albania.

The prosecution was a prosecution body, which was completely centralized. According to the constitution, the Prosecutor's Office is a body of the People's Assembly whose mission is to control the precise imple-

³³ Ibid, Article 89.

³⁴ Ibid, Article 75.

mentation of laws by ministries and other administrative bodies, by public servants and by all citizens. The General Prosecutor of the People's Republic of Albania and his assistants were appointed by the People's Assembly. Public prosecutors of prefectures and sub-prefectures were appointed by the General Prosecutor.³⁵

Because there were foreseen the military courts, the constitution also foresaw for the Military Prosecutor's Office of the National Army of the People's Republic of Albania, which was directly elected and controlled by the Supreme Commander of the Armed Forces of the People's Republic of Albania. Civil and military public prosecutors were independent in the exercise of their duties in relation to local bodies of state power. They had horizontal responsibility with the Chief Prosecutor General of the People's Republic of Albania from whom they constantly received orders and instructions.

The armed forces composed the most important segment of the organized state structure. They were not directly subordinated to the Government. The Constitution did not decisively define who is the Supreme Commander of the Armed Forces. Article 93 of the constitution stated: The Supreme Commander of the armed forces of the People's Republic of Albania is appointed by the People's Assembly. That meant that it was not the Presidency of the People's Assembly as the highest collegial body of the state which also exercised the duties of the Head of State. However, from the references of the documents of the time, the General Secretary of the Communist Party of the People's Republic of Albania was always called the Supreme Commander of the Armed Forces.

The emble and flag of the People's Republic of Albania were a combination of the emblems of the state flags of the newly formed communist states in Eastern Europe. The emblem was with ears of wheat, with ribbons and also it contained the date of the organization of the First Anti-Fascist National Liberation Congress of Albania, whereas the flag was the traditional national flag with two heads eagle, but above it, there was placed the communist symbol of the five-pointed star.

2.2. The second Albania's Communist Constitution of 1950

After the consolidation of the communist dictatorship and the end of the first five-year plan, the Political Bureau of the Communist Party through the Presidium of the People's Assembly and the Government of Albania in 1950 proposed to amend the Constitution of 1946. The Constitution of 1946 did not contain the basic standards of a contemporary constitution for the time. In the first place, it lacked of the preamble, then: the form of the political regime was not clearly defined, the forms of state power were not distinguished, also it was not defined who is

³⁵ Ibid, Article 84.

the Supreme Commander of the Armed Forces, etc. On the other hand, the status of private property was not well defined, because most of the private property was nationalized, but still it was guaranteed by the constitution.

The constitution guaranteed that all citizens are equal in accordance with constitutional and legal norms. Courts are independent and military courts were formed for specific cases. These and other legalvoids influenced the adoption of the second constitution of the communist state of Albania in 1950.

Even though the former constitution does not contain a preamble at all. With the new constitution, in the first part of the basic principles, Albania was defined as a People's Republic, but it did not specify from whom the power originates, whereas differently, on the previous constitution of 1946, it was decisively written that popular power originates from the people. In the constitution of 1950, instead of the definition that in the People's Republic of Albania, power originates from the people and belongs to the people, on the basic provisions of this constitution it was written: "The People's Republic of Albania is a state of workers and working peasants. All power in the People's Republic of Albania belongs to all workers and peasant workers, represented by popular councils. All power in the People's Republic of Albania belongs to city and village workers, represented by popular councils."³⁶ Unlike this constitution, the constitution of the neighboring communist Yugoslavia of 1946 was much clearer and on it was expressly written that power comes from the people, and defined power as follows: The Federal People's Republic of Yugoslavia is a federal state, in a republican form, a community of equal peoples, based on the right to self-determination, including the right to secession, where the peoples have expressed their will to live together in a federated state,³⁷ or they can express their free will to separate from the federation.

The definition set on the constitution of 1950, that the Republic of Albania is a state of workers and working peasants, is a definition of constitutions with pure communist ideology For the drafting of this constitution, was taken the model of the Bolshevik constitutions of the Soviet Union, more precisely of the constitution of the Ukrainian Soviet Socialist Republic. As it is mentioned in the Constitution of Ukraine of 1937 on one of its Articles: The Ukrainian Soviet Socialist Republic is a socialist state of workers and peasants. The political foundations of the Ukrainian Soviet Socialist Republic are the workers' councils, which grew and strengthened as a result of the overthrow of the power of owners and

³⁶ Constitution of the People's Republic of Albania, Tirana 1950, first part, chapter 1, Article 2

³⁷ Constitution of Yugoslavia, Beograd 1946, Article 1, section 2.

capitalists, as well as the liberation of the Ukrainian people from the oppression of tsarism and the Russian imperialist bourgeoisie.³⁸

So, the Albanian constitution of 1950 also regulated the social and economic system according to the model of the Soviet socialist constitutions. By that time most of the private property was nationalized. According to this constitution, all mines and other underground assets, waters, natural resources, forests and pastures, means of air transport, railway and sea transportation, post offices, telegraphs, telephones, radio stations and banks are the common property of the people.³⁹ Foreign trade was completely under the control of the state. Private property was still guaranteed, but it was not specified up to what value a citizen could own private property. With special laws, the state had the right to alienate private property in the interest of the state. According to the constitutional provisions, the socialist property of the means of production in the People's Republic of Albania is presented in two forms: state property and cooperative property.⁴⁰ It was not clearly defined what was the difference between state property and cooperative property. However, both state property and cooperative property belonged to state. The establishment of the state and social order of the People's Socialist Republic of Albania is closely related to the party of the working class, the Labor Party of Albania.⁴¹ Although the constitution guaranteed human freedoms and rights, such as freedom of belief, to assemble, the right to political association, etc., they were violated in practice. Religious beliefs were formally guaranteed, but Catholic, Muslim and Orthodox clergy were constantly persecuted, allegedly for their connections with "religious agencies". In particular, the Catholic clergy⁴² were pursued, arrested and accused because, through their religious connections with the Vatican, they were committed to overthrow the communist regime in Albania. Only the public gatherings that were in the interest of the state regime were allowed.

³⁸ Constitution (Basic Law) of the Ukrainian Soviet Socialist Republic, Kiev, - 1937, Article 1

³⁹ Constitution of the People's Republic of Albania, Tirana 1950, first part, chapter 2, Article 7

⁴⁰ Dhimo Dhima, Constitutional Law in the People's Republic of Albania, p. 118.

⁴¹ Dhimo Dhima, Constitutional Law in the People's Republic of Albania, p. 110.

⁴² See in more detail the memoirs of the Franciscan priest, Father Zef Plumi (who stayed in the communist prisons of Albania for a full 26 years), in his work "Rrno për me tregue" published by the publishing house: Botimet Francescane Year - 2006, p. 736. The book has been translated and published in English as well, by Kathleen Schank, and were published in 2008 under the title: Live to tell; in Italian by Keda Kaceli with the title: *Il Sangue di Abele - Vivi per testimoniare* and in French by Odile Daniel with the title: *Vivre pour témoigner - récits du goulag en Albanie*. <https://www.shtepiaelibrit.com/store/sq/biografi-kujtime/365-rrno-vetem-per-me-tregue-at-zef-plumi-vol-1-3-9789995697396.html>; <https://www.barnesandnoble.com/w/live-to-tell-v2-kathleen-schank/1122547972>; <https://www.amazon.com/Sangue-Abele-Vivi-testimoniare-Italian-ebook/dp/B009EDKZP4>; <https://www.amazon.co.uk/Vivre-pour-Temoigner-Plumi-Zef/dp/2825143537>.

The organization of the state power was the same as with the constitution of 1946. The People's Assembly was the highest body of the state power of the People's Republic of Albania. He was elected by the one-candidate electoral districts with a mandate of 4 years. The Presidium of the People's Assembly exercised the function of the collegial head of the state. The government was elected by the People's Assembly and was held in responsibility to the People's Assembly for its work. The local power bodies were the same as those designated by the 1946 constitution. The courts and prosecutors' offices were directly controlled by the political structures of the Communist Party. Even though in the constitution was written that: "Courts are independent in the exercise of their functions, and that their decisions cannot be changed except by the competent higher court, the judgments of the courts were under the direction of the governing bodies of the ruling party. The constitution no longer mentions the right of citizens to be protected by lawyers during the trial.

The changes that were made strengthened the communist dictatorship even more, especially regarding the nationalization of private property, the restriction of religious beliefs, the prohibition of the formation of political parties, the creation of courts and prosecutions according to the Bolshevik communist system.

2.3. The third Communist Constitution of Albania of 1976

Since 1950, when the second communist constitution was approved, the Albanian communist state had undergone through profound political, economic, cultural and ideological changes. These changes determined the approval of the new constitution of Albania on 28.12.1976 which was the last communist constitution in the People's Socialist Republic of Albania.

This constitution was the continuation of the previous constitutions that had communist ideology and which indirectly prohibited political pluralism and the multi-party system and affirming the dictatorship of the proletariat as a worldwide ideology. Its operating practices also undermined the elements of the democratic tradition in Albania and personalized the state in the function of a dictator. This model consists of the only case where the name and ideology of a party (Labor Party of Albania, ALP) are sanctioned as a constitutional principle.⁴³ According to this, the People's Socialist Republic of Albania is a state of the dictatorship of the proletariat, which expresses and protects the interests of all employees. The People's Socialist Republic of Albania relies on the unity of the people around the Labor Party of Albania and is based on the alliance of the

⁴³ Krasniqi, Afrim (2017) "Political parties in Albania", summary, in "Political parties: function and organization in democratic societies (Wilhelm Hofmeister and Karsten Grabow, Konrad Adenauer Stiftung, p.84-97, Tirana, 2017.

working class with the cooperative peasantry under the leadership of the working class.⁴⁴ With the constitution, the Communist Party of Albania was named as the Labor Party, which is the only leading power of the state and society, while the ruling ideology is Marxism-Leninism. So, it was foreseen by the constitution that the Labor Party was sanctioned as the only ruling party and had under control the entire state apparatus. Even in this constitution, it is foreseen that power originates from the people and belongs to the people, but this constitutional principle contradicts the other constitutional principle, which states that the Labor Party was the only avant-garde of society. So, according to this, the People's Socialist Republic of Albania continuously develops the revolution adhering to the class struggle and aims to ensure the final victory of the socialist road over the capitalist road, to achieve the complete establishment of socialism and communism.⁴⁵ The economic system had undergone profound changes, because private property no longer existed. Extinction of private property was reduced by the previous constitutions, but with this constitution, private property is also officially and forcefully extinguished, in the name of the equality of all citizens before the law. State property was defined as belonging to the entire people and is the highest form of socialist property. The state property consists of: land and underground assets, mines, forests, pastures, waters, natural energy sources, factories, industrial units, car and tractor stations, banks, roads and railway, water and air transport, post offices, telegraphs, telephones, radio and television stations, cinematography,⁴⁶ etc. While the agricultural lands of the peasants are given to the agricultural cooperatives, where the farmers whom property was expropriated became workers of the agricultural cooperatives, however, the de-facto real owner of the cooperatives becomes the state itself. Internal and external trade was carried out by the state and the trading prices were set by the state. There was no free trade, no variable prices. According to the constitution, its citizens did not pay tariffs or taxes. This is also understandable because private property was officially extinguished. The previous constitutions were mainly oriented towards proletarian internationalism, in this constitution there is a feeling of returning to national values. The development of education had an ideological character, but it was further said, it should be organised following the best traditions of the Albanian national school. The return to these values is also observed in art, culture and cinematography. Këto vlera shprehen decidivisht ku thuhet: Shteti mbron trashëgimin kulturor

⁴⁴ The Constitution of the Socialist People's Republic of Albania decree no. 5506, dated 28.12.1976, Article 2.

⁴⁵ The Constitution of the Socialist People's Republic of Albania decree no. 5506, dated 28.12.1976, Article 4.

⁴⁶ The Constitution of the Socialist People's Republic of Albania decree no. 5506, dated 28.12.1976, Article 18.

të popullit shqiptar dhe kujdeset për zhvillimin e gjithanshëm të kulturës kombëtare socialiste. These values are decisively expressed where it is stated: The state protects the cultural heritage of the Albanian people and takes care of the all-round development of the national socialist culture. The state supports the development of literature and the art of socialist relations, which adhere to the ideals of socialism and are permeated by the national and popular spirit.⁴⁷ The state does not recognize any religion and supports and develops atheistic propaganda to inculcate in people the scientific materialistic worldview.⁴⁸ For the first time where predicted the Abrahamic religious beliefs (beliefs in one God) because the constitution prohibited religious beliefs. Even more, on the Article 55 of the constitution was stated: It is prohibited the creation of any organization with a fascist, anti-democratic, religious and anti-socialist character,⁴⁹ where religious beliefs were explicitly equated with fascist and anti-democratic organizations. Then began the demolition of churches and mosques throughout Albania. Some of these praying places were turned into warehouses, cultural objects or other objects in the service of the socialist government. At the same time, began the brutal and wild persecution of the religious clergy, Muslim, Catholic, and Orthodox, in the name of eradicating the so-called useless religious beliefs.

The organization of state power bodies did not have any significant changes from the previous constitutions. The highest representative body was the People's Assembly, while the Presidium of the People's Assembly exercised the function of the collegial head of the state. The government was elected by the People's Assembly and held responsibility before the People's Assembly and the Presidium of the People's Assembly.

One change that was done from the previous constitutions was the status of the country's defense and the armed forces. In the constitution it was stated that: the defense of the homeland and the victories of socialism is ensured by the armed people organized in the Armed Forces, which consist of the People's Army, the Forces of the Ministry of Internal Affairs and the Voluntary Forces of the People's Self-Defense. The People's Army, as the main force of defendin the homeland, is the people's army and serves to the people,⁵⁰ where the First Secretary of the Labor Party is the Supreme Commander of the Armed Forces and chairman of the Defense Council of the People's Socialist Republic of Albania. So, here it is clearly seen that the only party in power is the Labor Party, who exercised absolute power in Albania, where according to the function, the leader of the Labor Party was the Supreme Commander of the Armed Forces.

⁴⁷ Ibid, Article 35.

⁴⁸ Ibid, Article 37.

⁴⁹ Ibid, Article 55.

⁵⁰ The Constitution of the Socialist People's Republic of Albania decree no. 5506, dated 28.12.1976, Article 88.

The local power bodies were identical to the local bodies of the previous constitutions. But now it is expressly sanctioned that all state bodies, both central and local, responded to the Labor Party as the leading party of the state. The status of courts and prosecutions did not change. The Supreme Court was elected by the People's Assembly, while other courts were elected by the people. The General Prosecutor was elected by the People's Assembly, while the other prosecutors were elected by the Presidium of the People's Assembly.

Through this constitution the Labor Party, the only party in power, on the one hand claimed to consolidate the absolute communist power in Albania, claiming to develop socialism as a form of advancement of the state and society, while on the other hand claimed to rise the national consciousness which in the previous constitutions did not even exist.

III. CONCLUSION

The constitutional system built in communist Albania was very special. The communist regime did not take in consideration the continuous development of the constitutional system of Albania in the previous stages of building the Albanian state. The Albanian state already had a tradition of building the constitutional system. After the declaration of the independence of Albania on November 28th, 1912 from the invasion and rule of 433 years, it built a political and constitutional system based on the best practices of the time. Albania also abrogated the laws based on Sharia law. It transformed the constitutional system according to positive European traditions. Albania was declared a secular state, where none of the religious beliefs were not state religions, but it declared religious beliefs as equal and protected by the state. All the governments that were formed, from 1912 until the Italian Fascist invasion in 1939, were of a religious proportion, which means that in a party government there had to be ministers of all religious beliefs. The judicial power was separate and independent from the legislative and executive power. The codes regulating the criminal and civil fields were approved. The Criminal Code was drafted after the model of the criminal codes of Western countries, while the Civil Code was drafted after the the model of French Civil Code of 1804 and the Austrian Civil Code of 1812.

The constitutions approved after the establishment of the communist regime in Albania were not based on these traditions and values of building the state of law. The form and technical structure of drafting the first communist constitution in Albania was completely different from the form and technical structure of the previous constitutions of the Albanian state. The content of the communist constitutions was oriented towards the system of unity of power, at first according to the constitutional system of the constitutions of the federation of socialist Yugoslavia

and later they took as a model the communist constitutions of the Soviet Socialist Republics Union..

The communist constitutions in Albania of 1946, 1950 and 1976 are distinguished through these characteristics:

- These constitutions legitimized the communist power in Albania and the establishment of the so-called dictatorship of the proletariat;
- They were drafted completely according to the model of the constitutions of the Socialist Republics of Yugoslavia and the constitutions of the Soviet Socialist Republics Union;
- Through them, de facto and de jure, political pluralism and the multi-party system were banned;
- These constitutions established the system of unity of state power, which is the first stage of the establishment of the communist dictatorship;
- The legislative, executive and judicial powers were under the strict control of the only leading party, the Labor Party of Albania;
- Criminal codes foresaw for the punishment of political opponents through concentration camps and internment camps;
- No communist constitution of Albania contained a preamble;
- All constitutions foresaw the prohibition of political parties and the multiparty system;
- All constitutions foresaw the nationalization of capitalist property;
- The Constitution of 1946 foresaw the gradual extinction of private property;
- The Constitution of 1976 foresaw for the prohibition of private property;
- The 1950 constitution saw religious beliefs as an obstacle to the development of the socialist state;
- The 1976 Constitution officially declared Albania as the first atheist state in the world, equating religious belief with fascism and terrorism;

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