

Republic of Albania
The Assembly

Draft Law

No... dated...

On the Prefect

Pursuant to articles 78, 81, 83 and 114 of the Constitution, upon the proposal of the Council of Ministers, the Assembly of the Republic of Albania:

D E C I D E D:

CHAPTER I

GENERAL PROVISIONS

Article 1

The purpose of the Law

The purpose of this law is to determine the mission of the prefect as representative of the Council of Ministers in the region, the attribute and the conditions for his appointment, and specifically the responsibilities, duties and the rights concerning his relationships with the state administration and with the local government organs, which operate in the region.

Article 2

Definitions

1. **Central institutions at the local level**, in the context of this law are all the institutions and the structures of public administration in the central level of the Council of Ministers, ministries and central institutions, which they have under their authority, as well as the legal persons which according to the law are led and managed by them and that exercise their activity in the territorial administrative units of the region.

According to point 1 of this Article, the institutions and the structures of the Armed Forces, of the State Police, the State Information Service and other structures in the cases explicitly stipulated in the law, are not part of central institutions at the local level.

2. According to this law, a **public function** implies participating in state, central or local administration.

Article 3

The status

The prefect is the representative of the Council of Ministers in each region.
The seat of the Prefect is located at the center city of the region.

Article 4

Appointment and dismissal of the Prefect

The Prefect is appointed and dismissed by the Council of Ministers, with the proposal of the Minister of Local Government and Decentralization or of the Prime Minister.

The Prefect must have University Education, and have not less than 5 years of work experience in administration. He must not have been previously penalized by any final court decision for committing any crime.

Article 5

Incompatibility of function

The prefect cannot be a member of the Council of Ministers. His function is incompatible with any electoral mandate or any other public function, or with his membership or management of commercial companies' structures, exempt from teaching and scientific activities.

Article 5

The mission of the Prefect

The Prefect has the following tasks:

1. The prefect supervises, checks and coordinates the activity of the central institutions at the local level regarding the implementation of responsibilities and accomplishment of tasks set forth by the legal and sub-legal acts in the relevant field.
2. The prefect leads the activity of the state administration structures that has been directly assigned to him by legal, sub-legal and special acts in the relevant field

3. The prefect coordinates the activity of the central institutions at the local level, as well as the activity of the latter with the organs of local government in the communes, municipalities and regions
4. In consistency with the provisions of the Chapter III of this law, the prefect is the sole institution that verifies the legality of the acts approved by the local government organs in the communes, municipalities and the regions. The prefect exercises financial control over these organs in compliance with the legal provisions.

CHAPTER II

RELATIONS OF THE PREFECT WITH THE PUBLIC ADMINISTRATION

Article 7

Relations of the Prefect with the Council of Ministers, ministries and the other central institutions

1. The prefect renders account to Council of Ministers about his activity, and reports to Prime Ministers about the assigned tasks;
2. The Ministers and heads of other central institutions establish direct links with the prefect about problems related to the activity that they lead.
3. The Council of Ministers, the ministers, and directors of other central institutions submit to the prefect on regular bases all the acts issued by them. The content of these sets tasks in the area of the activity of the central institutions at the local level or tasks for the organs of the local government administration.
4. The Prefect, regarding the activity he covers, can submit to the ministries draft-acts for the solution of problems of their activity. The Minister must respond to the prefect within one month about the manner and the solution given to the problem.
5. The Prime Minister solves conflicts that might arise between the Minister and the prefect.

Article 8

Competencies in relation to the central institutions at the local level

In order to fulfill his functions in the relation to the central institutions at the local level, the prefect exercises the following competencies, exempt cases provided otherwise by law.

1. The prefect controls and requires from them to take measures concerning the implementation of the government programmes, exercising of the functions and fulfillment of the duties set forth by the legal and sub-legal acts that regulate the activity of the respective institution.
2. The prefect assists them and requests the drafting of the development plans and the annual draft-budget according to the procedures determined by the law, and he submits his viewpoints to the Ministries and the other central institutions;
3. The prefect analyses, requests and periodically controls the fulfillment of development tasks and the implementation of the budget for the sectors that they cover.
4. The prefect receives from them data with temporary or permanent character in compliance with the classification determined by the relevant central institution, exempt the cases when it is prohibited by law or by legal or sub-legal acts.

Article 9

Appointment and dismissal competencies

1. In compliance with the administrative structure adopted according to the definitions of Article 19 of this law, the prefect appoints and dismisses his administration staff according to the procedures set forth in the law, as well as the personnel of those administrative structures assigned to him directly through special legal and sub-legal acts.
2. The prefect proposes to the Minister or the director of the relevant central institution, the appointment or the dismissal of the heads of the central institutions at the local level, which operate in the territory of the region.

Article 10

Duties of the prefect in relation to the State Police Bodies

The prefect cooperates with the state police bodies in order to take measures for keeping the order and public security in the territory of the region. To this end, he performs the following tasks:

1. The prefect receives regular information on the problems of order by the region police director, and he requires the enforcement of measures to keep the order according to the responsibilities and tasks stipulated in the legal and sub-legal acts.
2. The prefect coordinates the activity and ensures the mutual support of the state police organs of the central institutions at the local level, and of the local government organs in order to keep the order, and public security, as well as for the enforcement of the acts of the local government organs.

Article 11

Duties of the prefect in relation to the defense structures

In relation to the defense structures, apart from the tasks defined in the other legal and sub-legal acts, the prefect has the following duties:

1. The prefect coordinates the work of the conscription offices at the local level of the military units and of the regional local government organs in order to meet the obligations in the area of the military mobilization;
2. The prefect follows up taking of measures by the military units concerning the fulfillment of the obligations with civil character, assigned to them by the relevant organ.
3. In special cases, in compliance with the respective legislation, the prefect requests the support of the commands of the military units in the territory of the region to cope with situations of civil character, and specifically to face the emergency situations.

Article 12

Other duties and rights

The prefect has the following additional rights and duties:

1. The prefect provides data and comments on the social and economic developments in the region. He submits his data and comments to the Council of Ministers, central institutions and local government bodies;
2. The prefect takes care of the encouragement and development of relations and activities with sister foreign institutions, respecting the legal acts that regulate these relations.

3. The prefect takes measures to prevent and avoid the consequences that come from emergencies or natural disasters, by fulfilling all the duties assigned to him by the respective legal and sub-legal acts.
4. When the prefect deems it necessary and when he is asked, he notifies the ministers and heads of other central institutions about the activity performed by the central institutions at the local level, as well as about the level of performance of the service in the sectors covered by them;
5. At certain periods of time, but not less than twice a year, the prefect notifies the Council of Ministers about his activity in relation to the fulfillment of assigned duties.
6. The prefect leads or participates in the official ceremonies organized in the region, additional to the high state officials or as their assigned representative, as well as in the activities organized by the local government organs when they invite him.
7. The prefect examines monthly on district bases, the activity of the central institutions at the local level, and coordinates the work between them and the local government organs.
8. The prefect exercises other competencies and tasks assigned to him by law or by special acts of the Council of Ministers.

HEADING III

RELATIONS OF THE PREFECT WITH THE LOCAL GOVERNMENT BODIES

Article 13

There are no subordinate relations between the prefect and the local government bodies.

Their relations are determined in compliance with the provisions of this law.

Article 14

Verification of the legality of the acts

Enforcement of the acts of the local government organs is done in compliance with point 6 of article 33 of law no. 8652, dated 07/31/2000 “On the organization and functioning of the local government”.

Verification by the prefect of the legality of the acts approved by the local government bodies in the communes, municipalities and in the region takes place without hindering their implementation, and respecting the following procedures:

1. Every local government organ has to submit to the prefect all the normative acts within 7 days from the day of their promulgation. The notification of the prefect about the submitted act by the local government body gets certified upon its registration by the protocol office of the prefect.
2. For every registered act at the protocol office, the prefect shall express himself about its legality within 10 days from the date of registration according to the following procedures:
 - a. when the act is in compliance with the legal and sub-legal acts in force, the prefect expresses his approval by notifying the relevant organ of the local government
 - b. In the cases when the prefect observes legal inconsistencies of the act, he entitles the right to return it to the relevant local government organ by arguing the observed violations. In this case, the local government organ revises the act. The decision taken by the local government body after the returned revised act by the prefect is submitted to the prefect’s office following the same procedure and within the same deadline as described in point 1 of this article.

In case the prefect observes again legal inconsistencies in the revised act, he addresses then the court under whose jurisdiction the local government organ falls, thus claiming the promulgation of invalidity of this act. The prefect entitles the right to return an act only once.
 - c. In the case when the prefect observes legal violations in an act, and ascertains that the return of that act to the local government organ will be useful, he entitles the right to require the invalidity of the act straight from the court, whose jurisdiction the local government organ belongs to, without following the procedure set forth in letter “b” of point 2 of this article.
 - d. Once the prefect requests to a court the invalidation of an act, he notifies the local government body.

Article 15

Verification on the spot of the legality of acts

1. The prefect verifies the legality of normative and individual acts directly and periodically not less than once in six months at the local government organs, as well as in the other organizations established pertinent to them, when it is not envisaged otherwise in the other legal acts.
2. If during the verification process, the prefect observes that there are acts, which have not been submitted to the prefect, he entitles the right to request the invalidity of those acts from the court.

Article 16

Control of the delegated competencies

1. The prefect controls the performing of the functions and responsibilities delegated from the central government and the use of funds planned for them, both either like in the case when law sets them forth, or when they are determined by mutual agreements between a central institution and the local government organ.
2. The prefect controls the use of donations and loans generated by government agreements with international organizations.
3. All acts with individual character of the local government organs regarding delegated functions are submitted to the prefect according to the definition stated in point 1 of article 14 of this law.

Article 17

Review of the citizens' appeals

1. The prefect reviews the citizens' appeals regarding the legality of acts with normative and individual character issued by the local government organs. In these cases, he requests to the local government bodies to submit the relevant acts to the prefect, if such a thing has not been previously done, or abides by the procedures set forth in article 15 of this law.
2. The prefect acts according to the procedures determined in letters "b" and "c" of point 2 of article 14 of this law, when he observes legal inconsistencies of act.

CHAPTER IV
DECISION-MAKING AND ORGANIZATION

Article 18
Decision- making

1. Pursuant to the implementation of his tasks, the prefect issues mandatory orders and instructions.
2. The acts issued by the prefect become applicable once they are notified to the interested institutions and stakeholders.
3. The solution for orders and instructions issued by the prefect will be done according to the definitions of point 5 of article 7 of this law for the conflicts arise between a Ministry and central state institution director, outside the ministry and prefect system.
4. In the case of conflicts between subjects not included in the point 3 of this article and the prefect, the interested party entitles the right to address to the court under which jurisdiction the interested party belongs to.

Article 19
The prefect administration

The prefect has his own administration to exercise his functions and to fulfill the tasks and responsibilities. The Prime Minister, upon the proposal of the Minister of Local Government and Decentralization, approves the structure and duties of the prefect administration.

Article 20
The deputy prefect

1. Deputy prefects are appointed to support the activity of the prefect and as part of the administration. As a rule, there is one deputy prefect for each region. This according to law No. 8653, dated July 31, 2000 “On the Administrative and Territorial Division of the Local Government Units of the Republic of Albania”.
2. The Minister of Local Government appoints and dismisses the deputy prefect upon the proposal of the prefect.

3. The deputy prefect renders account directly to the prefect about his/her activity in his/her district.
4. The deputy prefect performs the following duties:
 - a. The deputy prefect controls and requires from the central institutions at the local level, which operate in the district, to take measures about the fulfillment of their duties, pursuant to the legal and sub-legal acts that regulate their activity.
 - b. The deputy prefect organizes periodic meetings, and upon the request of the prefect, he coordinates the work with the heads of central institutions at the local level, and of the of local governments units in the district for the accomplishment of the assigned duties.
 - c. The deputy prefect reports systematically to the prefect about the work done for the fulfillment of tasks by the civil state administration in the district.
 - ç The deputy prefect organizes the work for the enforcement of orders and instructions issued by the prefect.
 - d. The deputy prefect leads the activity of those administrative structures in the district that directly depend on the prefect.
 - e. The deputy prefect proposes to the prefect measures for the social and economic development of the district, where he exercises his functions.
 - f. The deputy prefect performs other tasks and duties assigned to him by the prefect pursuant to the legal and sub-legal acts.
 - g. Other services that shall be covered by the deputy prefect are set forth by the sub-legal acts.
 - h. For the accomplishment of his duties defined in point 4 of this article, the deputy prefect issues documents signed and sealed by him according to rules defined by the prefect.

Article 21
The advisory board pertinent to the prefect

1. The prefect has his advisory board. The composition of the board is decided by a prefect decision.

2. The prefect appoints in the advisory board the chairman of the regional council, mayors and chairmen of the communes, the director of the regional police, directors and experts of the state institutions, civil society representatives, experts on priority areas of development.
3. The number of members of the advisory board mounts to 15.
4. The advisory board convenes, as a rule, once a month about problems of responsibilities and duties of the prefect.
5. The prefect approves the regulation of functioning of the advisory board.

Article 22

Law no. 7608, dated 09/22/1992 changed with law no. 8209, dated 04/22/1997 “On the Prefectures” becomes abrogated.

Article 23

This law becomes effective after its publication in the “Official Journal”.

The Speaker
Mr. Namik DOKLE