

# GOVERNMENT IN THE DISTRICT OF SHKODRA BASED ON LEGISLATION OF ALBANIA.

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## Abstract

The paper that tend to present at this conference would have to object to treat an issue in the field of Albania's legislation for organizing and conducting the local government and legal spaces that he creates for local development in the district of Shkodra. For this reason paper will address these issues: The legal basis of the organization and conduct of local government: The Constitution of the RA law on local governance and rules of functioning of local government. Principles of decentralization and local autonomy. Elective bodies of local authorities. Local and regional authorities. Separation of powers. Local authorities: executive bodies and elected bodies. The structure, functions and powers. 2. Forecasting the Constitution and the legislation of Albania of the right to direct the exercise of government by citizens in their units of local government. Right: the referendum and other forms of direct exercise of local government. Report of the local authorities with regional authorities and central authorities. Principles that regulate the relation of powers. Local and regional bodies. The municipality, the municipality and county. Report of the local authorities and central government authorities. The authority of the prefect. Central government offices in the units of local qverisjes. Impact of legislation on the exercise of local government in the district of Shkodra.. Government authorities and regional / district of Shkodra.The exercise of local government in the district of Shkodra. The activity of executive authorities and local legislative authorities.Report of the powers between the bodies at the level of municipalities, municipal and county level. The paper will include conclusions and recommendations deriving to improve local governance in the region of Shkodra.

## Opening

Albania is in a process of implementation of reforms, which aim to make itself more stable democratic system, to enhance government efficiency, stimulate the creation of a stable basis for economic development, make government more transparent and ensure citizen participation in public life at local and regional level. In their entirety these reforms can not and should not be regarded as wholly government initiatives, but as reforms that include the contribution and experience of all actors involved in the process, such as local government, civil society, international community and what is more important the citizens.

I.The legal basis of local government in Albania.

*Constitutional provisions.* Constitution of the Republic of Albania defines two principles upon which the existence of local government and the exercise of power of local government in Albania: *a-principle of decentralization; b-principle of autonomy.*<sup>103</sup> Local government has legal cause to the principle of decentralization of power. The Constitution says the government in Albania is decentralized.The exercise of decentralized power and governance in Albania is the intention to realize the governance a more close to citizens and a more effective citizen. For consistency the government in Albania is divided between the central and local bodies. Local governance is an autonomous government, self-government. The local units are entitled to self government, that have the right to decide for themselves. The local self - government units is guaranteed: a-through activity of the local government representative bodies, b-through local referendum.<sup>104</sup> They are independent in making decisions, namely the exercise of powers defined by the constitution. *Legal basis.* It became necessary to adopt a new law to regulate local government in accordance with the

provisions of the constitution.<sup>105</sup> The law details the levels of local government and the organization and functioning of local government in our country. The local government in Albania is two levels: municipality / communes and caunty.<sup>106</sup> This law and other legal guidance supporting the decentralization of functions from central to local government by making it possible to transfer the authority and responsibility for specific functions to local structures. It is this law that establishes authority and responsibilities of municipalities and communes in the areas of infrastructure and public services, the social services, culture and sports, as well as local economic development. On the whole, decentralization reforms have created legal space for wider participation of citizens in decision-making in order to increase the quality of services to benefit communities.

II-The local government units.

The local government in Albania is organized in two levels of government. This local government units are two: a - base units, local municipalities, b-unit of the second level, counties.<sup>107</sup> Municipalities or communes are the basic units of local government and constitute the first level of government, while the county is the second level of the local government.<sup>108</sup> The local units are decentralized public authorities and autonomous, responsible for issuing and distribution of goods and services. The organs of local government units based differentiate into: a - representative bodies: the council of the municipality or communes and

<sup>103</sup> Constitution of the Republic Article 13. Local government in the Republic of Albania is founded on the principle of decentralization of power and exercised under the principle of local autonomy. p.7.

<sup>104</sup> Constitution of the Republic of Albania article 108 / 4

<sup>105</sup> Law No. 8652, dated 31.07.2000 "On organization and functioning of local government. " Article 4 The principles of the functioning of the organs of local government units.

1. The organs of local government units operating under the principle of local autonomy. 2. Relations between the organs of local government units and their relationship with central government bodies based on the principle of subsidiarity and cooperation to solve common problems

<sup>106</sup> Law No. 8652, dated 31.07.2000 "On organization and functioning of local government " article 5. 1 / 4. Basic units of local government are communes and municipalities. The county is second level units of local government.

<sup>107</sup> Constitution of the Republic of Albania article 108 /1.

<sup>108</sup> Constitution of the Republic of Albania article 108 / 4

caounty council b-executive bodies. the mayor or head of commune and the chairman and the presidency of the regional council.<sup>109</sup>

*a-representative bodies.* The representative organs of first level are respectively municipalities and communes councils. These are elected bodies. Principles for selecting these bodies are defined in the constitution and electoral code of aggregates and administrative elections. These bodies are elected every four years in general elections, direct and secret ballot.<sup>110</sup> Members of the councils of the municipalities and communes are selected on the basis of multi-name lists submitted by political parties, coalitions, or candidates proposed by the voters.<sup>111</sup> The right to vote and the right to elect municipal councils or municipality have constituents who have permanent residence in the territory these basic domestic units.<sup>112</sup> Representative bodies on the second level, the regional representative body is the county council. The county council is a body that is formed through elections held at county level. Caounty council composed of members of the delegation, because their functions and members elected by representative bodies of municipalities and communes, a representative body elected by not direct but indirect, by voters who are permanent residents in that county. The mayors and head of communes are always members of the regional council. Other members elected by proportional list among elected councilors in municipal councils or communes.<sup>113</sup>

*b-executive bodies.* • *executive bodies of municipalities and communes.* In the first level, executive bodies are the mayor of municipality or commune.<sup>114</sup> These bodies are elected directly by the people by universal suffrage and secret ballot.<sup>115</sup> Electoral Code has defined the right to only permanent residents of the local unit to select the executive body of local government and to be elected mayor of municipality or commune, specifying provided only as being a resident, have a residence in the territory of the local unit.<sup>116</sup> The electoral system of choice for executive bodies is simple majority. This differs from proporcional electoral system used to elect local government representative bodies, municipal and communes councils, and regional councils. The mayor or head of communes elected the candidate who wins the largest number of valid votes of

voters in the respective local unit.<sup>117</sup> • *executive bodies of the county.* Executive bodies of the second level of local government are the chairman and presidency of caounty council.<sup>118</sup> The chairman and the presidency of the regional council are the organs that are formed through election. Electoral body which elects them is the regional council. In his first meeting of the regional council ... c) elect the chairman, and deputy chairmanship of the regional council.<sup>119</sup>

III. Structuring of local government in the caounty of Shkodra.

Shkodra Caounty includes the districts of Shkodër, Pukë, Malësi e Madhe, which are not administrative units of government. County has an average density of about 71.8 persons on km<sup>2</sup>, less than the national average. Highest density has district of Shkodra, 94 inhabitants per km<sup>2</sup>. The population of Shkodra county is spread over three districts, including five municipalities and six cities, twenty-nine communes and two hundred and sixty-nine villages. About 2 / 3 of the population reside in the district of Shkodra. Most of its approximately 62.3% lives in the village. In the district of Shkodra in the countryside live 53.7% of the population, while in two other districts, Great Highland and Puka population resides in rural areas, respectively 89% and 82%.<sup>120</sup>

This paper will analyze the basic level of local government, the Municipality of Shkodra and the second level of Shkodra Caounty. Basic unit main bodies, the first level local government, the Municipality of Shkodra are: the municipality council; b-mayor.<sup>121</sup> The principal organs of the Shkodra Caounty are: a-the caounty council; b- the chairman and and the presidency of a regional council. Municipal council and county council are representative bodies, elected. The Mayor and the chairman and the presidency of a regional council are bodies with executive functions.

*a-representative local government bodies in caounty of Shkodra. Municipal Council. Formation.* Based on the constitution and the law "On local government ..." municipal council formed by the election of its members through a democratic electoral process.<sup>122</sup> Election of members of municipal council made based to a proportional electoral system. The subjects represented in the council election

<sup>109</sup> Constitution of the Republic of Albania article 109 / 1 & article 110/3

<sup>110</sup> Constitution of the Republic of Albania article 109 / 1

<sup>111</sup> Electoral Code Article 165 / 2

<sup>112</sup> Constitution of the Republic of Albania article 109 / 1

<sup>113</sup> Constitution of the Republic of Albania article 110/ 3

<sup>114</sup> Law No. 8652 "On organization and functioning of local government", article 6 / 2

<sup>115</sup> Constitution of the Republic of Albania article 109/ 2

<sup>116</sup> Election Code article 165.1 The Municipal Mayors and municipal councils or municipalities are elected directly by voters residing in the territory of the municipality or commune.

<sup>117</sup> Election Code Article 166.1.

<sup>118</sup> Law no. 8652 "On organization and functioning of local government", Article 6 / 3 County executive functions performed by the chairman of the regional council and district council presidency

<sup>119</sup> Law no. 8652 "On organization and functioning of local government", Article 51/ 5

<sup>120</sup> www.qarkushkodër.org.

<sup>121</sup> Shkodra Municipality Statute Article 15. Local bodies. The representative body of the municipality is the municipal council and executive body is the head of the municipality.

<sup>122</sup> Constitution of the Republic of Albania Article 109.1. Representative bodies of local government councils are elected in general elections ..., direct and secret ballot.

with a number of members determined in relation to the percentage of votes won in the voting process for this representative body. Thus, for consistency this body is plural and therefore, democratic in decision making. The basic principle of operation of the municipal council is the council members' autonomy in decision making. The right to vote for the election of municipal council and the right to be elected to the council of the municipality of Shkodra have only citizens who have permanent residence in the territory of the local unit, the city of Shkodra.<sup>123</sup> Shkodra Municipal Council consists of forty-five<sup>124</sup> elected members, which have been declared winner in elections to this body organized in 2007.<sup>125</sup> The Council shall exercise the powers and authorities, through plenary sessions. *Acts. Validity of acts.* Acts that issue municipal council are: decisions, rulings and orders.<sup>126</sup> Municipal Council after consideration of any issue / problem is bound to issue the relevant act (decision, ordinance or order), which is appointed by open vote or secret ballot. Decisions taken by a majority of council members present at the meeting. There are also decisions requiring a qualified majority. Acts adopted and issued by the representative bodies of municipalities or municipalities are valid when they are in accordance with the constitution and the law, when they are in exercise of powers that have these bodies and when signed by the chairman or deputy chairman of the council. Entry into force. Acts of the city council announced Ten days after their approval and shall take effect ten days after the announcement. While decisions relating to particular individuals or entities shall enter into force on the date of notification of their individual or entity concerned.<sup>127</sup> City Council meetings are open to the public. These meetings allowed every citizen to participate. Council by a majority vote of the total number of advisers can decide when the meeting will be closed.

*The mandate.* The mandate of the municipal council is determined in the 8652 law "On local government ..." and

<sup>123</sup> Constitution of the Republic of Albania Article 109.3. Të right to vote in local councils have ... Only citizens who are residing permanently in the territory of the respective local unit.

<sup>124</sup> www.shkodra.gov.al/ Municipal Council, elected for a period of four years and consists of 45 members.

<sup>125</sup> www.qarkushkodër.org. Kwshilli Bashkiak Political Representation: DP-14, SP-10, DCP-3; RP-5, AAP-1: Right Liberal Opinion Party-2; Reformed Democratic Party-1: Human Rights Union Party-1; National Development Movement-1; Democratic Alliance Party-1; Social Democratic Party-1; Liberal Party-1, LSI-2; PBKD-1, BK-1

<sup>126</sup> Law no. 8652 Article 7 / 2 Municipal Statute and Rules of Shkodra Municipality. The organs of local government units exercise their powers through the decisions, directives and orders.

<sup>127</sup> Law no. 8652 Article 33 / 6. Acts of the council announced within 10 days from the date of approval and shall take effect 10 days after the announcement. Acts of individual character come into force on the date of notification of the entities involved in them.

the Electoral Code. The mandate of this body representatives is four years. *Termination of office prematurely.* Mandate terminated prematurely in the cases: when the body breaks down or dissolved by the Council of Ministers for serious violations of the constitution or laws,<sup>128</sup> when the municipal council does not meet during the three months from the date of the last meeting.<sup>129</sup> In this case, the Council considered the Self-dissolution.<sup>130</sup> Entities, subjects that possess the right to call the city council meeting are the chairman of the council and in his absence the vice president.<sup>131</sup>

*Council of Shkodra county. Formation.* Shkodra county council is composed of 65 members. The regional council is a representative body in the second level local government, which is created through elections. A part of the county council members are directly elected in the council because of their office as mayors. The rest of the council members are elected indirectly. They are elected by municipal councils and commune councils. Thirty-three mayors and municipalities, included in the county of Shkodra are directly members of the regional council, because of the position, namely *ex officio*. The rest of the members of the regional council, thirty-two members are elected by municipal councils and commune councils, through voting lists many names of candidates. Are declared the winner candidate or candidates who have received the most votes. In terms of political representation,

Shkodra district includes a majority of Democrats. But the region enjoys more than two political parties, namely a representation of almost all the main political spectrum.<sup>132</sup> The number of representatives to the Regional Council for each unit of local government determined by the number of inhabitants, in proportion to the number of the population, according to the formula set by law. Based on the law "On organization and functioning of local government", county

<sup>128</sup> Constitution of the Republic of Albania article 115/ 1

<sup>129</sup> Municipal Statute and Rules of Shkodra Municipality. Communal or municipal council dissolved prematurely by the Council of Ministers when: a) do not meet for a continuous period of three months; b) fails to take a decision to approve the budget within three months from the date specified in Article 19 of this Law c) commits serious violations of the Constitution or laws.

<sup>130</sup> Municipal Statute and Rules of Shkodra Municipality. Within 10 days notify the council secretary prefect. Prefect immediately address the Council of Ministers proposed to the President setting the date of election.

<sup>131</sup> Manual for counselors. 2008. F.12.

<sup>132</sup> www.qarkushkodër.org. County Council. Members. Political Representation: DP-35 members, SP-7, DCP-6; R P- 6, A P-2: Right Liberal Opinion Party-1; Reformed Democratic Party-2: Human Rights Union Party-2; National Development Movement-1; Democratic Alliance Party-1, Independent-2.

council consists of representatives of municipalities and communes that comprise the county. The mayors and municipalities, which are part of the county, are always members of the county council. In cases where a municipality or the commune has only one representative, this representation is done directly by the mayor or municipality. In cases where a municipality or the commune have more than one representative, other representatives elected by their respective councils. The body that sets determines the number of representatives of each municipality and communes included in the territory of the county, based on data from the number of population, according to records of offices of the registrar of the date of January, in the year elections, is prefect of the region.<sup>133</sup> Mandati county council is four years. The regional council shall exercise the powers from the moment of its constitution until the constitution of the council are coming. If the county council does not convene until ninety days after publication of results of local elections, is prefect shall perform all the functions and powers of the council until the time of establishment. Council meeting call made by the chairman.<sup>134</sup> *County Council meetings.* Ordinary meetings of the County Council made no less than once every three months. Meetings take place outside the time of the request: a) its chairman; b) the presidency of the council; c) a third of the members of the council; d) the the prefect on issues related to the exercise of its functions. County Council meetings are open to the public and the media. Council may decide by majority vote that the particular meeting be conducted closed. Meeting is available when verifying the participation of more than half of advisors.

*Acts. Validity of acts.* Acts that show the regional council are the decisions and orders.<sup>135</sup> Acts of the Regional Council have general binding force for the entire county.<sup>136</sup> County Council approves acts through voting. On approval of acts the regional council functions based on the principles of operation of collegial bodies. For consistency are defined simply majority, an absolute majority and qualified majority for specific acts. *Entry into force of the acts of the regional council.* Acts adopted by the regional council announced within ten days from the date of receipt and shall enter into force ten days after the announcement. Decisions of individual character come into force on the date of notification of their subjects involved in them.<sup>137</sup> *Presentation of the project - the county council decisions.* The right to submit draft decisions on the council have: the chairman and presidency of the county council, the permanent commission, any member. Voting. The right to vote in the council is a personal right. Advisers are required to vote personally. The right to vote can not be delegated.

<sup>133</sup> Law no. 8652 Article 49.

<sup>134</sup> [www.qarkushkodër.org](http://www.qarkushkodër.org). County Council / election, powers.

<sup>135</sup> Constitution of the Republic of Albania article 110/ 4

<sup>136</sup> Constitution of the Republic of Albania article 110/ 4

<sup>137</sup> [www.qarkushkodër.org](http://www.qarkushkodër.org). County Council Regulation.

Used two types of voting open vote or secret. Open voting is performed by raising the hand with the general vote. Secret voting is done by using ballots. For the counting of votes is created a special commission composed of different groups of advisers or charged voting secretary. Acts of nominal character always voted by secret ballot. Secret ballot is not made for financial decisions related to budget. When voting is secret council secretary makes the administration of voting and announces the result. Voting results are recorded in the act of collecting. County adviser does not participate in the review and adoption of the council act when he or husband, parents, children, brothers, sisters, father in law, mother in law, husband and his bride have an interest in property or any other interest in the issue being discussed in the council .

*Validity of acts and their announcement.* An act of the county council becomes eligible when he was drafted by the law no. 8485 dated 12.5.1999, the code of administrative procedures , was approved in the county council meeting, was reviewed and voted approved the procedures of this regulation and is registered in the minutes from the meeting. Decisions of council promulgated within ten days from the date of receipt and shall enter into force ten days after the announcement. Decisions of individual character come into force on the date of notification of their subjects involved in them. County Council decisions are implemented after obtaining legal expression Prefecture.<sup>138</sup>

*b-executive bodies of local government units in county of Shkodra.*

Executive bodies are: a- mayor of municipal or commune in local government units; b-bodies of the county executive (chairman of county council and presidency of county council). *The mayor or municipal. Choice.* The mayor is elected directly by citizens who are residing in that municipality or commune.<sup>139</sup> The electoral system used to elect the executive body of the municipality/commune is simple majority system. Get the mayor's office one that provides the most votes.<sup>140</sup> *Mandate.* In contrast to the confirmation of mandates that board members certified by representative body itself, the mandate of the mayor or municipality certified by the court in whose jurisdiction

<sup>138</sup> [www.qarkushkodër.org](http://www.qarkushkodër.org). Regulation of the Council of County Shkodra. The decisions of municipal councils and their municipal representatives to the Regional Council mayor sent within ten days of receiving them.

<sup>139</sup> Law no. 8652 Article 39 / 1 Each municipality or municipality has elected its president every four years in general elections, direct and secret ballot, in the manner prescribed in the Electoral Code. Electoral Code Article 165 / 1. The mayors of municipalities and municipal councils are elected directly by voters residing in the territory of the municipality or commune.

<sup>140</sup> Electoral Code Article 166 / 1. Elected mayor or commune candidate who wins the largest number of valid votes of voters in the respective local unit.

includes the municipality or community.<sup>141</sup> The mandate of the executive body is four years. The law provides for cases of early termination of the mandate of the executive body. The mandate of the mayor or municipality before the deadline ends when the president: a) refuses to be sworn; b) resigns; c) is not a permanent resident of the commune or municipality, where is chosen d) discharged by the authority; d) running or elected deputy f) loses the legal capacity to act by a court of final e) dies.<sup>142</sup>

*Chairman of regional councils of Shkodra.* Chairman of the county and district council's presidency elected by county council meeting. Presidency of county council is composed of eleven members. Two members because of the function, the chairman and deputy chairman of the council and nine other members.<sup>143</sup> Powers. County council chairman, representing the regional council in relation to state bodies. Acts. For the exercise of his powers, the chairman of county council issues orders of individual character.<sup>144</sup>

*Presidency the Council of Shkodra District.* Presidency consists of the chairman, deputy chairman and nine other members. Presidency the County is a collegial organ. As such it functions just assembled. Members of the leadership can not function individually. The decisions of the presidency of county council taken only in its meetings as a collegial body. Meetings of the presidency are available when attending more than half of the members. *Competencies.* Approves the project - the acts other materials requires the council itself or in accordance with the agenda of topics of the meetings of the council. Reports to the council for economic and financial situation. Reports to the council on issues relating to the functions of County exercise the rights they are charged County as a legal person. *Acts.* Decisions to issue presidency county council are binding and enforceable by the authorities, persons subjects concerned. Take obligatory force decisions for implementation by all bodies and persons in charge as publicly announced or made known to the interested parties. Decisions of the Presidency should be reported and approved at the meeting nearest County Council otherwise lose their power.

*Informing citizens and pull the opinions of community.* There are several ways in which local government bodies face the community and inform the government. First, open meetings of elected bodies representative of the public. Every citizen is allowed to attend meetings of the council.<sup>145</sup> Notice for the meeting of the council made public at places

designated by the council and the media.<sup>146</sup> Municipal council or communal before review and approval the acts, conducts counseling sessions with the community.<sup>147</sup> There are several forms of community consultation as defined in the regulation of the functioning of local government: how open meetings with residents, meetings with specialists, interested institutions and nongovernmental organizations or by taking the initiative for the organization of local referendums.<sup>148</sup> Informing the community residents and ensuring transparency in decision making is a prerequisite for the exercise of local government. In this sense this government bodies are obliged to inform the community through the posting of decisions and all acts and through their publication. Acts of local government bodies displayed in public places designated by the council, within the territory of the the commune or the municipality and, if possible these acts and decisions made public by other means.<sup>149</sup>

One way of exercising local government directly from the community of the municipality or local commune is referendum. This right of direct exercise of local government is guaranteed by the constitution, but she is determined and the law of local government and the law of referendums. But the experience of local government in Shkodra district clearly indicates that the direct participation of communities in local government is in a very low level or can say inexistent. Non-participation of the community in local government has several reasons. First, because is the absence of tradition in this field. Second, because it is the low sensitivity of the community itself to local government; thirdly: indifference to the activities of local government, the Fourth is the tradition that citizens have more faith, to rely more strongly and permanently central government. I think this is the weakest part of local government in the county of Shkodra, which requires greater attention by the community.

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<sup>141</sup> Law no. 8652 Article 40 / 1. The mandate of the mayor municipality certified by the court in whose jurisdiction includes the municipality municipality concerned within the twentieth days from the date of his election results.

<sup>142</sup> Law no. 8652 Article 41 / 1.

<sup>143</sup> Regulation of Shkodra County council Article 7 / 1 Presidency is composed of chairman, vice chairman and nine other members.

<sup>144</sup> Law no. 8652 Article 60

<sup>145</sup> Law no. 8652 Article 34 / 1

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<sup>146</sup> Law no. 8652 Article 35 / 1

<sup>147</sup> Law no. 8652 Article 35 / 1

<sup>148</sup> Law no. 8652 Article 35 / 2

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