

CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS

RESOLUTION

of the Presidium of the Czech National Council of 16 December 1992 on the declaration of the CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS as a part of the constitutional order of the Czech Republic

Constitutional act No. 2/1993 Coll. as amended by constitutional act No. 162/1998 Coll.

The Presidium of the Czech National Council has adopted the following Resolution:

The Presidium of the Czech National Council hereby declares the CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS as a part of the constitutional order of the Czech Republic.

CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS

The Federal Assembly, on the basis of the proposals of the Czech National Council and the Slovak National Council, Recognizing the inviolability of the natural rights of man, the rights of citizens, and the sovereignty of the law, Proceeding from the universally-shared values of humanity and from our nations' traditions of democracy and self-government, Mindful of the bitter experience of periods when human rights and fundamental freedoms were suppressed in our homeland, Placing hope in the common endeavours of all free nations to safeguard these rights, Ensuing from the Czech and Slovak nations' right to self-determination, Recalling its share of responsibility towards future generations for the fate of all life on Earth, and Expressing the resolve that the Czech and Slovak Federal Republic should join in dignity the ranks of countries cherishing these values, Has enacted this Charter of Fundamental Rights and Basic Freedoms:

CHAPTER ONE

CHAPTER ONE GENERAL PROVISIONS

Article 1

All people are free and equal in their dignity and rights. Their fundamental rights and freedoms are inherent, inalienable, non-prescriptible, and irrevocable.

Article 2

(1) Democratic values constitute the foundation of the state, so that it may not be bound either to an exclusive ideology or to a particular religious faith.

(2) State authority may be asserted only in cases and within the bounds provided for by law and only in the manner prescribed by law.

(3) Everyone may do that which is not prohibited by law; and nobody may be compelled to do that which is not imposed upon her by law.

Article 3

(1) Everyone is guaranteed the enjoyment of her fundamental rights and basic freedoms without regard to gender, race, colour of skin, language, faith and religion, political or other conviction, national or social origin, membership in a national or ethnic minority, property, birth, or other status.

(2) Everybody has the right freely to choose his nationality. It is prohibited to influence this choice in any way, just as is any form of pressure aimed at suppressing a person's national identity.

(3) Nobody may be caused detriment to her rights merely for asserting her fundamental rights and basic freedoms.

Article 4

(1) Duties may be imposed only on the basis, and within the bounds, of law, and only while respecting the fundamental rights and freedoms.

(2) Limitations may be placed upon the fundamental rights and freedoms only by law and under the conditions prescribed in this Charter of Fundamental Rights and Freedoms (hereinafter "Charter").

(3) Any statutory limitation upon the fundamental rights and freedoms must apply in the same way to all cases which meet the specified conditions.

(4) When employing the provisions concerning limitations upon the fundamental rights and freedoms, the essence and significance of these rights and freedoms must be preserved. Such limitations shall not be misused for purposes other than those for which they were enacted.

CHAPTER TWO HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

DIVISION ONE FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

Article 5

Everyone has the capacity to possess rights.

Article 6

(1) Everyone has the right to life. Human life is worthy of protection even before birth.

(2) Nobody may be deprived of her life.

(3) The death penalty is prohibited.

(4) Deprivation of life is not inflicted in contravention of this Article if it occurs in connection with conduct which is not criminal under the law.

Article 7

(1) The inviolability of the person and of her privacy is guaranteed. They may be limited only in cases provided for by law.

(2) No one may be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.

Article 8

(1) Personal liberty is guaranteed.

(2) No one may be prosecuted or deprived of her liberty except on the grounds and in the manner specified by law. No one may be deprived of her liberty merely on the grounds of inability to fulfill a contractual obligation.

(3) A person accused of or suspected of having committed a criminal act may be detained only in cases specified by law. A person who is detained shall be immediately informed of the grounds for the detention, questioned, and within forty-eight hours at the latest, either released or turned over to a court. A judge must question the detained person and decide, within twenty-four hours of receiving her, whether the person shall be placed in custody or released.

(4) A person accused of a criminal act may be arrested only on the basis of a warrant issued by a judge in writing and stating the grounds for the arrest. The arrested person shall be turned over to a court within twenty-four hours. A judge shall question the arrested person and decide, within twenty-four hours, whether the person shall be placed or released.

(5) Nobody may be placed in custody, except on the grounds and for the period of time laid down in a law, and only on the basis of a judicial decision.

(6) The law shall specify the cases in which a person may be committed to or kept in a medical institution without her consent. A court must be notified within twenty-four hours that such a measure has been taken, and it shall decide on such placement within seven days.

Article 9

(1) No one may be subjected to forced labour or service.

(2) The provision of paragraph 1 shall not apply to:

- a) labour imposed in accordance with law upon persons serving a prison sentence or upon persons serving other penalties that take the place of the penalty of imprisonment,
- b) military service or some other service provided for by law in place of compulsory military service,
- c) service required on the basis of law in the event of natural disasters, accidents, or other danger threatening human life, health, or property of significant value,
- d) conduct imposed by law for the protection of life, health, or the rights of others.

Article 10

(1) Everyone has the right to demand that her human dignity, personal honour, and good reputation be respected, and that her name be protected.

(2) Everyone has the right to be protected from any unauthorized intrusion into her private and family life.

(3) Everyone has the right to be protected from the unauthorized gathering, public revelation, or other misuse of her personal data.

Article 11

(1) Everyone has the right to own property. Each owner's property right shall have the same content and enjoy the same protection. Inheritance is guaranteed.

(2) The law shall designate the property necessary for securing the needs of the entire society, the development of the national economy, and the public welfare, which may be owned exclusively by the state, a municipality, or by designated legal persons; the law may also provide that certain items of property may be owned exclusively by citizens or legal persons with their headquarters in the Czech and Slovak Federal Republic.

(3) Ownership entails obligations. It may not be misused to the detriment of the rights of others or in conflict with legally protected public interests. It may not be exercised so as to harm human health, nature, or the environment beyond the limits laid down by law.

(4) Expropriation or some other mandatory limitation upon property rights is permitted in the public interest, on the basis of law, and for compensation.

(5) Taxes and fees shall be levied only on the basis of law.

Article 12

(1) A person's dwelling is inviolable. It may not be entered without the permission of the person living there.

(2) A dwelling may be searched only for the purposes of a criminal proceeding on the basis of a search warrant issued by a judge in writing and giving the reasons therefore. The manner in which a dwelling may be searched shall be specified by law.

(3) Other encroachments upon the inviolability of a dwelling may be permitted by law only if such is necessary in a democratic society for the protection of the life or health of individuals, for the protection of the rights and freedoms of others, or in order to avert a serious threat to public security and order. If a dwelling is also used for a business enterprise or for carrying on other economic activities, the law may also permit such encroachments if they are necessary to fulfill the duties of public administration.

Article 13

No one may violate the confidentiality of letters or the confidentiality of other papers or records, whether privately kept or sent by post or by some other means, except in the cases and in the manner designated by law. The confidentiality of communications sent by telephone, telegraph, or by other similar devices is guaranteed in the same way.

Article 14

(1) The freedom of movement and of residence is guaranteed.

(2) Everyone who is legitimately staying within the territory of the Czech and Slovak Federal Republic has the right freely to leave it.

(3) These freedoms may be limited by law if such is unavoidable for the security of the state, the maintenance of public order, the protection of the rights and freedoms of others or, in demarcated areas, for the purpose of protecting nature.

(4) Every citizen is free to enter the territory of the Czech and Slovak Federal Republic. No citizen may be forced to leave her homeland.

(5) An alien may be expelled only in cases specified by the law.

Article 15

(1) The freedom of thought, conscience, and religious conviction is guaranteed. Everyone has the right to change her religion or faith or to have no religious conviction.

(2) The freedom of scholarly research and of artistic creation is guaranteed.

(3) No one may be compelled to perform military service if such is contrary to his conscience or religious conviction. Detailed provisions shall be laid down in a law.

Article 16

- (1) Everyone has the right freely to manifest her religion or faith, either alone or in community with others, in private or public, through worship, teaching, practice, or observance.
- (2) Churches and religious societies govern their own affairs; in particular, they establish their own bodies and appoint their clergy, as well as found religious orders and other church institutions, independently of state authorities.
- (3) The conditions under which religious instruction may be given at state schools shall be set by law.
- (4) The exercise of these rights may be limited by law in the case of measures necessary in a democratic society for the protection of public safety and order, health and morals, or the rights and freedoms of others.

DIVISION TWO POLITICAL RIGHTS

Article 17

- (1) The freedom of expression and the right to information are guaranteed.
- (2) Everyone has the right to express her opinion in speech, in writing, in the press, in pictures, or in any other form, as well as freely to seek, receive, and disseminate ideas and information irrespective of the frontiers of the State.
- (3) Censorship is not permitted.
- (4) The freedom of expression and the right to seek and disseminate information may be limited by law in the case of measures necessary in a democratic society for protecting the rights and freedoms of others, the security of the State, public security, public health, and morals.
- (5) State bodies and territorial self-governing bodies are obliged, in an appropriate manner, to provide information on their activities. Conditions therefore and the implementation thereof shall be provided for by law.

Article 18

- (1) The right of petition is guaranteed; in matters of public or other common interest, everyone has the right, on her own or together with other individuals, to address state bodies or territorial self-governing bodies with requests, proposals, or complaints.
- (2) Petitions may not be misused to interfere with the independence of the courts.
- (3) Petitions may not be misused for the purpose of calling for the violation of the fundamental rights and freedoms guaranteed by this Charter.

Article 19

(1) The right of peaceful assembly is guaranteed.

(2) This right may be limited by law in the case of assemblies held in public places, if it concerns measures necessary in a democratic society for the protection of the rights and freedoms of others, public order, health, morals, property, or the security of the state. However, an assembly shall not be made to depend on the grant of permission by a public administrative authority.

Article 20

(1) The right of association is guaranteed. Everybody has the right to associate together with others in clubs, societies, and other associations.

(2) Citizens also have the right to form political parties and political movements and to associate therein.

(3) The exercise of these rights may be limited only in cases specified by law, if it involves measures that are necessary in a democratic society for the security of the state, the protection of public security and public order, the prevention of crime, or the protection of the rights and freedoms of others.

(4) Political parties and political movements, as well as other associations, are separate from the state.

Article 21

(1) Citizens have the right to participate in the administration of public affairs either directly or through the free election of their representatives.

(2) Elections must be held within terms not exceeding the regular electoral terms provided for by law.

(3) The right to vote is universal and equal, and shall be exercised by secret ballot. The conditions for exercising the right to vote shall be provided for by law.

(4) Citizens shall have access, on an equal basis, to any elective and other public office.

Article 22

Any statutory provisions relating to political rights and freedoms, as well as the interpretation and application thereof, shall make possible and protect the free competition among political forces in a democratic society.

Article 23

Citizens have the right to resist anybody who would do away with the democratic order of human rights and fundamental freedoms, established by this Charter, if the actions of constitutional bodies or the effective use of legal means have been frustrated.

CHAPTER THREE THE RIGHTS OF NATIONAL AND ETHNIC MINORITIES

Article 24

Membership in a national or ethnic minority may not be to anyone's detriment.

Article 25

(1) Citizens who constitute national or ethnic minorities are guaranteed all-round development, in particular the right to develop, together with other members of the minority, their own culture, the right to disseminate and receive information in their native language, and the right to associate in national associations. Detailed provisions shall be set down by law.

(2) Citizens belonging to national and ethnic minority groups are also guaranteed, under the conditions set down by law:

- a) the right to education in their own language,
- b) the right to use their own language in their relations with officials,
- c) the right to participate in the resolution of affairs that concern national and ethnic minorities.

CHAPTER FOUR ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

Article 26

(1) Everybody has the right to the free choice of her profession and the training for that profession, as well as the right to engage in enterprise and pursue other economic activity.

(2) Conditions and limitations may be set by law upon the right to engage in certain professions or activities.

(3) Everybody has the right to acquire the means of her livelihood by work. The State shall provide an adequate level of material security to those citizens who are unable, through no fault of their own, to exercise this right; conditions shall be provided for by law.

(4) Different rules for aliens may be provided for by law.

Article 27

- (1) Everyone has the right to associate freely with others for the protection of her economic and social interests.
- (2) Trade unions shall be established independently of the state. No limits may be placed upon the number of trade union organizations, nor may any of them be given preferential treatment in a particular enterprise or branch of industry.
- (3) The activities of trade unions and the formation and activities of similar associations for the protection of economic and social interests may be limited by law in the case of measures necessary in a democratic society for the protection of the security of the State, public order, or the rights and freedoms of others.
- (4) The right to strike is guaranteed under the conditions provided for by law; this right does not appertain to judges, prosecutors, or members of the armed forces or security corps.

Article 28

Employees have the right to fair remuneration for their work and to satisfactory work conditions. Detailed provisions shall be set by law.

Article 29

- (1) Women, adolescents, and persons with health problems have the right to increased protection of their health at work and to special work conditions.
- (2) Adolescents and persons with health problems have the right to special protection in labour relations and to assistance in vocational training.
- (3) Detailed provisions shall be set by law.

Article 30

- (1) Citizens have the right to adequate material security in old age and during periods of work incapacity, as well as in the case of the loss of their provider.
- (2) Everyone who suffers from material need has the right to such assistance as is necessary to ensure her a basic living standard.
- (3) Detailed provisions shall be set by law.

Article 31

Everyone has the right to the protection of her health. Citizens shall have the right, on the basis of public insurance, to free medical care and to medical aids under conditions provided for by law.

Article 32

(1) Parenthood and the family are under the protection of the law. Special protection is guaranteed to children and adolescents.

(2) Pregnant women are guaranteed special care, protection in labor relations, and suitable labor conditions.

(3) Children, whether born in or out of wedlock, enjoy equal rights.

(4) It is the parents' right to care for and bring up their children; children have the right to parental upbringing and care. Parental rights may be limited and minor children may be removed from their parents' custody against the latter's will only by the decision of a court on the basis of the law.

(5) Parents who are raising children have the right to assistance from the state.

(6) Detailed provisions shall be set by law.

Article 33

(1) Everyone has the right to education. School attendance shall be obligatory for the period specified by law.

(2) Citizens have the right to free elementary and secondary school education, and, depending on particular citizens' ability and the capability of society, also to university-level education.

(3) Private schools may be established and instruction provided there only under conditions set by law; education may be provided at such schools for tuition.

(4) The conditions under which citizens have the right to assistance from the state during their studies shall be set by law.

Article 34

(1) The rights to the fruits of one's creative intellectual activity shall be protected by law.

(2) The right of access to cultural wealth is guaranteed under the conditions set by law.

Article 35

- (1) Everyone has the right to a favorable environment.
- (2) Everyone has the right to timely and complete information about the state of the environment and natural resources.
- (3) No one may, in exercising her rights, endanger or cause damage to the environment, natural resources, the wealth of natural species, or cultural monuments beyond the extent set by a law.

CHAPTER FIVE THE RIGHT TO JUDICIAL AND OTHER LEGAL PROTECTION

Article 36

- (1) Everyone may assert, through the prescribed procedure, her rights before an independent and impartial court or, in specified cases, before another body.
- (2) Unless a law provides otherwise, a person who claims that her rights were curtailed by a decision of a public administrative authority may turn to a court for review of the legality of that decision. However, judicial review of decisions affecting the fundamental rights and freedoms listed in this Charter may not be removed from the jurisdiction of courts.
- (3) Everybody is entitled to compensation for damage caused her by an unlawful decision of a court, other State bodies, or public administrative authorities, or as the result of an incorrect official procedure.
- (4) Conditions therefor and detailed provisions shall be set by law.

Article 37

- (1) Everyone has the right to refuse to give testimony if she would thereby incriminate herself or a person close to her.
- (2) In proceedings before courts, other State bodies, or public administrative authorities, everyone shall have the right to legal assistance from the very beginning of such proceedings.
- (3) All parties to such proceedings are equal.
- (4) Anyone who declares that she does not speak the language in which a proceeding is being conducted has the right to the services of an interpreter.

Article 38

(1) No one may be removed from the jurisdiction of her lawful judge. The jurisdiction of courts and the competence of judges shall be provided for by law.

(2) Everyone has the right to have her case considered in public, without unnecessary delay, and in her presence, as well as to express her opinion on all of the admitted evidence. The public may be excluded only in cases specified by law.

Article 39

Only a law may designate which acts constitute a crime and what penalties, or other detriments to rights or property, may be imposed for committing them.

Article 40

(1) Only a court may decide on guilt and on the punishment for criminal offences.

(2) A person against whom a criminal proceeding has been brought shall be considered innocent until her guilt is declared in a court's final judgment of conviction.

(3) The accused has the right to be given the time and opportunity to prepare a defense and to be able to defend herself, either pro se or with the assistance of counsel. If she fails to choose counsel even though the law requires her to have one, she shall be appointed counsel by the court. The law shall set down the cases in which the accused is entitled to counsel free of charge.

(4) The accused has the right to refuse to give testimony; she may not be deprived of this right in any manner whatsoever.

(5) No one may be criminally prosecuted for an act for which she has already been finally convicted or acquitted. This rule shall not preclude the application, in conformity with law, of extraordinary procedures of legal redress.

(6) The question whether an act is punishable or not shall be considered, and penalties shall be imposed, in accordance with the law in effect at the time the act was committed. A subsequent law shall be applied if it is more favorable for the offender.

CHAPTER SIX GENERAL PROVISIONS

Article 41

(1) The rights listed in Article 26, Article 27 para. 4, Articles 28 to 31, Article 32 paras. 1 and 3, Article 33, and Article 35 of this Charter may be claimed only within the confines of the laws implementing these provisions.

(2) Whenever this Charter refers to a law, it is understood as a law enacted by the Federal Assembly, unless, as a result of the constitutional division of legislative powers, such issues are governed by laws enacted by the national councils.

Article 42

(1) Whenever this Charter uses the term "citizen", this is to be understood as a citizen of the Czech and Slovak Federal Republic.

(2) While in the Czech and Slovak Federal Republic, aliens enjoy the human rights and fundamental freedoms guaranteed by this Charter, unless such rights and freedoms are expressly extended to citizens alone.

(3) Whenever legal enactments in force employ the term "citizen", this shall be understood to refer to every individual if it concerns the fundamental rights and freedoms that this Charter extends to everybody irrespective of her citizenship.

Article 43

The Czech and Slovak Federal Republic shall grant asylum to aliens who are being persecuted for the assertion of their political rights and freedoms. Asylum may be denied to a person who has acted contrary to fundamental human rights and freedoms.

Article 44

Restrictions may be placed upon the exercise of the right of enterprise and of other economic activity, as well as of the right enumerated in Article 20 para. 2, by judges and prosecutors; by employees in state administration and in territorial self-government, holding the positions specified therein as well as upon their exercise of the right enumerated in Article 27 para. 4; by members of security corps and members of the armed forces, as well as, insofar as such is related to the performance of their duties, upon their exercise of the rights listed in Articles 18, 19, and 27 paras. 1 to 3. A law may place restrictions upon the exercise of the right to strike by persons who engage in professions essential for the protection of life and health.