

## Constitutional provisions for the integration process

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### Abstract

The process of integration as a complex process in which the states that express their will to be part of the International Organizations have to go through legislative amendments. The amendments needed for this process are not only amendments according to the approximation of legislation, but they really require amendments in the Constitutions of these states. These provisions already are reflected in the Constitution of the Republic of Albania, as previously provided in many countries which are part of the European Union or other international organizations with the scope of international cooperation.

This paper has a special focus the Constitution of the Republic of Albania, which has affirmed important articles that establish the basic principles for the preparation and legitimacy of Albania's integration into international organizations. The Constitution of Albania respects international law and has given ratified international acts supremacy; ensure a sovereign state that accedes to international organizations, delegates to them state competencies on specific issues, and can participate in a collective security system, in order to preserve peace and national interests. It should be noted that the Constitution of 1998, in Albania, was among the first constitutions in Europe that sanctioned valid provisions for the integration process. The Constitution of the Republic of Albania for the first time provided concrete provisions which prepare the integration process for a state that respects international law, in the first Constitutional provisions, which is the basic and general provision that orients the relations between the domestic and the international law, keeping attention to the domestic legislation of the Albanian state and the binding principles of international law. In this paper we will take a look at EU's countries Constitutions as an example to understand their Constitutional path till the membership.

**Keywords:** Constitutional provisions, Albania, integration process.

### Introduction

The integration processes that bring Albania to start the struggle against the needs for membership mainly after the 1990s and that began to take a form with Albania's membership in the North Atlantic Treaty Organization (NATO) brought us before the irreversible fact of changing and modernizing Albanian legislation, and as a result they prepared us for the need of a new Constitution, which would legitimize the path of integration not only in Euro-Atlantic Treaty Organization (NATO) but also European.

"This process is also reflected in the text of the Constitution of the Republic of Albania, which has affirmed important articles that establish the basic principles for the preparation and legitimacy of Albania's integration into international organizations. They provide for a rule of law that respects international law and has given ratified international acts supremacy; ensure a sovereign state that adheres to international

organizations, delegates to them state competencies on specific issues, and can participate in a collective security system, in order to preserve peace and national interests. It should be noted that the Constitution of 1998, in Albania, was among the first constitutions in Europe that sanctioned valid provisions for the integration process. Until then, only the Constitution of Poland had provided for provisions establishing articles on the integration and delegation of powers. "In other Central and Eastern European countries that had signed European association agreements, amendments to the Constitution were made later, mainly in the 2000<sup>1</sup>."

The Constitution of the Republic of Albania for the first time provided concrete provisions which prepare the integration process for a state that respects international law, which in the first Constitutional provisions, is placed in Part I entitled "Basic Principles" and more specifically provided in Article 5<sup>2</sup> as "*The Republic of Albania implements the international law binding on it*", which is the basic and general provision that orients the relations between the domestic and the international law, keeping attention to the domestic legislation of the Albanian state and the binding principles of international law. In a way the legislator will prepare us for the inevitable need to regulate this process.

*About this article (article 5<sup>3</sup>), there are different opinions that this article does not exist independently, but can be applied only closely with another relevant articles. This view would give the article a simple declarative character<sup>4</sup>. On the contrary, the other view, expresses that Article 5 should be subject to a broader interpretation, seems more reasonable. According to this notion of "binding international law", for a state, would be not only the norms of ratified international treaties or agreements, but also the generally accepted norms of customary international law, as well as the general principles of international law. There are a number of norms of customary international law which, although generally accepted, are not reflected in the treaties or other formal acts of international law. For example, international obligations such as the prohibition of aggression, the prohibition of genocide, the protection from slavery, etc., have a superior character in international law, standing above its other norms<sup>5</sup>. This is the reason that leads us to the conclusion that Article 5 of the Albanian Constitution should be seen by our constitutional operators and courts, not only as an article closely related to Article 122 of the Constitution, but also as a provision that is implemented in a manner independent. This position was also held by the Constitutional Court when it adjudicated the case of compliance with the Constitution, of the provisions of the Rome Statute of the International Criminal Court. She states that, "... as long as according to the Constitution*

<sup>1</sup> Xhezair Zaganjori, Aurela Anastasi, Eralda (Methasani) Çani, "Shteti i së drejtës në Kushtetutën e Republikës së Shqipërisë", Shtëpia Botuese Adelprint, Tiranë 2011, fq 59-60.

<sup>2</sup> Ligji nr. 8417, datë 22.11.1998, "Kushtetuta e Republikës së Shqipërisë" i ndryshuar, neni 5.

<sup>3</sup> Ligji nr. 8417, datë 22.11.1998, "Kushtetuta e Republikës së Shqipërisë" i ndryshuar, neni 5.

<sup>4</sup> Xhezair Zaganjori, "Vend i së drejtës ndërkombëtare në Kushtetutën e Republikës së Shqipërisë", botuar në "Jeta Juridike", nr. 2, shkurt 20014, cituar në Luan Omari, Aurela Anastasi "E drejta Kushtetuese", Tiranë, 2010, fq. 56.

<sup>5</sup> Po aty. Një qëndrim i ngjashëm është shprehur edhe nga Gjykata Kushtetuese e Gjermanisë, e cila duke interpretuar nenin 25 të Kushtetutës Gjermane, që ka pika të ngjashme me nenin 5 të Kushtetutës sonë ("Rregullat e përgjithshme të së drejtës ndërkombëtare janë pjesë përbërëse e së drejtës federale..."), ka theksuar ndër të tjera se "...rregullat e përgjithshme të kësaj natyre që ka parasysh neni 25 i ligjit themelor, janë norma të së drejtës ndërkombëtare zakonore që përmbajnë parime themelore të së drejtës ndërkombëtare me karakter të përgjithshëm dhe të pranuar përgjithësisht", cituar në Luan Omari, Aurela Anastasi "E drejta Kushtetuese", Tiranë, 2010, fq. 56.

*the universally accepted rules of international law are part of domestic law, then the lack of immunity in international criminal proceedings for certain high risk crimes, becomes part of the Albanian legal system”<sup>6</sup>.*

The provisions of integration in the Constitution of Albania were the result of the experiences gained from the amendments of other constitutions from the old member states of the European Union, as well as of the constitutional thought that took place in Europe. They were also supported by the Europeanist sentiments of the Albanian people, which were clearly evident in the first movements for democracy in the 1990s. Public opinion in Albania created a very optimistic situation for its Euro-Atlantic integration.<sup>7</sup>

It should be emphasized at this point that international law has been formed due to a long evolution and as such it represents a specific normative order which is sanctioned by the state and international organizations thus regulating certain processes and relations in the international community. While in the hierarchy of acts we have a vertical order of them according to the importance of the legal pyramid, in the international order this kind of vertical order does not seem to apply as they are horizontally placed in importance and are not subject to the classical hierarchy of acts but function as a means of coordinating and well-functioning the relations and processes of the international community, thus serving the well-functioning and international cooperation according to the areas specified in these agreements. Said so, this is the reason why the international order is not based on the hierarchy of power but is based on the equality of the sovereignty of these states, as there are only the legal orders of these states and there is no high legislative or judicial body.

Article 121 of the Constitution provides that the Republic of Albania ratifies and denounces international agreements by law in cases of special importance to its people, such as when it comes to guaranteeing territorial integrity due to the preservation of alliances with other countries, peace, political and military issues<sup>8</sup>. Given that according to the Constitution "Fundamental human rights and freedoms are indivisible, inalienable and inviolable and underlie the entire legal order"<sup>9</sup>, these rights and freedoms define the position of the individual against government by defining the boundaries that cannot be overcome, therefore ratification of these international agreements is required to be done by law. In order to have a democracy, the citizens must be provided with fundamental rights and freedoms as enshrined in the Constitution, as their respect is the main factor for the existence of a democratic state.

Membership of the Republic of Albania in international organizations, that offers cooperation at the international level by concluding international agreements for cooperation, which means both the acquisition of certain rights and the adoption of relevant commitments to them which make it possible to obtain status member in

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<sup>6</sup> Luan Omari, AurelaAnastasi "E drejta Kushtetuese", Tiranë, 2010, fq. 55.

<sup>7</sup> Vendimi nr. 186, datë 23.09.2002, i Gjykatës Kushtetuese të Republikës së Shqipërisë, cituar nënë Luan Omari, AurelaAnastasi "E drejta Kushtetuese", Tiranë, 2010, fq. 56.

<sup>8</sup> Ligji nr. 8417, datë 22.11.1998, "Kushtetuta e Republikës së Shqipërisë" i ndryshuar, neni 121, pika 1, germa "a".

<sup>9</sup> Ligji nr. 8417, datë 22.11.1998, "Kushtetuta e Republikës së Shqipërisë" i ndryshuar, neni 15, pika 1.

these organizations through the ratification of these agreements.<sup>10</sup> The same applies to the cases when the Republic of Albania will assume financial obligations arising from the conclusion of these agreements.<sup>11</sup> The same procedure is followed by the Assembly for the approval, amendment, supplementation or repeal of laws in cases when the terms of the agreement change or is reached until the withdrawal of the Republic of Albania from this agreement.<sup>12</sup> Principles and procedures for ratification and denunciation of international agreements The Constitution authorizes the issuance of a special law.<sup>13</sup>

*"In today's international relations, where integration remains among the basic goals, the transfer in favor of some special bodies at the global or regional level of some competencies, which are normally exercised by the states themselves, is already a reality. In this regard, competencies in the judicial field are no exception.*

*Conceived as a contemporary act that paves the way for integration, our Constitution, both in spirit and in content, creates space for the transfer of powers when this is done for the benefit of peace, democracy, prosperity and always, through bilateral or multilateral agreements, where our country is presented as a sovereign country with all the attributes it gives such a status.*

*In its preamble, the Constitution of the Republic of Albania recognizes as the highest values of humanity justice, peace, harmony and cooperation between nations. In its article 2, sanctioning sovereignty as a basic principle of the existence of the state, the Constitution in function of the spirit of the preamble and all its content, sanctions: "For the preservation of peace and national interests the Republic of Albania may participate in a collective security system, based on a law approved by a majority of all members of the Assembly". This provision is followed in the function of delegation of state competencies as a form of delegation of sovereignty rights with Article 123, which in the first paragraph sanctions: "The Republic of Albania, based on international agreements delegates state competencies to international organizations for issues of certain ". These provisions contain basic principles in line with the new realities, which Albania has long recognized "de facto". They are one of the "most powerful integrating elements and cannot be seen as a denial of the sovereignty of the people.". Furthermore, in the Constitution of the Republic of Albania, in the domestic legal order, ratified international agreements are accepted, which have supremacy over the laws of the country (Article 122 of the Constitution)."<sup>14</sup>*

In the constitution of the Republic of Albania, we have two regulatory systems of internal acts versus international acts. On the one hand, international agreements ratified by the Republic of Albania, become an integral part of the domestic legal order, as they are published in the Official Gazette and occupy an equal place with the laws of the Republic of Albania, except when they are not self-enforceable and the implementation of requires the issuance of a law, so we are dealing with the direct

<sup>10</sup> Ligji nr. 8417, datë 22.11.1998, "Kushtetuta e Republikës së Shqipërisë" i ndryshuar, neni 121, pikat 1 germa "c".

<sup>11</sup> Ligji nr. 8417, datë 22.11.1998, "Kushtetuta e Republikës së Shqipërisë" i ndryshuar, neni 121, pikat 1 germa "ç".

<sup>12</sup> Ligji nr. 8417, datë 22.11.1998, "Kushtetuta e Republikës së Shqipërisë" i ndryshuar, neni 121, pikat 1 germa "d".

<sup>13</sup> Ligji nr. 43/2016, "Për marrëveshjet ndërkombëtare në Republikën e Shqipërisë".

<sup>14</sup> Vendim i Gjykatës Kushtetuese të Republikës së Shqipërisë nr.186, datë 23.09.2002 (V – 186/02) me objekt: "Pajtueshmëria me Kushtetutën e Republikës së Shqipërisë i "Statutit të Romës" për Gjykatën Ndërkombëtare Penale".

implementation of agreements ratified by law. International agreements which are ratified by the Republic of Albania. In case that these agreements ratified by law no longer comply with the laws of the country, they have precedence over the latter.<sup>15</sup>

Article 2/3 of the Constitution provides that for reasons of peace and other national interests, the Republic of Albania may participate in a collective system, based on a law approved by a majority of all members of the Assembly.<sup>16</sup> Through this provision, the Albanian state seeks to achieve its goal in various areas that are of particular interest to it, such as in this case the preservation of national peace and its state interests by becoming part of such international security systems. as membership in the North Atlantic Treaty Organization (NATO) as well as in the European Union.

Article 123/ 1, of the Constitution provides that "The Republic of Albania, based on international agreements, delegates state competencies to international organizations for certain issues."<sup>17</sup> History has shown that in international relations states have always had interaction between themselves or with international organizations which aim and defend their national interests in various fields. This article aims at the voluntary and democratic transfer of its sovereignty. Through these international agreements, the Albanian state conveys to these international organizations its state sovereignty to regulate and safeguard certain issues. These specific issues are exactly what the Constitution, due to the importance and role they perform, allows through the procedures provided in to transfer this partial sovereignty while remaining a sovereign and independent state despite membership in these international organizations. Such cases have been encountered by the Republic of Albania through its membership in NATO or in its work for membership in the European Union, etc., *"More specifically, the problem is how far this transfer of competencies can extend (specifically allowed by Article 123 of the Constitution).*

*The answer to this question comes first from the very spirit of the Constitution, but we find it more concrete in the international constitutional jurisprudence according to which, "... the transfer of sovereignty has its limits where the constitutional identity of the state begins to be established in question..."<sup>18</sup>, or that "... the limit of the transfer of rights lies to the extent that this transfer leads to the violation of the basic conditions for the exercise of national sovereignty"<sup>19</sup>.*

*The solution of this problem is of general importance for our country, which is making continuous and consistent efforts to integrate into international structures, especially the Euro-Atlantic ones.*

*From what has been submitted, the Constitutional Court of Albania does not see as exceeding these limits the transfer of some competencies of the judiciary in a certain field of international*

<sup>15</sup> Ligji nr. 8417, datë 22.11.1998, "Kushtetuta e Republikës së Shqipërisë" i ndryshuar, neni 122, pikat 1 dhe 2.

<sup>16</sup> Ligji nr. 8417, datë 22.11.1998, "Kushtetuta e Republikës së Shqipërisë" i ndryshuar, neni 2, pika 3.

<sup>17</sup> Ligji nr. 8417, datë 22.11.1998, "Kushtetuta e Republikës së Shqipërisë" i ndryshuar, neni 123, pika 1.

<sup>18</sup> Vendim i datës 12 tetor 1993 i Gjykatës Kushtetuese Federale Gjermane mbi Traktatin e Mastrohitticituar në: Vendim i Gjykatës Kushtetuese të Republikës së Shqipërisë nr.186, datë 23.09.2002 (V – 186/02) me objekt: "Pajtueshmëria me Kushtetutën e Republikës së Shqipërisë i "Statutit të Romës" për Gjykatën Ndërkombëtare Penale".

<sup>19</sup> Vendim i Këshillit Kushtetues Francez, viti 1985 cituar në: Vendim i Gjykatës Kushtetuese të Republikës së Shqipërisë nr.186, datë 23.09.2002 (V – 186/02) me objekt: "Pajtueshmëria me Kushtetutën e Republikës së Shqipërisë i "Statutit të Romës" për Gjykatën Ndërkombëtare Penale".

*interest such as the prosecution of perpetrators of crimes of genocide, crimes against humanity, crimes of war and aggression.* ”<sup>20</sup>

Said that, the Republic of Albania is a member of the North Atlantic Organization (NATO). Euro-Atlantic integration or membership in the North Atlantic Treaty Organization (NATO) was finalized in 2009, law no. 10 100, dated 26.3.2009, "*On the accession of the Republic of Albania to the North Atlantic Treaty*"<sup>21</sup>. The purpose of the accession of a state to the North Atlantic Treaty Organization (NATO) is to preserve peace, freedom, common heritage and civilization of their peoples, built on the foundations of democracy, individual freedom and the rule of law in the area of North Atlantic. By being part of this organization, States Parties "reaffirm their belief in the purposes and principles of the Charter of the United Nations, as well as in their desire to live in peace with all peoples and governments. They are determined to preserve the freedom, common heritage and civilization of their peoples, built on the foundations of the principles of democracy, individual freedom and the rule of law. They seek to promote stability and prosperity in the North Atlantic area. "They are determined to join forces in our common defense and in maintaining peace and security."<sup>22</sup>

International agreements ratified by law and the rules of international law become part of the legal order and that they are above the laws of the Republic of Albania, even over the Constitution of the Republic of Albania, in other words on the "law of the country", and how to such they are not subject to constitutional review by the Constitutional Court, the same is true of the rules of international law.

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<sup>20</sup> Vendim i Gjykatës Kushtetuese të Republikës së Shqipërisë nr.186, datë 23.09.2002 (V – 186/02) me objekt: "Pajtueshmëria me Kushtetutën e Republikës së Shqipërisë i "Statutit të Romës" për Gjykatën Ndërkombëtare Penale", shih edhe: "Parime Kushtetuese dhe të drejta themelore" Prof. Dr. Xhezair Zaganjori, Dr. Arta Vorpsi, Dr. Denar Biba, fq.77: "Është vendimi i parë i Gjykatës ku ajo shprehet për delegimin e sovranitetit organizatave ndërkombëtare, me qëllim ndjekjen penale dhe dënimin e zyrtarëve përgjegjës për krime lufte, krime kundër njerëzimit, gjenocid dhe krime agresioni. Gjatë kontrollit paraprak të ushtruar për kushtetutshmërinë e marrëveshjes ndërkombëtare, Gjykata ka bërë një interpretim konform Kushtetutës megjithëse Statuti i Romës parashikonte disa situata delikate siç ishte p.sh dorëzimi një gjykate ndërkombëtare i zyrtarëve më të lartë të shtetit shqiptar, nëse kërkoheshin megjithëse këta të fundit janë të veshur me imunitet sipas Kushtetutës shqiptare. Gjithashtu, shteti shqiptar, sipas kësaj marrëveshje, është i detyruar të dorëzojë çdo shtetas shqiptar madje edhe shtetas të huaj që gjenden në territorin shqiptar kur ato kërkohen të ndiqen penalisht nga gjykata ndërkombëtare e ngritur sipas këtij Statuti. Gjykata ka theksuar se GJNP e krijuar me këtë marrëveshje ndërkombëtare ka karakter komplementar dhe si e tillë nuk zëvendëson gjykatat e brendshme të shteteve duke respektuar kështu sovranitetin e shteteve ratifikuese. Gjykata është ndalur edhe tek parimi ne bis in idem, i cili në pamje të parë mund të konsiderohej si cenueshëm për shkak se një i akuzuar sipas Statutit të Romës mund të gjykohej dy herë, një herë nga gjykatat vendase dhe një herë nga GJNP. Por Gjykata nuk e konsideroi gjykim të përsëritur këtë proces por thjesht shqyrtimin nga një gjykatë më e lartë sipas hierarkisë gjyqësore, e cila në këtë rast, pas ratifikimit të Statutit të Romës, rezultoi të jetë GJNP. Gjykata në këtë vendim theksoi rëndësinë e kësaj marrëveshje, e cila i shërbente vendosjes së drejtësisë së munguar në rastet e konflikteve të armatosura në mjaft vende të botës dhe në të njëjtën kohë edhe parandalimit të krimeve kundër njerëzimit dhe krimeve kundër civilëve në raste lufte. Shqipëria ka qenë një nga vendet e para që e ka ratifikuar këtë marrëveshje, pasi Gjykata e gjeti atë të pajtueshme me standartet kushtetuese të brendshme."

<sup>21</sup> Ligji nr. 10100, datë 26.3.2009 "Për Aderimin e Republikës së Shqipërisë në Traktatin e Atlantikut të Veriut" <https://www.mod.gov.al/images/akteligjore/nato/23.pdf>

<sup>22</sup> Idem.

So from this point of view, it seems as if by joining this international organization, the state has delegated to it some of its powers to regulate and resolve a certain issue, becoming a full member with the right to maintain peace and security. its national. Thus, through the North Atlantic Treaty Organization (NATO), the Albanian state achieves its goal by becoming part of international organizations in which sovereign states participate.

## 2. National constitutional provisions on accession and participation in the Community and in the European Union.

From the creation of the EU until 1992, with the exception of Ireland, there was no provision in the constitutions of the Member States that could specifically accede to the Community. Their membership and participation in the Community was based on the constitutional provisions of international organizations.<sup>23</sup>

### 2.1 France<sup>24</sup>

The French Constitution of 1946, the preamble of which provided that, Under the reservation of reciprocity France agrees to limit the sovereignty necessary for the organization and protection of peace.) Paragraph 15 of the preamble. Membership in the French community was based on this very provision, which was considered sufficient and "*favorable for European integration*".

The legal basis for the laws that ratified the three founding treaties adopted by the French National Assembly in 1950 was the basis on which the French constitutionalists relied.

We will continue to have provisions added to the French Constitution from its revision in 1958. In that revision they were not considered "favorable or appropriate" for the EU, as in Articles 5 and 16 of the French Constitution of 1958 national defense and independence more valuable than should have. In Article 54, the Head of State has the attributes for the preliminary revision of the Constitution, of the international commitments made by the government. This review can also be done by the Constitutional Council, but the Head of State, the Prime Minister and the Speaker of the National Assembly have the right to appeal in the event that an international treaty conflicts with the constitution. On the basis of the 1958 constitution 2 decisions were adopted by the constitutional council. One regarding the opposition to the constitution in the case of the treaty and the resolution of the council of the communities in 1970 and two, the decision of the Representatives of the Governments of the member states dated 20.09.1976 on the election of the members of the European Parliament, by direct vote and universal.<sup>25</sup>

Regarding the agreement on the two questions posed above to the French constitution, the Constitutional Council answered in the negative. The Constitutional Council did

<sup>23</sup> Δίκαιο των Ευρωπαϊκών Κοινοτήτων και της Ευρωπαϊκής Ένωσης, Πέτρος Ν. Σταγκός - Ευγενία Π. Σαχπεκίδου, Εκδόσεις Σακκουλα 2000, fq. 112-118.

<sup>24</sup> "Preamble to the Constitution of 1946" [https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank\\_mm/anglais/cst3.pdf](https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/anglais/cst3.pdf)

<sup>25</sup> Δίκαιο των Ευρωπαϊκών Κοινοτήτων και της Ευρωπαϊκής Ένωσης, Πέτρος Ν. Σταγκός - Ευγενία Π. Σαχπεκίδου, Εκδόσεις Σακκουλα 2000, fq. 112-118.

not base its arguments on the specifics of the Founding Treaties and the legal order. It contains the constitutional rules invoked. Concerns raised in the French constitutional system regarding opposition to the constitution referred to the Maastricht Treaty (recognition of the right to vote and to stand for election to non-French nationals, the establishment of the Economic and Monetary Union and the transition to third, which provides for the common currency, the transfer to the community of visa applications from third-country nationals at the external border. These issues in 1992 led to a decision of the constitutional council and a constitutional review by which the peculiarity of the legal order of the community was clearly recognized. In its decision of 9 April 1992, it was declared by the constitutional council that national sovereignty could not constitute an obstacle for France under the above-mentioned preamble to the constitution, without prejudice to international commitments for its participation in the establishment or development of a permanent international organization with decision-making powers as a result of delegations of competencies from member states. In this case the title XIV was added to the constitution of 1958 .. „ for European Legislation and the European Union „. In 1992 we have the addition of another constitutional law article 88-1 „ democracy participates in the European Communities and in the European Union , which have been established by States that have freely chosen, in accordance with the founding treaties, to exercise some of their powers jointly. With the new Articles 88-1 and 88-3 of the French Constitution, the rules of the Treaty on European Union concerning the Economic and Monetary Union and the competences of the Community for the issuance of visas to third-country nationals, Article 88-2, as and the rules of the Treaty on European Union relating to nationals of Member States residing in France to exercise the right to vote and to stand as candidates in local election

## 2.2 Germany

Germany, until 1992, the provision that was the constitutional basis for Germany's accession and participation in the community was Article 24-1 of the Basic Constitutional Law<sup>26</sup>, which provided that "the Federation, through legislation, may transfer sovereign rights to international organizations." Through several decisions taken on 18.10.1967, and dated 9.06.1971 decided:

1. That the regulations of the Council and the Commission are acts of a separate "supranational" public authority established by the Treaty and are clearly distinguished from the public authorities of the Member States, adding that the community is a progressive integration of the Member States.
2. Community legal acts are attributed to an external autonomous authority in relation to the State which they have according to the case law of the ECJ.

With the new Article 23 of the German Constitution (revised in June 1992), on the basis of which by the lower house (Bundestag) and by the parliament of the Federal State of Germany, on 18.12.1992 the law for the ratification of the Treaty on European Union. This article, which its authors called "Europe-article", states that Germany will work for the development of the European Union. The principles of the rule of law and the federal state must be respected as well as the principle of subsidiarity, it must

<sup>26</sup> "The basic law" (German Constitution)[https://www.servat.unibe.ch/icl/gm00000\\_.html](https://www.servat.unibe.ch/icl/gm00000_.html)

also guarantee fundamental rights comparable to those provided by the Basic Law<sup>27</sup>. The transfer of responsibilities to the Community institutions that does not require a new amendment to the Constitution will be approved by the Bundesrat. Any new text as well as the adoption of the Maastricht Treaty, which amends or supplements it, if they amend or supplement the Constitution or request such an amendment, shall be subject to approval by a two-thirds majority of both houses of Parliament. In this case, in all EU-related decisions, the Lands gain the right to be involved. Where it has exclusive competence, in those areas the federal government should take their views into account by appointing a representative, when it deems appropriate by placing them in the Bundesrat, to defend their position in the competent Community institutions.<sup>28</sup>

### 2.3 Greece

In Greece, accession and participation in the Communities and in the European Union were established in Articles 28-2 and 3 of the 1975 Constitution. According to Article 28-2, *"to serve an important national interest and to promote it in the cooperation with other states, the powers provided for in the Constitution may be conferred, by treaty or agreement, on the bodies of international organizations. according to Article 28-3"*<sup>29</sup>Greece proceeds freely, with a law adopted by the absolute majority of the entire number of deputies, restrictions on the exercise of its state sovereignty, provided that this is dictated by a great national interest "should not affect human rights and the foundations of a democratic state and should be done on the basis of the principle of equality and on the condition of reciprocity."<sup>30</sup>

### 2.4 Italy

Article 11 of the Italian Constitution<sup>31</sup> provides that Italy "agrees to the condition of equality with other States, of the limitations of sovereignty necessary to ensure peace and justice among nations, and promotes and favors international organizations which pursue such purposes". This provision allowed the Italian legislature to adopt all Community Treaties, including the Treaty on European Union. The Italian Constitutional Court, in its decision of 22.10.1975, ruled that "the delegation of legislative power to the institutions of the Communities and the restriction corresponding to the legislative power of the Italian State, find sufficient basis in Article 11 of the Constitution", but never recognized the specifics of the Community legal order<sup>32</sup>.

### 2.5 Belgium

<sup>27</sup> Δίκαιο των Ευρωπαϊκών Κοινοτήτων και της Ευρωπαϊκής Ένωσης, Πέτρος Ν. Σταγκός - Ευγενία Π. Σαχπεκίδου, Εκδόσεις Σακκουλα 2000, fq. 112-118.

<sup>28</sup> Idem.

<sup>29</sup> The Constitution of Greece [https://www.servat.unibe.ch/icl/gr\\_\\_indx.html](https://www.servat.unibe.ch/icl/gr__indx.html)

<sup>30</sup> Δίκαιο των Ευρωπαϊκών Κοινοτήτων και της Ευρωπαϊκής Ένωσης, Πέτρος Ν. Σταγκός - Ευγενία Π. Σαχπεκίδου, Εκδόσεις Σακκουλα 2000, fq. 112-118.

<sup>31</sup> The Constitution of Italy [https://www.servat.unibe.ch/icl/it\\_\\_indx.html](https://www.servat.unibe.ch/icl/it__indx.html)

<sup>32</sup> Δίκαιο των Ευρωπαϊκών Κοινοτήτων και της Ευρωπαϊκής Ένωσης, Πέτρος Ν. Σταγκός - Ευγενία Π. Σαχπεκίδου, Εκδόσεις Σακκουλα 2000, fq. 112-118.

In Belgium, the adoption by the legislatures of the Single European Act and the Treaty on European Union was based on Article 25 of the Constitution<sup>33</sup> (which was added to the Constitution of 1831 with the revision of 1970), according to which "the exercise of certain powers may be transferred by convention or law in organizations of international law ". However, a new revision of the Constitution was deemed necessary after the ratification of the Treaty on European Union (and in fact despite the opinion of the Council of State on 6.5.1952 that the constitutional revision should precede ratification), in order to ensure compliance with the Constitution of the provisions of the Treaty concerning the exercise of the right to vote and to stand as a candidate by other citizens of the Community in local elections.<sup>34</sup>

## 2.6 Netherland

In the Netherlands, the accession and participation in the Community and the ratification of the Treaty on European Union were based on Article 67-1 of the Constitution<sup>35</sup>, according to which "by treaty or on the basis of treaties, legislative, executive and judicial power may be delegated to international law ". The cases of Luxembourg and Denmark are similar. According to Article 49 of the Luxembourg Constitution, "the exercise of the powers reserved by the Constitution for legislative, executive and judicial powers may be temporarily transferred to organizations of international law", while according to Article 20a of the Constitution of Denmark<sup>36</sup>, "powers which according to the Constitution belong to the authorities of the Kingdom may be transferred by law and to some extent to the International Authorities, which have been established by mutual agreement with the aim of promoting the rule of law and international co-operation ".<sup>37</sup>

## 2.7 Ireland

In Ireland, accession and participation in the Community was made possible by the Irish Constitution<sup>38</sup> with its revision in 1972: in Article 29-4 a provision was added according to which, "The State may become a member of the European Coal and Steel Community, Economic Community Europe and the European Atomic Energy Community"(Article 29-4-3). This "individualization" of Ireland's accession and participation in the Communities was repeated with the addition of another provision, with similar content, to Article 29 (Articles 29-4-4) in order to ratify the Single European Act (revision of the year). 1986), as well as a new provision to ratify the Treaty on European Union (constitutional review of 1992, addition of the provision of Article 29-4-5).<sup>39</sup>

<sup>33</sup> The Constitution of Belgium [https://www.servat.unibe.ch/icl/be\\_\\_indx.html](https://www.servat.unibe.ch/icl/be__indx.html)

<sup>34</sup> Δίκαιο των Ευρωπαϊκών Κοινοτήτων και της Ευρωπαϊκής Ένωσης, Πέτρος Ν. Σταγκός - Ευγενία Π. Σαχπεκίδου, ΕκδόσειςΣακκουλα 2000, fq. 112-118.

<sup>35</sup> The Constitutional of Netherland [https://www.servat.unibe.ch/icl/nl\\_\\_indx.html](https://www.servat.unibe.ch/icl/nl__indx.html)

<sup>36</sup> The Constitution of Denmark [https://www.servat.unibe.ch/icl/da\\_\\_indx.html](https://www.servat.unibe.ch/icl/da__indx.html)

<sup>37</sup> Δίκαιο των Ευρωπαϊκών Κοινοτήτων και της Ευρωπαϊκής Ένωσης, Πέτρος Ν. Σταγκός - Ευγενία Π. Σαχπεκίδου, ΕκδόσειςΣακκουλα 2000, fq. 112-118.

<sup>38</sup> The Constitution of Ireland [https://www.servat.unibe.ch/icl/ei\\_\\_indx.html](https://www.servat.unibe.ch/icl/ei__indx.html)

<sup>39</sup> Δίκαιο των Ευρωπαϊκών Κοινοτήτων και της Ευρωπαϊκής Ένωσης, Πέτρος Ν. Σταγκός - Ευγενία Π. Σαχπεκίδου, ΕκδόσειςΣακκουλα 2000, fq. 112-118.

## 2.9 Spain

In Spain, Article 93 of the Constitution<sup>40</sup> was the basis for both the accession of the Spanish Community and the adoption by the legislative bodies of the Treaty on European Union. According to this article, "an organic law may allow the conclusion of treaties delegating to an international organization or an international institution the exercise of powers deriving from the Constitution. It is up to the legislator or government, as the case may be, to guarantee the implementation of these treaties and the decisions of international or supranational organizations enjoying this transfer of responsibilities. "However, ratification of the Treaty on European Union by the Spanish legislature took place only after the Constitution had been revised , in order to allow citizens of other Member States to be elected in local elections, because Article 13-2 of the Constitution allowed third-country nationals to exercise only their right to vote.<sup>41</sup>

## 2.10 Portugal

Even the Portuguese constitution<sup>42</sup>, in order to comply with the principle of the right to vote and to be elected by the citizens of the Community, residing in the Portuguese territory in local elections was revised to be legally adapted in 1992. Portugal was the only Member State which acceded to the Community without a constitutional basis for its participation in international bodies. Article 8-3 of the Constitution recognizes one of the main "features" of the Community legal order, the direct validity of acts of secondary Community law in the Member States, which states that "rules laid down by the competent authorities of international organizations, where Portugal is a member, they will have direct application in the domestic legal order provided that this is provided for in their founding treaties.<sup>43</sup>

## Conclusions

Following the above analysis, comparing it with European countries which are already part of the European family, we notice that the Republic of Albania, as always has been oriented towards integration in International Organizations, and as such is prepared by taking the appropriate legal steps for integration processes. The legal amendments in the Constitution of the Republic of Albania in 1998, in which as it is clearly seen in this article, the Republic of Albania, having a focus and priority of integration in these organizations, has foreseen a separate chapter for its integration. Of course, the integration approach has appeared in the first articles of the Constitution, creating the first connection of the Republic of Albania with international law and preparing the integration process for a state that respects international law, since the first Constitutional provisions.The European public sentiments in Albania created

<sup>40</sup> The Constitutional of Spain [https://www.servat.unibe.ch/icl/sp\\_\\_indx.html](https://www.servat.unibe.ch/icl/sp__indx.html)

<sup>41</sup> Δίκαιο των Ευρωπαϊκών Κοινοτήτων και της Ευρωπαϊκής Ένωσης, Πέτρος Ν. Σταγκος - Ευγενία Π. Σαχπεκίδου, ΕκδσειςΣακκουλα 2000, fq. 112-118.

<sup>42</sup> The Constitution of Portugal [https://www.servat.unibe.ch/icl/po\\_\\_indx.html](https://www.servat.unibe.ch/icl/po__indx.html)

<sup>43</sup> Δίκαιο των Ευρωπαϊκών Κοινοτήτων και της Ευρωπαϊκής Ένωσης, Πέτρος Ν. Σταγκος - Ευγενία Π. Σαχπεκίδου, ΕκδσειςΣακκουλα 2000, fq. 112-118.

a very optimistic situation for its Euro-Atlantic integration, while the integration provisions in the Constitution of Albania were also a result of the best experiences of amending the constitutions by other member states of the European Union, in which we presented and above as well as the whole of the constitutional thought that took place in Europe. The European articles of the Albanian Constitution are in line with the EU process but as close as we come to the integration Constitutional improvements may need to the articles of the right of vote, of the hierarchy of the international legislation in the Albanian legislation or adding new articles for the reference to the effect of the EU law etc. The ongoing process of European integration will bring the need of new Constitutional amendment.

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