

Charter of Fundamental Rights and Freedoms

The Federal Assembly, acting on the basis of proposals raised by the Czech National Council and by the Slovak National Council, recognizing the inviolability of the natural rights of man, of the rights of citizens, and of the sovereign character of law, proceeding from the universally shared values of humanity and from the democratic and self-governing traditions of our nations, remembering the bitter experience gained at times when human rights and fundamental freedoms had been suppressed in our country, hoping that these rights will be safeguarded through the common effort of all free nations, ensuing from the right of the Czech and Slovak nations to self-determination, recalling its share of responsibility towards future generations for the fate of life on this 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 Freedoms:

Chapter One

General Provisions

Article 1

All people are free and equal in their dignity and in their rights. Their fundamental rights and freedoms are inherent, inalienable, unlimitable, and irrepealable.

Article 2

- 1) The State is founded on democratic values and must not be bound either by an exclusive ideology or by a particular religion.
- 2) The power of the State may be asserted only in cases and within the limits set by law and in a manner determined by law.
- 3) Everybody may do what is not prohibited by law and nobody may be forced to do what the law does not command.

Article 3

- 1) Fundamental human rights and freedoms are guaranteed to everybody irrespective of sex, race, colour of skin, language, faith, religion, political or other conviction, ethnic or social origin, membership in a national or ethnic minority, property, birth, or other status.
- 2) Everybody has the right to a free choice of his or her nationality. Any form of influencing this choice is prohibited, just as any form of pressure aimed at suppressing one's national identity.
- 3) Nobody may be caused detriment to his or her rights because he or she asserts his or her fundamental rights and freedoms.

Article 4

- 1) Duties may be imposed only by law and within its limit and only if the fundamental rights and freedoms of the individual are respected.
- 2) Any limits placed on fundamental rights and freedoms may be governed only by law under conditions set by this Charter of Fundamental Rights and Freedoms (hereinafter referred to only as "the Charter").
- 3) Any statutory limitation of the fundamental rights and freedoms must apply equally to all cases meeting the set conditions.
- 4) When the provisions on the limits of the fundamental rights and freedoms shall be

respected. Such limits may not be used for other purposes than those for which they were instituted.

Chapter Two

Human Rights and Fundamental Freedoms

Division One

Fundamental Human Rights and Freedoms

Article 5

Everybody has the capacity to possess rights.

Article 6

- 1) Everybody has the right to live. Human life deserves to be protected already before birth.
- 2) Nobody may be deprived of his or her life.
- 3) There shall be no capital punishment.
- 4) Cases where somebody has been deprived of his or her life in connection with an act which is not punishable under the law shall not constitute a violation of rights under the provisions of this Article.

Article 7

- 1) Inviolability of the person and of privacy is guaranteed. It may be limited only in cases specified by law.
- 2) Nobody may be subjected to torture or to inhuman or degrading treatment or punishment.

Article 8

- 1) Personal freedom is guaranteed.
- 2) Nobody may be prosecuted or deprived of his or her freedom except on grounds and in a manner specified by law. Nobody may be deprived of his or her freedom merely because of his or her inability to meet a contractual obligation.
- 3) Any person accused or suspected of having committed a criminal offence may be detained only in cases specified by law. Such detained person shall be informed without delay of the reasons for the detention, questioned, and not later than within forty-eight hours released or turned over to a court. Within twenty four hours of having taken over the detained person, a judge shall question such person and decide whether to place in custody or to release the person.
- 4) A person accused of a criminal act may be arrested only on the basis of a written warrant issued by a judge, which includes the grounds for its issue. The arrested person shall be turned over to a court within twenty-four hours. A judge shall question the arrested person within twenty-four hours and decide whether to place in custody or to release the person.
- 5) Nobody may be placed in custody except for reasons specified by law and on the basis of a judicial decision.
- 6) The law shall determine the cases when a person may be admitted to or kept in a medical institution without his or her consent. Such move shall be reported within twenty-four hours to a court which shall then decide on such placement seven days.

Article 9

- 1) Nobody may be subjected to forced labour or service.
- 2) The provision of paragraph 1 shall not apply to
 - a) work ordered in accordance with the law to persons serving other penalties replacing the penalty of imprisonment,
 - b) military service or to other service prescribed by law in place of military duty,
 - c) service required on the basis of law in cases of natural disasters, accidents, or other danger threatening human life, health, or considerable material values,
 - d) action ordered by law to protect the life, health, or rights of others.

Article 10

- 1) Everybody is entitled to protection of his or her human dignity, personal integrity, good reputation, and his or her name.
- 2) Everybody is entitled to protection against unauthorized interference in his or her personal and family life.
- 3) Everybody is entitled to protection against unauthorized gathering, publication or other misuse of his or her personal data.

Article 11

- 1) Everybody has the right to own property. The ownership right of all owners has the same statutory content and enjoys the same protection, inheritance is guaranteed.
- 2) The law shall specify which property essential for securing the needs of the whole society, development of the national economy, and public welfare may be owned exclusively.
- (3) Ownership is binding. It may not be misused to the detriment of the rights of others or against legally protected public interests. Its exercise may not cause damage to human health, nature and the environment beyond statutory limits.
- (4) Expropriation or other forcible limitation of the ownership right is possible only in public interest and on the basis of law, and for compensation.
- (5) Taxes and fees may be levied only on the basis of law.

Article 12

- (1) Sanctity of the home is inviolable. A home may not be entered without permission of the person living there.
- (2) House search is permissible only for purposes of criminal proceedings on the basis of a written warrant issued by a judge. The manner in which a house search may be conducted is specified by law.
- (3) Other interference in the inviolability of the home may be permitted by law only if it is essential in a democratic society for protecting the life or health of individuals, for protecting the rights and freedoms of others, or for averting a serious threat to public security and order. If a home is also used for a business enterprise or for pursuit of other economic activity, the law may also permit the aforesaid interference if it is essential for realization of the duties of public administration.

Article 13

Nobody may violate secrecy of letters and other papers and records whether privately kept or sent by post or in another manner, except in cases and in a manner specified by law. Similar protection is extended to messages communicated by telephone, telegraph or other such facilities.

Article 14

- (1) Freedom of movement and residence is guaranteed.
- (2) Everybody who is legitimately staying on the territory of the Czech and Slovak Federal Republic has the freedom to leave it.
- (3) These freedoms may be limited by law if it is essential for the security of the State, for maintenance of public order, for protection of the rights and freedoms of others, and in demarcated areas also 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 his or her country.
- (5) A foreign citizen may be expelled only in cases specified by law.

Article 15

- (1) Freedom of thought, conscience and religious conviction is guaranteed. Everybody has the right to change his or her religion or faith, or to have no religious conviction.
- (2) Freedom of scientific research and of the arts is guaranteed.
- (3) Nobody may be forced to perform military service against his or her conscience or religious conviction. Detailed provisions are set by law.

Article 16

- (1) Everybody has the right to profess freely his or her religion or faith either alone or jointly with others, privately or in public, through religious service, instruction, religious acts, or religious ritual.
- (2) Churches and religious societies administer their own affairs, in particular appoint their organs and their priests, and establish religious orders and other church institutions, independently of organs of the State.
- (3) The conditions of religious instruction at state schools shall be set by law.
- (4) Exercise of the aforesaid rights may be limited by law in the case of measures which are essential in a democratic society for protection of public security and order, health and morality, or the rights and freedoms of others.

Division Two

Political Rights

Article 17

- (1) Freedom of expression and the right to information are guaranteed.
- (2) Everybody has the right to express freely his or her opinion by word, 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 essential in a democratic society for protecting the rights and freedoms of others, the security of the State, public security, public health, and morality.
- (5) Organs of the State and of local self-government shall provide in an appropriate manner information on their activity. The conditions and the form of implementation of this duty shall be set by law.

Article 18

- (1) The right of petition is guaranteed; everybody has the right to address himself or herself,

or jointly with other individuals, organs of the State or of local self-government with requests, proposals and complaints in matters of public or other common interest.

(2) A petition may not be used to interfere with the independence of the courts.

(3) Petitions may not be used for the purpose of appeals to violate the fundamental rights and freedoms guaranteed by the Charter.

Article 19

(1) The right to assemble peacefully is guaranteed.

(2) This right may be limited by law in the case of assemblies held in public places, if measures are involved, which are essential in a democratic society for protecting the rights and freedoms of others, public order, health, morality, prosperity, or the security of the State. However, assembly shall not be made dependent on permission by an organ of public administration.

Article 20

(1) The right to associate freely is guaranteed. Everybody has the right to associate 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 measures are involved, which are essential in a democratic society for the security of the State, protection of public security and public order, prevention of crime, or for protection of the rights and freedoms of others.

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

Article 21

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

(2) Elections shall be held within terms not exceeding statutory electoral terms.

(3) The right to vote is universal and equal, and shall be exercised by secret ballot. The conditions under which the right to vote are exercised are set by law.

(4) Citizens shall have access to any elective and other public office under equal conditions.

Article 22

The legal provisions governing all political rights and freedoms, their interpretation, and their application shall make possible and shall protect free competition between 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 the Charter, if the work of the constitutional organs and an effective use of legal means are frustrated.

Chapter Three

Rights of National and Ethnic Minorities

Article 24

The national or ethnic identity of any individual shall not be used to his or her detriment.

Article 25

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

(2) Citizens constituting national and ethnic minorities are also guaranteed under conditions set by law

(a) the right to education in their language,

(b) the right to use their language in official contact,

(c) the right to participate in the settlement of matters concerning the national and ethnic minorities.

Chapter Four

Economic, Social and Cultural Rights

Article 26

(1) Everybody has the right to choose freely his or her profession and the training for such profession, as well as the right to engage in enterprise and other economic activity.

(2) The conditions and limitations for the exercise of certain professions or activities may be set by law.

(3) Everybody has the right to acquire the means of his or her livelihood by work. The State shall provide appropriate material security to those citizens who are unable without their fault to exercise this right; the respective conditions shall be set by law.

(4) Different rules may be set by law for foreign citizens.

Article 27

(1) Everybody has the right to associate freely with others for the protection of his or her economic and social interests.

(2) Trade unions are established independently of the State. There shall be no limit placed on the number of trade unions and similar organizations, nor shall any of them be given preferential treatment in an enterprise or economic branch.

(3) Activities of trade unions and the formation and activity of similar organizations for the protection of economic and social interests may be limited by law in the case of measures essential in a democratic society for protection of security of the State or public order, or of the rights and freedoms of others.

(4) The right to strike is guaranteed under conditions set by law; this right does not appertain to judges, prosecutors, and members of the armed forces and of security corps.

Article 28

Employees are entitled to fair remuneration for work and to satisfactory working conditions. Detailed provisions are set by law.

Article 29

(1) Women, adolescents, and handicapped persons are entitled to increased protection of their health at work and to special working conditions.

(2) Adolescents and handicapped persons are entitled to special protection in labour relations and to assistance in vocational training.

(3) Detailed provisions in this respect shall be set by law.

Article 30

- (1) Citizens are entitled to material security in old age and during incapacitation for work, as well as in the case of loss of their provider.
- (2) Everybody who suffers from material need is entitled to such assistance as is essential for securing his or her basic living conditions.
- (3) Detailed provisions in this respect shall be set by law.

Article 31

Everybody has the right to protection of his or her health. Citizens are entitled under public insurance to free medical care and to medical aids under conditions set by law.

Article 32

- (1) Parenthood and the family are under protection of the law. Special protection of children and adolescents is guaranteed.
- (2) During pregnancy women are guaranteed special care, protection in labour relations, and appropriate working conditions.
- (3) Children born in as well as out of wedlock have equal rights.
- (4) Care of children and their upbringing are the right of their parents; children are entitled to parental upbringing and care. Parental rights may be limited and minor children may be taken away from their parents against the latter's will only by judicial decision on the basis of law.
- (5) Parents who are raising children are entitled to assistance from the State.
- (6) Detailed provisions in this respect shall be set by law.

Article 33

- (1) Everybody has the right to education. School attendance is obligatory for a period specified by law.
- (2) Citizens have the right to free education at elementary and secondary schools, and depending on the citizen's ability and the potential of society, also at university-level schools.
- (3) Other than state schools may be established and instruction provided there only under conditions set by law; education at such school may be provided for tuition.
- (4) The conditions under which citizens are entitled to assistance from the State during their studies are set by law.

Article 34

- (1) The rights to the results of creative intellectual activity are protected by law.
- (2) The right of access to the cultural wealth is guaranteed under conditions set by law.

Article 35

- 1) Everybody has the right to live a favourable living environment.
- 2) Everybody is entitled to timely and complete information about the state of the living environment and natural resources.
- 3) In exercising his or her rights nobody may endanger or cause damage to the living environment, natural resources, the wealth of natural species, and cultural monuments beyond limits set by law.

Chapter Five

Right to Judicial and Other Legal Protection

Article 36

- 1) Everybody may assert in the set procedure his or her right in an independent and unbiased cerate of justice and in specified cases with another organ.
- 2) Anybody who claims that his or her rights have been violated by a decision of a public administration organ may turn to a court for a review of the legality of such decision, unless the law provides differently. However, review of decisions affecting the fundamental rights and freedoms listed in the Charter may not be excluded from the jurisdiction of courts.
- 3) Everybody is entitled to compensation for damage caused to him or her by an unlawful decision of a court, another organs of the State or public administration, or through wrong official procedure.
- 4) The conditions and detailed provisions in this respect shall be set by law.

Article 37

- 1) Everybody has the right to refuse making a statement if he or she would thereby incriminate himself or herself or a close person.
- 2) Everybody has the right to legal assistance in proceedings held before courts, other organs of the State, or public administration organs from the beginning of such proceedings.
- 3) All parties are equal in the proceedings.
- 4) Whoever sates that he or she does not speak the language in which the proceedings are conducted is entitled to the services of an interpreter.

Article 38

- 1) Nobody shall be denied his or her statutory judge. The jurisdiction of the court and the competence of the judge are set by law.
- 2) Everybody is entitled to having his or her case be considered in public without unnecessary delay and in his or her presence, and to expressing his or her opinion on all the submitted evidence. The public may be excluded only in cases specifies by law.

Article 39

Only the law shall determine which acts constitute a crime and what penalties or other detriments to rights or property may be imposed for them.

Article 40

- 1) Only a court shall decide on guilt and on the penalty for criminal offenses.
- 2) Anybody who is accused of a crime in penal proceedings shall be considered innocent until proven guilty in a final verdict issued by a court.
- 3) The accused has the right to be given the time and the possibility to prepare his or her defence and to defend himself or herself or through counsel. If he or she does not choose a counsel although he or she must one under the law, counsel shall be appointed for him or her by the court. The law shall determine in what cases the accused is entitled to free counsel.
- 4) The accused has the right to refuse making a statement; he or she may not be denied this right in any manner whatsoever.
- 5) Nobody may be prosecuted under penal law for an act of which he or she was already convicted under a final verdict or of which he or she has been acquitted. This rule does not preclude the application of special means of legal redress in accordance with the law.
- 6) The question whether an act is punishable or not shall be considered and penalties shall be imposed in accordance with the law in force at the time when the act was committed. A subsequent law shall be applied if it is more favourable for the offender.

Chapter Six

Joint Provisions

Article 41

- 1) The rights listed in Article 26, Article 27, par.4, Articles 28 to 31, Article 32, pars.1 and 3, and Articles 33 and 35 of the Charter may be claimed only within the scope of the laws implementing these provisions.
- 2) Wherever the Charter speaks of a law, this is to be understood as a law enacted by the Federal Assembly, unless it ensues from the constitutional division of legislative jurisdiction that the respective regulation appertains to laws enacted by the National Councils.

Article 42

- 1) Wherever the Charter uses the term "citizen", it is to be understood as a citizen of the Czech and Slovak Federal Republic.
- 2) Citizens of other countries shall enjoy in the Czech and Slovak Federal Republic the human rights and fundamental rights and freedoms the Charter extends to everybody irrespective of his or her citizenship.

Article 43

The Czech and Slovak Federal Republic shall grant asylum to citizens of other countries, persecuted for asserting political rights and freedoms. Asylum may be denied to a person who acted contrary to fundamental human rights and freedoms.

Article 44

A law may limit the exercise by judges and prosecutors of the right to business enterprise and other economic activity and of the right listed in Article 20, par. 2; it may furthermore limit the exercise by members of security corps and members of the armed forces of the rights listed in Articles 18, 19, and 27, pars. 1 to 3, in so far as they are related to the performance of the duties of such members. The law may limit the right to strike of persons engaged in professions which are directly essential for the protection of human life and health.

Source: the Chancellery of the Federal Assembly in co-operation with the Institute of State and Law, Czech Academy of Sciences, 1992.

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