



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 2 June 2004

CDL (2004) 046
Engl. only

Opinion no. 298/2004

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

L A W
OF THE REPUBLIC OF ALBANIA
ON THE STATUS OF POLITICALLY
EX-CONVICTED AND PROSECUTED PEOPLE
BY THE COMMUNIST REGIME

L A W
no. 7748, date 29.7.1993
FOR THE STATUS OF POLITICALLY EX-CONVICTED AND PROSECUTED
PEOPLE BY THE COMMUNIST REGIME

Based on article 16 of the law no. 7491, of the date 29.4.1991 "For the main provisions of the constitution", with the proposal of the Council of Ministers,

THE PARLIAMENT
OF THE REPUBLIC OF ALBANIA

D E C I D E S:

I. DEFINITIONS

Article 1

The status of politically ex-convicted and prosecuted people that hereunder is named "status" includes the basic criteria and conditions for a person to be called politically convicted or prosecuted person, as well as defines the rights and the obligations that follow from it, in compliance with the degree of prosecution.

Article 2

Political prosecution, that hereunder will be named "prosecution", is any kind of action or inaction performed from the 8.11.1941 to the 23.3.1992 from the part of any armed formation or individual, the National Liberation Army, the state security, the police, the army or from the local governmental institutions with the order or with the decision of the party, military or governmental institutions, or of the Albanian communist courts, when this action or inaction has led to the loss of life, liberty and civic rights, to the labelling kulak, déclassé, as well as any other form of deprivation from the participation in the political, economical and social life of the individual on account of his religious and political beliefs or position.

DIVISION INTO CATEGORIES OF POLITICALLY EX-CONVICTED AND
PROSECUTED PEOPLE

Article 3

Based on the law "For the acquittal and the amnesty of politically ex-convicted and prosecuted people" no. 7516, amended by the law no. 7660, of the date 14.1.1993 and by the law no. 7719, of the date 8.6.1993, politically prosecuted people as said by this status are divided into 5 categories:

- a) Persons that have lost their lives or are psychologically unstable due to the prosecution.
- b) Persons that have been imprisoned, or that have been in exile within the country due to the prosecution.
- c) Persons that have been sentenced with internment, banishment due to the prosecution; Albanian people who have had a foreign citizenship, nowadays Albanian citizens and that have lived in concentration camps built on purpose especially for them.

- d) Persons that have lost their civic rights, village kulaks, the déclassé and those that have suffered deprivations of all sorts due to the prosecution.
- e) Persons, that although meet the conditions to be categorized in one of the above categories, do not enjoy the right of this status.

Article 4

Persons, Albanian citizens who have lost their lives, their rights or other deprivations mentioned in article 3, points a, b, c and d, outside of the Albanian territory during the time that they have worked in the administration of that place during the years of the antifascist war or that later as a consequence of the impossibility of staying in Albania due to the prosecution that is performed, despite of the fact that the final action of the prosecution is performed by the non-Albanian communist forces, acquire full rights that this status guarantees.

Article 5

The categorized persons in article 3, point "e" are:

- a) The high communist nomenclature approved by the Council of Ministers.
- b) Associates of the state security, witnesses of the political trials, the activity of who has led directly to crimes such as murder, imprisonment, internments, banishments etc. of the citizens.
- c) Political convicts, that in the content of the verdict, the part of crimes such as theft, robbery, murder, serious bodily injury have it equal to or larger than the political sentence, as well as rappers
- d) Political convicts or interneers, who in the content of their political sentence have also ordinary counts mentioned in point "c" of this article and before this sentence have been sentenced another two times for theft and robbery, in spite of their sentence.
- e) Persons categorized according to article 3, point "d", when they have lost the moral right to be called as such, due to the public negation of their political beliefs or due to the negation of having relations with the people close to them, categorized according to article 3, points a, b, c and d, when this thing is certified in writing by the prosecuted person himself according to the above points, as a result of prosecution.
If the person is dead, such a thing will be decided by the court with the proposal of the chairmanships and the Association of Politically Convicted and Prosecuted People of the neighbourhood and of the village where he lives or lived.
- f) Those that are verified by the Court of Cassation that have been heads of the institutions of violence, terror and espionage and that have collaborated with the invaders.

Article 6

All members of the family or relatives of those persons that are analysed in article 5 of this law will be included in point "d" of article 3, if they meet the criteria for such a thing, although the person who caused their prosecution does not enjoy the right of the status.

RIGHTS

The right to compensation

Article 7

The compensation of politically prosecuted people will be named: instant remuneration in cash, life pension, salary compensation, land, premises or any other form of material profit, which will be given without return to the prosecuted person or his family if he is dead, in compensation of the life, loss of freedom, unpaid work and sufferings, having as the main purpose creating the conditions and possibilities for his or his family's quicker integration into the normal economical-social life of our country. The form of compensation is defined with a special decision of the Council of Ministers.

Article 8

The compensation, as provided by article 7 includes the above-mentioned categories in article 3, points a, b, and c. The prosecuted persons of point "c", who during the time that have had limited freedom are paid for the job done, do not profit from this right.

Persons categorized in point "a", will also be given an instant compensation in cash, apart from the right of the pension recognized by the above-mentioned provisions. The sum of compensation will be defined with a special provision after the approval of this law.

Article 9

The time based on which, the compensation will be calculated will be the full duration of the days of serving the sentence, according to point "b" and "c" of article 3.

Calculations in money of the compensation for this duration will be done based on the highest basic wage in the mine system that results from the year 1945 to the 31.12.1990, corrected with the average index of the raise of prices at the moment that the compensation is calculated.

Article 10

The process of registrations for the recognition of the right to the status will continue until the 31.12.1993. Other requests will not be accepted after this time limit, except of the cases of utter impossibility, which will be verified by a court decision.

Article 11

3 months after this law shall enter in force the compensation should commence. This compensation should be completed on the 31.12.1994.

Other rights

Article 12

The government through special acts will guarantee to all those persons included in article 3 points a, b, c and d, facilities and priorities for their individual or collective requests in the following fields of economical, financial and social activities:

- a) In the field of privatisation of the state property
- b) In the field of giving credits
- c) In the field of construction and accommodation
- d) In the field of tourism
- e) In the field of education and qualification
- f) In the field of employment in the country and abroad
- g) In the field of accomplishing different national and international, economical and social programmes.
- h) In the field of public health

The time limit for the termination of these priorities will be decided by a special law.

INTERMEDIARY PROVISIONS

Article 13

To all those persons, who are categorized in article 5, points "b", "c" and "d", although their right to this status is not recognized, compensation should be given, in compliance with the definitions of this law.

Article 14

The right to the status is personal. The rights of compensation that follow from this status could be passed to the inheritors according to the provisions on inheritance of the Civil Code, but only once and only for those persons included in points a, b and c of article 3.

II. INSTITUTIONS AND PROCEDURES TO GRANT THE STATUS

Article 15

To grant the right of the status, a three party commission shall be set up, composed of:

- a) three representatives of the Ministry of Justice,
- b) three representatives of the State Committee of Politically Prosecuted People,
- c) three representatives of the National Association of Politically Prosecuted People.

The level of representation and the procedures of the meeting are defined by a special provision of the Council of Ministers

Article 16

Valid documents for granting the right of the status according to the cases defined in points a, b, c and d, of article 3, are as follows:

For point a:

- Certificate from the Commission of the Ministry of Public Order and the Ministry of Justice when the person is dead or has been murdered due to the prosecution.
- Forensic medical report of the time when the prosecuted person has lost his reasoning due to the prosecution, as well as an updated forensic medical report where it should be certified that this condition continues or until the day of the death, in the cases when the prosecuted person does not live.

Article 19

Those persons that acquire the status unjustly are obliged to return the sum that they have taken in the form of compensation, as a result of the rights of this status.

Persons that have acquired the right of this status through falsified documents, when such a thing is legally verified, apart from returning the sum that they have profited unjustly, they are also prosecuted according to the provisions in force.

FINAL PROVISIONS

Article 20

All legal provisions, which are in contradiction with this law, are abrogated, apart from the cases when it is foreseen differently from this law itself.

Article 21

The government body, competent for the application of these rights resulting from this status is the State Committee of Politically Prosecuted People.

Article 22

This law enters immediately in force.

Declared with the decree no. 627, of the date 4.8.1993 of the President of the Republic of Albania, Sali Berisha.