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THE RIGHT TO EDUCATION

Abstract. The right to education is a right guaranteed by all current constitutions. This is a substantial right for the existence of society. It is one of the most profitable opportunities to improve the intellect and to gain new culture and values. The Albanian Constitution presents the right to education as a right and duty.

This right is sanctioned by Article 57 of the Constitution, which explicitly states that everyone has the right to education¹. This right is provided not only in constitutions and laws, ie in national acts, but also in international acts, such as the Universal Declaration of Human Rights, the European Convention on Human Rights, the Convention on the Rights of the Child, the American Convention on Human Rights, the Human Rights Additional Protocol, and other acts. The Albanian Constitution presents the right to education as a right and duty. The protection of this right at international level has rendered this right enjoyable either in our country or abroad. The 9-grades education is compulsory. Parents must take measures to send their children to school. Upper secondary education is free.

The Right to Education

The right to education is a right guaranteed by all contemporary constitutions. Education is valuable and substantial for the existence of society. It is one of the most profitable opportunities to achieve necessary knowledge, improve the intellect and gain new culture and values of our country and of the most developed country in the world. In the Albanian Constitution, the right to education is a right and a duty at the same time. One one side, it appears as a free-

¹ Constitution of the Republic of Albania, article 57, section 1.

dom and on the other, as a right-duty. The protection of this right at international level has rendered this right enjoyable by nationals or Albanian immigrants in other countries.

The 9-grades education is compulsory and free. Even upper secondary education is free.

Parents must send their children to school to complete compulsory education. Parents have the right to choose their children's school, which can be either public or private.

Higher education is conditioned by the criteria of ability. The autonomy of higher education institutions and academic freedom are guaranteed by law. Higher education is closely related to its autonomy.

The right to education is one of the most important rights for the development of a country and it is even more important for developing countries, given that people's education leads to social, economic, scientific development for these countries. Education is one of the most effective tools to fight poverty. The right to education, including various aspects of freedom of education and academic freedom, is an essential part of human rights. Although the right to education is largely considered a cultural right, it is related to other rights. The right to education is a precondition for exercising many other civil and political rights, such as the right to freedom of information, expression, assembly, organization, the right to vote, etc¹.

The right of national minorities to education

The right of national minorities is sanctioned by Article 20 of the Constitution

All education laws provide equal opportunities and rights to all. They guarantee special educational and linguistic rights to national minorities. Such minorities have the right to learn their mother

¹ Daci. J. Human Rights (Te Drejtat e Njeriut), 3rd edition, – Tirana, 2011.– P. 227.

tongue, but the achievement of this right requires special infrastructure, schools and institutions. The competent bodies make sure that the curricula satisfy the requirements for these minorities to acquire the history and culture of their motherland. They are completely free to choose between public and private schools.

The rights of national minorities are sanctioned by Article 20 of the Constitution, which explicitly provides, “Persons who belong to national minorities exercise the human rights and freedoms in full equality before the law. They have the right freely to express, without prohibition or compulsion, their ethnic, cultural, religious and linguistic belonging. They have the right to preserve and develop them, to study and to be taught in their mother tongue, and to unite in organizations and associations for the protection of their interests and identity”¹.

The right to education cannot be restricted to anyone.

International acts that guarantee the right to education

This right is also enshrined in Article 26 of the Universal Declaration of Human Rights.

“1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. 2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. 3. Parents have a prior right to choose the kind of education that shall be given to their children”².

¹ Constitution of the Republic of Albania, Article 20.

² Universal Declaration of Human Rights, Article, 26.

Parents must send their children to school to complete compulsory education¹. It is the parents who choose the children's school, which can be either private or public. The 9-grades education is compulsory.

This right is also enshrined in Article 2 of the European Convention on Human Rights, which guarantees the right not to be denied the right to education to individuals and the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions².

Article 23, section 3 of the Convention on the Rights of the Child provides that children have the opportunity to receive education, qualification, health services³.

Article 13 of the Additional Protocol to the American Convention on Human Rights, in the Area of Economic, Social, Cultural Rights, provides the right to education, as follows:

“1. Everyone has the right to education.

2. The States Parties to this Protocol agree that education should be directed towards the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and peace. They further agree that education ought to enable everyone to participate effectively in a democratic and pluralistic society and achieve a decent existence and should foster understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and promote activities for the maintenance of peace.

3. The States Parties to this Protocol recognize that in order to achieve the full exercise of the right to education:

a. Primary education should be compulsory and accessible to all without cost;

¹ Constitutional Law, Omari.L, Anastasi. A, Tirana, 2017.– P. 167.

² European Convention on Human Rights.

³ Convention on the Rights of the Child, Article 23, section 3.

b. *Secondary education in its different forms, including technical and vocational secondary education, should be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education;*

c. *Higher education should be made equally accessible to all, on the basis of individual capacity, by every appropriate means, and in particular, by the progressive introduction of free education;*

d. *Basic education should be encouraged or intensified as far as possible for those persons who have not received or completed the whole cycle of primary instruction;*

e. *Programs of special education should be established for the handicapped, so as to provide special instruction and training to persons with physical disabilities or mental deficiencies.*

4. *In conformity with the domestic legislation of the States Parties, parents should have the right to select the type of education to be given to their children, provided that it conforms to the principles set forth above.*

5. *Nothing in this Protocol shall be interpreted as a restriction of the freedom of individuals and entities to establish and direct educational institutions in accordance with the domestic legislation of the States Parties”¹.*

Article 9 of the Cairo Declaration of Human rights in Islam provides:

“The seeking of knowledge is a responsibility and the provision of education is the duty of society and the State. The State shall ensure the availability of ways and means to acquire education and shall guarantee educational diversity in the interest of society, in order to enable man become acquainted with the religion of Islam and the truths of the universe for the good of mankind.

Every human being has the right to receive education, either religious or secular, from various institutions of education and guidance,

¹ Additional Protocol to the American Convention on Human Rights, in the Area of Economic, Social, Cultural Rights, 17 November, 1988.

including family, school, university, media, in an integrated and balanced manner as to develop his/her personality, to strengthen his/her faith in god, and to promote his/her respect for and defense of both rights and obligations”¹.

National acts that protect the right to education

Article 57 of the Constitution provides the right to education:

“1. Everyone has the right to education.

2. Mandatory education is provided by law.

3. Academic high school public education is open to all.

4. Vocational high school education and higher education can depend only on merit.

5. Mandatory education and academic high school education in public schools are free of charge.

6. Pupils and students may also be educated in non-public schools at all levels, which are established and operate pursuant to law.

7. The autonomy of institutions of higher education and freedom of education are guaranteed by law”².

The right to education is provided in article 5 of law no. 69/2012 “On Pre-University Education System in the Republic of Albania”.

The right to education

“The right to education in the Republic of Albania shall be guaranteed to the Albanian citizens, foreign citizens and stateless individuals, without discrimination in terms of gender, race, colour, ethnicity, language, sexual orientation, political or religious convictions, economic or social status, age, residence, disability or other grounds being referred to in the Albanian legislation”³.

¹ Gruda Zejnullah International Protection of Human Rights, 2007.– P. 405.

² Constitution of the Republic of Albania, Article 57.

³ Law no. 69/2012. “On Pre-University Education System in the Republic of Albania”, article 5.

Albania has taken great steps to bridge the gap in its education system equality, and has achieved a lot in preschool and primary education. However, in terms of access, there are still some challenges to overcome. About half of Roma community children still do not have access to preschool education; whereas, up to 40 percent of these children, aged 6–14, have never attended school. Furthermore, many disabled children are outside the school system. Public spending on education accounts for 3.5 percent of GDP, which means a significantly lower level than the average of 6.3 percent of countries in the Organization for Economic Co-operation and Development (OECD).

UNICEF Albania is determined to support the rights of vulnerable children to have access to education at an early stage of their lives, considering that, the earlier the investment is made in the education of Roma and vulnerable children, the greater will be the opportunity to break this vicious circle of poverty and exclusion¹.

Law no. 15/2017 “On Vocational Education and Training in the Republic of Albania” provides the principle of inclusion: The VET (Vocational Education Training) system offers education and vocational training opportunities for all, without any discrimination².

Law no. 80/2015 “On Higher Education and Scientific Research in Higher Education Institutions in the Republic of Albania”

Article 4, the right to education 1. “*The right to pursue higher education is available to all those individuals who have successfully completed secondary education and who meet the eligibility criteria,*

¹ URL: <https://www.unicef.org/albania/sq/deklarata-shtypi/t%C3%AB-gjith%C3%AB-f%C3%ABmij%C3%ABt-g%C3%ABzajn%C3%AB-t%C3%AB-drejt%C3%ABn-p%C3%ABr-arsim-gjith%C3%ABp%C3%ABrfshir%C3%ABs>

² Law no. 15/2017 “On Vocational Education and Training in the Republic of Albania”

set out by the legal framework in force and by higher education institutions”¹.

Within the university, autonomy is related to the freedom of the professors, to the rights of students, as well as to the participation of university entities in the life of the institution itself. However, in the external aspect, nothing prevents universities from establishing relations with their affiliates, to cooperate through mechanisms of regional or national character. Autonomy also means that university institutions and their internal parts, not only can enter into mutual relations between them, but are legitimized to develop relations with other entities. The framework of autonomy is built according to a pluralism of directions and levels. Autonomy requires that universities have its own structure, in order to be able to freely carrying out their work without any hindrance whatsoever².

Article 3 of the Law on higher Education provides for the academic freedom:

“1. Higher education institutions enjoy academic freedom, financial, organizational and staff selection autonomy, in accordance with the applicable laws. 2. Academic freedom is guaranteed by law: a) to manage teaching, research, innovation, and creative activities; b) to design and develop study programs and to define areas of scientific – research activity; c) to manage the promotion of academic staff”³.

Conclusions

The right to education is a substantial right for the existence of society.

¹ Law no. 80/2015. “On Higher Education and Scientific Research in Higher Education Institutions in the Republic of Albania

² Omari L., Anastasi A. E. Constitutional Law (E Drejta Kushtetuese), – Tirana, 2017. – P. 167.

³ Law no. 80/2015. “On Higher Education and Scientific Research in Higher Education Institutions in the Republic of Albania.

– is one of the most profitable opportunities to achieve necessary knowledge, improve the intellect and gain new culture and values.

Compulsory education in our country is 9 years and it is free. Academic upper secondary education is also free.

Parents must send their children to school to complete compulsory education. Parents have the right to choose their children's school, which can be either public or private.

All education laws provide equal opportunities and rights to all. They guarantee special educational and linguistic rights to national minorities. Such minorities have the right to learn their mother tongue, but the achievement of this right requires special infrastructure, schools and institutions.

This right is enshrined not only in constitutions and laws, ie in national acts, but also in international acts, such as the Universal Declaration of Human Rights, the European Convention on Human Rights, the Convention on the Rights of the Child, the American Convention on Human Rights, Additional Protocol, and other acts.

Higher education institutions enjoy academic freedom, financial, organizational and staff selection autonomy, in accordance with applicable laws. Academic freedom is guaranteed by law: a) to manage teaching, research, innovation, and creative activities; b) to design and develop study programs and to define areas of scientific – research activity; c) to manage the promotion of academic staff.

References:

1. Constitution of the Republic of Albania.
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3. Constitutional Law, Omari L., Anastasi A.– Tirana, 2017.
4. European Convention on Human Rights.
5. Convention on the Rights of the Child.

6. Cairo Declaration of Human rights in Islam.
7. Additional Protocol to the American Convention on Human Rights, in the Area of Economic, Social, Cultural Rights, 17 November, 1988.
8. Gruda Zejnullah. International Protection of Human Rights, 2007.
9. URL: <https://www.unicef.org/albania/sq/deklarata-shty-pi/t%C3%AB-gjith%C3%AB-f%C3%ABmij%C3%ABt-g%C3%ABzajn%C3%AB-t%C3%AB-drejt%C3%ABn-p%C3%ABr-arsim-gjith%C3%ABp%C3%ABrfshir%C3%ABs>
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