

## Draft articles for the Constitution of Albania

### HUMAN RIGHTS AND FREEDOMS

#### Article 17

Freedom of thought, conscience and belief is inviolable.

No law may be passed imposing a prior restraint on speech, press or other means of communication except to protect children or save human life.

Everyone may freely express his thoughts by speaking, writing and other forms of dissemination, but he may be liable according to law for abuse of this freedom.

The right to be informed may not be denied to anyone.

#### Article 18

The state may not infringe the privacy of any person.

Data about the private life of a person may not be collected without his permission except when necessary for a criminal investigation, or with the approval of the Attorney General, when necessary for national security.

No person shall be denied examination of data about him except by a court order when necessary to protect a criminal investigation or the national security.

The state may not infringe the privacy of correspondence or other forms of private communication unless a court has determined it is necessary for a criminal investigation or the Attorney General has determined it is necessary for the national security.

A home can be entered without consent of the occupant only with a court order as provided by law or to prevent an immediate danger to life.

No-one shall be subject to personal control except when he enters or leaves the territory of the state, or to eliminate an immediate danger to the public security.

#### Article 19

No-one may be denied the right to organise collectively for any lawful purpose.

Restrictions on the exercise of this right by civil servants may be imposed by law.

#### Article 20

The right of peaceful assembly, without arms, may not be restricted.

Assemblies in locations for free use [public square] by the public may be held without applying in advance for permission.

Assemblies in other places of public circulation [street] may be limited by a requirement for prior permission from the relevant authority which may refuse permission only on well-grounded reasons seriously endangering public order and security.

#### Article 21

No-one shall be denied the right to private property individually or jointly.

Acquisition, enjoyment, alienation and inheritance of property may be regulated by law.

No-one shall be deprived of property except in the public interest, in which case appropriate compensation shall be provided.

#### Article 22

The right of workers to strike for improvement of labour conditions, salary or other employment benefits cannot be restricted.

Restrictions may be imposed by law for special categories of workers.

#### Article 23

No-one shall be denied the right to address individually or collectively any state organ.

#### Article 24

Everyone born in Albania is an Albanian citizen.

No-one born of even one Albanian parent may be denied Albanian citizenship.

No-one may lose Albanian citizenship except with his explicit consent.

#### Article 25

No-one may be denied the right to change residence or to circulate within Albania for any lawful purpose. Citizens may freely leave the country and return.

No Albanian citizen can be expelled.

Foreigners shall not be deported en masse. Deportation of individual foreigners is allowed under circumstances defined by law.

Article 26

Every citizen aged 18 and over has the right to vote and be elected to office.

Every vote is personal, equal and secret.

Article 27

Everyone's right to life shall be protected by law.

[No-one may be deprived of life except by sentence of a court following conviction of a very serious crime for which this penalty is provided by law.

Capital punishment does not apply to women or to young men aged under 18.]

Article 28

No-one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 29

No-one shall be required to perform forced labour except in execution of a sentence by a court, or in service exacted in an emergency or natural calamity threatening human life or health.

Article 30

Freedom, property and rights granted by law cannot be abridged without due process of law.

No-one shall be deprived of his right to a fair, public and speedy hearing by a competent, independent and impartial court.

The press and the audience can be excluded from part or all of a trial when their presence would jeopardise public order or morals, national security, the privacy of the litigants or the interest of justice.

Article 31

No-one may be accused or declared guilty of a crime which at the time of its commission was not considered such by the law.

No-one may be given a more severe penalty than the one provided by law at the time of the commission of the offence.

Article 32

No-one shall be detained without good cause.

When detained, a person must be immediately informed of the reason and presented within a reasonable time to a judicial authority.

No-one shall be detained more than 72 hours without judicial approval.

Everyone detained or arrested has a right to communicate immediately with a defense counsel.

An arrested person may appeal his arrest.

Article 33

No-one shall be forced to testify or confess against himself.

Article 34

No-one may be found guilty so long as his guilt has not been proven. No-one may be found guilty on the basis of data collected by unlawful means.

Article 35

No-one may be convicted unless he is present in court.

Article 36

During criminal proceedings, no-one may be deprived of the right :

- a. to be informed at once and in detail of the accusation;
- b. to have adequate time and facilities to prepare a defence;
- c. to have the free assistance of an interpreter, if he does not understand or does not speak the Albanian language;
- d. to defend himself personally, or with the assistance of a defence counsel chosen by him and to communicate freely and privately with him; to have a defence counsel supplied without charge when he cannot afford the cost;
- e. to examine witnesses present in the court and to obtain the appearance, as witnesses, of experts or other persons who may throw light on the facts.

Article 37

No-one may be convicted or punished more than once for the same offence, except when the retrial of a case is ordered by a higher court.

No-one who has been acquitted may be tried again for the same offence.

Article 38

No-one may be denied the right of an appeal to a higher court established by law.

Article 39

No-one may be denied the right of rehabilitation and compensation in accordance with law in the event he has been sentenced by a miscarriage of justice.

No prisoner may be denied humane treatment and moral rehabilitation.

Article 40

No-one shall be denied at least eight years of education paid for by the state.

Secondary education is open to all.

Higher education may only be conditioned on achievement in learning.

Pupils and students have the right to attend private schools instead.

Article 41

Everyone has the right to social security on old age or when disabled, according to a system established by law.

Article 42

Everyone who has come of marriage age is entitled to choose a spouse and create a family.

Marriage, family and children shall enjoy special protection of the state.

Divorce shall be regulated by law.

Article 43

Children, youths, pregnant women, and new mothers are entitled to special protection by law.

Article 44

No-one shall be denied equal access to any medical care provided by the state.

Forced medical treatment may be administered only for the sake of the patient in cases established by law.

Article 45

All citizens are equal before the law.

No-one may be discriminated against on the basis of sex, race, religion, ethnicity, political opinion or parentage.

Article 46

The state may not limit the expression, preservation or development of the cultural, religious or language identity of ethnic minorities.

This right may not be interpreted to justify acts which foster ethnic division or strife.

No-one may be forced to declare his nationality.

Article 47

No-one who is deprived of a right recognised in this Constitution may be denied an effective remedy in court.