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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

REPUBLIC OF ALBANIA
CHARTER OF RIGHTS



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**LAW ON A SUPPLEMENT TO THE LAW N°. 7491,
DATED 29 APRIL 1991
"ON PRINCIPAL CONSTITUTIONAL PROVISIONS"**

REPUBLIC OF ALBANIA
CHARTER OF RIGHTS

LAW
ON A SUPPLEMENT TO THE LAW No. 7491, DATED 29.04.1991
"ON PRINCIPAL CONSTITUTIONAL PROVISIONS"

On the basis of Articles 16 and 23 of the Law "On Principal Constitutional Provisions", on the proposal of the President of the Republic,

PEOPLE'S ASSEMBLY
OF THE REPUBLIC OF ALBANIA

Considering that, during the fierce and extremely inhuman dictatorship of the Party-State, which lasted for 46 years in Albania, civil, political, economic, social and cultural rights and the very fundamental freedoms of the individual were violated and denied by means of state terror.

Considering that respect and provision for the unrestricted enjoyment of these rights and freedoms constitutes one of the highest aspirations of the Albanian people and a prerequisite to the provision of liberty, social equality and democratic prosperity of society,

DECIDED

To add a separate Chapter to the Law No. 7491, dated 29.04.1991 "On Principal Constitutional Provisions", with the following content:

"Fundamental freedoms and human rights"

The fundamental freedoms and human rights are sanctioned and guaranteed by means of the following provisions:

Article 1
The right to life

The right to life of any individual shall be protected by law.

No-one shall be deprived of his life, except where a judgement is to be enforced because of an extremely grave crime committed deliberately, where the law provides for the death penalty.

The death penalty shall not apply to juveniles under the age of 18 at the time the crime was committed, or to women.

Article 2
Freedom of expression

The freedom of expression may not be violated.

Any prior censorship is prohibited.

No law may be enacted to restrict the freedom of speech, press or any other mass media, except in those cases where to protection of children's interests or the lives of people are concerned.

Everyone enjoys the right to freely express his opinions by speaking, writing or any other means dissemination.

The right to information may not be denied to anyone.

The exercise of these freedoms and rights may not be restricted, except in those cases prescribed by law, which constitute necessary means in a democratic society in the interests of national security, territorial integrity, public safety and order, or for the prevention of crime, for the protection of health or morals, the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 3
The abolition of torture

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

Article 4
The prohibition of forced labour

No-one may be compelled to undertake any forced labour, except for the cases where a judgement is to be enforced, or during military service or any other service deemed necessary in a situation of emergency, or where any natural calamity threatens the life or the health of people.

Article 5
An individual's freedom and personal security

An individual's freedom and personal security may not be violated.

No-one may be taken into custody without sufficient evidence.

The detained person shall be given an immediate explanation concerning the reasons for the detention and, within a reasonable time, shall appear before a judge.

No-one may be kept in custody for more than 48 hours.

Every person kept in custody or under arrest shall be given the explanation that he is under no obligation to submit a declaration and that he has the immediate right to communicate with a lawyer.

The arrested person shall have the right of appeal against his arrest, in a court.

Article 6
No punishment without a law

No-one may be accused of or found guilty for an offence which was not punishable by law at the time the offence was committed.

No sentence graver than the one provided for by law at the time the offence was committed may be imposed.

The favourable criminal law shall have a retroactive effect.

Article 7
Presumption of innocence

Everyone shall be presumed innocent until otherwise proved and a final judgement delivered.

Article 8
Criminal procedural guarantees

No-one, during criminal proceedings, shall be deprived of the right to:

a) be informed immediately and in detail about the nature of the charge he is accused of;

b) have sufficient time and facilities to prepare for his own defence;

c) have the aid, free of charge, of a translator in those cases where the accused cannot speak or understand Albanian;

d) be defended by himself or by a lawyer that he has chosen, and be able to speak freely and privately with the latter, and be provided with a legal aid by any lawyer, where the accused does not possess sufficient means;

e) question witnesses and request the appearance of further witnesses, expert and other persons who can clarify the matter by giving evidence.

Article 9
No enforcement to confess one's guilt

No-one may be forced to give evidence against himself or to confess his guilt.

Article 10
Invalidity of unlawful evidence

No-one may be found guilty on evidence collected and produced unlawfully.

Article 11
The right to speech before a trial

No-one may be denied the right to speech prior to being sentenced.

Article 12
Prohibition to judge a single offence twice

No-one may be judged or sentenced more than once for a single offence, except for where a higher court rules that the case shall be judged again.

Article 13
The right to appeal

Everyone shall have the right of appeal against a judgement, to a higher court established by law.

Article 14
The right to rehabilitation and compensation

Any-one being punished due to a misjudgement or due to encroachment by an unlawful administrative act shall have the right to rehabilitation and compensation in compliance with the law.

Anyone suffering damage due to the act of another shall have the right to be compensated in accordance with the law.

No prisoner may be denied humane treatment or moral rehabilitation.

Article 15

Prohibition to encroach on the private life and dignity of the individual

The private life and dignity of an individual may not be encroached.

Information concerning the private life of an individual may be collected only with his permission, or where this is indispensable in carrying out investigations for an offence, or by the approval of a competent governmental body, assigned by law, for reasons of national security.

The collection, handling and final use of personal data, as well as the supervision and secrecy there of are governed by law.

No-one may be denied the right to know the content of the information collected about him, except for where the interests of criminal proceedings or national security are involved.

It is prohibited to use personal data for purposes other than those for which they were collected.

Article 16

Untouchability of dwelling and individual

The dwelling is unertouchable.

Entry into a house without the permission of the dweller is possible only by a court decision in cases prescribed by law, or where this is necessary to avoid any imminent danger to the life or health of dwellers, to protect property, or when a crime is being, or has just been, committed.

No-one may be subjected to a personal search, except in cases of entering or leaving the territory of the state, or in cases where public security is imminently threatened.

Article 17

Privacy of correspondence

The privacy of correspondence or of any other means of private communication may not be encroached, except for a judgement in the interests of criminal proceedings or by the approval of a competent governmental body, assigned by law, in cases where it is considered indispensable for reasons of national security.

Article 18

Freedom of conscience and religion

The freedom of thought, conscience and religion may not be violated.

Everyone may freely change his religion or beliefs and may manifest them either alone or in community with others and in public or in private life in worship, teaching, practice and observance.

Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health and morals, or the rights and freedoms of others.

Article 19

The right to elect and to be elected

Every citizen above the age of 18 has the right to elect and elected. Those citizens who have forfeited their legal and civil capacity are excluded from this right.

The persons arrested and those who are serving a sentence shall have the right to elect only.

The vote is personal, equal and secret.

Article 20

The right to organization

No-one may be denied the right to collective organization for any lawful purpose.

Restrictions on civil servants exercising such a right may be prescribed by law.

Article 21
The right to assembly

Peaceful assembly, without arms, may not be restricted. Assemblies in squares and public passages may be organized with the prior permission of competent bodies, who may refuse permission only when there is sufficient ground to believe that security and public order are seriously threatened.

Article 22
The right to movement

Everyone has the right to choose his dwelling and to freely move around the territory of the country, except in the cases where the law provides restrictions, for reasons of health and public security.

Everyone shall be free to travel abroad and return.

Article 23
Prohibition of deportation and extradition

No Albanian citizen may be deported from the territory of the state.

Extradition of a citizen may be allowed only where it is provided for explicitly in International Conventions to which the Republic of Albania is a party.

Mass deportation of foreigners is prohibited. Foreign individuals may be deported in cases prescribed by law.

Article 24
Citizenship

No-one may be deprived of his Albanian citizenship without his consent, or of the right to renounce his citizenship.

The terms for gaining and giving up citizenship are governed by law.

All Albanian citizens residing abroad enjoy the protection of the state.

Article 25
Equality before the law

All persons are equal by law before the law.

No-one may be discriminated against on account of sex, race, ethnic belonging, language, religion, economic and financial, educational and social conditions, political opinions, parental belonging, or any other personal circumstances.

Article 26
The right of minorities

Individuals belonging to minorities shall enjoy, with no discrimination and in equality before the law, the fundamental human rights and freedoms. They may freely express, preserve and develop their own ethnic, cultural, religious, and linguistic identity, teach and taught in their mother tongue, and associate in organizations and societies to protect their interests and identity.

Nationality shall be determined on the basis of accepted international norms.

Article 27
The right to private property and inheritance

No-one may be denied the right to own private property, either alone or jointly with others, or the right to inheritance.

The acquisition, enjoyment and transfer of property, and the right to inheritance are governed by law.

No-one may be expropriated, except in the public interest and against full compensation.

Article 28

The right to employment

Everyone shall have the right to gain a living by lawful employment of his own choice and accord. Everyone shall be free to choose his profession, working place and system of professional training.

Article 29

Trade-union freedom

The employees shall have the right to freely associate in trade unions to protect their interests in matters concerning labour and social insurance.

Article 30

The right to go on strike

The right to strike by employees, when they intend to ameliorate their working conditions, to demand higher wages or any other profit obtained through work, may not be restricted.

The terms and rules for exercising such a right and the guarantees to provide the necessary services for society, are laid down by law.

Article 31

The right to insurance and social assistance

Everyone reaching the retirement age or suffering from a disability to work shall have the right to social insurance, in conformity with a system laid down by law.

Employees becoming unemployed for reasons beyond their will and control shall have the right to compensation according to the terms prescribed by law.

Article 32

Marriage and the family

Everyone of marriageable age shall have the right to freely choose his/her partner and found a family.

Marriage and the family shall enjoy special protection by the state.

Contracting and dissolving of a marriage shall be governed by law.

Article 33

Protection of children and women

Children, juveniles, pregnant women and young mothers shall enjoy the right to special protection provided by law.

Children born out of wedlock shall have equal right to children born within wedlock.

Article 34

Health care by the state

Everyone shall have the equal right to health care by the state.

Compulsory medication shall be administered only for the benefit of the patient, in those cases envisaged by law.

No-one shall be subjected to a medical or scientific experiment without his consent.

Article 35

The right to education

Everyone shall have the right to an education free of charge, which lasts no less than 8 years.

General secondary education shall be open to everyone.

Secondary and higher vocational training shall be conditioned only on professional criteria.

Pupils and students shall have the right to be educated in private schools, too.

University autonomy shall be guaranteed.

Article 36

The freedom of creation and the intellectual property rights

Everyone shall enjoy the freedom of creation in science, technique, literature and arts.

Copyright shall be protected by law.

Article 37

The right to petition

Everyone, alone or jointly with others, shall have the right to address requests, claims, or suggestions to competent governmental bodies.

Article 38

Fair legal process

The freedom, the property or the rights acknowledged by law may not be encroached without a fair legal process.

Article 39

Judicial restitution of the right

No-one, suffering encroachment of a right, acknowledged by this Constitutional Law, may be denied judicial restitution of the right.

Article 40

The guarantee to a fair trial

No-one may be denied the right to a fair, public and quick trial by a competent, impartial and independent court.

The presence of the public and mass media during the trial may be restricted when the interests of the public order or morality, national security, the private life of the parties in court or the justice demand it.

Article 41
Temporary restriction of rights

The exercising of some specific rights may be temporarily restricted by law in a situation of national emergency or war, with the exclusion of the rights provided for in Articles 1 (right to life), 2 (freedom of expression), 3 (abolition of torture), 6 (no enforcement to confess one's guilt), 19 (freedom of conscience and religion), 25 (equality before the law), 39 (judicial restitution of the right), and 40 (guarantee to a fair trial).

Article 42

The present law becomes effective 15 days after its publication in the Official Gazette.

Tirana, 31 March 1993

No. of the Law: 506

SPEAKER OF THE PARLIAMENT
PJETER ARBNORI