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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**COMMENTS ON THE AMENDMENTS
TO THE LAW OF THE REPUBLIC OF ALBANIA
ON THE STATUS OF POLITICALLY
EX-CONVICTED AND PROSECUTED PEOPLE
BY THE COMMUNIST REGIME**

by
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1. During the communist regime in Lithuania in 1940-1990 approx. 1/3 of Lithuanian people suffered the occupational repressions. This number includes approximately fifty thousand victims of the resistance to the occupational regime; approximately eighty thousand political prisoners and about three hundred thousand deportees (who were exiled in 1940-1952 from Lithuania to Siberia and other wintry and far-away regions of the Soviet Union).

Upon restoration of the independent Republic of Lithuania certain legal acts were adopted. This was an attempt to improve at least partially the living conditions of the victims of the occupational communist regime and to ensure them possibilities to return to Lithuania.

It needs to be noted that the said legal regulation in Lithuania was quite “soft”, i.e. of partial instead of overall type. First of all, in Lithuania no special law regulating in an integrated manner the legal status of all the persons, the victims of the communist regime, as well as establishing payment of various compensations and legalising privileges of such persons, has been adopted.

2. In this respect it is to be held that Albanian Law No. 7748 On the Status of Politically ex-Convicted and Prosecuted People by the Communist Regime of 29 July 1993 is of complex nature as it defines not only the categories of politically prosecuted persons but entrenches their right to certain compensations and privileges in various spheres of life also. For example Article 7 reads:

“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 12 establishes that 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.

3. Lithuanian legal acts establish the following support to the persons, the victims of the communist regime:

3.1. In Lithuania compensation to political prisoners and deportees, as well as persons, who have such status or their successors, was to be paid only for the confiscated property. This was established in Government of the Republic of Lithuania Resolution No. 368 of 27 December 1998 (with subsequent amendments, the last wording—Government of the Republic of Lithuania Resolution No. 1238 of 17 October 2000).

Pursuant to the said legal acts in each case the amount of compensation for a confiscated property, except buildings and equipment, could not exceed 3,000 LTL (i.e. 870 Eur) per family.

3.2. Moreover, a lump-sum allowance was provided for in laws, however, it was granted only to close relatives of the killed persons, the categories of which were established in the law. Pursuant to the Republic of Lithuania Law on the State Support to Families of Those who Died during the Resistance to the Occupation of 1940-1990, parents of those who died, spouses, who did not enter into other marriage prior to the death of a volunteer or participant of fights for freedom, children, as well as brothers and sisters, if on the date of death of participant of fights for freedom they were younger than 18 years of age and had lost both parents (both parents or the sole parent they had was already dead) (hereinafter referred to as the members of the family), in equal instalment shall be paid the following lump-sum allowance:

1) 20,000 LTL (approx. 5,800 Eur) shall be paid to the members of the family of participants of the armed opposition (resistance)—the volunteers, who died in a battlefield or during the detention, who were killed or died during the interrogation prior to the sentence of the court coming into effect, or who were sentenced to death and the sentence has been effected;

2) 15,000 LTL (approx. 4,350 Eur) shall be paid to the members of the family of participants of the non-armed opposition (resistance)—the volunteers, who during detention prior to the sentence of the court coming into effect, participants of the non-armed resistance—the participants of fights for freedom, who died during their arrest, who were killed or died during the interrogation prior to the sentence of the court coming into effect, or who were sentenced to death and the sentence has been effected;

3) 12,000 LTL (approx. 3,480 Eur) to the members of the families of participants of the non-armed opposition (resistance)—participants of the fights for freedom, who were killed or died during detention after the sentence of the court coming into effect.

4. Some other current or former privileges and priorities for the political prisoners and deportees in Lithuania:

4.1. Priority in getting the housing. At present this privilege is available to only to the political prisoners and deportees, who now return to Lithuania from the territory of the former Soviet Union (Government of the Republic of Lithuania Resolution No. 19 of 11 January 1992, new wording of 2 March 2001).

4.2. Pursuant to the current Republic of Lithuania Law on privileges in Transportation, political prisoners and deportees have a right to purchase a one-time ticket to long-distance buses, passenger trains of a regular schedule and a limited-period personal ticket to a local (city and suburb) buses and trolleybuses of a regular schedule, to ships and ferries of a regular schedule with 50 percent discount (the same right is enjoyed by each resident of Lithuania, when he reaches the age of 70).

4.3. Unemployed political prisoners and deportees of an age suitable for work shall be secured by the state by the health insurance. The state shall also insure all the persons, who receive the social allowance, schoolchildren and students, persons, who were assigned by laws the status of participants of the Afghanistan War, etc.

4.4. Pursuant to the Republic of Lithuania Law on Pensions the political prisoners and deportees have a right to receive state pensions for the victims. Parents, spouses and children of the persons, who died during the actions of opposition to the occupation of 1941-1990 (resistance) or were killed or died during illegal imprisonment or expatriation, are eligible to state pensions for the victims. It should be noted that the state pensions for the victims are to be treated as symbolic, as their amount equals to the basic, i.e. the minimum state social insurance pension.

4.5. Pursuant to the Republic of Lithuania Law on restoration of the Rights of Ownership of Citizens to the Existing Real Property, in case the owned plot of land shall not be returned to the political prisoners and deportees due to the fact that it is used for a residents' household farm or a peasants' farm, upon the decision of the governor of the county they may be allotted a plot of land the area whereof is up to 100 percent larger than an equivalent plot of land and it shall be allotted from the fund of free land. To other former owners under the same circumstance may be allotted a plot of land the area whereof is 30 per cent larger than an equivalent plot of land.

5. The submitted draft of amendment to Albanian Law No. 7748 On the Status of Politically ex-Convicted and Prosecuted People by the Communist Regime of 29 July 1993 is more of a technical-financial, but not of a legal nature, as it establishes amounts of compensations, procedure and terms of payment thereof. On the other hand, the regulation of the said issues is to be evaluated as an expression of the state policy in respect of the persons, the victims of the communist regime.