

Romania - Constitution (extracts)

## TITLE I

### General Principles

#### Article 1 [Romanian State]

(1) Romania is a sovereign, independent, unitary and indivisible National State.

(2) The form of government of the Romanian State is a Republic.

(3) Romania is a democratic and social state, governed by the rule of law, in which human dignity, the citizens' rights and freedoms, the free development of human personality, justice and political pluralism represent supreme values, in the spirit of the democratic traditions of the Romanian people and the ideals of the Revolution of December 1989, and shall be guaranteed.

(4) The State shall be organized based on the principle of the separation and balance of Powers –Legislative, Executive, and Judicial – within the framework of constitutional democracy.

(5) In Romania, the observance of the Constitution, its supremacy and the laws shall be mandatory.

## Article 2 [Sovereignty]

(1) The national sovereignty shall reside within the Romanian people, that shall exercise it by means of their representative bodies, resulting from free, periodical and fair elections, as well as by referendum.

(2) No group or person may exercise sovereignty in one's own name.

## Article 3 [Territory]

(1) The territory of Romania is inalienable.

(2) The frontiers of the Country are enshrined by an organic law, with the observance of the principles and other generally recognized regulations of international law.

(3) The territory is organized administratively into communes, towns and counties. Some towns are declared municipalities, according to the provisions of the law.

(4) No foreign populations may be displaced or colonized in the territory of the Romanian State.

## Article 4 [Unity of the People and Equality among Citizens]

(1) The State foundation is laid on the unity of the Romanian people and the solidarity of their citizens.

(2) Romania is the common and indivisible homeland of all its citizens, without any discrimination on account of race, nationality, ethnic origin, language, religion, gender, opinion, political affiliation, property or social origin.

### **Article 5 [Citizenship]**

(1) Romanian citizenship can be acquired, retained or lost as provided by the organic law.

(2) Romanian citizenship cannot be withdrawn if acquired by birth.

### **Article 6 [Right to Identity]**

(1) The State recognizes and guarantees the right of persons belonging to national minorities, to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity.

(2) The protection measures taken by the Romanian State for the preservation, development and expression of identity of the persons belonging to national minorities shall conform to the principles of equality and non-discrimination in relation to the other Romanian citizens.

### **Article 7 [Romanians Living Abroad]**

The State shall support the strengthening of links with the Romanians living abroad and shall act accordingly for the preservation, development and expression of their ethnic, cultural, linguistic and religious identity, with the observance of the legislation of the State whose citizens they are.

## **Article 8 [Pluralism and Political Parties]**

(1) Pluralism in the Romanian society is a condition and guarantee of constitutional democracy.

(2) Political parties shall be established and shall pursue their activities in accordance with the law. They contribute to the definition and expression of the political will of the citizens, while observing national sovereignty, territorial integrity, the legal order and the principles of democracy.

## **Article 9 [Trade Unions, Employers' Associations, and Professional Associations]**

Trade unions, employers' associations, and professional associations shall be established and shall carry out their activity according to their statutes, subject to the law. They shall contribute to the protection of rights and the promotion of their members' professional, economic, and social interests.

## **Article 10 [International Relations]**

Romania fosters and develops peaceful relations with all the states, and in this context, good neighbourly relations, based on the principles and other generally recognized provisions of international law.

## **Article 11 [International and National Law]**

(1) The Romanian State pledges to fulfil as such and in good faith its obligations as deriving from the treaties it is a party to.

(2) Treaties ratified by Parliament, according to the law, are part of national law.

(3) If a treaty to which Romania is to become a party comprises provisions contrary to the Constitution, its ratification shall only take place after the revision of the Constitution.

### **Article 12 [National Symbols]**

(1) The flag of Romania is tricolour; the colours are arranged vertically in the following order from the flag-pole: blue, yellow, red.

(2) The National Day of Romania is the 1st of December.

(3) The national anthem of Romania is "Awake, Romanians".

(4) The country's coat of arms and the State's seal shall be established by organic laws.

### **Article 13 [Official Language]**

In Romania, the official language is Romanian.

### **Article 14 [The Capital]**

The Capital of Romania is the Municipality of Bucharest.

## TITLE II

### Fundamental Rights, Freedoms and Duties

#### CHAPTER I

##### General Provisions

##### Article 15 [Universality]

(1) All citizens enjoy the rights and freedoms granted to them by the Constitution and other laws, and have the duties laid down thereby.

(2) The law shall only act for the future, except for the more favourable criminal or administrative law.

##### Article 16 [Equal Rights ]

(1) Citizens are equal before the law and public authorities, without any privilege or discrimination.

(2) No one is above the law.

(3) Access to public, civil or military, positions or dignities is granted, according to the law, to persons whose citizenship is Romanian and whose domicile is within the country. The Romanian

State shall guarantee equal opportunities for men and women to occupy such positions and dignities.

(4) Once Romania has acceded to the European Union, the Union's citizens who comply with the requirements of the organic law have the right to elect and be elected in the local public administration bodies.

### **Article 17 [Romanian Citizens while Abroad]**

Romanian citizens while abroad shall enjoy the protection of the Romanian State and shall be bound to fulfil their duties, with the exception of those incompatible with their absence from the country.

### **Article 18 [Aliens and Stateless Persons]**

(1) Foreign citizens and stateless persons living in Romania shall enjoy general protection of persons and assets, as guaranteed by the Constitution and other laws.

(2) The right of asylum shall be granted and withdrawn under the provisions of the law, in compliance with the international treaties and covenants Romania is a party to.

### **Article 19 [Extradition and Expulsion]**

(1) No Romanian citizen may be extradited or expelled from Romania.

(2) By derogation from the provisions of paragraph (1), Romanian citizens can be extradited

based on the international agreements Romania is a party to, according to the law and on reciprocity basis.

(3) Foreign citizens and stateless persons may be extradited only in compliance with an international covenant or in terms of reciprocity.

(4) Expulsion or extradition shall be ruled by the court.

### **Article 20 [International Treaties on Human Rights]**

(1) Constitutional provisions concerning the citizens' rights and freedoms shall be interpreted and enforced in conformity with the Universal Declaration of Human Rights, with the covenants and other treaties Romania is a party to.

(2) Where any inconsistencies exist between the covenants and treaties on fundamental human rights to which Romania is a party, and the national laws, the international regulations shall take precedence, save where the Constitution or national laws comprise more favourable provisions.

### **Article 21 [Free Access to the Courts]**

(1) Every person is entitled to bring cases before the courts for the defence of his legitimate rights, freedoms and interests.

(2) The exercise of this right shall not be restricted by any law.

(3) All parties shall be entitled to a fair trial and settlement of their cases within a reasonable time.

(4) Administrative special jurisdictions are optional and free of charge.

## CHAPTER II

### Fundamental Rights and Freedoms

#### Article 22 [Right to Life, to Physical and Mental Integrity]

(1) The right to life, as well as the right to physical and mental integrity of person are guaranteed.

(2) No one shall be subjected to torture or to any kind of inhuman or degrading punishment or treatment.

(3) The death penalty is prohibited.

#### Article 23 [Individual Liberty]

(1) Individual liberty and security of person are inviolable.

(2) Search, taking into custody or arrest of a person shall be permitted only in the cases and under the procedure provided by law.

(3) Keeping in custody shall not exceed twenty-four hours.

(4) Detention pending trial shall be ordered by a judge and only in the course of criminal proceedings.

(5) Once criminal proceedings have been taken, detention pending trial may only be ordered for thirty days at the most and extended for thirty days at the most each, without the overall length exceeding a reasonable time, and no longer than 180 days.

(6) In the course of judicial proceedings, the court is bound, according to the law, to review, on a regular basis and no later than sixty days, the lawfulness and grounds of the detention on remand, and to order at once the defendant's release if the grounds for his detention pending trial have ceased to exist or if the court finds there are not any new grounds justifying that such deprivation of liberty be continued.

(7) Court orders as to detention pending trial shall be subjected to appeal proceedings as are provided by the law.

(8) Any person taken into custody or arrest shall be promptly informed, in a language he understands, of the reasons for his detention or arrest, and notified of the charges against him, as soon as practicable; the notification of the charges shall be made only in the presence of a lawyer of his own choosing or appointed ex officio.

(9) Release of a person taken into custody or arrest shall be mandatory if the reasons for such measures have ceased to exist, as well as in other instances provided by the law.

(10) A person detained pending trial shall have the right to apply for provisional release, under judicial supervision or on bail.

(11) Any person shall be presumed innocent until convicted by a final decision of the court.

(12) No punishment may be established or applied if not in accordance with and on the grounds of the law.

(13) A penalty of deprivation of liberty shall only be based on criminal proceedings.

#### **Article 24 [Right to Defence]**

(1) The right to defence is guaranteed.

(2) All throughout the proceedings, the parties shall have the right to be assisted by a lawyer of their own choosing or appointed ex officio.

#### **Article 25 [Freedom of Movement]**

(1) The right of free movement within the national territory and abroad is guaranteed. The law shall lay down the conditions for the exercise of this right.

(2) Every citizen is guaranteed the right to establish his domicile or residence anywhere in the country, to emigrate, and to return to his country.

#### **Article 26 [Personal and Family Privacy]**

(1) Public authorities shall respect and protect the intimate, family and private life.

(2) Any natural person has the right to freely dispose of himself unless by this he causes an infringement upon the rights and freedoms of others, public order or morals.

### **Article 27 [Inviolability of Domicile]**

(1) The domicile and the residence are inviolable. No one may enter or remain in the domicile or residence of a person without his consent.

(2) Derogation from the provisions of paragraph (1) may be under the law, for the following instances:

a) for carrying into execution a warrant for arrest or a court order;

b) for removing a risk to someone's life, physical integrity, or a person's assets;

c) for defending national security or public order;

d) for preventing the spread of an epidemic.

(3) Searches shall only be ordered by a judge and carried out under the terms and forms stipulated by the law.

4) Searches during night time shall be forbidden, except for crimes in flagrante delicto.

### **Article 28 [Secrecy of Correspondence]**

Secrecy of letters, telegrams and other postal communications, of telephone conversations

and of any other legal means of communication is inviolable.

### **Article 29 [Freedom of Conscience]**

(1) Freedom of thought, opinion, and religious beliefs shall not be restricted in any form whatsoever. No one may be compelled to embrace an opinion or religion contrary to his own convictions.

(2) Freedom of conscience is guaranteed; it must be manifested in a spirit of tolerance and mutual respect.

(3) All religions shall be free and organized in accordance with their own statutes, under the terms laid down by law.

(4) Any forms, means, acts or actions of religious enmity shall be prohibited in the relationships among the cults.

(5) Religious cults shall be autonomous from the State and shall enjoy support from it, including the facilitation of religious assistance in the army, in hospitals, prisons, homes and orphanages.

(6) Parents or legal tutors have the right to ensure, in accordance with their own convictions, the education of the minor children whose responsibility devolves on them.

### **Article 30 [Freedom of Expression]**

(1) Freedom of expression of thoughts, opinions, or beliefs, and freedom of any creation, by words, in writing, in pictures, by sounds or other means of communication in public are

inviolable.

(2) Any censorship shall be prohibited.

(3) Freedom of the press also involves the free setting up of publications.

(4) No publication shall be suppressed.

(5) The law may impose an obligation for the media to make public their financing source.

(6) Freedom of expression shall not be prejudicial to the dignity, honour, privacy of person, and the right to one's own image.

(7) Any defamation of the country and the nation, any instigation to a war of aggression, to national, racial, class or religious hatred, any incitement to discrimination, territorial separatism, or public violence, as well as any obscene conduct contrary to morality shall be prohibited by law.

(8) Civil liability for any information or creation made public falls upon the publisher or producer, the author, the producer of the artistic performance, the owner of the copying facilities, radio or television station, under the terms laid down by law. Indictable offences of the press shall be established by law.

### **Article 31 [Right to Information]**

(1) A person's right of access to any information of public interest shall not be restricted.

(2) The public authorities, according to their competence, shall be bound to provide correct information for the citizens as to public affairs and matters of personal interest.

(3) The right to information shall not be prejudicial to the measures of protection of young persons or to national security.

(4) Public and private media shall be bound to provide correct information to the public opinion

(5) Public radio and television services shall be autonomous. They must guarantee for any important social and political group the exercise of the right to be on the air. The organization of these services and the Parliamentary control over their activity shall be regulated by an organic law.

### **Article 32 [Right to Education]**

(1) The right to education is provided by compulsory general education, by education in high schools and vocational schools, higher education, as well as other forms of instruction and postgraduate training courses.

(2) Education at all levels shall be in Romanian. Education may also be carried out in a foreign language of international use, under the terms laid down by law.

(3) The right of persons belonging to national minorities to learn their mother tongue, and their right to be educated in this language are guaranteed; the ways to exercise these rights shall be regulated by law.

(4) State education shall be free, according to the law. The State shall grant social scholarships to children or young persons coming from disadvantaged families and to those institutionalised, as stipulated by the law.

(5) Education at all levels shall take place in State, private, or confessional institutions, according to the law.

(6) The autonomy of the Universities is guaranteed.

(7) The State shall ensure the freedom of religious education, in accordance with the specific requirements of each religious cult. In public schools, religious education is organized and guaranteed by law.

### **Article 33 [Access to Culture]**

(1) The access to culture is guaranteed under the law.

(2) A person's freedom to develop his spirituality and to get access to the values of national and universal culture shall not be limited.

(3) The State must ensure the preservation of spiritual identity, the support to national culture, the fostering of arts, the protection and preservation of cultural heritage, the development of contemporary creativity, and the promotion of Romania's cultural and artistic values throughout the world.

### **Article 34 [Right to Protection of Health]**

(1) The right to the protection of health is guaranteed.

(2) The State shall be bound to take measures to ensure public hygiene and health.

(3) The organization of medical care and the social insurance system in the event of ill-health, accidents, maternity and recovery, the control over the exercise of medical professions and paramedical activities, as well as other measures to protect physical and mental health of person shall be established according to the law.

### **Article 35 [Right to a Healthy Environment]**

(1) The State recognizes the right of everyone to a healthy, ecologically balanced environment.

(2) The State shall provide the legislative framework for the exercise of this right.

(3) Natural persons and legal entities shall have a duty to protect and improve the environment.

### **Article 36 [Right to Vote]**

(1) Every citizen having attained the age of eighteen up to or on the elections day shall have the right to vote.

(2) The mentally deficient or alienated, laid under interdiction, as well as persons disenfranchised by a final decision of the court cannot vote.

### **Article 37 [Right to Be Elected]**

(1) Eligibility is granted to all citizens having the right to vote, who meet the requirements in

Article 16 paragraph (3), unless they are forbidden to join a political party, in accordance with Article 40 paragraph (3).

(2) Candidates must have turned, up to or on the elections day, at least twenty-three years in order to be elected for the Chamber of Deputies or the bodies of local public administration, at least thirty-three years in order to be elected for the Senate, and at least thirty-five years in order to be elected for the office of President of Romania.

### **Article 38 [Right to Be Elected for the European Parliament]**

Once Romania has acceded to the European Union, Romanian citizens shall have the right to elect and be elected for the European Parliament.

### **Article 39 [Freedom of Assembly]**

Public meetings, processions, demonstrations or any other assembly shall be free and may be organized and held only peacefully, without arms of any kind whatsoever.

### **Article 40 [Right of Association]**

(1) Citizens may freely associate into political parties, trade unions, employers' associations, and other forms of association.

(2) Any political parties or organizations which, by their aims or activity, militate against political pluralism, the principles of a State governed by the rule of law, or against the sovereignty, integrity or independence of Romania shall be unconstitutional.

(3) Judges of the Constitutional Court, the advocates of the people, magistrates, active

members of the Armed Forces, policemen and other categories of public servants, established by an organic law, are forbidden to join political parties.

(4) Secret associations are prohibited.

### **Article 41 [Labour and Social Protection of Labour]**

(1) The right to work shall not be restricted. Everyone has a free choice of his profession, trade or occupation, as well as place of work.

(2) All employees have the right to measures of social protection. These concern employees' safety and health, conditions of work for women and young people, the setting up of a minimum gross salary per economy, weekly rest period, rest leave with pay, work performed under difficult and special conditions, professional training, as well as other specific conditions, as stipulated by the law.

(3) The normal duration of a working day is of maximum eight hours, on the average.

(4) For equal work with men, women shall get equal pay.

(5) The right to collective labour bargaining and the binding force of collective agreements shall be guaranteed.

### **Article 42 [Prohibition of Forced Labour]**

(1) Forced labour is prohibited.

(2) Forced labour does not include:

a) activities in carrying out the military service as well as activities performed in lieu thereof, according to the law, due to religious or conscience-related reasons;

b) the work of a sentenced person, carried out under normal conditions, during detention or conditional release;

c) any services required to deal with a calamity or any other danger, as well as those which are part of normal civil obligations as established by law.

### **Article 43 [Right to Strike]**

(1) The employees have the right to strike in the defence of their professional, economic and social interests.

(2) The law shall regulate the conditions and limitations governing the exercise of this right, as well as the guarantees necessary to ensure the essential services for society.

### **Article 44 [Right to Private Property]**

(1) The right of property, as well as the debts incurring on the State are guaranteed. The contents and limitations of these rights shall be established by law.

(2) Private property shall be equally guaranteed and protected by the law, irrespective of its owner. Foreign and stateless persons shall only acquire the right to private property of land under the terms resulting from Romania's accession to the European Union and other international treaties Romania is a party to, on a mutual basis, under the terms stipulated by

an organic law, as well as a result of lawful inheritance.

(3) No one may be expropriated, except on grounds of public utility, established according to the law, against just compensation paid in advance.

(4) Nationalisation or any other measures of forcible transfer of assets into public property based on the owners' social, ethnic, religious, political affiliation, or other discriminatory features shall be prohibited.

(5) For projects of general interest, public authorities are entitled to use the subsoil of any real estate with the obligation to pay compensation to its owner for the damages caused to the soil, plantations or buildings, as well as for other damages imputable to these authorities.

(6) Compensations provided under paragraphs (3) and (5) shall be agreed upon with the owner, or by the court decision where no settlement can be reached.

(7) The right of property compels to the observance of duties relating to environmental protection and the ensurance of neighbourliness, as well as of other duties incumbent upon the owner, in accordance with the law or custom.

(8) Lawfully acquired assets shall not be confiscated. Lawfulness of acquirement shall be presumed.

(9) Any goods intended for, used or resulting from a criminal or administrative offence may be confiscated only in accordance with the provisions of the law.

### **Article 45 [Economic Freedom]**

Free access of persons to an economic activity, free enterprise, and their exercise under the law shall be guaranteed.

### **Article 46 [Inheritance Right]**

The right of inheritance is guaranteed.

### **Article 47 [Standard of Living]**

(1) The State shall be bound to take measures of economic development and social protection such as may be required to ensure a decent standard of living for its citizens.

(2) Citizens have the right to pensions, paid leave for maternity, medical assistance in public health centres, unemployment benefits, and other forms of public or private social security, as provided by the law. Citizens also have the right to social assistance, according to the law.

### **Article 48 [Family]**

(1) The Family is founded on the freely consented marriage of the spouses, their full equality, as well as the right and duty of the parents to ensure the upbringing, education and instruction of their children.

(2) The terms for entering into marriage, dissolution and nullity of marriage, shall be established by law. Religious wedding may be celebrated only after civil marriage.

(3) Children born out of wedlock are equal before the law with those born in wedlock.

### **Article 49 [Protection of Children and Young Persons]**

(1) Children and young persons shall enjoy special protection and assistance in the pursuit of their rights.

(2) The State shall grant allowances for children and benefits for the care of ill children or of those with disabilities. Other forms of social protection for children and young persons shall be established by law.

(3) The exploitation of minors, their employment in activities that might be harmful to their health, or morals, or endanger their life and normal development are prohibited.

(4) Minors under the age of fifteen shall not be employed for any paid labour.

(5) Public authorities must contribute to ensuring conditions for the free participation of young persons in the political, social, economic, cultural and sporting life of the country.

### **Article 50 [Protection of Persons with Disabilities]**

Persons with disabilities shall enjoy special protection. The State shall provide the implementation of a national policy of equal opportunities, disability prevention and treatment, so that persons with disabilities can effectively participate in the life of the community, while observing the rights and duties of their parents or legal tutors.

### **Article 51 [Right of Petition]**

(1) Citizens have the right to apply to public authorities by petitions formulated only in the name of the signatories.

(2) Legally established organizations have the right to forward petitions exclusively on behalf of the collective body they represent.

(3) The exercise of the right of petition shall be fee-exempted.

(4) Public authorities have an obligation to answer to petitions within deadlines and under conditions as established by law.

### **Article 52 [Right of a Person Aggrieved by a Public Authority]**

(1) Any person aggrieved in his legitimate rights or interests by a public authority, by means of an administrative act or by the failure of a public authority to solve his application within the legal deadline, is entitled to the acknowledgement of his claimed right or legitimate interest, the annulment of the act and reparation for the damage suffered.

(2) The conditions and limitations on the exercise of this right shall be regulated by an organic law.

(3) The State shall bear liability in tort for any damage caused by miscarriages of justice. Liability of the State shall be determined according to the law and shall not eliminate liability of the magistrates having exercised their office in ill faith or gross negligence.

### **Article 53 [Restriction on the Exercise of Certain Rights or Freedoms]**

(1) The exercise of certain rights or freedoms may only be restricted by law, and only if

necessary, as the case may be, for: the defence of national security, of public order, health, or morals, of the citizens' rights and freedoms; conducting a criminal investigation; preventing the consequences of a natural calamity, disaster, or an extremely severe catastrophe.

(2) Restrictions shall only be ordered if necessary in a democratic society. The measure must be proportional to the situation which has engendered it, applied in non-discriminatory manner and without touching on the existence of the right or freedom as such.

### CHAPTER III

#### Fundamental Duties

##### Article 54 [Faithfulness towards the Country]

(1) Faithfulness towards the country is sacred.

(2) Citizens holding public offices, as well as the military, are liable for the loyal fulfilment of the obligations they are bound to, and shall, for this purpose, take the oath as requested by law.

##### Article 55 [Defence of the Country]

(1) Citizens have the right and duty to defend Romania.

(2) The terms for doing the military service shall be set up in an organic law.

(3) Citizens may be conscripted from the age of twenty and up to the age of thirty-five, except for the case of volunteers, under the terms of the applicable organic law.

### **Article 56 [Financial Contributions]**

(1) Citizens are under the obligation to contribute to public expenditure, by taxes and duties.

(2) The legal taxation system must ensure a fair distribution of the tax burden.

(3) Any other dues shall be prohibited, save those determined by law, under exceptional circumstances.

### **Article 57 [Exercise of Rights and Freedoms]**

Romanian citizens, aliens and stateless persons shall exercise their constitutional rights and freedoms in good faith, without any infringement of the rights and liberties of others.

## **CHAPTER IV**

### **Advocate of the People**

#### **Article 58 [Appointment and Role]**

(1) The Advocate of the People shall be appointed for a term of office of five years, in order to defend the natural persons' rights and freedoms. The Advocate of the People's deputies shall be specialised per fields of activity.

(2) The Advocate of the People and his deputies shall not perform any other public or private office, except for professorial positions in higher education.

(3) The organization and functioning of the Advocate of the People institution shall be regulated by an organic law.

### **Article 59 [Exercise of Powers]**

(1) The Advocate of the People shall exercise his powers ex officio or upon request by persons aggrieved in their rights and freedoms, within the boundaries established by law.

(2) Public authorities are under the obligation to give to the Advocate of the People the necessary support in the exercise of his powers.

### **Article 60 [Report before Parliament]**

The Advocate of the People shall report before the two Parliament Chambers, annually or on request thereof. The reports may contain recommendations on legislation or other measures for the defence of the citizens' rights and freedoms.

Note: The entire text of the Constitution is available on the following address:

<http://www.cdep.ro/pls/dic/site.page?id=371>

