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REPUBLIC OF ALBANIA
CONSTITUTIONAL COURT

ANNUAL REPORT
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Introduction

2023 was a very busy and engaging year for the Constitutional Court. This judicial authority, currently with an entire new composition, reflecting the constitutional changes, has considered new important cases related to conflicts of powers and competences, the constitutionality of legal initiatives and other normative acts and, of course, the respect of freedoms and rights of the individual, as one of the newest aspects of the constitutional scrutiny of this Court. Paying maximum attention to the procedural deadline of trial, but first and foremost aiming at quality decision-making, the Court has reasoned 353 judgments, of which 70 final judgments, 245 inadmissibility decisions by the Court Chambers and inadmissibility decisions from the Meeting of the Judges.

Despite the high number of cases and difficulties accompanying the constitutional process, the Court has made continuous efforts to fulfill its strategic and institutional objectives, with the aim of providing a functional constitutional justice, with a high integrity and trusted by the public. In the conditions of an insufficient budget for its needs, as an independent and reformed institution, the Court, with a new leadership and vision for the institution, undertook concrete initiatives to improve its functional activity in several directions. More specifically, it engaged in:

Approval of the Rules on the Organization and Functioning of the Administration of the Constitutional Court. With the aim of making its administrative activity as effective as possible, referring also to the amendments of the legal framework for the organization and operation of the Constitutional Court, which is part of the justice reform package, the Meeting of the Judges approved a completely new rules on the organization and operation of the Court's administration. This initiative detailed and completed the institutional regulatory framework regarding the functions and duties, rights and responsibilities of the members of the administration, functions and duties without which the judicial decision-making process would not be possible.

Approval of the Rules on the Communication of the Constitutional Court with the Media and the Re-dimensioning of Relations with the Media and the Public. For the Constitutional Court, the media is one of the main partners for providing and distributing accurate and complete information about its activities, focusing on preserving independence, impartiality and integrity of this Court. For this reason, special rules were compiled and approved for its communication and relationship with the media. This document provides for the principles, rules and special procedures for establishment of facilities and accessing information by media representatives, i.e. the accreditation of journalists, in order to exercise their mission to inform the public in a timely, responsible and correct fashion. Due to the importance it attaches to communication with the media and the public, as well as in fulfilling its obligation to inform the public, the Court has begun to follow a new practice, which consists in organizing press conferences in those cases when, due to importance of decision-making and high public interest, it is necessary to provide complete and accurate information regarding decision-making. The purpose of these conferences, held on the same day the judgments or decision are issued, is to provide a summary information in a simple language, so that the judgments of the Court are easily understood and perceived, considering that the Court judgments usually feature complex technical language and their full reasoning is done within 30 days from the judgments.

From June 2023, the Court provides live broadcasts, through the YouTube platform, of all its public plenary hearings, enabling them to be followed not only by interested parties or legal professionals, but also by any interested person or the general public. The Court has also opened its official page on the Facebook network (Meta), alongside the official accounts on the social networks "Twitter" (X) and "LinkedIn", thus providing other instruments of communication with the general public. The Court has also started work on redesigning its website, with the aim of turning it into a modern and easy-to-use site. It is aware that the official website is a main means of communication and information not only for the entities that are parties to the constitutional trial, but for all institutions, professionals, legal scholars, civil society, media representatives and the general public. Keeping this in mind, the Court plans to reorganize and supplement the site content to make it accessible to every user. According to the new format, which is expected to be put into use during 2024, everyone will have the opportunity through their computer, but also through other electronic devices, to easily obtain information.

The Guide to the Case-Law of the Constitutional Court. Drafting and having a guide of constitutional case-law emerged as a necessity and constituted a vacuum, for which an urgent initiative was needed. The Guide is one of the main tools helping the Court maintain the continuity of its case-law and ensuring its uniformity. It increases the quality of decision-making, on the one hand, and, on the other hand, helps legal professionals and practitioners, as well as the public, to improve the quality of constitutional appeals through familiarization with the Court's rulings, for a more effective protection of constitutional rights. The guide was conceived considering the guidelines of the European Court of Human Rights as a model. It reflects and summarizes the constitutional case-law for individual constitutional appeals with a focus on the right to fair trial. For the first time in this format, with a considerable volume, this material presents in a structured manner the standards and precedents developed by the Court over the years in relation to the right to fair trial, provided by Article 42 of the Constitution, and is intended to continue with other fundamental rights and freedoms.

Organization of joint tables with the High Court. Another important dimension of the Court's activity is the organization of working tables with High Court judges, with the aim of discussing in these forums issues of a constitutional nature that have been identified by the Constitutional Court in the decision-making of the High Court. The two meetings held in 2023 aimed at strengthening the dialogue between the two jurisdictions, namely of the constitutional jurisdiction and the general judicial one, for a better protection of the rights of the individual, especially the right to fair trial and access to substantial rights.

The electronic case management system. The growing number of applications addressed to the Court has increasingly dictated the need to computerize the work process for the administration of these applications. As a result, in order to ensure the principle of efficiency and transparency, the Court has made continuous efforts to implement a modern electronic case management system. Throughout 2023, the Court ensured the commitment of its international partners to support the establishment of a completely new system, based on information technology, for a qualitative and efficient review of cases, which is expected to be completed during 2024.

It must be said that the activity carried out by the Constitutional Court during 2023 was challenging, but beyond challenges it also created possibilities and opportunities for constitutional justice in the country. The newly-established body, composed of members with different experiences, backgrounds and different fields of law, has brought a useful diversity, which serves the legal opinion and has led to important realizations, turning it into one of the greatest institutional strengths.

For 2024 and beyond, the challenge of each member of the Court will be to deliver constitutional justice and fulfill the sacred mission of final interpretation of the Constitution, to resolve constitutional disputes, guarantee the principles of democracy and the rule of law, as well as respect the fundamental rights and freedoms of the individual.

HOLTA ZAÇAJ LL.M.
PRESIDENT OF THE CONSTITUTIONAL COURT

THE CONSTITUTIONAL FRAMEWORK ON THE FUNCTIONING AND ORGANIZATION OF THE COURT

The Constitutional Court, conceived according to the Kelsenian model, as any other court of the same system, was established as a specialized court to resolve constitutional disputes and has the final say in matters on which other courts have already expressed themselves. The Constitution of the Republic of Albania has given the Court the fundamental function of final interpretation of the constitutional norm and control of the constitutionality of laws and other normative acts. Through constitutional control, the Court evaluates the way power is exercised by state bodies, determining the constitutional thresholds within which they must act. For this reason, it is also known as the "Guardian of the Constitution".

The constitutional amendments of 2016, inter alia, re-dimensioned the Constitutional Court also as a court of human rights, expanding its role in protecting and guaranteeing the fundamental rights and freedoms guaranteed in the Constitution, through the individual constitutional appeal, which now can be claimed against any act of public power or judicial decision that is claimed to violate them.

Referring to the specific provisions, the Court's jurisdiction is provided for under Article 124 of the Constitution, while its powers are listed under Article 131 of the Constitution, according to which the Court rules on:

-compliance of the law with the Constitution or with international agreements, as provided for in its Article 122;

-compliance of international agreements with the Constitution before their ratification;

-compliance of normative acts of central and local bodies with the Constitution and international agreements;

-competence disputes between powers as well as between central government and local government;

-the constitutionality of parties and other political organizations as well as their activity pursuant to Article 9 of the Constitution;

-the dismissal from office of the President of the Republic and finding of the impossibility of exercising of his/her functions;

-issues related to electability and incompatibility in the exercise of the functions of the President of the Republic and MPs, as well as the verification of their election;

-the constitutionality of the referendum and the verification of its results;

-final adjudication of complaints by individuals against any act of public authority or court ruling that violates the fundamental rights and freedoms guaranteed in the Constitution;

-compliance with the procedure provided by the Constitution in the cases of consideration of a law related to the revision of the Constitution, approved by the Assembly according to its Article 177.

The Constitution does expressly provide for other competencies of the Constitutional Court[1], such as:

-review of the decision of the Council of Ministers for the dissolution or dismissal of the directly elected body of the local governing unit for serious violations of the Constitution or laws;

-review of the decisions of the High Judicial Council and the High Prosecution Council for the dismissal of the judge and the prosecutor;

-dismissal and suspension from office of the judge of the Constitutional Court, the member of the High Judicial Council, the member of the High Prosecution Council, the General Prosecutor and the High Inspector of Justice;

-review of appeals against decisions on disciplinary measures against other inspectors at the High Inspector of Justice.

[1] The constitutional amendments of 2016 provided for the establishment of a system of transitional re-evaluation of judges and prosecutors for a period of 9 years, during which the Special Appeals College also operates at the Constitutional Court, which, *inter alia*, has disciplinary jurisdiction over judges of the Constitutional Court, members of the High Judicial Council, members of the High Prosecution Council, the General Prosecutor and the High Inspector of Justice, as well as examines appeals against the decisions of the High Judicial Council, the High Prosecution Council and the High Inspector of Justice for imposing disciplinary measures, namely against judges, prosecutors and other inspectors.

The entities that may put the Constitutional Court in motion are:

-The President of the Republic;
-The Prime Minister;
-not less than one fifth of the MPs;
-The People's Advocate;
-The Chairman of the High State Audit;
-any court;
-any commissioner established by law for the protection of fundamental rights and freedoms guaranteed by the Constitution;
-The High Judicial Council and the High Prosecution Council;
-local government bodies;
-bodies of religious communities;
-political parties;
-organizations;
-individuals.

While the first four subjects are unconditional, the other subjects are required to justify their interest in the constitutional case filed with the Court.

The rulings of the Constitutional Court are final and binding for implementation. Final Court decisions are taken by the majority of all members of the Court, that is five members. Decisions in the phase of preliminary examination of complaints are taken by the Court College, consisting of three members, or by the Meeting of the Judges with the majority of votes.

Implementation of Court decisions constitutes a constitutional obligation, as long as the Constitution clearly states their binding force on all constitutional bodies, public authorities, including the courts. Court rulings enter into force on the day of their publication in the Official Journal, or on another date as specified in the relevant ruling. The Organic Law of the Court provides for cases where Court decisions have retroactive effects.[2] Also, in the Organic Law and in the Rules on Judicial Procedures, the procedures and rules for submission, admission and administrative control of applications, as well as the way of operation and decision-making are laid down in details.

[2]Law No. 8577, of 10 February 2000 (as amended by Law No. 99/2016 and Law No. 45/2021) "On the organization and functioning of the Constitutional Court of the Republic of Albania".

Composition of the Court

The Constitutional Court consists of nine members, three of who are appointed by the President of the Republic, three are appointed by the Assembly and three by the High Court. This new appointment formula was introduced by the constitutional amendments of 2016, whereas in the past, the members of the Court were appointed by the President of the Republic with the consent of the Assembly. The current formula aims at guaranteeing a transparent selection process, according to a merit-based process, as well as foresees the involvement in the process of a constitutional body, that is the Judicial Appointments Council, which verifies the fulfillment of the candidates' criteria and issues their final ranking. Further, the appointment body selects the constitutional judge from among the candidates ranked in the first three positions.

The mandate of the constitutional judge has remained unchanged, it is nine years, without the right of reappointment. The judge of the Constitutional Court continues in office until the election of his successor. He or she begins his or her duties after taking the oath before the President of the Republic.

The mandate of the constitutional judge ends when he reaches the age of 70, when he completes the mandate, resigns, is dismissed according to the constitutional provisions or when the conditions of ineligibility and incompatibility in the exercise of the function or the inability to exercise the office are proven.

The judge enjoys immunity for opinions expressed and decisions made in the exercise of his or her functions, except in cases where he has acted for a personal interest or in bad faith, and bears disciplinary responsibility according to the law. While the Constitution has prohibited the performance of any other activity of a political, state, and professional nature against payment, it allows the exercise of teaching, academic and scientific activities under the conditions provided for by law.

The judicial troupe is supported by the administration of the Constitutional Court composed by the legal advisors, the staff of the Cabinet of the Chair, civil employees and other supporting employees. In 2023, the Court has administered its budget in the amount of ALL 237,783,000.

Court members

Holta Zaçaj, LL.M, President

Born on 1976 in Tirana. Graduated from the Faculty of Law, University of Tirana, in 1998. From 2007 until 2008 she finished the studies and obtained the Scientific Master's Degree on "Securities and Financial Regulation", at Georgetown University in the USA, in the framework of the Fulbright Program. She started her professional journey as a lawyer and human rights activist, being engaged in the years 1999-2001 at the "Peace through Justice" Center, a project on war crimes in Kosovo. Afterwards, she has been engaged as a lawyer at the Centre of Integrated Legal Services and Practices (QSHPLI), in free legal aid projects, such as: Legal Clinic for Minors, City Attorney's Office at Tirana Municipality, Legal Clinic for Refugees. From 2008, in addition to being engaged in civil society as a lawyer and human rights expert, she has worked as a lawyer in the Law Office "Delegibus Consulting" ltd., and from 2018 she has practiced law in the state of Massachusetts, USA, in the Law Office "Ligris and Associates" and "Zaçaj Law". From 2003 until 2013 she has been engaged as a lecturer at the School of Magistrates at the initial training program, in the field of family law and, at the continuous training program, in the field of family law and children rights. In the period of 2009-2014, she was a lecturer of banking and financial law in some private universities in Albania. Ms. Zaçaj has been engaged and contributed as a national and international legal expert in a number of initiatives of UNICEF in Albania, UNICEF in Kosovo, UNICEF in Georgia, Council of Europe, World Bank, International Monetary Fund, etc. In the period of 2013 – 2018 she has been the Head of Legal Department at Alpha Bank S.A. She is the author and co-author of about 30 studies and publications in the field of human rights, children rights, family law, securities and banking law. She is the co-author of the Family Code, the law on the children rights and protection in Albania, and the package of laws on the penitentiary treatment of minors in Kosovo. In January 2023, she was appointed member of the Constitutional Court. On 20 February 2023 she is elected by the Meeting of Judges of the Constitutional Court as the President of this Court.

Marsida Xhaferllari, Member

Born on 1975 in Tirana. Graduated from the Faculty of Law, University of Tirana, in 1997. From 1997 until 2000 she has finished her studies at the School of Magistrates, the first generation graduated from this school, and was appointed as judge. From 1999 until 2007 she has served as judge at Fieri Judicial District Court. From 2007 until 2013 she has served at the legal-professional structures of the Ministry of Justice as the Minister's Advisor, General Director of the Codification Department and General Director of Justice Affairs. Because of these duties, she has been a member of several commissions and steering committees such as the Ethics Commission of National Judicial Conference, Steering Council of the School of Magistrates, Administrative Council of Social Insurance Institute and Commission of Consumer Protection. In January 2013, she has been appointed as the Chief Inspector of the Inspectorate of High Council of Justice. Since 2015 and onwards she has been engaged in teaching activities, including the Initial and Continuous Training Programs at the School of Magistrates, and has served as a legal expert in projects related to the justice system. From 2015 until 2016, she has been part of the High Level Experts Group of the Justice System Reform, giving her contribution to the drafting of judiciary and financing of judiciary laws. She is the author of several working manuals on legislation drafting and inspection issues.

In November 2019, she has been appointed Member of the Constitutional Court.

Dr. Fiona Papajorgji, Member

Born on 1976 in Vlora. Graduated in 2000 from the Faculty of Law, University of Bari, Italy. In 2012 she obtained the "Doctor of Juridical Sciences" Degree from the Faculty of Law, University of Bari. From 2000 until 2008 she has been working as assistant attorney and later on as attorney at some Law Firms in Bari. From 2009 until 2011 she has served as lawyer at the Department of Studies, Researches and Publications at the Constitutional Court. From 2011 until 2019 she has served as legal adviser at the Constitutional Court. Since 2007 and onwards she has been engaged in teaching activities as a lecturer of Public Law in some universities. She has offered legal expertise in some projects at the Quality Assurance Agency in Higher Education, in the process of approximation of legislation etc. She is the author of several scientific articles in the field of constitutional law. In 2019 she has been engaged by the School of Magistrates as a professor for the Initial Training Program.

In November 2019 she has been appointed member of the Constitutional Court

Dr. Elsa Toska, Member

Born on 1976 in Kavaja. Graduated in 2000 from the Faculty of Law, University of Tirana. In 2005 she obtained a "Master of Arts" (MA) Degree in European Studies from the Rectorate of Tirana. In 2012 she obtained the "Doctor of Sciences - Constitutional and Administrative law" (PhD) degree from the Faculty of Law, University of Tirana. From 2000 until 2006 she has been working as Assistant Commissioner/Legal Expert at the People's Advocate and from 2006 until 2007 she has worked as a lawyer. During the period of 2007-2019 she has served as legal adviser at the Constitutional Court. From 2005 and onwards she has been a lecturer of Administrative and Constitutional Law at several universities, as well as a Human Rights Trainer in the country and abroad. Since 2010 she has been engaged as an external legal consultant in several projects of international organizations related to human rights and judiciary. She has been a member of three working groups of the Justice System Reform regarding the constitutional amendments, amendments to the Law on the Organization and Functioning of the Constitutional Court of Albania and draft-law On the President of the Republic. She is the author of many publications, textbooks or monographs, some of which are: "Review of administrative activity in the case-law of the Constitutional Court of Albania", and the co-author of "Administrative Law - Control over Public Administration" 2013, an academic text approved by the Department of Public Law, Faculty of Law, University of Tirana. Since 2017 she has been engaged as an expert of the Continous Training Program at the School of Magistrates. She is the author of numerous scientific papers and has played an active role in many national and international scientific conferences related to constitutional justice.

In November 2019 she has been appointed Member of the Constitutional Court.

Sonila Bejtja, Member

Born on 1974, in Tirana. During 1989 – 1997 she finished her studies at the Foreign Languages High School "Asim Vokshi" and later ay the Linguistic Lyceum "San Vincenzo" in Milan, Italy. In 2000, she graduated from the Faculty of Law, University of Milan, Italy. From 1999 – 2004 she practiced law at the Law Firm "Boga & Associates". From 2004 until 2011 she worked as a lawyer and legal consultant in several projects of the World Bank, the Italian-Albanian Bank, the Savings Bank during its privatization, the National Bank of Puglia, the Italian Development Bank, as well as at the Ministry of Economy and Albanian Radio Television. Since 2011 and onwards she has worked as a notary. She is a member of the National Chamber of Notaries and the Chamber of Notaries Tirana, as well as a former member of the National Bar Chamber.

In December 2020 she has been appointed member of the Constitutional Court.

Dr. Sandër Beci, Member

Born on 1974, in Shkodra. Graduated from the Faculty of Law, "Luigj Gurakuqi" University, in 1996. In 2002, he finished the post-graduate studies and obtained a DEA - Diploma of Advanced Studies in "European Studies", from the University of Tirana. In 2012, he has obtained the scientific degree "Doctor of Juridical Sciences" from the Faculty of Law, University of Tirana. From 1996 until 2018 he has been working as full-time professor at the Faculty of Law, "Luigj Gurakuqi" University. During this period he has exercised the functions of the Head of Legal Department and the Head of Civil Law Department at the Faculty of Law, and has been a member of the Ethics Committee of this University. He has been elected as member of the High Prosecutorial Council among the ranks of law faculties' professors, a function exercised for the period December 2018 - March 2022. While exercising the duty of the member of High Prosecutorial Council, he has been elected as the Head of Career Development Commission, Head of Strategic Planning, Administration and Budget Commission and has chaired the ad hoc commissions for the selection of prosecutors of the Special Prosecution Unit. He has participated in various trainings in the country and abroad. He is the author of several publications and scientific articles, and active participant in some national and international conferences.

In March 2022 he has been appointed member of the Constitutional Court.

Ilir Toska, Member

Born on 1970, in Elbasan. Graduated from the Faculty of Law, University of Tirana, in 1992. From 2010 until 2011, he has finished his studies of the Second Level Master Degree in Legal Sciences, in the field of Public Law, "Marin Barleti" University, Tirana. From 1992 until 2001, he has served as judge at Librazhdi First Instance Court. From 2001 until 2004, he has worked as legal assistant at the High Court. From 2004 until 2007, he has served as the Chief Inspector of the Inspectorate of High Council of Justice. From 2007 until 2018, he has served as judge at Tirana Court of Appeal, where during the years 2012-2016 he has also been member of the Electoral College at this Court. From 2018 until 2021, he has served as member of the High Judicial Council. From December 2021 until September 2022, he has served as judge at Tirana Court of Appeal. He has been engaged as legal expert in the Continuing Training Programs at the School of Magistrates.

In September 2022 he has been appointed member of the Constitutional Court.

Gent Ibrahimi, Member

Born on 1970, in Tirana. Graduated from the Faculty of Law, Tirana University, in 1992. From 1992-1993 he completed comparative studies in the field of constitutional law, at the Central European University (CEU), in Budapest. He started his professional journey as a lecturer of administrative law at the Faculty of Law, Tirana University. In the years 1994-1997, in addition to working as a lecturer, he performed the duty of administrator of the law program at the Open Society Foundation for Albania. In the period 1997-1999, he served as Legal Advisor and Head of Cabinet of the Minister of State for Legislative Reform and Relations with the Parliament, providing his assistance in drafting the Constitution of 1998 and a number of important post-constitutional laws. During 2002-2003, he worked as external advisor at the Ministry of Labor and Social Affairs. In 2003 and 2006, he served as legal advisor at the international governance institutions within UNMIK, in Kosovo. In the years 1999-2009, he was the Executive Director of the Institute of Public and Legal Studies, a non-profit organization focusing in the field of studies about the justice system and governance in general. During this period, from 2009 to 2012, he served as advisor at the Project Against Corruption in Albania, PACA. During 2013 - 2014, he was the Chairman of the Legal Reform Council at the Ministry of Justice. Furthermore, in the years 2014 - 2016, he was the Chairman of two working groups for drafting the constitutional and legal amendments in the framework of the justice reform. During 2019-2022, he served as the Chairman of the High Prosecutorial Council. Since 2006, he has been working as visiting professor at the School of Magistrates. Throughout his professional career, he has been engaged as expert in consulting services, in areas such as judicial system, governance, anti-corruption, civil service and administrative reform, media, etc.

Mr. Ibrahimi is the co-author of many published studies and commentaries in the field of human rights, constitutional law, administrative law, justice system, freedom of expression, right to assembly, right to information, private life, etc.

In December 2022 was appointed member of the Constitutional Court.

Prof. Dr. Marjana Semini, Member

Born on 1966, in Berat. Graduated from University of Tirana, Faculty of Law, in 1988. In 1993, she obtained the scientific degree of "Candidates of Science in Law", in 1994 "Doctor in Law", in 1999 "Associate Professor" and in 2009 the scientific title "Professor". She specialized under the Fulbright Program (1993, Virginia School of Law, USA) and the TEMPUS Program (1993 – 1994, Faculty of Law, Trento, Italy). During the years 1988 - 1997, she has been working as full time professor at the Faculty of Law, University of Tirana, teaching the "Law of Obligations and Contracts" Course. From 1997 to 2022, she has worked as a full time professor at the School of Magistrates of the Republic of Albania, and during the years 2009-2013, she performed the duty of the Director of this School. She was a member of the Steering Council of the School of Magistrates for a period of almost 20 years and also responsible of the Initial Training Program of Judges and Prosecutors until 2022. She has been, and continues to be, a visiting professor in several Faculties of Law in Albania, as well as a scientific director in doctoral programs and schools in Albania, Kosovo and North Macedonia. From 2014 to 2020, she was a visiting professor at the National School of Advocacy. During the years 1999-2022, she has participated in national and international programs of United Nations (UN) organizations such as: UNDP, UNICEF, ILO, IFC, WIPO, World Bank, as well as USAID, OSCE, Council of Europe, etc. She was engaged as an independent expert with the London Court of International Arbitration, and seats of Zurich, Paris, Vienna, etc. for issues related to the implementation of trade/commercial contracts and agreements. In 2021-2022, she was a member of the Disciplinary Board of Notaries (quasi court) at the National Chamber of Notary, as a representative of the School of Magistrate. She is author and co-author of 37 university texts, monographs, commentaries, and many scientific articles and publications in the domain of law.

In December 2022, she was appointed member of the Constitutional Court.

"The Mission of the Constitutional Court is to guarantee the supremacy of the Constitution and the enhancement of the country's democracy through constitutional dispute resolution and ultimate interpretation of the Constitution"

DECISION-MAKING

SELECTED CASES

Conflict of competencies

The conflict of competences between the parliamentary ruling majority and the parliamentary minority in the case of the incompatibility of an MP mandate (Judgement No. 1, of 23 January 2023 - case of Olta Xhaçka)

Exeercising of the right of the parliamentary minority to file a case with the Constitutional Court on the incompatibility of the mandate of an MP in the conditions of the provisions of Article 70, paragraph 3 of the Constitution, is not at the discretion of the Assembly. The latter only has the right to verify the formal criteria, while the Constitutional Court evaluates the merits of the case. A reverse stance of the Assembly constitutes a case of conflict of competencies between the parliamentary majority and parliamentary minority.

Pursuant to the legislation in force, the competent administrative body has approved the status of "strategic investment/investor, assisted procedure" for a project owned by the husband of the MP of the Assembly. For this reason, a group of MPs addressed the Assembly with a motion to pursue the parliamentary procedure for establishing the invalidity and termination of her mandate, as provided for under Article 70, paragraphs 2 and 3, of the Constitution. The reports of the parliamentary minority and the majority for the Council for Regulation, Mandates and Immunity were submitted for review in the plenary hearing of the Assembly, which decided to overrule the report of the parliamentary minority and to approve the report of the parliamentary majority. No less than one tenth of the MPs addressed the Court to resolve the dispute of competence created between the parliamentary minority and the parliamentary majority, and the declaration of these decisions of the Assembly as incompatible with the Constitution.

In the Court's assessment, according to Article 70, paragraph 4, of the Constitution, the Assembly cannot submit for discussion the motion in question and cannot subject it to parliamentary debate, but its decision-making as a collegial body is necessary for addressing the Court, so that it can express itself on the merits of the case. The verification and assessment of legal and formal criteria of requests of this nature falls into the remit of work of the Assembly, while the assessment of the merits of the case – that is if, by her actions, the MP has violated the Constitutional provision of paragraph 3 of Article 70 of the Constitution, resulting in the incompatibility in the exercise of the mandate, is a matter that belongs exclusively to the Court. The Assembly should examine only if the submitted motion is related to the incompatibility of the mandate of an MP. The fact that the alleged claim of the request is supported by a tenth of the MPs or the Speaker of the Assembly and is opposed by another part of the MPs, should not be a reason for its disapproval.

The concrete issue of the assessment of incompatibility in the exercise of the mandate of the MP, who, through her husband, may have exercised profitable activities originating from state or local government assets and acquired their assets, does not belong in the remit of assessment of the Assembly, but in the remit of assessment of this Court, as the facts require examination on their merits, so that it can be determined whether they should be classified in the provisions of paragraph 2 or paragraph 3 of Article 70 of the Constitution. The Assembly should have accepted the motion and sent the case for review to the Constitutional Court, so that the aspects claimed as incompatibility of the MP's mandate were subject to constitutional evaluation. During the constitutional trial, No legal/formal obstacle was verified for the motion so that it could be hindered by the Assembly during the constitutional trial, so the decisions of that body have violated the constitutional right of one tenth of the MPs not to have their motion obstructed.

Conflict of competences due to restraining measures against an MP without the authorization of the Assembly (decision of the Meeting of Judges No. 273, of 20 December 2023 – case of Sali Berisha)

A case of conflict of competences can be raised in the Court only by the subjects in conflict, i.e. the subject a competence is taken away from, or whose competence is directly violated against. Legitimacy of the constitutional subject, not less than one fifth of the MPs, as unconditioned subject, is at stake in abstract constitutional review cases, but not in cases of conflict of competences.

The Special Prosecutor's Office against Corruption and Organized Crime, asked the Special Court of First Instance against Corruption and Organized Crime to impose the coercive measures of "compulsion to appear before the judicial police" and "prohibition of leaving the country", provided for by Articles 234 and 233 of the Code of Criminal Procedure against the Member of the Assembly who is under investigation for the commission of the criminal offense of "passive corruption of high state officials or locally elected officials" carried out in cooperation, as provided for in Articles 260 and 25 of the Criminal Code. These authorities have not requested authorization from the Assembly for issuing these measures. A group of 30 MPs have addressed the Court with the request to resolve a conflict of competences between the Assembly, on one side, and the Special Prosecutor's Office of the Special Courts of First Instance and of Appeal, by claiming for this purpose also the final interpretation of article 73, paragraph 2, of the Constitution, as well as that the Court finds incompatibility of these measures with the Constitution. .

When analyzing the issue of legitimacy of the applicant, the Meeting of Judges estimated that one fifth of the MPs and the Assembly are different constitutional subjects that cannot be equated with each other. The applicant, in his claims, has been focused on defending the sphere of activity of the Assembly and not the rights as a parliamentary minority, by not submitting arguments which prove that is party in the conflict of competences or that the non-resolution or the existence of such conflict has infringed its competences and consequently the exercise of the rights recognized by the Constitution. Even though part of the lawmaking power, this doesn't mean that the group of MPs is the constitutional subject referred by Article 73, paragraph 2, of the Constitution (the Assembly), therefore cannot act on behalf and take the attributes of the latter and neither be equated to it. In the constitutional case-law, the interest of this unconditioned subject has not been at stake in judgements of abstract constitutional review, meanwhile in cases of conflict of competences the situation is presented differently, as long as in such cases has to hold the position of the subject in conflict or of whom is directly violated in any competence.

Abstract review

Criteria of need and urgency in approving normative acts with the force of law for some basic food products and oil and gas by-products (Judgements No. 8, of 22 February 2023 and No. 21, of 18 April 2023 - a group of MPs of the Assembly)

Necessity and urgency are the only constitutional criteria that exceptionally justify exercising of legislative power by the Council of Ministers according to Article 101 of the Constitution, the analysis of which should find a place both in the reports accompanying the normative act, and in the documents accompanying the approval of the ratifying laws. If an analysis of these criteria is missing, one cannot consider that the requirements provided by Article 101 of the Constitution are fulfilled.

The Council of Ministers has approved a normative act with the force of law (a by-law) for determining the rules for transparency and price monitoring for some basic food products and other related products, due to the special situation created in the market because of the Russia -Ukraine war. In the same way, the Council of Ministers has approved a by-law for determining the special measures that will be taken against public or private entities, local or foreign, dealing with processing, transportation, trading of oil, gas and their by-products. These normative acts, as well as and their supplements/amendments which were made to them by the Council of Ministers, have been approved by laws from the Assembly.

No less than one fifth of the MPs of the Assembly addressed the Court with two separate requests, namely for the repeal of these normative acts and for declaring the normative acts and the approving laws as unconstitutional.

According to the Court, when analyzing Article 101 of the Constitution, granting of legislative powers to the government is exceptional in character, therefore, its exercise is conditional on the existence of need and urgency, as well as on the final control of the issued acts by the Assembly. Need and urgency are determinants for the right sanctioned by this provision and as a precondition, they must be proven to exist before the government takes the initiative. The first factual and substantial assessment of the need and urgency belongs to the Council of Ministers, to be followed by the assessment of the Assembly, which examines the relevant normative act both in form and content before its (dis)approval. Although the Council of Ministers and the Assembly have a wide discretion in this process, this does not make the criteria of need and urgency concepts immune from constitutional control.

Regarding the normative acts on some basic food products and other related products, the Council of Ministers has justified the need and urgency with the consequences of the situation on the international market and the Russia-Ukraine war on the Albanian market. The Court did not put in question the impact of the war, in the situation that a number of other countries have taken a number concrete measures. However, the Court found that the Council of Ministers' reports did not contain an assessment of the concrete impact of the situation created in the international market and the effects of the Russia-Ukraine war on the Albanian market and the Albanian consumer. No such analysis was found in the accompanying report of the normative act, where the latter is not mentioned as an emergency. Even in relation to the parliamentary procedure, in the responsible Parliamentary Committee, despite of several arguments presented, these arguments are insufficient to understand the impact of the situation on the national market. The Court assessed that the Council of Ministers and the Assembly have not carried out an analysis of the concrete situation, which would justify the need for urgent intervention through normative acts with the force of law and have not given reasons why the existing legal and institutional instruments are not sufficient to achieve the goal aimed to be achieved for consumer protection from abusive practices. Consequently, these acts were assessed as being in violation of Article 101 of the Constitution (Judgment No. 8, of 22 February 2023).

In relation to the normative acts on oil and gas products and by-products, the Court pointed out the similarities between the cases, but assessed that compliance with the constitutional criteria is done in the light of the circumstances of each case and the evidence administered in the relevant proceedings. In this case, too, the Court did not question the impact of the Russia-Ukraine conflict on the fuel market, but emphasized the uniqueness of the case, due to the impact of the immediate change in the price of fuel on the international market in all areas of the economy, trade, industry and production activity, as well as chain consequences caused by the raising price of this product to all other consumer products. The Court found that it is well established that before the adoption of the normative acts there was a large degree of deviation from the usual price of fuel (need), which required an immediate intervention to prevent speculation on the part of operators operating in the wholesale and retail market and, consequently, to prevent harmful and irreversible consequences for the interests of citizens (emergency), a goal which could not be achieved by other legal remedies.

With regards to the claim for infringement of the freedom of economic activity, the Court found that the provisions of the normative act that have left the final assessment of the special situation to the discretion of the Transparency Board in the absence of clear criteria, creates premise for arbitrariness, thus failing to meet the constitutional criterion of limitation by law in terms of substantial aspect. Whereas in relation to the competence of the Board for setting the ceiling price, it was assessed that it does not lead to infringement, as long as this is not done based on a subjective assessment of this body, but it is based on a methodology determined by legal provisions, allowing individualization depending on the concrete situation in the international market. The Court also found the claim for violation of the principle of equality of arms due to the composition formula of the Board in terms of representing hydrocarbon trading companies unfounded, as long as all economic operators, including members of the Board, are subjects of the price set by it. The claim for violation of the rules of the Association-Stabilization Agreement was found to be unfounded, too, since the referred provisions of this agreement do not apply in the present case.

No punishment without law related to the categorization of punishment measures by fine for legal persons (Judgement no. 32, of 30 May 2023) - incidental judgment.

The right of no punishment without a law (principle of legality) should be interpreted and applied in such a way as to offer an effective guarantee against persecution, a guilty plea or arbitrary punishment. Such right implies that any criminal offence should be provided by law and that the individual should be objectively able, if necessary also through the assistance of judicial interpretations, to understand the content of the criminal provision, hence, what actions or omissions vest criminal liability with the person in question. The lawmaker is obliged by the Constitution to determine the boundaries of the criminal punishment, by complying with the requirement of clarity and determinability of the law according to the principle of legality. The ambiguity of the norm in cases where they do not create a logical contradiction or impossibility of implementation, can and should be resolved through judicial interpretation by ordinary courts.

The Court of First Instance has declared the legal person guilty of the criminal offenses "breach of rules of protection at work" and "offering assistance for illegal construction", respectively provided for by Articles 289, paragraph 1 and 199/b of the Criminal Code, punishing him with a fins of ALL 4,000,000, based on the provisions of Law No. 9754, of 14 June 2007 "On Criminal Liability of Legal Entities" covering the punishment provided for criminal offenses by the Criminal Code. The Court of Appeal of general jurisdiction, while reviewing the appeal presented also by the defendant a legal entity, decided to suspend trial and send the case to the Constitutional Court, to assess the constitutionality of paragraph 4 of Article 11 of Law No. 9754/2007 which categorizes measures of criminal punishment by fine according to the imprisonment convictions provided by the Criminal Code for individuals.

The Court examined the case in terms of the right not to be punished without the offence provided for under the law, guaranteed by Article 29 of the Constitution, in terms of its substantial aspect related to the quality of the law. In the conditions where criminal penalties directly interfere with fundamental freedoms and rights, Article 29 of the Constitution mandates only the legislator with the abstract approval of criminal offenses and penalties, who have the obligation to accurately describe not only the elements of the criminal offense, but also the type and extent of the punishment, i.e. the limits of the punishment. The legislator is obliged by the Constitution to set the limits of criminal punishment, respecting the requirements of clarity and predictability by law, according to the principle of legal certainty.

Based on these principles, the Court found that paragraph 4 of Article 11 of Law No. 9754/2007 categorizes the measures of criminal punishment with fines for legal entities in three subsections, namely "a", "b" and "c", according to the prison sentences provided by the Criminal Code for individuals. Referring to its wording, the provision has escalated in descending order the measures of criminal punishment with fines for legal entities, from the most serious to the lightest, the same order followed through references to the limits of criminal punishments for offenses according to the Criminal Code. The content of the challenged provision does not result in inaccuracies or legal gaps and its referential ambiguities are such that they do not create a logical contradiction or the impossibility of implementation; in other words they do not bring about the incompatibility of the norm with the Constitution. These ambiguities can and should be resolved through judicial interpretation by courts of ordinary jurisdiction, exercising their constitutional role and function of interpreting and applying the law. Therefore, the Court found that it does not appear that the substantial quality aspect of the law has not been met.

Decision of the Council of Minister on confiscation for public interest of buildings built without permission for profit purposes (Judgment No. 35, of 15 June 2023 - a group of MPs of the Assembly).

The constitutional concept of legal reserve makes it impossible for the specific issue that is partially regulated by law to be further elaborated by by-laws, adhering to the principles and limits defined by it. Legal reserve is violated when the law has not provided for any delegation of competencies to the executive to regulate a concrete issue or when the executive has regulated issues other than those delegated by the legislator. The right of pre-emption provided by the Decision on the Council of Minister is an instrument envisaged to carry out the confiscation procedure for public interest in the context of the delegation of the law. Even though the act would fail to expressly envisage such right, it nevertheless, would find application according to the provisions of the Civil Code.

The Decision of the Council of Ministers No. 589, of 07.09.2022 "On the rules and procedures for the confiscation of buildings built without permission for public interest, for the purpose of profit"(hereafter DoCM) , was filed with the Court by no less than one fifth of the MPs, with the argument that it contradicts some constitutional principles and rights.

In terms of the claim for the violation of the hierarchy of normative acts and the principle of legal reserve, the Court came to the conclusion that the contested act was issued pursuant to the authorization given by Law No. 107/2014 "On territorial planning and development". The DoCM has determined the specific rules that must be applied during confiscation and has detailed the administrative procedure, while the method of transfer of ownership for constructions exceeding the size of the construction permit and that are impossible to demolish is provided for in Article 52, paragraph 1, of the Law. The DoCM contains no rules for the exemption from criminal liability of entities that have built without a permit or in excess of the construction permit, or their amnesty, but its provisions regulate the civil consequences of the administrative offense.

The right of pre-emption provided by DoCM is an instrument to carry out the confiscation procedure for public interest in the context of the delegation referred to in Article 52 of Law No. 107/2014. However, even if DoCM no. 589/2022 would not expressly provide for this right, it would, in any case, be implemented according to the provisions of the Civil Code.

With regard to the violation of the principle of equality of arms before the law, the Court assessed that despite the fact that DoCM No. 589/2022 has recognized the right of pre-emption for the entity that has built without permission or in excess of it, in and of itself this does not constitute a differentiation between entities that exercise this right and those that do not. In case of constructions without permission or exceeding it, the entities will always be subject to the property confiscation procedure by the state, since they are under the same conditions of illegality and the illegal construction will become state property and if they are transferred due to the right of pre-emption to the developer, the state will get the value of the item according to the market price.

Regarding the claim on the right to (enjoyment of) private property, the Court assessed that even though the DoCM has foreseen the consequences for the land owners or third parties who have purchased legally and in good faith, this does not mean that their property right has been violated. They have at their disposal the means of protecting their rights according to the legislation in force, including judicial protection. The Court found the claim on the right to due process of law unfounded, as the contested act has expressly provided for the notification of the individual about the confiscation decision and does not contain any express prohibition on the right to appeal the confiscation measure or to file a case with the Court.

Review of international agreements after ratification (Judgment No. 36, of 16 June 2023 - case of the Port of Durrës)

The status of ratified international agreement is not equal to that of the ratifying law. They are separate legal acts. Constitutional jurisdiction includes the constitutional control of the international agreement only before ratification and not after it has become part of the internal legal order. However, the ratifying law is not excluded from constitutional control, a control which is exercised only in the formal aspect, in terms of the parliamentary procedure for its approval.

On 26 November 2020, representatives of the Government of the Republic of Albania and the Government of the United Arab Emirates signed an economic cooperation agreement between the two countries, which was ratified by the Assembly by virtue of Law No. 145/2020, of 03 December 2020 . On the basis of these acts and the legislation in force, a number of bylaws have also been approved. A group of MPs have asked the Court to repeal this law as incompatible with the Constitution and the Stabilization-Association Agreement (SAA).

The Court noted that in the Albanian legal order, international agreements ratified by the Assembly are not ranked at the same level as laws. Moreover, they are defined as criteria for their constitutional control. The ratifying law contains only one article, referring to the agreement it ratifies and its entry into force, while the text of the agreement is attached to it and becomes an integral thereof. The status of the ratified international agreement is not equal to that of the legal act that gives it effectiveness in the internal legal order. As long as ratified international agreements are not equated with ordinary laws, the ratifying law itself is a separate legal act. The Court assessed that Article 131, paragraph 1, letter "b" and Article 180 of the Constitution do not expressly and directly recognize the Court's competence to decide on the constitutionality of international agreements after ratification, i.e. after they become part of the internal legal order. Considering that at the time of the submission of the constitutional request, the ratification law had entered into force, such a legal fact prevented the constitutional control of the Agreement. During the parliamentary procedure, the MPs are vested with the right to initiate the preliminary oversight of international agreements, meanwhile failure to use such tools in the right way and at the right time cannot be a reason for the expansion of constitutional jurisdiction.

However, this does not exclude from constitutional control the ratifying law, just like any other law, but such control is exercised only in the formal aspect, that is, in terms of the parliamentary procedure for its approval. Regarding this procedure, the Court concluded that the law was approved in accordance with the provisions establishing the quorum and the necessary majority of votes for decision-making.

Legal criteria for the electronic registration of non-profit organizations (Judgment No. 62, of 20 November 2023 – the NPO law)

The ability to form a legal entity, as one of the important aspects of freedom of establishment, is related to the establishment of conditions that allow for and facilitate registration and exercising of the activity. Legal provisions that define obligations for these subjects, especially when it comes to measures accompanied by financial consequences, should not create an excessive burden and neither lead to deterrent effects in terms of formalization of informal groupings and their registration, which could de facto result in the inability to gain legal personality.

Law No. 80/2021, of 24 June 2021 "On the registration of non-profit organizations", which defines the registration procedures and rules for keeping the register for non-profit organizations (NPOs), it was challenged before the Court by several organizations, on the claim that special provisions violate the constitutional freedom of organization, provided for by article 46 of the Constitution

The Court assessed that Article 8 of Law No. 80/2021, which establishes the obligation for initial registration within a 30-day period, not only obliges citizens to register in the Court regardless of their will, but turns out to be also a new obligation, provided for by the law. The effect of this obligation brings a "restraining effect" in the choice of groups to be formalized and registered according to the law, which may de facto result in their inability to acquire legal personality. The content of the provision does not meet the criterion of "the quality of the law" required by Article 17 of the Constitution and the principle of legal certainty, as well as it is a measure that does not respond to an urgent need and is not proportional to the goal sought to be achieved.

The provisions establishing the competence of the Court administrator to deal with other registrations were considered contrary to Article 46 of the Constitution, which clearly provides that the court is the competent authority to decide on the registration. Issues related to the registration of NPOs, due to their nature and consequences, are not included in the concept of non-judicial or administrative issues, i.e. they do not fall in the remit of judicial management and administration powers that the Law assigns to the Court administrator. The Court ruled on annulment as unconstitutional of the provisions of Article 49 establishing the amount of the fine for administrative offenses, after assessing that they do not respect the criterion of proportionality of the intervention. The threshold of from 0.1% to 1% does not meet the standards related to the clarity of the legal norm in terms of the meaning and calculation of fines on the declared annual income of non-profit organizations, making these penalties arbitrary in nature. The minimum fine of ALL 30,000 ALL is considered a disproportionate measure in relation to the goal that is sought to be achieved. The Court assessed that the interested entities did not present reasons and arguments to justify the imposition of these measures for violations of this type and nature, nor their impact and effects on the ability of NGOs to exercise their activity for legal purposes.

About other provisions of this law, the Court ruled that the claims of the applicants are unfounded, given that consequences in exercising the constitutional freedom of organization were not proved.

The right of disposal by will according to Article 377 of the Civil Code (Judgment No. 69, of 27 December 2023 – incidental judgment).

Article 377 of the Civil Code, which determines the category of circle of testamentary heirs, limits in substance the right of the testator to free disposal of property after death. Failure to provide for the possibility of disposing of the property by will for the heir, who should have a place in the circle of testamentary heirs equal to the place of children, as well as the absence of a quote available to the testator, in order to dispose of the property according to his free will or in any form, constitutes a legal gap.

The High Court and the Court of Appeal of General Jurisdiction have suspended the civil case under consideration and addressed the Constitutional Court with regards to the control of compliance with the Constitution of Article 377 of the Civil Code, which provides that the testator who leaves no unborn or pre-born heirs, or any brothers or sisters, has the right to dispose of the property by will in favor of any natural or legal person.

The Court found that the intervention, although responding to the public interest, is not proportional because it poses limitations to the circle of testamentary heirs and fails to guarantee free disposal, according to the will of the testator in any part of his property. Even though the surviving spouse is included in article 361 of the Civil Code as legal heir of first grade, he/she is not envisaged in the circle of testamentary heirs, despite the fact that has a special position in family relations. Such inability to disposal in the testament goes against the purpose of the lawmaker, to guarantee and ensure the interest of the family. In addition, the right to dispose of property by testament can be achieved by envisaging a quote available to the testator, which could be disposed by him according to his will or in any form the lawmaker deems appropriate. Therefore it is considered that the provision contains a legal loophole resulting in negative consequences for the rights of the testator, by violating in an disproportional manner the right of the testator to freely dispose of property mortis causa, a gap which should be filled in by the Assembly within one year from the entry into force of the judgment. The lawmaker, in view of the social and institutional changes, having in mind the spirit of the Constitution and of the decision at hand, must revise the whole chapter of provisions related to the institute of testamentary inheritance in the Civil Code, as well as other aspects, without restricting itself in those only, so that to adapt to the current developments and provisions of the Family Code.

Reorganization of judicial districts and territory competences of courts (Judgment No. 70, of 27 December 2023 - judicial map)

Reorganization of judicial districts, by reducing the number of courts of general jurisdiction and those of first instance administrative jurisdiction, as well as by merging of all courts of appeal in a single court, as a measure causing direct consequences on the fundamental freedoms and rights. However, this intervention fulfils the criterion of intervention for the public interest, and is a proportional measure, as long as the real need of intervention is evident, and as long as the balance of intervention with the situation causing it, is proved.

The Constitutional Court has considered the application of the Bar Chamber of Albania and the Albanian Helsinki Committee for the repeal as unconstitutional of DoCM No. 495, of 21 July 2022 "On the reorganization of judicial districts and territorial powers of Courts".

The Court observed in the case at hand that there is a limitation of the freedom of economic activity as well as of the right of access, therefore assessed that the intervention fulfilled the criteria of article 17 of the Constitution. The public interest in the case at hand is found in the increase of efficiency of the justice system and quality of trials, as well as in guarantying reasonable length of judicial proceedings. In relation to the principle of proportionality, having consideration of the organization of the bar association, the Court assessed that every lawyer has the right to offer such service, to represent and defend cases beyond the regional chamber the lawyer is part of and exercises his/her activity. Despite the consequences in terms of increased costs and expenses, these are not such as to place an excessive and unaffordable burden for these entities and, they do not make impossible the exercise of their profession so that to be exercised for causes of an economic and financial nature.

Even in relation to the individual's right of access the Court it was assessed that it was managed to be proved the real and urgent need for an intervention. The measure of intervention is appropriate to ensure the aimed objectives and purpose, as long as is proved that any other measure would not be capable of solving the actual situation. In the weighting of interests it has been respected, on the one side, the meaningful interest of the overall good, and one the other side, the limitation of the right to access.

Regarding the claim on the principle of equality before the law, the Court assessed that even though the contested act has brought a differentiation, in the concrete case a reasonable and objective justification exists.

Individual constitutional complaints

Procedural rights

Points of law reviewed ex-officio by the High Court (Judgment No. 7, of 21 February 2023 -case of Aleksandër Dhima)

When the High Court ex-officio discusses points of law, such as the legal conditions for filing a lawsuit, which were not raised by the parties in recourse and for which they have not given an opinion, it must notify them, setting the deadline for filing relevant submissions, or should examine the case in a court hearing with the presence of the parties when it considers that it is problematic or complex.

The applicant was an active duty officer in the Armed Forces. After being released to the reserve, due to the reform, he was treated with early retirement for seniority, which was interrupted due to his employment in the public sector. With the entry into force of the 2009 law, the Regional Directorate of Social Insurance has reassigned early retirement to him, not recognizing the right for a period of time before its entry into force. Upon the applicant's request, the court of general jurisdiction ruled on the recognition of the right including the above-referred period of time, while the High Court overruled the decision and decided to suspend the case. According to the Court, the applicant, at the time when his early retirement was terminated, did not file an appeal, so he cannot legally claim a right without first exhausting the administrative appeal procedures. Furthermore, the application was not filed within the 3-year legal term provided for by the law of the time. In a constitutional appeal, the applicant claimed violation of his right to access the Court.

The Court observed that the formal conditions for filing an application, referring to their nature and importance, are verifiable by the Court even ex-officio, without the need for a prior application by the parties. Due to these characteristics, this verification is a matter of legal nature. The issue of exhaustion of the administrative appeal and the deadline for filing the application were not presented as causes in the appeal by the other side, which means that they were verified as legal points for the first time and at the initiative of the High Court itself, during the deliberation of the appeal in the Chambers. The applicant was not given the opportunity to present his opinion in advance on the legal points analyzed by the High Court, making it impossible for him to effectively defend himself. Consequently, the Court did not give a final answer to the claim for the right to early retirement for seniority in its ruling.

Notification of the act of expropriation for public interest (Judgement No. 16, of 23 March 2023 - applicant Drita Shpendi)

The right to private property is guaranteed if, in cases of expropriation, the state undertakes to respect the restriction in order to serve a public interest, against a fair reward and in compliance with the right to appeal the amount of compensation. Dismissal of the case by the Court of Appeal as filed outside the deadline, linking such deadline to the moment of submission of the request to clarify the subject matter of the case and considering it a new case, is related to the right to receive a final answer for the requests/applications contained in the case representation. The High Court, in compliance with the principle of subsidiarity and as a court of law, must give reasons, even minimally, when the claims raised in recourse are related to the interpretation of the law, especially when this is related to substantial constitutional rights of the individual.

The applicant, the owner of a real estate (land), was expropriated for public interest, by a decision of the Council of Ministers, in order to build a road segment that also affected her property. The decision also provided for the amount of compensation, which she did not agree with, so she filed a case with the Court. During the preparatory actions, the applicant submitted a request for clarification of the object of the case, also requesting a partial annulment of the DoCM regarding the amount of compensation, which was accepted by the Court. The Court of First Instance decided to dismiss the claim as unfounded, but stated that it was submitted within the deadline. The Court of Appeals upheld the decision with a different reasoning, mainly calling into question the deadline for filing the lawsuit. The High Court overruled the appeal. The decisions of the courts have been appealed in the Constitutional appeal, with the claim that the courts have acted contrary to the legal provisions, as at no trial phase was it established that she was notified of the expropriation and its value.

The Court examined the case in terms of the right to Access the court related to the standard of reasoning. The substance of the proceeding is related to the applicant's right to request fair compensation for the expropriation of her assets in the public interest, through a Court appeal of the amount of the compensation. The Court of Appeal considered the lawsuit filed out of time. It embarked on a different position from the Court of First Instance, which considered the lawsuit filed within the deadline, as long as the applicant was not directly notified about the act of expropriation. The Court of Appeal noted that the objection to the compensation measure is related to the DoCM that determined the expropriation and the compensation of the expropriated owner and, by considering the request to specify the subject matter of the claim as an addition to the initial request, i.e. as a new application, found that the lawsuit was filed outside the deadline from the day of publication of these acts in the Official Journals. As a consequence of such interpretation, the applicant has not received a final answer to the claims on the merits of the case, which are related to the amount of compensation from the act of expropriation. The High Court, due to its position and role as a court of law and exercising its subsidiary function, had to express itself in relation to this stance.

Limitation of the right to exercise the profession on the grounds of public interest (magistrate) (Judgment No. 17, of 23 March 2023) - applicant Shiqiri Manjani)

Due to the nature of the function he/she performs in society, the integrity of the magistrate is a must, because public trust in the justice institutions does not depend only on their professionalism, but also on their moral integrity. The magistrate or the candidate for magistrate, who is someone expected to soon become part of the justice system, must always behave with integrity and moral to contribute to the increase of citizens' trust in the system, the justice system professionals, and be able to be trustworthy.
Successfully passing the admission exam to the initial training program at the School of Magistracy does not necessarily mean being granted the right to practice the profession. This is dependent on the successful completion of the program, the successful passing of other legal phases up until the appointment and acquisition of the status of the magistrate.

The applicant participated in the exam for admission to the initial training program held by the School of Magistrates, the prosecutor's profile, and was declared a winner, subject to the integrity and wealth verification process. In the self-declaration form filled by him in the framework of this procedure, he stated that he was sentenced to imprisonment for committing the criminal offense of "theft", provided for by the Criminal Code. Considering that this fact constitutes an obstacle according to Law No. 96/2016 "On the status of judges and prosecutors in the Republic of Albania", as amended, the High Prosecutorial Council decided to ban the applicant's candidacy. The court of general jurisdiction ruled on dismissing the applicant's claim against the High Prosecutorial Council's decision. The applicant submitted an individual constitutional appeal, claiming that he was not summoned and heard during the administrative procedure, that the criminal offense was committed when he was a minor and that he was rehabilitated according to the provisions of the Criminal Code and that a different position was taken in similar cases.
With regards to the right to be heard and effective protection for the process developed by the High Prosecutorial Council, the Court noted that the administrative process was carried out on the basis of the documents that were regularly disclosed to the applicant and he filed his claims regarding the exclusionary cause. The Court also found unfounded the claim for violating the standard of reasoning by assessing that decisions meet the constitutional standards and are not unclear, illogical or lacking formal elements. Regarding the violation of the principle of equality of arms, the Court found that the specifics of the applicant's case and that of another candidate are different, despite the fact that the same High Court panel was seized for a ruling. In the case of the present applicant, the High Court noted that "theft" constitutes a serious criminal offense, which is carried out intentionally, such that it discredits the figure of a public official, moreover when it is attributed to the figure of a judge, or a prosecutor. While in the case of the other candidate, convicted for the criminal offense of "driving a vehicle in an irregular manner", the Court noted that because of its effect, the manner of execution and the consequences, it does not reflect elements of a behavior which discredits the state function in question, which may constitute a risk for affecting state interests.
The Court also considered the claims on the violation of the principle of legal certainty, regarding the fact that the applicant has been rehabilitated according to the law, concluding that the existence of a final Court decision is considered a prohibitive criterion and Law No. 96/2016 does not relate it to the way the sentence was executed or the changes in the consequences caused by guilty plea punishment measure. This restriction serves guaranteeing of integrity, which is essential for the genuine activity of a magistrate. Regarding the claim on violation of the right to access public functions, the right to earn a living through legal work and the right to private life related to the principle of proportionality, the Court noted that considering that Law No. 96/2016, aims also to guarantee the integrity of a certain category of public officials, is in compliance with the spirit of the process of verifying the wealth and integrity of the candidate for magistrate, in order to have a certain degree of restriction on their admission to the Magistrate School, in case of failure of fulfil one of the defined legal criteria. The legal reason for the decision to bar the applicant from running for the initial training program at the Magistrate's School does not conflict with the spirit of the law and the interpretation of the law by the HPC and courts of general jurisdictions do not seem arbitrary in the constitutional point of view. As for the claims regarding the violation of the right to private life, due to the impossibility of practicing the profession of a prosecutor, the applicant has not managed to present constitutional arguments. Successfully passing the admission exam to the initial training program at the Magistrate's School does not necessarily mean gaining the right to exercise the profession of a magistrate. Becoming a prosecutor is conditional on the successful completion of this program, as well as on the success of going through other legal processes until the appointment and obtaining the status of the magistrate.

Reinstatement of the right to appeal for the decision to recognize a foreign criminal decision (Judgment No. 30, of 29 May 2023 - applicant Vladimir Mnela)

It is the duty of courts of general jurisdiction to evaluate the administered facts and evidence, as well as to interpret the law for the purpose of the judicial proceedings, while the duty of the Constitutional Court is to examine and assess whether there was a violation of constitutional rights during the judicial proceedings, as well as whether the application of the law was eventually arbitrary.

Acting upon the Prosecution Office's request, the courts of general jurisdiction have granted the request for the recognition of the final criminal decisions of the Italian courts, which sentenced the applicant to 30 years of imprisonment on grounds of commission of several criminal offenses. In commutation of the sentence, he was given a single sentence of 30 years of imprisonment. The decision was issued in the absence of the applicant and became final as no appeal was filed. The applicant submitted an application for reinstatement of the right to appeal, which was not admitted by the courts as it was not accompanied by the appeal against the decision for which this reinstatement was requested, according to the provisions of Article 420/1, paragraph 1, of the Criminal Procedure Code. In his individual constitutional complaint, the applicant has claimed the violation of the standard of reasoning, due to the way the procedural provisions were interpreted by the courts.

According to the Court, the procedural provision, in the way it is interpretated and implemented by the courts, meets the criterion of clarity and predictability, therefore the applicant, through his defense, should have been clear in advance about the fulfillment of the legal conditions, specifically about the obligation to attach the relevant act to the application, according to the form and manner provided by the law. Weighting the importance of the good administration of justice, within the framework of the public interest and respecting the right to substantial access, the interpretation of Article 420/1 of the Criminal Procedure Code by the courts is not arbitrary.

The lack of the position of the High Court in relation to the correct understanding of the legal norm (Judgment No. 41, of 18 September 2023 - applicant Dritan Xhixha)

Although the courts of lower jurisdiction have had different points of view regarding the interpretation and application of the law governing the relationship between the parties, the High Court, as a court of law, which has all the means and powers to exercise an active role going beyond the law and aiming at the right, has not effectively influenced their decision-making, not providing answers to the claims that have formed the essence of the dispute subject to judgment.

During the work relationship in the State Police, the applicant, in compliance with the obligations of the decriminalization law, submitted the self-declaration form, as well as deposited the dactyloscopic marks. On the basis of information from the Scientific Police Institute, according to which the applicant had a dactyloscopic card in the database, a disciplinary investigation has been initiated against him. According to the information of the Criminal Information Analysis Directorate, the applicant was registered as a person with a criminal record by the crime investigation structures. At the end of the disciplinary investigation, a disciplinary measure of "dismissal from the police" was taken against the applicant and his dismissal from the State Police was ordered for "invalidity of the administrative act of admission". The Court of First Instance decided to dismiss the case, argumenting it with the fact that the applicant did not fulfill the legal obligation to complete the self-declaration form, failing to provide the data in section no. 4 of this form. The fact that the applicant does not remember the specific situation for which he was accompanied to the Police does not exempt him from the responsibility of filling in the correct data in the declaration form. The decision was overruled by the Administrative Court of Appeal, which annulled the order of dismissal from the State Police and ordered the return of the applicant to his previous position. According to this court, the law has provided for the cases when the police officer is released from duty and those that motivate the dismissal from the State Police, as well as the consequences for each case, which are different. The exclusion of the applicant was made on the grounds of "invalidity of the administrative act of admission", in accordance with the provisions that regulate cases of release and not of exclusion. The applicant has filled out the relevant form, while his dactyloscopic data in 1989 are not included in any of the situations that this law has exhaustively defined. For the applicant, there is no act that proves the existence of the data according to the conditions of the prohibition that the law provides. The High Court decided to overturn the decision of the Court of Appeal and to uphold the decision of the Court of First Instance, considering the reasoning and conclusion of the Court of Appeal as a result of the incorrect interpretation and application of the material and procedural law. The applicant has filed an individual constitutional appeal against this decision.

Regarding the claim on the violation of the right of access, the Court assessed that the lack of notification to the electronic address of the applicant's defense, constitutes a deficiency in terms of notification. However, the applicant has not been placed in an unfavorable position regarding the right of access in the substantive aspect. He was regularly notified of the recourse of the other party, to which he submitted a counter-appeal, and notice of the day, time, and composition of the panel was posted by the High Court both in the corner of notices in the physical premises, and in its website. In his constitutional appeal, the applicant has failed to demonstrated that there was any substantial new argument not presented before, which could potentially have convinced the High Court to change the way of solving his case. According to the Court the claim on the principle of impartiality due to the participation in the judicial body that examined the recourse of the judges who examined the request for suspension was unfounded, as long as the decisions concern requests that have distinct characteristics and are based on different considerations and evaluations of the judges.

Furthermore, the Court found the claim on the standard of reasoning of the decision of the High Court founded. Despite the fact that the disciplinary process against the applicant started because of his failure to fulfil his obligations under the decriminalization law, in terms of non-declaration of data, the disciplinary measure was taken based on the information that he is registered as a person with a criminal record, with archived files, from the crime investigation structures in the LPD of Tirana, an investigation conducted pursuant to the law and the regulation of the State Police. The High Court, in fulfillment of its function as a court of law, has not given answers to some important aspects of the case, leaving out of the legal analysis not only the issues raised in appeal and counter-appeal, but also those issues related to interpretation of the law, which would serve to clarify any ambiguity in the understanding of the legal norm and for which the parties should receive reasoned answers.

Effectiveness of legal remedies for ascertaining the violation of unreasonable delays (Judgment No. 44, of 26 September 2023 - applicant Dashmira Zaro)

The individual, as a conditional subject, can file an application only for issues related to his direct interests, as well as prove that he is a victim of a violation. The claim for the victim status will depend on the domestic remedy provided to the applicant. The review at the Court of Appeal of the compensatory remedy intended to compensate against the consequences of protracted proceedings, cannot exceed a reasonable period, as this outdoes any practical effect. The narrow interpretation that the Court of Appeal makes of the content of Article 399/7 of the Criminal Procedure Code violates the very essence of an individual's constitutional right to have a fair trial, within a reasonable time.

The applicant was expropriated for public interest, by a decision of the Council of Ministers. On the basis of this DoCM, the Local Real Estate Registration Office, limited the applicant's property. Because of this development, the applicant filed a case with the Court, which was partially admitted. At the applicant's request, the case was registered at the Administrative Court of Appeal. Pending review of the appeal, the applicant submitted a request claiming the violation of the reasonable trial time, which was dismissed by the High Court. The applicant addressed the Constitutional Court with a constitutional appeal, related to which the 2022 judgment established a violation of the right to trial within a reasonable time and the obligation of the Administrative Court of Appeal to judge the case within 6 months from the date of entry in effect of its judgment. Subsequently, the Court of First Instance ruling awarded the amount of ALL 200,000 to the applicant for non-pecuniary damages due to the unreasonable delay of the case. This ruling was appealed to the Court of Appeals by the applicant and while waiting for the trial, the applicant submitted a request for acceleration of the case and then a request on the violation of the reasonable time of the appeal trial. Given that neither the appeal nor the request for acceleration were examined within the deadlines, the applicant submitted an individual constitutional appeal on the violation of the right to fair trial, as a result of failure to issue a judgment on the case into the merits and the absence of an effective remedy for speeding up the trial.

The Court examined the applicant's interest in this case, assessing that she can still claim the status of victim, since even though she was awarded moral damages, this court ruling has not yet been finalized and has not been enforced. In relation to the criterion of exhaustion of legal remedies, the Court noted that even though the applicant has formally submitted an application for the determination of the delay in the review of her civil case, such a circumstance is not important in terms of legitimacy, since this type of trial does not require the exhaustion of legal remedies.

Regarding the effectiveness of the compensatory remedy, the Court assessed that in the case of a compensatory remedy that aims to correct the consequences of the prolongation of the procedures, the time period of its examination cannot exceed a reasonable time, as this would deprive it of any practical effect. Although Article 399/7 of the Civil Procedure Code, which provides for a 3-month deadline, taken together with Article 399/6, paragraph 3, of the Code, does not refer to the review of the appeal, the approach taken by the Court of Appeal itself about the manner of its implementation does not comply with the content and purpose of the provisions governing the corrective/compensatory protection remedies. The narrow interpretation that the Court of Appeal makes of the content of Article 399/7 violates the very essence of an individual's constitutional right to have a fair trial, within a reasonable time.

Legal requirements for signing of the recourse by the defense and for provision of free legal aid cannot become an impediment in terms of access to the Court (Judgment No. 45, of 03 September 2023 - applicant Ilir Muzhaqi)

Legal obligation to sign the recourse by the defense counsel constitutes an added guarantee in terms of access of the individual to the High Court, as a court of law, and cannot be interpreted and implemented in such a way as to compose a restriction of this right. Failure to assign an ex-officio defense counsel by the High Court, its inaccurate reasoning that the applicant had not submitted an application for free secondary legal aid and its deficiencies in the inter-institutional cooperation, have violated the essence of the right to access the Court.

The applicant pleaded guilty to the criminal offenses of "False reporting" and "Fraud" and was sentenced to 3 years of imprisonment in combination. The court decided to accept the request for the restoration of the right to appeal within the deadline, and subsequently an appeal was filed against the criminal decision of the applicant's sentence. The Court of Appeal of Tirana decided not to accept the appeal on the grounds that it was submitted outside the legal 10-day deadline. The appeal submitted to the High Court was returned without action due to the lack of signature by the lawyer, according to article 435, paragraph 2, of the Code of Criminal Procedure. In order to fill this defect, the applicant filed a written act, where he submitted that he carried out the defense himself and presented the recourse signed, while the High Court, based on Article 435, paragraph 2, of Code of Criminal Procedure, had the obligation to appoint a defender mainly. He has also addressed the Ministry of Justice with a request to secure a defense attorney for signing the appeal. The request has been forwarded to the State Commission for Legal Aid, which has decided to grant legal aid in the form of representation, appointing him a lawyer. Subsequently, the Criminal Board decided not to accept the appeal on the grounds that it was not signed by the defender, and that the applicant is not in the conditions of mandatory defense, nor does it appear that he presented request for free secondary legal aid, according to the law. The applicant has submitted an individual constitutional appeal.

The Court noted that the High Court has not explained how the requirement of the criminal procedural law for the presentation of recourse against the signature of the defense attorney in the case of a defendant who does not have a defense counsel and, in this sense, how this defendant is guaranteed the right of access this court. The case evidence shows that the applicant addressed the State Commission for Legal Aid with a request and was assigned a lawyer for the provision of legal aid in the form of representation in the criminal case dealing with: "criminal recourse against the decision of the Krujë Judicial District Court". This information, within the framework of institutional cooperation, was not forwarded to the High Court in order to guarantee the applicant's right of access. The High Court itself, despite the applicant's request, did not provide him with a defense counsel to effectively enable him to exercise the right of recourse, in the conditions where he did not have one during the proceeding, while the law requires the signature of the recourse by a defense counsel, thus violating the applicant's right to access. Furthermore, it decided not to admit the recourse, although the applicant complained precisely about the violation of his right of access by the Tirana Court of Appeal, as a result of the latter's wrong calculation of the deadline for submitting the appeal, specifically the calculation as the start date of the time of the announcement of the decision of the Krujë Judicial District Court on the reinstatement of the right to appeal within the deadline, although this decision was announced in his absence.

Criteria of the right to a trial within a reasonable time (Judgment No. 46, of 03 October 2023 - applicant Gëzim Boçari)

Regarding the criteria for evaluating the reasonable length of the proceedings, the complexity of the case is not the same at each phase of the trial, but depends on the phase where the examination happens and the degree of judgment in which the finding of infringement is required to be found. Regarding the importance of what the applicant is at risk of, the final solution of the property restitution and compensation process, as a matter not only of public interest, but, first and foremost, of a constitutional nature, is a priority, since the right to property is one of the main pillars of the economic system and the development of the country. On the other hand, delays of the judicial proceedings in the present case have partially made the judgment of the ECHR unenforceable for the applicant.

The applicant and the other heirs of the former owners have filed an application against some decisions of the administrative bodies related to the right to their property and disposed in favor of some other persons (the defendant party in the proceedings). The application deals with some properties which they claim overlap with their properties. The Court of First Instance partially admitted the case, while the Court of Appeal decided to overturn it. Upon the applicant's recourse, the case was filed with the High Court and pending trial, the applicant addressed the same court with an application claiming violation of the reasonable deadline and acceleration of the trial. The Criminal Chambers has decided to dismiss the case, on the grounds that the delay is the result of a general problem that exceeds the specific case and that the Court is objectively unable to order adoption of measures to speed up the case. As a result, the applicant filed a constitutional appeal for the annulment of this decision and acceleration of the procedures.

Analyzing the reasonable time criteria, the Court emphasized that the trial in the court of law does not present the same elements of complexity as in other levels of trial. Even though a case -referring to the subject matter of such case, to the litigating parties, and the volume of written acts administered in the file- may have complexity in the first instance courts, this might not be the case in the High Court, due to the nature of the trial and the adjudication procedure in the advisory chamber, or due to the nature of the High Court as a court of law. .

Regarding the criterion of the importance of what is at risk for the applicant, the Court found that the applicant has been a party to several court proceedings related to these immovable properties and that the Decision of the Property Return and Compensation Commission from year 1997 has been the subject of another court proceeding, which was further challenged in the ECHR. In relation to that judicial process, the ECHR has concluded that its duration is not in accordance with the requirements of Article 6 of the Convention. However, there is still no final court decision regarding the alleged violated ownership right, because the trial delays have partially rendered the ECHR decision unenforceable. Considering this and the importance of the constitutional right to private property, from which the right to enjoy and dispose of it derives, as well as the right to compensation according to the legal framework in force, the length of the court proceedings in the specific case is important in terms of what is at risk for the applicants as parties to the judicial proceedings.

Violation of the principle of legal certainty due to admission of recourse submitted out of time (Judgment No. 59, of 14 November 2023 - applicant Kujtim Hoxha)

Admission of recourse submitted out of time, without the applicant being able to prove that he was effectively unable to familiarize himself with the decision of the Court of Appeal or the moment when he was effectively acquainted with its reasoning, violates the principle of legal certainty. The interpretation and stance of the High Court has actually led to extension of the time limit for the use of an ordinary means of appeal, while the legislation in force has provided legal remedies for the parties who have missed or exceeded the procedural deadlines.

The administrative body decided to recognize the right of ownership and to restitute the agricultural land to the applicant, subject to the relevant thresholds. These decisions were repealed by the decisions of the General Director of the Property Restitution and Compensation Agency, based on the law of the time. Acting upon an application by the applicant, the Court of First Instance ruled on the absolute invalidity of these acts, a judgment that was upheld by the Court of Appeal. The Property Restitution and Compensation Agency appealed against the decision and the Administrative College of the High Court overturned the decision of the Tirana Administrative Court of Appeal and sent the case for retrial to Gjirokastër Court of Appeal. The applicant has submitted an individual constitutional complaint.

The Court assessed initially, in terms of the criterion of exhaustion of effective legal remedies, that the Court examined the case on an exceptional ground, given that in this case the violation and its consequences are such that they can no longer be repaired during retrial, and as a consequence the applicant has no other means to protect the allegedly violated constitutional right.

In terms of the principle of legal certainty, the Court found that the judgment of the Court of Appeal was notified to the defendant (Property Restitution and Compensation Agency) on 22 September 2014, which results not only from the stamp placed on the communication receipt, but also from the register of documents entered in the institution, completed by the person in charge of accepting acts. This fact was also admitted during trial in the High Court by the State Advocate Office, as a representative of the defendant. These facts are sufficient to establish that that date is the one from which the 30-day deadline for submitting the recourse has started to run from. At the end of this term, the judgment of the Court of Appeal has become final, thus constituting a res judicata. The High Court not only ignored these facts, but even though it admitted that the appeal was filed late, it did not administer any evidence and did not argue, therefore, a different moment from which this deadline started. How arguments are put forward in the reasoning of the High Court and its arguments take this reasoning to the limits of arbitrariness, making the trial unfair.

Substantial rights

The arrest measure does not cease if the acquittal decision has not become final (Judgment No. 19, of 04 April 2023 - applicant Agron Laçaj)

Restriction of personal freedom by a Court ruling and according to the procedures provided by law, on grounds of reasonable suspicions for commission of criminal offenses, does not infringe personal freedom. If a guilty plea entered by a judgment of the Court of Appeal is annulled and the case is returned for retrial to the court of second instance for the later to assess the non-guilty plea of the Court of First Instance, as long as the judgment has not become final, confines the applicant to the same procedural status.

In 2000, the applicant was sentenced by the Court of First Instance to 25 years of imprisonment for committing the criminal offenses of "intentional murder" and "unauthorized possession of combat weapons". The decision was overturned by the Court of Appeal and at retrial the Court of First Instance found the applicant not guilty. The acquittal decision was overturned again by the Court of Appeal, which declared the applicant guilty of these criminal offenses, sentencing him to 25 years in prison. Subsequently, the Criminal Chambers of the High Court decided to overturn the decision of the Court of Appeal and return the case for retrial by that Court, but with a different panel. The applicant submitted a request for the determination of the loss of the power of the personal security measure "arrest in prison" at the time in force against him, claiming that in the conditions where the guilty plea of the Shkodër Court of Appeal has been annulled, it produces acquittal effects thus extinguishing the personal security measure taken against him. The Court of Appeal established the fact that the security measure of "arrest in prison" granted with the guilty plea has been extinguished and accepted the request of the prosecutor, assigning the same security measure to the applicant. The applicant submitted a recourse to the High Court, which was rejected, and subsequently submitted a constitutional complaint.

Regarding personal freedom, the Court noted that although the guilty plea was overturned and the case was sent for retrial at the court of second instance to assess the validity of the acquittal decision, as long as the decision had not become final, the applicant retains the same procedural status. The Court of Appeal analyzed the facts and evidence in relation to the conditions and criteria for limiting personal freedom, justifying its decision both in terms of the applicant's claims for the violation of personal freedom, and in terms of the conclusions reached by it related to the existence of "reasonable doubts" about the limitation of this right. The claims raised in the appeal were analyzed and evaluated by the High Court, which justified its findings in terms of his procedural and constitutional rights. The interpretation and application of the law by the courts of general jurisdiction was made taking into account the guarantees offered by the principle of due process and that in the present case no problems appear from the constitutional point of view, such as would require the intervention of the Court.

With regard to the claim on the violation of the principle of trial by an impartial court of law, since the request for ascertaining the loss of the measure's power and that for its extinguishment, were examined by the same panel of the Court of Appeal, the Court assessed, in accordance with the procedural provisions and the case-law of the High Court, that when the application was filed for trial, the power to decide on the assignment, replacement or revocation of security measures belongs only to the Court assigned to consider the case. The examination of these applications by the same panel does not violate the principle of impartiality, in the objective aspect.

An alternative punishment to imprisonment is not a new punishment, but excludes its immediate enforcement and is replaced by probation (Judgment No. 24, of 27 April 2023 - applicant Klaudio Burimi)

The criminal sanction of any nature should aim only at re-education and then integration of the convict into social life. The High Court did not evaluate the specific situation of the applicant in terms of the implementation of the decision and orders of the Court of Appeal or the execution phase of the alternative punishment. Nor was the fact that the applicant has served an alternative sentence reflected in the content of the decision. The applicant was ordered to serve again a part of the prison sentence previously served by him in one of the alternative ways of this sentence.

The applicant was sentenced to four years and eight months of imprisonment by the district court for committing the criminal offense "production and sale of narcotics" through a summary trial. The Court of Appeal partially changed the decision, sentencing the applicant to the same sentence, but for the part he did not serve, in accordance with Article 59 of the Criminal Code, ordered him to keep in contact with the Probation Service and be on probation, suspending the execution of the sentence on the condition that he does not commit another criminal offense during the probation period of three years. The security measure of "arrest in prison" was extinguished and the applicant was immediately released from custody. During the time that the recourse filed by the Prosecution was expected to be examined by the High Court, the Prosecution established by a decision that the applicant had served the alternative sentence and suspended the execution of the order for the execution of criminal decisions. Furthermore, the Criminal Chambers ruled to overturn the decision of the Court of Appeal and leave the District Court ruling in effect, as well as the notification of the General Prosecutor's Office for the execution of this decision. The applicant addressed the Constitutional Court with a constitutional complaint.

The Court, in relation to the claim of violation of personal freedom related to the reasoning of the judgment, noted that with the fulfillment of certain obligations during the probation period, the alternative punishment decision has been enforced according to the law and the prosecutor has issued a special decision on its enforcement. Therefore, the applicant has fully served the assigned sentence. The High Court has failed to assess the specific situation of the applicant in terms of enforcement of the decision and orders of the Court of Appeal or the stage of enforcement of the alternative punishment by him. The fact that the alternative sentence was served by the applicant was not reflected in the content of the reasoning of the High Court ruling. While the execution of the sentence due to the time spent should have potentially ended, which caused implications for the decision it was asked to give, the High Court had the obligation to obtain information in this regard, in order to avoid re-punishment of the applicant after previously serving the sentence.

Application of the principle ne bis in idem in cases of alternative sentence (Judgement No. 47, of 05 October 2023 - applicant Klaudio Perçuke, Kejvin Zogo)

The principle of not being tried twice for the same criminal offense (ne bis in idem) does not lie in the application of the same criminal norm two or more times, but in not trying and not punishing the subject again for the same fact that constitutes a criminal offense, for which he was previously convicted by a final decision by a court designated by law. For the applicant, for the same behavior and action, no other proceeding was held, nor has he been tried and convicted more than once for the same criminal fact.

The applicants were found guilty by the Court of First Instance for the criminal offense of "production and sale of narcotics" and were sentenced to seven years in prison and since they were tried according to the summary trial procedure, their sentence was reduced by one third. Vlora Court of Appeal overruled the decision regarding the legal definition of the criminal offense and the punishment, by ordering the immediate release of both applicants, in the circumstances where for one it has suspended the enforcement of the prison sentence, while for the other it found that the sentence has been fully served. On the recourse of the Prosecution, the Criminal Chambers of the High Court decided to overturn the decision of the Court of Appeal and to uphold the decision of the Court of First Instance. The applicants filed an individual constitutional complaint to the Constitutional Court.

Regarding the claim related to a court appointed by law, the Court assessed that the High Court did not consider any new evidence and did not give different value to the evidence administered by the lower courts, and that it did not establish different facts from what the latter had established.

The applicant Claudio Perçuke also claimed the violation of the principle of ne bis en idem, that is the right to not being convicted twice for the same criminal offense, given that according to the decision of the Court of Appeal he served the sentence by virtue of probation. With the squashing of that decision from the High Court, he would be subjected to serving the sentence twice for the same crime. With regards to the ne bis en idem principle, the Court noted that only one trial was conducted against the applicant related to the criminal charges raised by the Prosecution and it does not appear that a second trial is conducted for the same behavior and action against him, or that he has been tried and sentenced more than once for the same criminal fact. The Criminal Chamber of the High Court is regularly put in motion by recourse within the same criminal proceeding and at the end of the review of the recourse, it has disposed of the legal qualification of the criminal offense committed and the sentence alternative by imprisonment.

The right to private property may be restricted for public interest if such interest is current and not potential (Judgment No. 50, of 18 October 2023-applicant Muhamet Trepçi)

The constitutional concept of public interest is evaluated by the Court in the light of the specific application that is presented for review before it. The state cannot justify the restriction of the right to property by only claiming the implementation of regulatory plans in the future. The High Court has not argued -the substantial claim that has to do with the interpretation of the applicable law in relation to the public interest and its relation to the applicant's property and neither -the violation of the principle of proportionality in the interference with such right. (Judgment No. 50, of 18 October 2023).

The applicants and other heirs of the expropriated subject were granted the right of ownership over an immovable property and the right to be compensated, since, according to the administrative body, the property was registered in the inventory of the assets of the municipality and served the public interest by its transformation into a public space (flower garden). The applicants filed an application with the Court on the partial annulment of this decision. The application was admitted by a decision of the Court of First Instance and the relevant area was restituted to the applicants. The Court of Appeals overruled the decision and dismissed the case, whereas the Civil Chambers of the High Court decided to overrule the appeal. The applicant addressed the Constitutional Court, alleging violation of the right to private property and due process.

The Court assessed the case considering the standard of reasoning of the judgment regarding the right to property. At the time of trial of the applicant's case, according to the legislation in force, immovable properties that served a public interest were not restituted, which was correctly established by the courts of general jurisdiction when evaluating the criterion of interference by law in the right to property. Furthermore, it turned out that by a DoCM the plot turned into "a garden-bazaar" was included in the preliminary list of immovable, public, state properties that were transferred to the ownership or use of the municipality, while the final list of properties transferred to this municipality was approved by a DoCM in 2010. The Court of Appeal supported the limitation of the applicant's property right justifying it with its potential interest in the future, while the High Court did not analyze or evaluate the claims on the violation of the principle of proportionality in the interference with the right to property, regardless of the fact that they were raised during the proceedings, nor did it argue the balance that should exist between the public interest and the interference with this constitutional right. It also failed to consider the applicant's substantial claim that is directly related to its constitutional function, namely the interpretation of the law in relation to the public interest carried by his property, for which physical restitution and not compensation is claimed, as well as the by-laws qualifying the property as property for public interest. The judgment of the High Court is insufficient and does not meet the criteria of the constitutional case-law related to the standard of reasoning of a Court judgment vis-a-vis the right to property.

Violation of the substantial right to private property outside the right for a fair trial (Judgement No. 53, of 31 October 2023 - case of Terenzio D`alena)

Violation, even partial, of one of the owner's rights or one of the constituent elements of any ownership rights constitutes in itself a violation of the right to property in its entirety. The applicant, although his ownership title has not been questioned, does not exercise any of the three ownership titles. The interpretation that the courts have made of the contract and the rights of the parties have limited the applicant's ability to exercise the right to property to the extent that they have deprived him of it.

In 1946, a house and a plot of land were confiscated from the applicant's heir by the state. After the entry into force of the law on the restitution and compensation of properties, the applicant addressed the administrative body for the recognition of the ownership right and the restitution of the property. In 1992, the Municipality of Tirana and the Ministry of Tourism, Culture, Youth and Sports leased a plot of land to a private company, in part of which a hotel would be built, while the rest would be a functional area. In 1993, a permit was approved for the construction of the hotel (first phase). In 1993, the confiscated house was restituted to the heirs of the former owner, and in 1994 they were recognized with the right of ownership over the land where the house was located. In 1996, they were recognized as having the right of ownership over another piece of land, where they were compensated according to the law for the part occupied by the hotel, while a part was restituted to them as free land and it was regularly registered in the public registers of the time . For this asset, located within the functional area of the hotel, the applicant filed a lawsuit for its release and hand-over. The Court of First Instance decided to dismiss the case, which was upheld by the Court of Appeal. The Civil College of the High Court decided not to admit the applicant's appeal, which was addressed to the Constitutional Court for the violation of the right to private property.

The Court assessed that the applicant is the undisputed owner of the property right over the plot of land that is the subject of the dispute in the courts of general jurisdiction and that a limitation has been applied to his right to enjoy private property, in the form of the obligation to respect the deadline of a lease contract entered into between the state and a private entity. Although the ownership title to the land is not disputed, the applicant is unable to exercise any of the ownership rights. In the conditions where the applicant does not enjoy the property, since even though he has a property title registered in the relevant public registers, he does not actually possess it, there is a violation of this right. Although the lease contract does not constitute a de jure expropriation, the lease of the property for a 99-year term, as well as the interpretation that the courts have made of this contract and the rights of its parties, limit the applicant's ability to exercise the right to property to the extent that it amounts to a de facto expropriation without compensation within the meaning of Article 41 of the Constitution. This restriction is to the extent that it has actually violated the essence of the right to property, making it illusory. The restriction does not even meet the criterion of proportionality, as long as between the interests in question, that of the tenant and the interest of the applicant, the burden clearly leans towards the constitutional interest of the applicant, thus not finding the right balance between the goal that is intended to be achieved through land leasing and protection of private property rights. The High Court had to respond to the applicant's claims during the proceedings for the interference with the constitutional right to property, which could not be evaluated in the chambers, but required deliberation on the merits of the case in court hearing.

Restriction of freedom due to extradition (Judgment No. 51, of 18 October 2023 -applicant Ermal Gjokja)

The procedure of determining coercive measures in the instance of the request for extradition has a special nature of the procedure against typical criminal proceedings. The condition for determining the measure is related to the progress of the extradition procedure and is implemented until the decision on the consideration of the request for extradition becomes final. In such cases the decision of the High Court is considered res judicata.

The restriction measure of "arrest in prison" was taken for the applicant, for the purpose of his extradition to Italy, where he was convicted for committing several criminal offenses. Regarding the request for extradition, the Court of First Instance decided not to accept it. The Court of Appeal, on its end, decided to uphold the decision of the District Court. Upon the recourse of the Prosecutor, the Criminal Chambers of the High Court decided to overturn the decision of the Court of Appeal and send the case for retrial. In the conditions where the Court of First Instance decided not to allow extradition, the applicant requested the revocation or replacement of the personal security measure of arrest in prison and finding of its extinction, which was overruled, a decision that was left in force by the Court of Appeal and the High Court. In the individual constitutional complaint, the applicant objected to the violation of personal freedom, due to the continued implementation of the security measure in question, despite the existence of court rulings that did not allow his extradition.

The Court held that the High Court has evaluated the interpretation that the lower courts have given to the criminal procedure provisions governing the imposition of coercive measures for the purposes of extradition, insofar as they can be applied, having regard to the requirements to ensure that the person for whom extradition has been requested does not evade surrender. The High Court has rightly assessed the position of the Court of Appeal regarding the non-final decision-making of the Court of First Instance on the issue of extradition, assessing that this decision-making does not bring any effect, since the legislator has extended the effects of the procedure to the three instances of trial, considering the decision-making of the High Court as "a judged thing". The claims raised during the proceedings have been assessed against the facts and evidence obtained during trial by the lower courts in relation to the legal provisions establishing the determination of the personal security measure of "arrest in prison" in the case against him.

The principle of presumption of innocence in the instance of evidence collected under violence (Judgment No. 63, of 20 November 2023 – applicant Mariglen Gjuraj)

The Convention does not prohibit presumptions of law or fact in criminal cases, but they must be within reasonable limits, taking into account the importance of the interest at stake and ensuring the rights of the defense. The Courts have transferred to the applicant the obligation to prove that the seized weapons did not belong to him, determining therefore his guilt through presumptions of fact.

During an operation by the State Police and special forces to arrest a suspect, the applicant's apartment was forcibly entered into and violence was used to neutralize him. Although the wanted person has not been found, several cold weapons and firearms were found during the search of the apartment. The applicant was arrested in flagrante delicto and criminal proceedings were initiated against him and he was sent to Court on charges of the criminal offenses of "manufacturing and possession of weapons and ammunition without a permit", "manufacturing, possession, purchase or sale of cold weapons without a permit" and "Unauthorized production and possession of hunting and sports weapons".

A few days after the arrest, the applicant's parents complained about the violence perpetrated by the State Police employees to the People's Advocate, who concluded that the allegations of physical abuse were justified and recommended to the head of the Prosecutor's Office the initiation of investigations against state police officers. Consequently, the criminal proceedings for the criminal offense of "torture in collaboration" was registered for one of police officer was found guilty and sentenced for the criminal office of "performing arbitrary actions". Meanwhile, regarding the applicant's criminal proceedings, the Court of First Instance entered a guilty plea for him for the criminal offenses he was accused of, a decision which was partially upheld by increasing the sentence for one of the criminal offences. The Criminal Chambers of the High Court rejected the applicant's appeal. The applicant submitted a constitutional complain.

The Court has examined the case in terms of the principle of presumption of innocence, as long as it was claimed that his guilt was not proved beyond a reasonable doubt and that the evidence of the Prosecution intended to cover up the violence against him. These claims were part of both the appeal in the second instance and recourse in the High Court. In the analysis of the facts, the Court observed first that the Prosecution, and then the two courts of fact, were based on three specific circumstances when finding the applicant guilty: (i) the presence of the applicant during the search in the apartment and its surrounding premises; (ii) finding and confiscating weapons outside the apartment; (iii) the technical condition of the weapons, according to the acts of expertise and the lack of permits for their possession. The Court assessed that the courts of fact released the prosecutor from the burden of proof, transferring to the applicant the obligation to prove that the seized weapons did not belong to him, on the grounds that the criminal responsibility for criminal offenses of possession of weapons is objective in nature. They have determined the applicant's guilt by means of presumptions of fact. In the Court's assessment the applicant's objective responsibility for the unauthorized possession of weapons is a presumption of disputed fact given that the weapons were found in an external environment to the apartment and that he does not live alone in the apartment. Likewise, the Prosecution and the courts did not carry out a proper verification of the violence exercised against the applicant by the police officers during the search of the apartment, although they had documentary evidence made available by the People's Advocate but have accepted the report on the search of the apartment, signed without any objection by the applicant and his mother, as having full probative power without giving any explanation why the applicant's mother, although she denied the fact that the weapons belong to the applicant or other family members. The Prosecution did not verify the applicant's claims at the preliminary investigation stage, namely to investigate the existence of fingerprints on the seized items and eventually to compare them with those of the applicant.

As a consequence, the reasoning of the Courts' rulings does not prove that the applicant's guilt has been proven beyond any reasonable doubt.

2023

STATISTICAL DATA

Statistical data for 2023

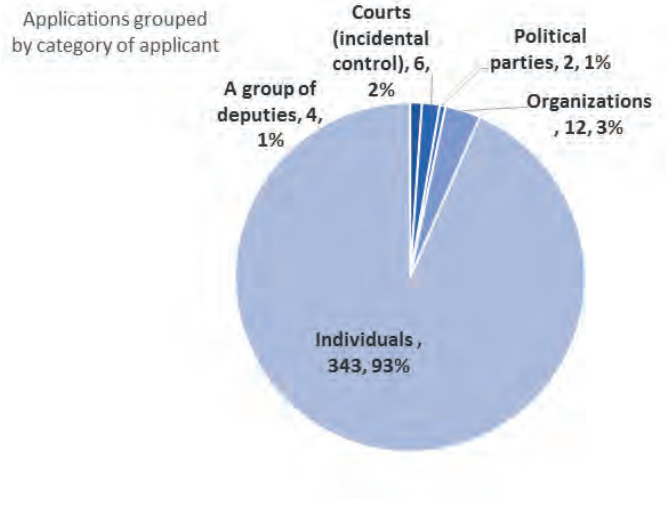
In the course of 2023, the Constitutional Court has received 452 applications[3], from which 367 submitted and registered in 2023, while 85 were carried over from 2022.

LENGTH OF PROCEEDINGS

- The Court has respected all the procedural deadlines related to applications submitted, in conformity with provisions of its organic law, and Rules of Judicial Procedures of Constitutional Court
- The average length of proceedings for the examination of cases before the Constitutional Court is 8 months for final decisions and 3 months for cases not accepted for review on the merits.
- At present, Constitutional Court does not have any backlog of cases
- No applications concerning excessive length of procedures have been submitted before the Constitutional Court

DATA ON APPLICATIONS

Applications grouped by category of applicants:

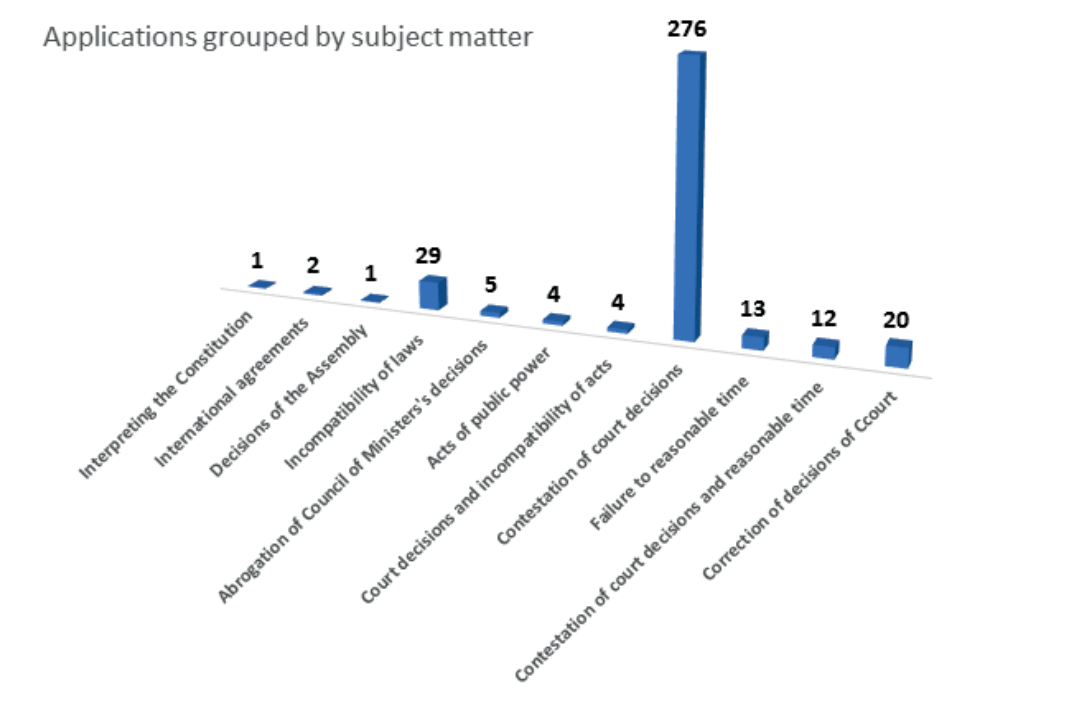


4 applications submitted by not less than one fifth of the MPs
6 applications submitted by courts of ordinary jurisdiction (incidental control).
2 applications submitted by political parties.
12 applications submitted by organizations
343 applications submitted by individuals.

[3]12 applications have been joined, and for this reason, the number of applications and the number of decisions and cases currently under review in the Court do not coincide.

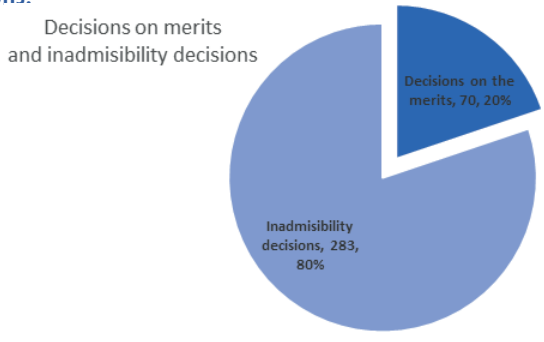
Applications grouped by subject matter:

Subject matter:	No.
Interpretation of the Constitution	1
Incompatibility of international agreements with the Constitution	2
Abrogation of the decision of the Assembly	1
For incompatibility of laws with the Constitution	29
Abrogation of decisions of Council of Ministers	5
Contesting acts of public power	4
Contesting decisions of courts of ordinary jurisdiction together with the request for incompatibility of legal provision applicable in the relevant case	4
Contesting decisions of courts of ordinary jurisdiction	276
Finding a violation of right as a result of failure to respect the reasonable time principle	13
Contesting decisions of courts of ordinary jurisdiction, together with finding a violation of the right as a result of failure to respect the reasonable time principle	12
Interpretation/correction/revision of decisions of the Constitutional Court	20

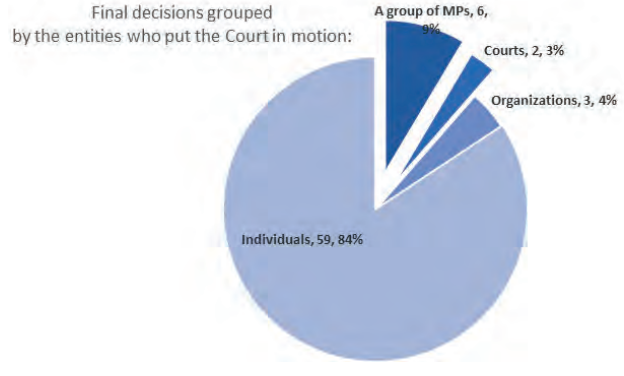


DATA ON DECISIONS

In the course of 2023, the Constitutional Court has rendered overall 353 decisions, 70 final decisions (on the merits) and 283 inadmissibility decisions.

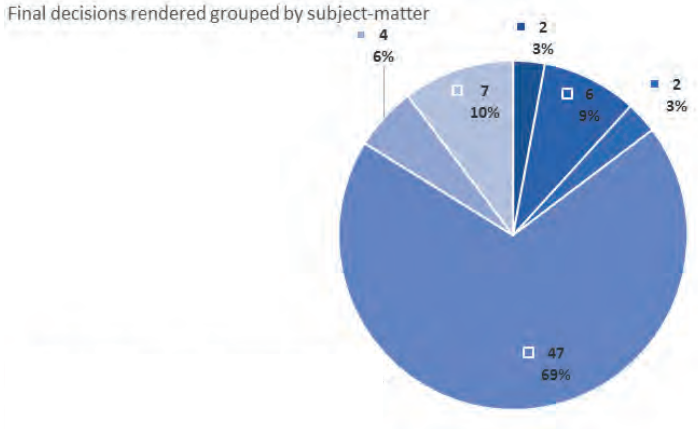


Final decisions grouped by the entities who put the Court in motion:



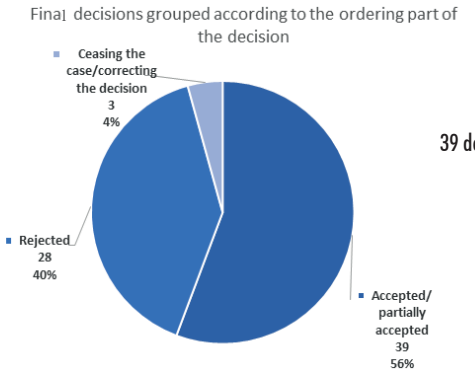
6 decisions related to applications submitted by a group of MPs
2 decisions related to applications submitted by courts of ordinary jurisdiction (incidental control).
3 decisions related to applications submitted by organizations
59 decisions related to applications submitted by individuals.

Final decisions rendered in the course of 2023, grouped by subject-matter of the application:



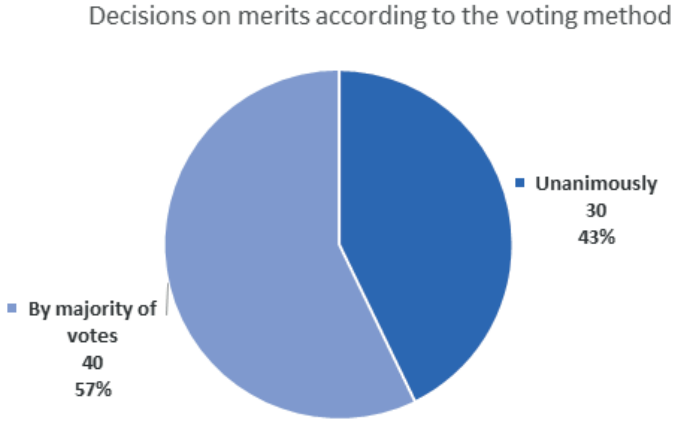
2 decisions related to applications on conflict of competences and decisions of the Assembly
6 decisions related to applications about incompatibility of normative acts with the Constitution.
2 decisions related to applications on the abrogation of decisions of Council of Minister.
47 decisions related to applications contesting decisions of the courts of ordinary jurisdiction, in view of the fair trial right.
4 decisions related to applications on the abrogation of court decisions and incompatibility of normative acts with the Constitution
7 decisions related to applications about finding that the right to fair trial has been violated, as a result of failure to respect the reasonable trial principle
2 decisions related to applications about clarifying/interpreting/revision of decisions of the Constitutional Court

Final decisions rendered in 2023 grouped according to the ordering part (dispositive) of the decision:



39 decisions where the Court decided that the claim was accepted/partially accepted.
28 decisions where the Court decided that the claim was rejected.
3 decisions where the Court decided to cease the case/correct the decision

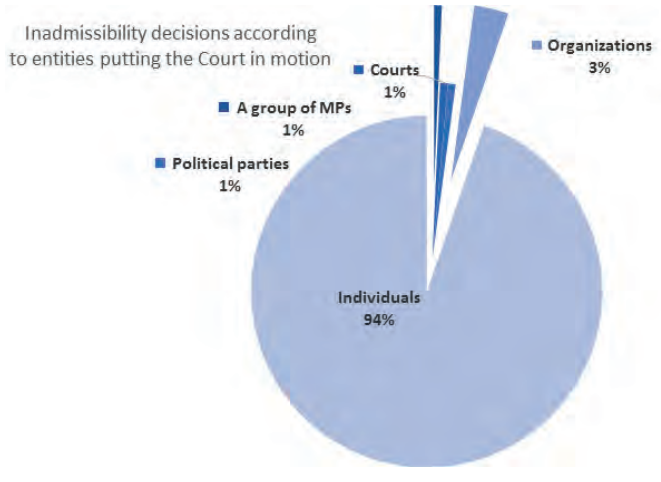
Final decisions rendered in 2023 grouped according to the voting modality:



30 decisions rendered unanimously
40 decisions rendered by majority of votes

In the course of 2023, 283 inadmissibility decisions were rendered by the Meeting of Judges and by the Chambers of the Court.

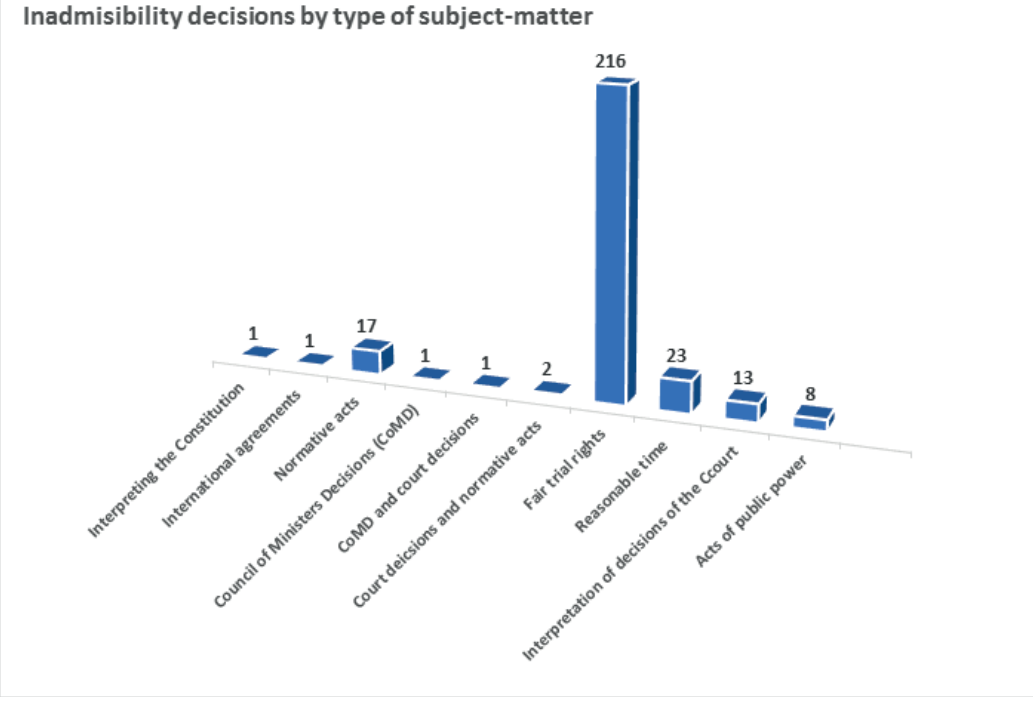
Inadmissibility decisions grouped according to subjects/entities who put the Court in motion:



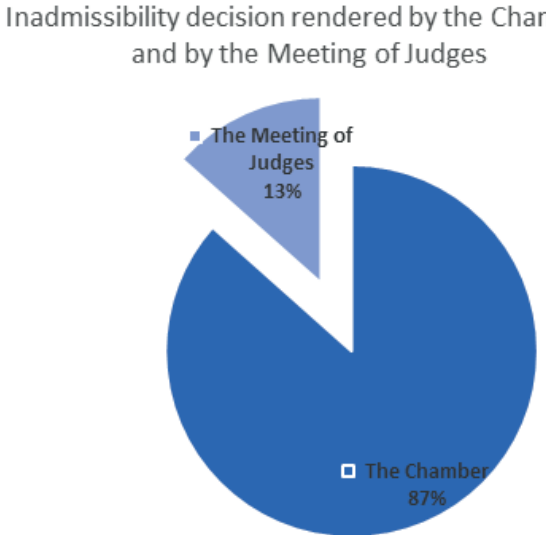
2 decisions on applications submitted by a group of MPs
2 related to applications submitted by courts of ordinary jurisdiction (incidental control).
2 decisions related to applications submitted by political parties.
9 decisions related to applications submitted by organizations.
268 decisions related to applications submitted by individuals.

Inadmissibility decisions grouped according to the subject-matter of the application:

Subject-matter:	No.
Incompatibility of international agreements with the Constitution prior to ratification	1
Incompatibility of normative acts with the Constitution	17
Abrogating Council of Minister's decisions	1
Abrogating Council of Minister's decisions and decisions of courts of ordinary jurisdiction	1
Abrogating court decisions and about incompatibility of normative acts with the Constitution	2
Contesting decisions of courts of ordinary jurisdiction, in view of the right to a fair trial	216
Finding violations of the right to a fair trial, as a result of failure to adjudicate within a reasonable time	23
Correction/interpretation/revision/objection of decision of Constitutional Court	13
Acts of public power	8

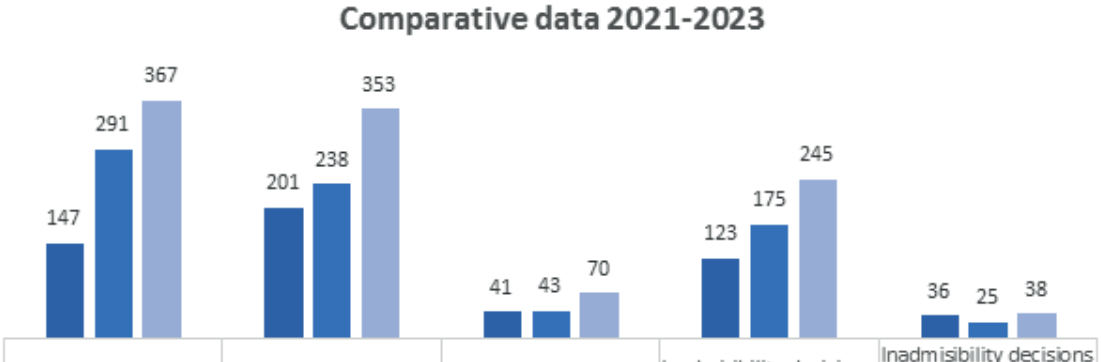


Inadmissibility decision rendered by the Chambers and by the Meeting of Judges:

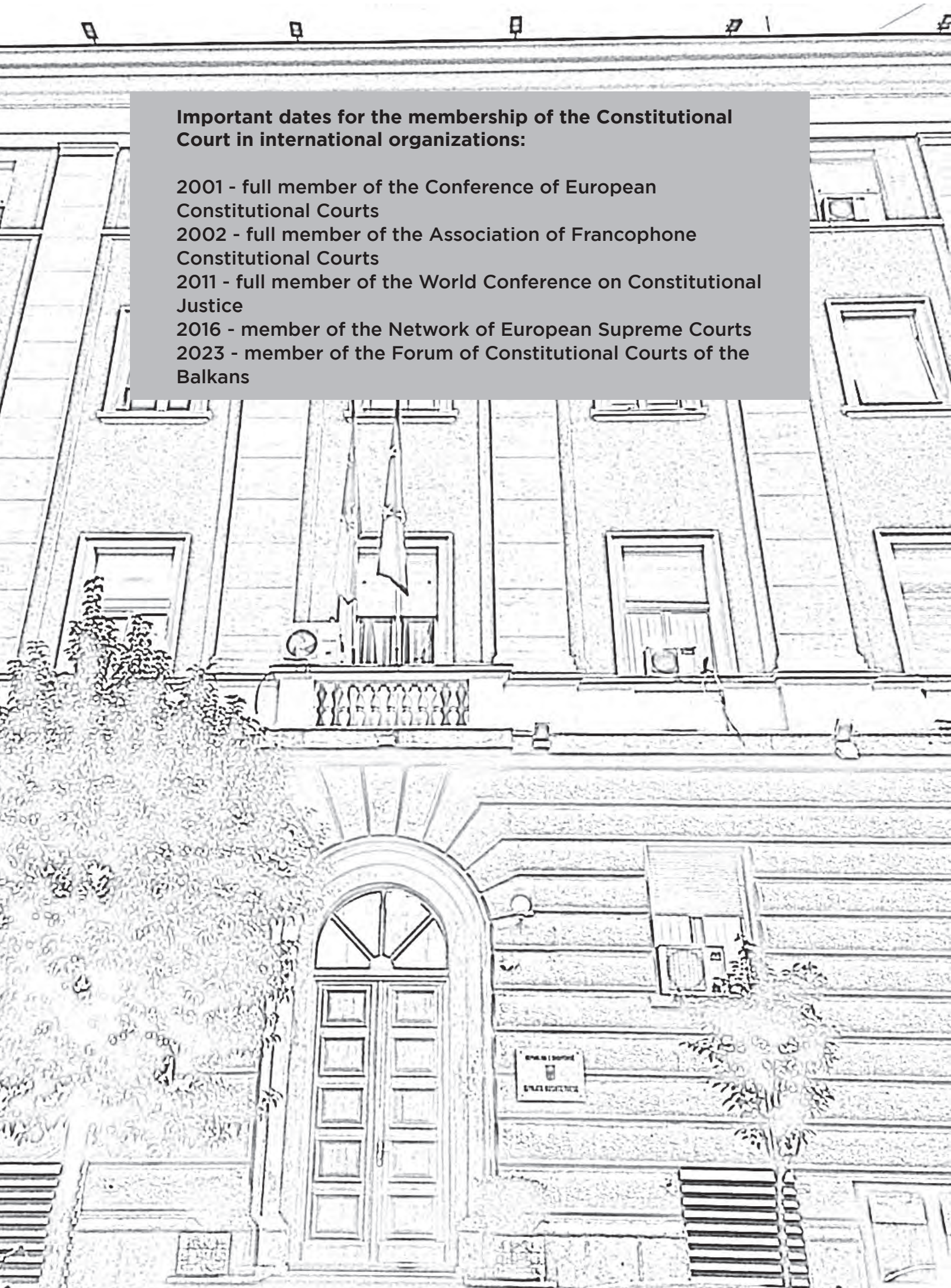


245 decision rendered by the Chambers.
38 decision rendered by the Meeting of Judges.

Comparative data 2021-2023, in relation to applications and decisions of the Constitutional Court



	Applications	Decisions	Decisions on merits	Inadmisibility decisions (by the Chamber)	Inadmisibility decisions (by the Meeting of Judges)
2021	147	201	41	123	36
2022	291	238	43	175	25
2023	367	353	70	245	38



Important dates for the membership of the Constitutional Court in international organizations:

2001 - full member of the Conference of European Constitutional Courts
2002 - full member of the Association of Francophone Constitutional Courts
2011 - full member of the World Conference on Constitutional Justice
2016 - member of the Network of European Supreme Courts
2023 - member of the Forum of Constitutional Courts of the Balkans

COOPERATION AND INTERNATIONAL PERSPECTIVE

Adherence of the Constitutional Court to international bodies

With the aim of contributing to constitutional justice, as a key element of the rule of law, since its establishment in 1992, the Constitutional Court of the Republic of Albania has established and consolidated cooperation ties with the constitutional courts of other countries, other courts and international bodies.

The Court has always been an active member of the global community of constitutional courts, with the aim of promoting the development of democracy, the rule of law, freedoms and fundamental rights of the individual. In this context, the Court has joined as a full member a number of important regional and international forums. Recently, it has become a member of the Forum of Constitutional Courts of the Balkans, a forum which was established in November 2023, at the initiative of the Constitutional Court of Bulgaria and the Constitutional Court of North Macedonia, with the aim of encouraging and promoting judicial dialogue between the constitutional courts of the Balkan countries.

In order to further develop and consolidate the relations of institutional cooperation and the constitutional debate, in order to continuously improve the decision-making activity and strengthen its capacities, the Constitutional Court of Albania has also signed cooperation agreements with several counterpart courts in Europe. These Memoranda of Cooperation serve as a basis for the continuous and reciprocal exchange of experiences and knowledge in the field of constitutional control. Also, the Court has prioritized deepening of cooperation with the constitutional courts of neighboring countries, cooperation which has been concreted through the organization of mutual study visits, seminars and various trainings that have focused on the most current issues of constitutional justice.

In its activity, the Court has attaches special importance to relations with the Council of Europe, the European Court of Human Rights and the European Commission for Democracy through Law (Venice Commission). It is worth mentioning the membership of the Constitutional Court of Albania in the Network of Supreme Courts (SCN).

Also, during 2023, the Court intensified its efforts and managed to establish close cooperation with a number of international partners within the country, being involved in specific projects and initiatives aimed at improving the infrastructure, human capacities and internal framework regulator, in order to increase efficiency, transparency and access of citizens to constitutional justice.

Based on what mentioned above, in view of maintaining and further developing its case-law the Constitutional Court has continued its successful cooperation with the OSCE Presence for many thematic activities, including the development of the first guide of the Court containing standards and precedents through the years on fair trial rights. Under the same cooperation, roundtables on standardizing decision-making acts, as well as roundtables with the High Court to strengthen dialogue between judicial branches, were held. Also, the fruitful cooperation with the Presence and Konrad Adenauer Foundation has pursued on the institutional strategic planning for 2020-2023 and 2024-2026.

It is worth mentioning that for a quality and efficient case administration in view of guaranteeing a functional constitutional justice, in the course of 2023, the Court has made continuous efforts to ensure the commitment of its international partners to support the establishment of an entirely new system of administration of applications, a system based on technology and information, which is expected to be materialized in 2024-2025.

Recently, the Constitutional Court with support from the Switzerland Confederation through the Embassy of Switzerland in Albania has undertaken the Project "Increasing transparency and accessibility of constitutional justice", which aims to guarantee the right of information according to international standards by strengthening communication with the media and the public by redesigning the website of the Court, by disseminating informative and awareness-raising materials on constitutional rights and freedoms. The Project also focuses on enhancing cooperation with entities which put the Court into motion, with human rights institutions and the courts, in order to improve access of individuals in the courts and in constitutional justice.

The Court has also achieved to publish the speaking notes of the International Conference held on the occasion of its 30th anniversary, by continuing in such a way the successful cooperation with the Heinz Seidel Foundation.

Important dates in international cooperation:

16 July 2009 – Cooperation Agreement and Mutual Assistance in Areas of Common Interest between the Constitutional Courts of the Republic of Albania and Italy

18 -20 April 2011, Cooperation Agreement and Mutual Assistance in Areas of Common Interest between the Constitutional Courts of the Republic of Albania and Kosovo

9 – 12 June 2013, Agreement between the Constitutional Courts of the Republic of Albania and Turkey

29 September 2021 - The New Agreement with the Constitutional Court of Kosovo on cooperation and mutual assistance is signed, manifesting the wish and will to continue cooperation programs, to strengthen institutional capacities and imporve the quality of decisions.

14 April 14 2021 - a Memorandum of Understanding signed between the Constitutional Court of Albania and the Office of the OSCE Presence in Albania "On coordination and cooperation in the implementation of projects and activities aimed at supporting the Constitutional Court of Albania", the purpose of which is to establish of a cooperation framework.

27 October 2023 - Constitutional Court of the Republic of Albania, Constitutional Court of the Republic of Bulgaria, State Council of the Republic of Greece, Constitutional Court of the Republic of Kosovo, Constitutional Court of Montenegro, Constitutional Court of the Republic of North Macedonia, Constitutional Court of the Republic of Romania, Constitutional Court of the Republic of Turkey, agreed on the establishment of the Forum of Constitutional Courts of the Balkans, as a permanent functional body for the promotion of judicial dialogue.

7 December 2023 – Constitutional Court of the Republic of Albania signs a grant agreement with the Swiss Confederation, represented by the Swiss Federal Department of Foreign Affairs, acting through Embassy of Switzerland in Albania on the Court's Project "Increasing transparency and accessibility of constitutional justice"

Jubilee activities

25th anniversary of the Constitution of the Republic of Albania, 27 November 2023

On the occasion of the 25th anniversary of the Constitution of the Republic of Albania, the Constitutional Court and the Assembly of Albania organized the international conference on "25 years of the Albanian Constitution", which took place in the Hall of Plenary Hearings of the Assembly, on 27 November 2023. this jubilee activity, was attended by the highest dignitaries of the state, presidents/judges of the sister-like constitutional courts, representatives from the Venice Commission and the European Court of Human Rights, prominent constitutionalists, academics, representatives of justice institutions and institutions of other independent in Albania. In her speech, President Zacaj, after emphasizing what the Constitution represents for the history of our people and aspirations for its European future, emphasized the role of the Constitutional Court as the guardian and the last interpreter of the Constitution in the development of democracy and constitutional justice, being responsible for the impact it has on the social, economic and political life of the country. She called on all parties to accept her verdict, this being the right, necessary and only behavior to implement the Constitution. The conference continued with the session on "A message for the Constitution", during which the presidents of the corresponding constitutional courts, members of the Constitutional Court, the President of the High Court, as well as prominent academics and members of the Parliamentary Committee on the Drafting of the Constitution made speeches.

Participation in international activities and study visits

Participations in important international activities

Joint conference between the Constitutional and High Courts of Albania and Kosovo, Pristina, 14 December 2023

The conference on "Balance between control of legality and constitutionality, limits of jurisdiction and access to justice" gathered together in Pristina, on 14 December 2023, judges of the Constitutional and High Courts of Albania and Kosovo. In this conference, the judges of the Constitutional Court of Albania, Ms. Elsa Toska and Ms. Marsida Xhaferllari, presented the perspective of this court in applying the principles of constitutionality and legality.

Forum of the Constitutional Courts of the Balkans, Sofia, 26 – 28 October 2023

A delegation of the Constitutional Court of the Republic of Albania, consisting of the President of this Court, Ms. Holta Zaçaj, as well as judges Mr. Sander Beci, Mr. Ilir Toska, participated in the activities held in the framework of the establishment of the Forum of Constitutional Courts of the Balkans, organized in Sofia, Bulgaria, on 26-28October 2023. The aim of this Forum is to promote cooperation and develop dialogue between the constitutional courts of the countries of the region, serving as a platform for the regular exchange of information and best practices in the field of constitutional justice.

International conference on the occasion of the 14th anniversary of the establishment of the Constitutional Court of Kosovo, Pristina, 23-24 October 2023

A delegation of the Constitutional Court of Albania, headed by the President of this Court, Ms. Holta Zaçaj, participated in the solemn ceremony and the international conference that were organized on the occasion of the 14th anniversary of the Judicial Year of the Constitutional Court of the Republic of Kosovo, in Pristina, on 23-24 October 2023. The President of the Constitutional Court of Albania, Ms. Holta Zaçaj, held a speech on "The role of the Constitutional Court as a negative legislator" at the international conference on "The contribution of the Constitutional Courts for the protection and strengthening of the fundamental values of democracy, the rule of law and fundamental human rights and freedoms".

ECHR seminar related to the advisory opinion mechanism, Strasbourg, 13 October 2023

The President of the Constitutional Court of Albania, Ms. Holta Zaçaj, took part in the seminar organized by the European Court of Human Rights on the topic of "Judicial dialogue through the mechanism of the advisory opinion provided for in Protocol No. 16", organised in Strasbourg, France, on 13 October 2023.

International conference on the occasion of the 25th anniversary of the Constitutional Court of Azerbaijan, Baku, 4-5 July 2023

The President of the Constitutional Court of Albania, Ms. Holta Zaçaj, participated in the international conference on "Progress of legislation through the implementation of constitutional norms", which took place in Baku, on 4 July 2023, on the occasion of the 25th anniversary of the establishment of the Constitutional Court of Azerbaijan. In this conference, the President of the Constitutional Court, Ms. Holta Zaçaj, gave a presentation on the topic: "The Constitutional Court of Albania in the light of the Justice Reform and constitutional amendments - lessons learned".

28th World Congress of Justice, New York, 20 – 21 July 2023

The 28th World Congress of Justice was organized with several panel discussions where there were references from various panelists from around the world. The representatives of the Constitutional Court referred to some of the panels. More specifically, the President of the Constitutional Court, Ms. Holta Zaçaj, addressed the forum in the panel on Freedom of expression in the digital age; Judge Marsida Xhaferllari in the panel of Rule of law, constitutional justice and technology; and Judge Fiona Papajorgji and Marjana Semini in the panel of Universality of the rule of law.

Meeting of the Supreme Courts Network (SCN), Strasbourg, 8-9 June 2023

The judge of the Constitutional Court of Albania, Ms. Elsa Toska, who is the representative of this Court in the Supreme Courts Network (SCN) - forum of the European Court of Human Rights, participated in the 6th meeting of this Network, which was organized at the European Court of Human Rights in Strasbourg, France, on 8 and 9 June 2023.
Judge Elsa Toska took part in the two-day discussions focusing on the standards of the independence of courts and judges, as well as the transmission of the experience and jurisprudence of the Constitutional Court of Albania.

International conference organized by the German Federal Constitutional Court, Berlin, 4-5 May 2023

A delegation of the Constitutional Court of Albania, consisting of Ms. Holta Zaçaj, President of the Court, and Ms. Elsa Toska, judge, participated in the International Conference on "Climate Change as a Challenge for Constitutional Law and Constitutional Courts", which took place in Berlin, Germany on 4-5 May 2023.

Congress of the International Federation for European Law, Sofia, 31 May – 3 June 2023

The judge of the Constitutional Court, Ms. Marsida Xhaferllari participated in the Congress of the International Federation for European Law (FIDE), which took place in Sofia, Bulgaria, on 31 May – 3 June 2023. Judge Marsida Xhaferllari referred to the discussion panel on the Rule of Law and the Expansion of the European Union and held a presentation on the Albanian perspective in this regard.

100th anniversary of the adoption of the Constitution of Greater Romania, Bucharest, 27-28 March 2023

A delegation of the Constitutional Court of Albania, consisting of Ms. Fiona Papajorgji and Ms. Marjana Semini, participated in the festive assembly dedicated to the 100th anniversary of the adoption of the Constitution of Greater Romania in 1923, a ceremony which took place in the Palace of the Parliament in Bucharest on 27 March 2023.

Study visits in the framework of the development and promotion of bilateral relations

Working visit at the Constitutional Court of Kosovo, Pristina, 29 – 30 June 2023 Bucharest, 27-28 March 2023

The body of judges of the Constitutional Court of Albania, headed by the President of this Court, Ms. Holta Zaçaj, conducted a working visit to Pristina, Kosovo, on 29-30 June 2023. In the framework of this visit, a joint discussion was organized with the participation of the judicial bodies of both courts. The topics addressed during the work of this panel were: "Constitutional appeal as a substantial right and judgment within a reasonable time" and "Control of the constitutionality of laws for conditional and unconditional subjects"".

Working visit to the Federal Tribunal of Switzerland, Lausanne, 7-8 September 2023

A delegation of the Constitutional Court of Albania, headed by the President of this Court, Ms. Holta Zaçaj, and composed of judges Ms. Sonila Bejtja, Mr. Sander Beci, Mr. Ilir Toska, Mr. Gent Ibrahimi, conducted a working visit to the Federal Tribunal of Switzerland, in Lausanne, Switzerland, on 7-8 September 2023. During the meetings held as part of this visit with the President of the Federal Tribunal, Mr. Yves Donzallaz, and with the other judges of this court, experiences were shared through the presentations presented by the judges, respectively, for the Constitutional Court of Albania, Mr. Gent Ibrahimi on the "Constitutional Control of Normative Acts" and Ms. Sonila Bejtja on "Individual constitutional appeal", while the Swiss colleagues presented the topics of "Separation of powers and independence of the judiciary" and "Publication of decisions and relations with the media".

Study visits at the Swedish Supreme Courts, Stockholm, 26 – 27 September 2023

A delegation of the Constitutional Court of Albania, in cooperation with the Office of the OSCE Presence in Albania, as part of the 2022-2024 OSCE Project "Support for strengthening the rule of law", conducted a study visit to the Supreme Court, the Supreme Administrative Court and the Svea Court of Appeal of Sweden. During this visit, the delegation headed by judge Mr. Gent Ibrahimi was received in meetings by high representatives of the Swedish courts and was informed by them about the organization and operation of the judicial system in Sweden in general and in the relevant courts in particular. The delegation of the Constitutional Court of Albania had the opportunity to get to know in more detail the communication programs with the media as well as the electronic case management system.

FOTOGRAFI/ PICTURES

Konferencë e përbashkët ndërmjet Gjykatave Kushtetuese dhe të Larta të Shqipërisë dhe Kosovës, Prishtinë, 14 dhjetor 2023/
Joint conference of constitutional courts and high courts of Albania and Kosovo, Pristina, 14 December 2023

Forumi i Gjykatave Kushtetuese të Ballkanit, Sofje, 26-28 tetor 2023/
Balcan Constitutional Courts Forum, Sofie, 26-28 October 2023

Konferencë ndërkombëtare me rastin e 14-vjetorit të krijimit të Gjykatës Kushtetuese të Kosovës, Prishtinë, 23-24 tetor 2023/
International Conference for the 14th anniversary of Kosovo Constitutional Court, Pristina, 23-24 October 2023

Kongresi i 28-të Botëror i Drejtësisë, Nju Jork, 20-21 korrik 2023/ 2
8th World Congress of Justice, New York, 20-21 July 2023

Konferencë ndërkombëtare me rastin e 25-vjetorit të Gjykatës Kushtetuese të Azerbajxhanit, Baku, 4-5 korrik 2023/
International Conference on the 25th anniversary of Azerbaijan Constitutional Court, Baku, 4-5 July 2023

Takimi i Rrjetit të Gjykatave Supreme (SCN), Strasburg, 8-9 qershor 2023/
Network meeting of Supreme Courts, Strasbourg, 8-9 June 2023

100-vjetori i miratimit të Kushtetutës së Rumanisë së Madhe,
Bukuresht, 27-28 mars 2023/
100 anniversary of Constitution of Great Romania,
Bucharest, 27-28 March, 2023

Konferencë ndërkombëtare e organizuar nga Gjykata Kushtetuese Federale Gjermane, Berlin, 4-5 maj 2023/
International Conference from the Federal Constitutional Court of Germany, Berlin, 4-5 May 2023

Vizitat studimore në kuadër të zhvillimit dhe promovimit të marrëdhënieve bilaterale/Study visits in view of bilateral cooperation

Vizitë pune në Gjykatën Kushtetuese të Kosovës, Prishtinë, 29-30 qershor 2023/
Working visit to the Kosovo Constitutional Court, Pristina, 29-30 June 2023

Vizitë pune në Tribunalin Federal të Zvicrës, Lozanë, 7-8 shtator 2023/
Work visit in Federal Tribunal of Switzerland, Lausanne, 7-8 September 2023

Vizitë studimore pranë gjykatave të larta suedeze, Stokholm, 26-27 shtator 2023/
Study visit to the sweedish supreme courts Stockholm, 26-27 September 2023

Aktivitete të ndryshme të Gjykatës/Various activities of the Court

Tryeza bashkëpunimi mes Gjykatës Kushtetuese dhe Gjykatës se Lartë/ Cooperation roundtables of the Constitutional Court and High Court

Tryeza me gjyqtarët dhe stafin administrativ në funksion të planifikimit strategjik/
Roundtables of judges and administrative staff of the Court in view of strategic planning

Tryeza pune mbi kuadrin e brendshëm rregullator dhe standardizimin e akteve të Gjykatës/ Workshops on the internal regulatory framework and strandardization of the Courts' acts

CIP Katalogimi në botim BK Tiranë

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