

ALBANIA

1. SUBSTANTIVE ASPECTS

1.1. Distinction

1.1.1 Does your national legislation differentiate between different categories of treaties? If it does, how are they categorised?

Yes. According to Article 121 of the Constitution and Law no. 43/2016, international treaties are divided into:

- a) treaties which need ratification by the parliament,
- b) Treaties approved by the Council of Ministers (simplified procedure)
- c) Treaties concluded directly by line ministries/MFA, without ratification (administrative or technical agreements).

1.2.2. What are the criteria for their classification into specific category (subject matter, scope, financial effects, etc.)? Does the form of the instrument lead to a different category of treaty?

The distinction is made based on subject matter, scope, financial impact, or constitutional importance:

- Treaties that affect territory, sovereignty, human rights, membership in international organizations, military alliances, peace agreements, major financial obligations → must be ratified by Parliament (Art. 121 Constitution).
- Treaties of technical, administrative, scientific, cultural, economic cooperation without major financial/sovereignty effects → approved by Government (Council of Ministers).
- Agreements of operational/technical character (e.g., cooperation protocols between ministries, memoranda, exchange of notes) → may be concluded directly by MFA or competent ministry.

Form of instrument: The name (e.g., "MoU", "Protocol", "Exchange of Notes") does not automatically change the category; classification is based on content/impact.

1.2.3. What is the legal status of treaties not requiring parliamentary approval in the internal hierarchy of norms?

These agreements are internationally fully binding, but in the internal hierarchy of norms, they are below treaties requiring parliamentary approval and below laws adopted by the Parliament.

1.2. Competence

1.2.1. Which authority is responsible for drafting the text of each category of treaty?

The Ministry whose competence field the agreement is responsible for drafting the text. The Ministry for Europe and Foreign Affairs (MFA) coordinates the procedure, gives opinions, and ensures compliance with international law.

1.2.2. In the process of drafting a treaty, which authority is responsible for the assessment of the legal character and category of an agreement?

The Ministry whose competence field the agreement covers is responsible for the assessment of the legal character and category of the agreement. However, often the Ministry of Foreign Affairs as coordinating institution for international treaties is included in the assessment process.

1.2.3. Which authority has the general responsibility for ratification / approval / confirmation procedures for treaties (is it generally the responsibility of the Parliament and only certain categories are confirmed by the government or vice versa)?

Parliament ratifies agreements under Article 121 Constitution. Is the Government that send treaties which require ratification, to the Parliament.

1.2.4. What are the responsibilities of the line ministries and the Ministry of Foreign Affairs throughout the procedure of conclusion and ratification of each category of treaty?

The line ministries are responsible for preparing all required documents for internal legal procedures, for drafting and negotiating the text of a treaty. They need to prepare the internal legal act, and the translation of the treaty. The line ministries are also responsible for the inter-ministerial consultation process of documents prepared for the internal legal procedures. In this inter-ministerial consultation, consultation with the MEFA and with the Ministry of Justice and Ministry of Finance is obligated. MFA: coordinates inter- institutional process, ensures compliance with foreign policy and international law, issues full powers.

1.2.5. What is the competence of autonomous regions/territories for the conclusion of a treaty?

N/A.

1.2.6. Does the Ministry of Foreign Affairs have delegated competence to conclude less significant treaties on its own, by producing full powers signed by the Minister of Foreign Affairs? If it does, what typically characterises these agreements?

In Albania every ministry including MEFA or state agency has the right to conclude inter-

agency treaties if the content of the treaty falls within the competence of that ministry and if there are no legal obligation in the constitution or laws to send the treaty to the Government or Parliament. What the MEFA can conclude usually cover: technical cooperation, cultural exchanges, consular matters, mutual visa exemption, diplomatic consultation.

2. PROCEDURAL ASPECTS

2.1. Procedure before conclusion/signature

2.1.1. What are the procedures required for the conclusion of different categories of treaties? Can a treaty be concluded through a simplified procedure? If yes, please provide a detailed presentation of the circumstances in which such procedures can be applied and describe the procedures.

According to Albanian law (treaty law) for the treaties provided into article 121 of Albanian Constitution, the steps to be followed are as following: Proposal by line ministry → inter-ministerial consultation -MFA opinion → Council of Ministers approval → Parliamentary ratification.

Treaties that do not required parliamentary approvment: Proposal by line ministry → inter-ministerial consultation -MFA opinion → Approval by Council of Ministers → Signature →final approval by Council of Ministers.

Administrative/technical agreements: In the case of an inter-agency treaty, the competent Ministry has the right to conclude the treaty without any special procedures Proposal by line ministry → MFA coordination → Signature by ministry.

Simplified procedures are used for treaties not affecting sovereignty, territory, finances, or human rights obligations

2.1.2. Do you have a procedure to review the harmonization and compliance of treaties not requiring parliamentary approval with existing national laws? What authority does the review and when?

Yes, every treaty is reviewed regarding the compatibility with Constitution, domestic laws, and international obligations this aspect. The review is done by the line ministry or state agency before signing of the agreement while going through the internal procedures. This review also explains whether the treaty must be ratified by the Parliament.

2.1.3. Do these procedures have one or two phases (before and/or after signature)? Can a treaty enter into force upon signature?

Normally the procedure has two phases: negotiation/signature → approval/ratification. Generally, Albania can sign a treaty after governmental approval. If the treaty does not need

ratification by the Parliament, after the signature of the treaty the governmental approval is needed for entering into force.

Yes, a treaty can enter into force on the date of signature if so is provided (e.g., MoUs, exchange of notes).

2.1.4. Are there any differences in the procedures when considering multilateral vs bilateral treaties?

The procedure is the same.

2.1.5. Are there certain denominations of treaties, which, according to your domestic law, always imply a treaty in simplified form? (for example, "Memorandum of Understanding", "Minutes" etc.)

Often certain denominations of treaties are used for technical agreements, but legal classification is based on substance, not title.

2.1.6. Is the procedure for obtaining the mandate for negotiations differentiated according to different categories of treaties? If yes, how?

There are no different mandates for negotiations. For treaty required parliamentary approval the authority that authorizes delegations for negotiations is the President of the Republic, or Prime Minister. MFA issues full powers for negotiations having the authorization.

2.1.7. Are the signatories of all categories of treaties required to produce full powers upon signature or just some of them?

Not all international treaties need full powers for signature. Treaties that do not required parliamentary or government approval can be signed by the Minister of the line ministry, as they are concluded in the competence field of the ministry.

Also do not required full powers the President, Prime Minister, Minister for Europe and Foreign Affairs, and the Ambassador accredited in the country/international organization with which the treaty is concluded.

However, if the other party asks full powers from Albania for signing the treaty by officials, Albania issues the full powers.

2.1.8. Do you allow for electronic signature of treaties? If so, are there certain requirements concerning what type of electronic signature is acceptable? Do you accept the electronic transmission of treaties instead of the exchange of physical copies? What is the procedure?

Legally this is possible under Albanian law on electronic signatures, but international practice still favors physical signature/exchange of originals. Until now, however, we have had no such exchange or signing.

2.2. Procedure after conclusion

2.2.1. Does the internal procedure for expressing consent to be bound change based on different categories of treaties (i.e., ratification, approval, acceptance, etc.)? If so, please explain.

Technical treaties do not have any special procedure needed for expressing consent to be bound by it.

Treaties concluded on governmental level after their signature need additional internal procedures for expressing consent to be bound. The Government gives its approval to apply the treaty after the signature. After the final approvment of the treaty Albania can notify the other party or depositary of the treaty of its consent to be bound.

If a treaty needs to go through parliamentary procedure, the consent to be bound can be sent to the other party or depositary only after parliamentary procedures are completed.

2.2.2. Is entry into force of a treaty possible on the date of the signature? If yes, what are the procedural requirements that enable such entry into force?

The entry into force of a treaty on the date of the signature is possible if expressly stated in treaty and if content does not require ratification/Council of Minister approvment.

2.2.3. If entry into force is not possible on the date of the signature, is it possible to use provisional application for an earlier application of such treaty?

Yes, is possible under Art. 21 of Law 43/2016, if provisional application for an earlier application do not affect sovereignty, territorial integrity, or financial obligations.

2.3. Form

2.3.1. Do different categories of treaties require specific form when the text is prepared for signature (i.e., printing on treaty paper, sealing, treaty folder)?

Parliamentary and Government-level treaties → printed on treaty paper by MEFA, signed and sealed, deposited officially.

Inter-agency treaties/technical agreements → simpler format printed by line ministries.

2.3.2. Who prepares the text of different categories of treaties for signature?

Inter-agency treaties/technical agreements are prepared by the ministries or state agencies.

Other treaties are prepared for the signature by the Ministry for Europe and Foreign Affairs.

2.4. Implementation

How are treaties not requiring parliamentary approval implemented in national legislation in order to ensure respect of the principle of *pacta sunt servanda* in accordance with Article 26 of the VCLT?

Treaties in general are binding under *pacta sunt servanda* and applied directly if compatible with existing law.

Once in force, ratified treaties have direct effect (Art. 122 Constitution). Implementation measures (laws, bylaws) may be needed depending on content.

2.5. Publication, Registration and Depository

2.5.1. Do all categories of treaties have to be published?

Not all categories of treaties must be published. Treaties ratified by Parliament and approved by the Council of Ministers must be published in the Official Gazette.

2.5.2. If not, which categories do not need to be published and made available to the general public? Is there room for discretion?

Do not need to be published inter-agency treaties/technical agreement.

2.5.3. Which authority decides whether a treaty should not be published?

The decision lies with the ministry or state agency. Technical agreement can be published to the website of relevant ministries.

2.5.4. Where is each category of treaty published (Official Gazette, website, database, etc.)?

Governmental and parliamentary level treaties are published in the official State Gazette. An inter-agency treaty is published on the website or in the official publication of the relevant state agency or local government unless otherwise provided by the inter-agency treaty.

2.5.5. Which categories of treaties are registered with the UN Secretariat?

MFA registers treaties with the UN Secretariat under Article 102 UN Charter.

2.5.6. Where are the originals (or certified true copies) of different categories of treaties kept (e.g., MFA, authority responsible for their implementation, state archives)?

The originals of different categories of treaties are kept at MEFA archives, certified copies are archived in line ministry.