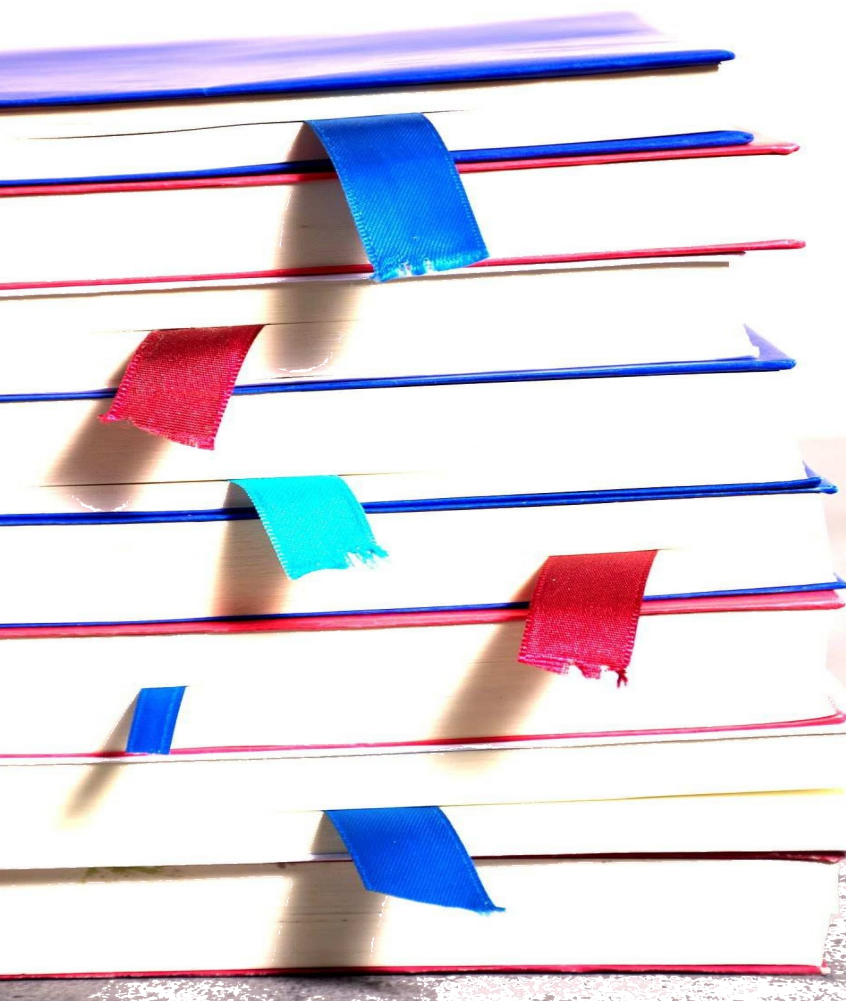




REPUBLIC OF ALBANIA
Constitutional Court

Periodical Newsletter *of the Constitutional Court*

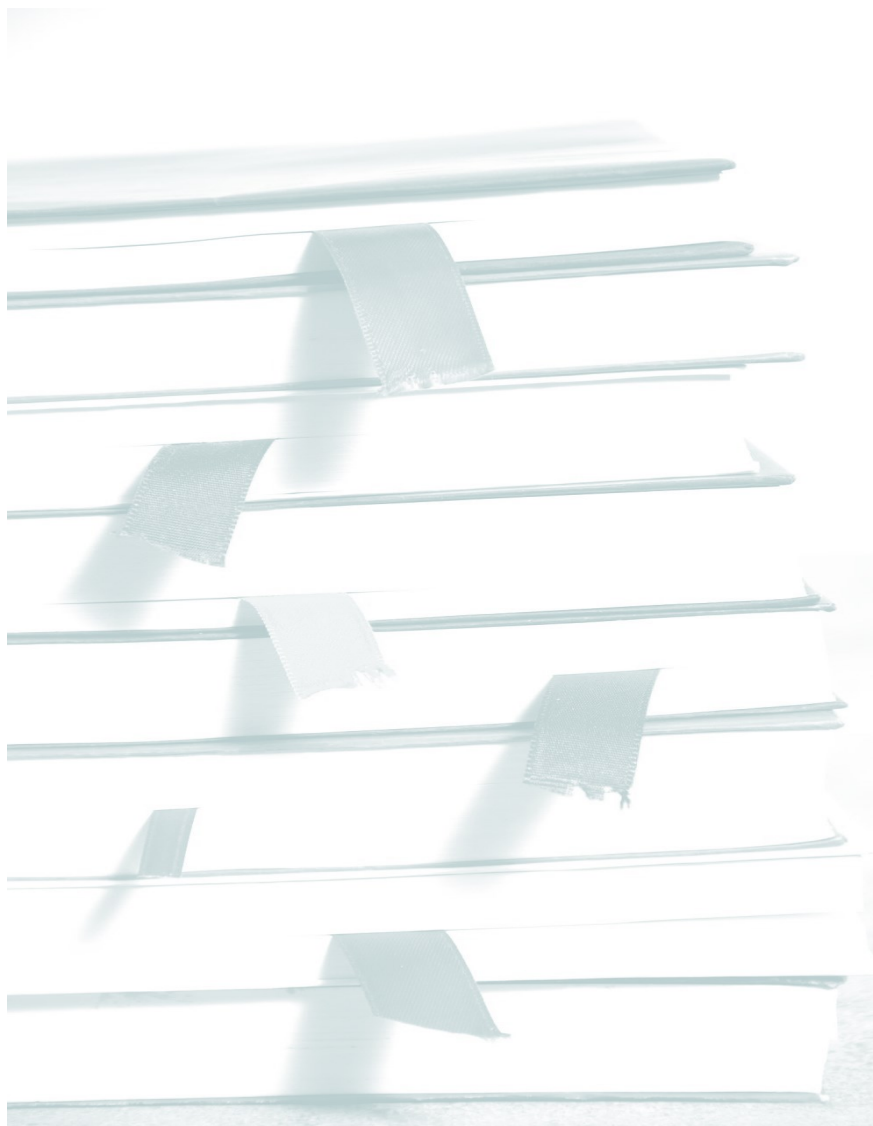
Decisions May–June 2025



Periodical Bulletin of Decisions

No. 3 May-June 2025

© Constitutional Court of the Republic of Albania





INTRODUCTION

In the framework of continuous communication with the public and the media, in order to guarantee transparency, as well as to enhance access to the Constitutional Court, as one of the most significant and essential principles of administration of justice, the Court publishes for the first time a Periodical Newsletter of its judgments. This newsletter presents a summary of cases and respective judgments, decided between May and June 2025.

The Periodical Newsletter, as a novelty for the Court's activity, aims to inform and provide legal practitioners, law researchers, and every reader with the judgements and standings of the Constitutional Court. They are presented in a concise manner and in a comprehensive language to the reader. The publication contains facts related to each case, the Court's assessment regarding the applicant's claims, as well as its ruling and voting results.

This publication introduces final judgments issued during the relevant period, as well as selected decisions from the Meeting of Judges.

CONTENT

Review of normative acts	4
Individual constitutional complaints	6
Decision of the Meeting of Judges regarding individual constitutional complaints	17

REVIEW OF NORMATIVE ACTS

Standing (*locus standi*) of one tenth of the Members of Parliament – Compatibility in exercising the mandate of a MP

KEY WORDS

Member of parliament/ income from the state budget/ parliamentary motion/ conflict of competences/ constitutional jurisdiction/ One-tenth of MP-s/ One-fifth of MP-s/ Article 70(4) of the Constitution

The Speaker of Parliament or one-tenth of MP-s are the entities empowered by law to initiate a parliamentary motion to review the incompatibility of a MP's mandate, whereas the Assembly is the entity responsible for referring the matter to the Constitutional Court.

If such a motion is rejected, the right of one-fifth of members of parliament is triggered to set into motion constitutional judicial review for an examination of the merits of the case.

The request does not constitute a conflict of competences within the meaning of constitutional standards. Instead, it raises a constitutional dispute concerning the incompatibility of the Member of Parliament's mandate.

A group of not less than One-tenth of the Members of Parliament (*Conflict of competences between a group of not less than one-tenth of MP-s and the Assembly*) - Judgment No. 35, of 27.05.2025

Facts

Fourteen MP-s of the Democratic Party submitted a motion to the Assembly to initiate parliamentary proceedings for finding of incompatibility and termination of the mandate of the Member of Parliament Vullnet Sinaj, and to refer the motion to the Constitutional Court. They claimed that during his mandate (regarding the period 2017–2024), the MP, through his companies, obtained income from the state budget in violation of Article 70(3) of the Constitution. Reports from the parliamentary majority and minority were presented during the meetings of the Rules of Procedure Committee. The Parliament decided not to refer the motion – supported by a group of not less than one-tenth of MP-s, to the Constitutional Court. Subsequently, the applicant lodged an application with the Court to resolve the relevant conflict of competences with the Parliament, as well as to repeal the latter's decision.

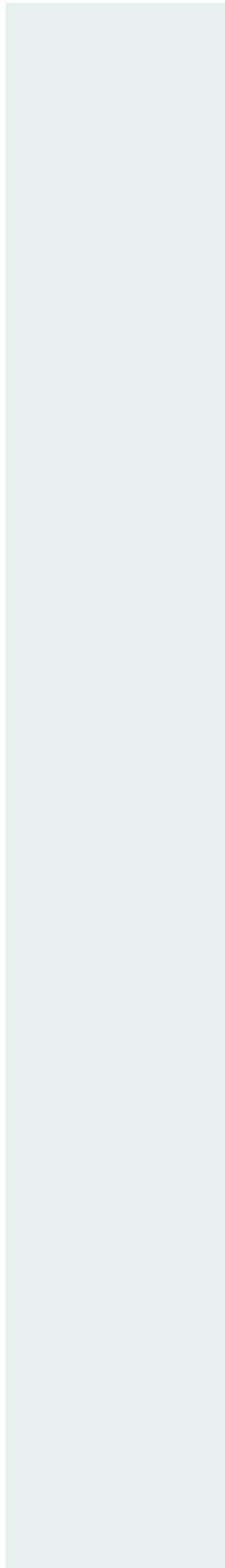
Court's Assessment

On the Court's Jurisdiction -When the Parliament is set into motion by a group of not less than one-tenth of deputies or its Speaker, it has a constitutional obligation to initiate parliamentary proceedings to examine the motion for referring the issue of mandate incompatibility to the Court. If the motion is rejected, the alternative mechanism to trigger constitutional review – under Article 131(1)(e) of the Constitution – is the submission of an application of a group of not less than one-fifth of MP-s, as stipulated in Article 134(1)(c) of the Constitution and reflected in Article 66(2) of Law No. 8577/2000.

In the case at hand, albeit the applicant formally sought resolution of the conflict of competences between himself and the Parliament, inherently, such application concerns the incompatibility of the Member of Parliament's mandate (Vullnet Sinaj) under Article 131(1)(e) of the Constitution. Therefore, the applicant (*one-tenth of MP-s*) lacks standing (*locus standi*) to directly set into motion the Court for resolution of the relevant constitutional dispute, i.e., for declaration of incompatibility of the Member of Parliament's mandate (Vullnet Sinaj).

Decision-making

The Court decided, by majority vote, to reject the application (*three judges expressed dissenting opinions*).



INDIVIDUAL CONSTITUTIONAL COMPLAINT

Right to substantive access - Standard of reasoning of the judicial decision

KEY WORDS

**Road traffic accident/
minor/ High Court's
unifying decision/
Financial Supervisory
Authority Regulation**

In cases concerning compensation for damage arising from accidents, issues related to the application of law in time or the respective hierarchy of conflicting legal norms fall within the jurisdiction of the ordinary courts.

The submissions raised in the recourse – concerning the entry into force of the Financial Supervisory Authority Regulation – implicate the principles of legal certainty and the hierarchy of norms, as well as the standard of reasoning of the judicial decision, all of which are constitutional in nature.

Geg Ndoci, Age Ndoci, (Regarding the legal effects of the Financial Supervisory Authority Regulation) – Judgment No. 30, of 02.05.2025

Facts

The applicants were involved in a road traffic accident resulting in the death of their minor child and serious injuries to Age Ndoci. Following the conclusion of the criminal proceedings and the conviction of the perpetrator, the applicants sought compensation from the insurance company for damages caused by the accident. The insurance company claimed that deficiencies in the applicants' documentation rendered it impossible to calculate compensation under Regulation No. 53/2009 of the Financial Supervisory Authority. Thus, the applicants filed a lawsuit, which was partially accepted by the court. Moreover, their appeal was rejected, and the High Court *declared their appeal inadmissible*. Therefore, the applicants lodged an individual constitutional complaint with the Court.

Court's Assessment

Regarding the violation of substantive access related to the standard of reasoning of the judicial decision – Throughout all procedural stages (i.e. lawsuit, appeal, and recourse), the applicants *consistently* argued that Regulation No. 53/2009 could not apply, holding that it had not entered into force at the time the accident *occurred*, *since it had not been published* in the Official Gazette. In this regard, the court of first instance held that the applicable law is determined by the date of the accident but albeit the Regulation was published after the accident – it applied retroactively, in order to ensure its enforceability. Conversely, the court of appeal while upholding the first-instance decision, noted that the applicable law is determined by the start date of the administrative procedures at the insurance company (when the Regulation was already in force). Such conflicting legal interpretation – without explicitly clarifying whether the Regulation had normative character or regarding the time when it acquired legal force – required the High Court, as the court of law, to verify the applicable legal framework and its compliance with the principle of legal certainty, which requires individuals to be duly informed of legal acts that must be foreseeable for their effects and sufficiently clear. The High Court, in exercising its powers, should have taken a clear stance on the applicable law, pursuant to constitutional principles and the jurisprudence of this Court, as well as the grounds on the merits of the appeal, which raised constitutional issues related to judicial proceedings – thus, providing the applicants with a reasoned response on the applicability of the law in the resolution of their dispute.

Decision-making

The Court decided, unanimously, to accept the application in part.

INDIVIDUAL CONSTITUTIONAL COMPLAINT

Right to substantive access - Standard of reasoning of the judicial decision

KEY WORDS

Fatal road traffic accident/ heirs of the victim/ pecuniary and non-pecuniary damage/ typologies of damage/ Financial Supervisory Authority Regulation/ Albanian Insurance Bureau

The submissions raised in the recourse – concerning the entry into force and the retroactive application of the Financial Supervisory Authority Regulation – implicate the principles of legal certainty and the hierarchy of norms, as well as the standard of reasoning of the judicial decision, all of which are constitutional in nature.

In cases concerning compensation for damage arising from accidents, questions related to the application of law applicable in time or the respective hierarchy of conflicting legal norms fall within the jurisdiction of the ordinary courts.

Festim Elezaj, Eglantina Elezaj, Fabiola Begaj (Elezaj), (Regarding the legal effects of a Regulation of the Financial Supervisory Authority) – Judgment No. 31, of 02.05.2025

Facts

The citizen A.K. was found guilty and convicted by the criminal courts for the offences of “Violation of traffic rules” and “Driving without a license”. The applicants are the heirs of the minor victim, who died as a result of injuries in the accident caused by citizen A.K. The applicants, firstly applied to the Albanian Insurance Bureau seeking compensation for pecuniary and non-pecuniary damage, and subsequently filed an application before the court. The District Court partially accepted the claim, ordering the Albanian Insurance Bureau to compensate the applicants for pecuniary and non-pecuniary damage, pursuant to Law No. 10076/2009 and Regulation No. 53/2009 of the Financial Supervisory Authority. Such decision was upheld by the Tirana Court of Appeal. Regarding the applicants’ appeal, the Civil College of the High Court declared the appeal inadmissible, holding that the submitted claims therein – did not fall within the scope of provisions under Article 472 of the Code of Civil Procedure. Therefore, the applicants lodged an individual constitutional complaint with the Court.

Court’s Assessment

Regarding the violation of substantive access related to the standard of reasoning of the judicial decision – The Court notes, that the applicants, in all their procedural submissions (i.e. lawsuit, appeal, and recourse), consistently claimed that Regulation No. 53/2009 was inapplicable, because it had not entered into force at the time the accident occurred, since it had not been published in the Official Gazette. The court of first instance, in addition to the provisions of Law No. 10076/2009, also referred to Regulation no. 53/2009 for the formula to calculate compensation and determine non-pecuniary damage. The Court of Appeal found such reasoning to be correct. In the recourse, the applicants raised claims concerning the identification and application of the applicable law in relation to the moment the civil legal relationship arose, as well as the moment the by-law entered into force, as well as started its legal effects, specifically, they challenged the retroactive application of the Financial Supervisory Authority Regulation and its legal effects. The High Court, pursuant to Article 480(a) of the Code of Civil Procedure, declared the appeal inadmissible on grounds different from those permitted by law, but failed to provide a reasoned response to the applicants’ claims of a constitutional nature. This leads to the conclusion that the High Court’s application of the law was manifestly unreasonable and calls into question the right to a fair trial. The manner in which the lower courts proceeded in the case at hand resulted in a different legal analysis and assessment of the case, which required the High Court, in exercising its role as a court of law, to review the application of the law by the lower courts.

The High Court, in the exercise of its function, ought to have adopted an express position on the applicable law and on the merits of the grounds of appeal which concerned constitutional aspects of the judicial proceedings.

Decision-making

The Court decided, by majority vote, to accept the application in part.

INDIVIDUAL CONSTITUTIONAL COMPLAINT

Right to substantive access - Standard of reasoning of the judicial decision - Right to property

KEY WORDS

Expropriated entity/ Regional District Office for Restitution and Compensation of Property/ physical restitution/ property compensation/ pre-emption rights/ State Advocacy/ countersuit/ Article 160 of the Code of Civil Procedure/ active standing/ passive standing

The High Court's decision, which discontinued the proceedings of the countersuit – is contradictory and based on unreasonable grounds, namely: (i) the State Advocacy lacks passive standing, while the Court notes that it acted as the plaintiff and has active standing (*locus standi*) acquired by law – thereby indicating it did not act in the capacity of a representative of a state authority; and (ii) the necessary connection between the lawsuit and the countersuit is absent, even though the sole procedural circumstance for discontinuance of proceedings for the second lawsuit under the Code of Civil Procedure is that provided for in Article 58 of the CPC, which does not apply in the present case. Therefore, such decision violates the right of access to a court for the heirs of the expropriated entity, who seek to protect their right to property.

Luan Mumajesi, Isuf Mumajesi, Majlinda Mumajesi, Enver Mumajesi, Pullumb Mumajesi (*Interpretation of Article 160 of the Code of Civil Procedure regarding the submission of a countersuit*) - Judgment No. 32, of 19.05.2025

Facts

The applicants are the legal heirs of an expropriated entity.

By a decision of Tirana Regional District Office for Restitution and Compensation of Property, they were granted the right to ownership of 8,000 m² of property, the right to compensation in one of the forms provided by law, and the right to pre-emption structures within that area. The State Advocacy filed a lawsuit in court seeking the annulment of the Regional District Office for Restitution and Compensation of Property's decision, claiming that such decision was unlawful. During the proceedings, the heirs of the expropriated entity submitted a countersuit requesting the modification of the Regional District Office for Restitution and Compensation of Property's decision, recognition of their ownership rights over 12,450 m² plot of land, physical restitution of the unencumbered plot, and recognition of their right to pre-emption the structures within this area. The Tirana District Court rejected the lawsuit and accepted the countersuit, thereby recognizing the heirs' ownership of 13,200 m² plot of land, ordering the restitution of 4,900 m² and 4,750 m² plot of land, awarding compensation for 810 m², as well as acknowledgment of their right to pre-emption or compensation in accordance with the law. Such decision was upheld by the Tirana Court of Appeal. However, the Civil College of the High Court partially upheld the rulings concerning the rejection of the lawsuit and the annulment of the countersuit, ordering discontinuance of proceedings on the grounds that the conditions and criteria under Article 160, (1) of the CPC were not met.

Court's Assessment

Regarding the violation of substantive access and the standard of reasoning of the judicial decision related to property rights – The dispute concerns property rights, while the (counter)lawsuit seeking recognition of such rights was discontinued by the High Court. Notwithstanding, the High Court acknowledged that the heirs of the expropriated entity could bring a claim against the Property Restitution and Compensation Agency for the restoration of property rights, it concluded that the countersuit was inadmissible, since it was also filed against the State Advocacy, which lacked procedural standing (*locus standi*) as a passive party. Thus, such reasoning fails to comply with constitutional standards for two reasons – Firstly, the High Court's decision is contradictory and manifestly unreasonable, since referring to the jurisprudence – expropriated entities may challenge the decisions of the state authority empowered by law to handle physical restitution and property compensation. Secondly, the mere fact of the erroneous joinder of two lawsuits and their examination within the same proceedings does not constitute a lawful procedural ground for discontinuance of proceedings of the second lawsuit. The sole circumstance under which procedural law permits discontinuance of proceedings for the second lawsuit under the Code of Civil Procedure is that provided for in Article 58 of the CPC.

The High Court's reasoning is unclear and insufficient in assessing why the State Advocacy lacked passive standing, given that in such case it acted as the plaintiff and has active standing (*locus standi*) acquired by law, rather than as a representative of a state authority.

Decision-making

The Court decided, unanimously, to accept the application.

INDIVIDUAL CONSTITUTIONAL COMPLAINT

Right to private property

KEY WORDS

SkyEcc/ Forgery of documents/ Immovable property (Forest Land)/ Preventive seizure/ Fumus delicti/ Periculum in mora/ Persons acting in good faith (bona fide)/ Agency for the Administration of Seized and Confiscated Assets/ Directive 2014/42/EU/ extended confiscation

The company's shareholder does not have *ratione personae* standing to initiate constitutional proceedings, even though the seizure measure has restricted the company's own assets.

The Court, taking into consideration the wide margin of appreciation afforded to national authorities in the implementation of criminal policy to combat crime, referring to the jurisprudence of the ECtHR, particularly in relation to serious criminal offences, finds that the proceedings, in their entirety, have struck the requisite fair balance. The applicants were provided with the opportunity to present their case in adversarial proceedings before the low courts, which provided reasoned decisions in response to their submissions against the imposition of the contested measure.

Pëllumb Gjoka “Imperial Group” JSC Company, Kolë Gjoka (*court decisions imposing preventive seizure on immovable property*) – Judgment No. 33, of 20.05.2025

Facts

The applicant, Pëllumb Gjoka, was under investigation in several criminal proceedings concerning a number of criminal offences. Such proceedings were joined into a single case, on the grounds that the evidence in one case was relevant to establishing the facts and circumstances of the other. By a final court decision, Ms. D.H.(Gj.) (the aunt of the applicant, Mr. P. Gjoka) had her ownership right recognized over a surface area of 39 hectares of land located in Pulaj-Plazh, Velipojë, which was returned to her in kind. Following the registration of the property in her name, the asset was alienated, and a portion of it was registered in the names of the second and third applicants through contracts of sale and donation. The Special Prosecution Office suspected that such properties had been acquired through the forgery of documents, carried out by the first applicant in collaboration with other persons. Since there was a risk that the properties could be further alienated to third parties, the Special Prosecution Office filed an application with the court for a preventive seizure order. The Special Court of First Instance against Corruption and Organized Crime ordered the asset security measure of a “preventive seizure” over the immovable properties in question, and charged the Agency for the Administration of Seized and Confiscated Assets with their administration. Such decision was upheld by the Special Court of Appeal against Corruption and Organized Crime. Therefore, the High Court declared the appeals inadmissible.

Court's Assessment

Regarding the standing (locus standi) – Although, the applicant, Pëllumb Gjoka was a party to the domestic proceedings, lacks standing *ratione personae* within its substantive aspect, since *de jure* he holds no proprietary rights over the immovable property subject to the seizure order.

Regarding the violation of the right to property – The Court considered the nature of the applicants' claims under Article 41 of the Constitution and Article 1 of Protocol No. 1 to the European Convention on Human Rights (ECHR), read in conjunction with Article 17 of the Constitution, which permits restrictions on constitutional rights.

Concerning the lawfulness of the interference, the measure was imposed in accordance with the Code of Criminal Procedure by the preliminary investigations judge upon the prosecutor's request. The decision to impose the measure and its execution were subject to review by the higher courts. The measure was therefore prescribed by law and pursued the general interest of ensuring that the use of the property in question did not generate profits that could impair the public interest.

Regarding the proportionality of the interference, the Court finds that the measure complies with the principles of necessity, suitability, and severity. Albeit the seized assets are *de jure* owned by the applicants – “Imperial Group” JSC Company and Kolë Gjoka, who have not been summoned as persons under investigation in connection with the criminal offences being investigated in criminal proceeding no. 9/2023 – there is a possibility that they are proceeds of criminal activity. Furthermore, there exists a risk that the free disposal of such assets could facilitate or prolong the consequences of the criminal offence, or facilitate the commission of other criminal offences.

The Court considers that the imposed measure in the instant case does not impose an excessive burden on the applicants and that such restriction, which affected all the entitlements of ownership, struck a fair balance with the situation that necessitated it.

Decision-making

The Court decided, by majority vote, to reject the application (a judge expressed a dissenting opinion).

INDIVIDUAL CONSTITUTIONAL COMPLAINT

Principle of a fair trial – Principle of legal certainty

KEY WORDS

Early retirement pension/ Military personnel/ Placement in the reserve/ Length of service/ Pension recalculation/ Minimum salary/ Regional Directorate of Social Insurance (RDSI)

The High Court, in its capacity as a court of law, should have addressed the applicant's claims regarding the applicable law and the relevant criteria for calculating the early retirement pension for length of service. In this regard, the court could not be satisfied, merely with providing a limited reasoning – it should have adopted an express position and provide the grounds, both in relation to the applicable law and specifically, in relation to the measure by which the applicant's early retirement pension was limited for the requested period.

Hysni Mullalli (*Courts' Interpretation of the Law on the Calculation of Pension*) – Judgment No. 34, of 27.05.2025

Facts

The applicant, a former active officer of the Armed Forces with 30 years and 3 months of service, was placed in the reserve on 1 September 2006 and therefore, received early retirement pension. Following the rejection of his administrative appeal – i.e. review of his pension, he filed an application with the court seeking: the recalculation of his pension to include indexations and changes to the reference salary from 1 September 2008 onwards; the payment of arrears arising from the incorrect determination of the pension amount and the failure to index it; as well as the application of the law that had repealed the limitation for military personnel, which previously stipulated that their pension could not exceed the maximum national old-age pension.

The court partially accepted the lawsuit and ordered the recalculation of the pension based on the formula of 50% of the minimum salary plus 2% for each additional year of service; the payment of resulting arrears for the period from 1 September 2008 to 30 June 2009; meanwhile, it rejected the claims regarding the other periods, on the grounds that the new law was not in force at the relevant time. Consequently, both parties appealed such decision. The Regional Directorate of Social Insurance recalculated the pension and notified the applicant. The Tirana Court of Appeal upheld the first-instance court's decision. Upon the appeal submitted by the Tirana RDSI and a counter-appeal by the applicant, the Administrative College of the High Court reversed the appeal's decision and therefore, remanded the case for retrial. It held that the substantive law had been applied incorrectly and that the Constitutional Court's decision no. 2/2013 and the guidelines set out in the unifying decision no. 3/2016 of the High Court should have been respected.

Therefore, the applicants lodged an individual constitutional complaint with the Constitutional Court challenging such decision, which was declared inadmissible for failure to exhaust domestic remedies. In the retrial proceedings, the Administrative Court of Appeal, ruling on the merits, decided both – to reverse the Tirana District Court's decision and to reject the applicant's lawsuit. The Administrative College of the High Court declared the applicant's subsequent appeal inadmissible on the grounds that it did not raise any arguable issues of law. Thus, the applicant lodged an individual constitutional complaint with the Court.

Court's Assessment

Regarding the violation of the principle of a fair trial, in relation to the principle of legal certainty and the protection of legitimate expectations – The Administrative Court of Appeal failed to ensure a fair trial, since it disregarded the statutory provision, according to which a court must review the lawfulness of the contested administrative act on the basis of the legal and factual situation that existed at the time the specific administrative act was issued; furthermore, it failed to calculate the amount of the pension pursuant to the requirements and criteria of the law in force during the relevant period. The High Court failed to provide adequate reasoning regarding the applicant's claims concerning the applicable law and criteria for the amount of the early retirement pension for the period, specifically from 1 September 2008 to 30 June 2009. Consequently, the High Court's decision does not meet the standards of reasoning of the judicial decisions and hence, it violates the principle of legal certainty in relation to the acquired right to an early retirement pension.

Therefore, the Court finds that there has been a violation of the right to an early retirement pension due to a manifestly unreasonable interpretation of the law, and holds that it is the High Court's duty to review the lawfulness of the decision-making of the lower courts. Thus, it repeals only the High Court's decision.

Decision-making

The Court decided, unanimously, to accept the application in part.

INDIVIDUAL CONSTITUTIONAL COMPLAINT

**Right to a fair trial –
Right to effective
access to court –
Standard of
reasoning of the
judicial decision –
Right to property**

KEY WORDS

**Entrepreneurship
Agreement/ Construction
Permit/ Infrastructure
Impact Tax/ Statutory
Limitation Time-limit/ Non-
Contractual Pecuniary
Damage/ Tirana
Municipality/Territory
Adjustment Council/
Local Construction and Urb
an Planning Inspectorate**

**The High Court, in its
capacity as a court of
law, by failing to
expressly rule on the
applicant's claim
concerning the
reimbursement of the
infrastructure impact
tax, which was the
subject-matter of the
lawsuit, has violated the
applicant's right to
effective access to court,
in relation to the
constitutional standard
of reasoning of the
judicial decision.**

“Marlen” Ltd. Company (Judicial Review of Ancillary Claims for Invalidity of Administrative Acts) – Judgment No. 36, of 04.06.2025

Facts

The applicant, in its capacity as the investor company in an entrepreneurship agreement for the construction of a building in Tirana and as the entity responsible for all financial obligations, paid in 2005 the 5% infrastructure impact tax for the building permit, in the amount of 7,200,000 ALL (Albanian lekë). Following the granting of the permit, the construction was not carried out due to several disputes with the landowners and the failure of the Tirana Municipality to provide the necessary documentation. Some of the landowners filed a lawsuit with the Tirana District Court, seeking the absolute invalidity of the decisions of the Territory Adjustment Council to grant and extend the building permit. The Tirana Court of First Instance accepted such lawsuit, and the decision was upheld by both the Court of Appeal and the High Court.

In 2020, the applicant initially submitted a request to the Tirana Municipality seeking the reimbursement of the sum paid for the tax, a request which was rejected. Subsequently, it filed an application with the Administrative Court seeking the reimbursement of the sum paid for the infrastructure impact tax on the grounds that the construction had not been carried out; compensation for actual loss and loss of profit for all expenses incurred in compliance with the building permit and the works contracts; and late payment interest on the actual loss and rental expenses. In partially accepting the lawsuit, the court found that the action had been filed within the statutory time-limit and ordered the Tirana Municipality to compensate the applicant for pecuniary damage as well as loss of profit in the amount of 68,373,319 ALL. Following an appeal by the Tirana Municipality, the Administrative Court of Appeal upheld the first-instance decision. Upon a further appeal filed by the State Advocacy, the Administrative College of the High Court reversed both decisions and rejected the lawsuit, on the grounds that the applicant had been aware of the claimed damage since the expiry of the permit and since the date of the Court of Appeal's decision which had found the absolute invalidity of the permit. Therefore, the applicant lodged an individual constitutional complaint with the Constitutional Court.

Court's Assessment

Regarding the violation of the right to effective access to court related to the standard of reasoning of the judicial decisions – The Court found that the submitted application comprised two distinct claims: first, the reimbursement of the sum paid for the 5% infrastructure impact tax for the building permit, on the grounds that the construction was not carried out; and second, compensation for the damage caused, covering all expenses incurred in compliance with the building permit and the entrepreneurship agreement, as well as the agreements with the landowners and the loss of profit. The High Court treated both claims as a single claim – i.e. seeking compensation for non-contractual damage and examined the statute of limitation under the 3-year statutory time-limit for damages, and thus rejected the application as being time-barred. Although the Court of Appeal had held that the claim for the reimbursement of the infrastructure tax was not subject to the statute of limitations, as it was an ancillary claim seeking the absolute invalidity of the building permit, the High Court failed to provide the grounds as to why such reasoning was unfounded. Instead, it chose not to rule at all on such claim, despite the fact that the applicant had paid the tax to the municipality for a construction which, *de facto*, was never carried out. Hence, the Court deems that the High Court ruled on only one of the claims submitted in the application and failed to provide any response to the applicant's other claim, namely – for the reimbursement of the sum paid for the 5% infrastructure impact tax.

By failing to expressly rule on such claim, the High Court has violated the right to effective access to court, in relation to the standard of reasoning of the judicial decisions.

Decision-making

The Court decided, unanimously, to accept the application in part.

INDIVIDUAL CONSTITUTIONAL COMPLAINT

Right to be tried within a reasonable time

KEY WORDS

Lease agreement/ Unpaid amount/ Termination of the contract/ Statutory time-limit / Excessive length of proceedings/ Enjoyment of lease agreement income/ Trial within a reasonable time/ Necessary expenses/ Application for expedited proceedings

The Court deems that the duration of proceedings in the Court of Appeal of General Jurisdiction concerning the applicants' case constitutes sufficient grounds for finding of a violation of the reasonable time requirement. Such excessive length of proceedings is inextricably linked to the applicants' personal interests, which hold particular significance in light of their age, health and economic status.

Kristofor Robo, Arba Lina (*Violation of the right to a trial within a reasonable time due to excessive length of proceedings before the Court of Appeal*) – Judgment No. 37, of 04.06.2025

Facts

The applicants, co-owners of immovable property in Tirana, entered into a lease agreement with the citizen E.S. After E.S. failed to pay rent, the applicants filed a lawsuit to terminate the lease agreement, recover possession of the property, claim unpaid rent up to the unilateral termination date, as well as a preliminary injunction. E.S. filed a countersuit seeking reimbursement for necessary and useful expenses incurred on the property. The Tirana District Court partially accepted the applicants' lawsuit, ordering E.S. to – vacate the leased property, pay 330,000 Albanian lek (ALL) in unpaid rent. However, it also required the applicants to reimburse E.S. 4,141,171 ALL for expenses. Both parties in the proceedings appealed, and the case was registered with the Court of Appeal of General Jurisdiction on 28 January 2022. Therefore, the applicants filed two applications with the court of appeal to expedite the proceedings and subsequently filed another application with the High Court for finding of a violation of their right to a fair trial within a reasonable time. The High Court's Civil College rejected such application. Thus, the applicants lodged an individual constitutional complaint with the Court.

Court's Assessment

Examination of the case within a reasonable time – The Court found that the applicants' case exceeded the statutory two-year adjudication time-limit and considered the specific circumstances of the instant case against the criteria established by constitutional jurisprudence in the light of: (i) the applicants' conduct; (ii) the case complexity; (iii) the authorities conduct; (iv) the significance of what is at stake for the applicants. The Court held that the applicants actively pursued an expeditious resolution of the case and did not contribute to procedural delays. Regarding the case complexity, the Court notes that the case is civil in nature, seeking to redress the legal consequences of the unilateral termination of the lease agreement. Additionally, such case is not sufficiently complex to justify proceedings lasting 3 years and 4 months before the Court of Appeal of General Jurisdiction. Regarding the authorities' conduct, the Court noted that the judge rapporteur did not take any actions on the instant case until May 2024. Regarding the authorities conduct, the Court found that the rapporteur judge had taken no substantive action on the case until May 2024. Constitutional jurisprudence has established that proceedings beyond a reasonable time cannot justify violations of individuals' constitutional rights, even when the delays stem from the high workload, therefore cannot be attributed to the applicants. Regarding what is at stake for the applicants in the judicial proceedings – in their application submitted to the Court of Appeal and later to the High Court – the applicants emphasized their specific personal circumstances in light of their age and health status. In the case at hand – Arba Lina, one of the applicants, has passed away during the proceedings. Kristofor Robo, the other applicant, is a pensioner in poor health, and his legitimate expectation to enjoy civil income derived from the lease agreement continues to be jeopardized.

Decision-making

The Court decided, unanimously, to accept the application.

INDIVIDUAL CONSTITUTIONAL COMPLAINT

Right to Property –
Right to a fair trial –
Right to a tribunal
established by law

KEY WORDS

*Contractual Obligation/
Trial in Absentia/
Invalidity of notice/
Reinstatement of time-
limits/ Remanding of the
case for retrial/ Article
485 of the Code of Civil
Procedure*

By remanding the case for retrial to the court of appeal, thus, inherently compelling it to remand the case for retrial to the court of first-instance, the Civil College of the High Court exceeded its jurisdictional competences, as stipulated in Article 485 of the Code of Civil Procedure. In addition, it also transformed a procedural safeguard into an obstacle for the applicant to obtain a final and binding decision on the merits of its claim.

“Erda” Ltd. Company (*Resending the case for retrial by the High Court due to exceeding jurisdiction*)- Judgment No. 38, of 10.06.2025

Facts

The applicant, “Erda” Ltd. company, entered into a service contract with the interested party, “Alb-Italia” Ltd. company. Due to the latter’s failure to fulfill its contractual obligations, the applicant filed an application with the court seeking payment of the contractual debts, including late payment fee. In 2003, the Tirana District Court accepted the applicant’s lawsuit. Such decision became final, since no appeal was filed against it. “Alb-Italia” Ltd. company was not present in such proceedings (*in absentia*).

In 2010, “Alb-Italia” Ltd. company filed an application seeking the reinstatement of the appeal time-limit against the final decision, which was accepted by the Tirana Court of Appeal. Upon reviewing the merits of the defendant’s appeal, the Tirana Court of Appeal upheld the first-instance decision.

Following an appeal (*recourse*) by “Alb-Italia” Ltd. company, the Civil College of the High Court repealed the court of appeal’s decision and remanded the case for further proceedings to the Court of Appeal of General Jurisdiction, by a different judicial panel. The High Court instructed the latter to remand the case to the first-instance court for retrial.

Therefore, the applicant lodged an individual constitutional complaint with the Court.

Court’s Assessment

Regarding the applicant’s standing (locus standi) – In relation to the exhaustion of domestic remedies, the Court assessed whether the decision to remand the case for retrial had, exceptionally, acquired final character for the purposes of constitutional adjudication. The Court held that – the instant case satisfied both the criterion of direct consequences on the substantive right to private property, as well as the criterion of impossibility to redress claimed procedural violations during the proceedings on the merits. Therefore, such case falls within the Court’s jurisdiction.

Regarding the violation of the right to property in its procedural aspect – Regarding the Violation of the right to a fair trial by a tribunal established by law Article 485 of the Code of Civil Procedure (CPC) stipulates the procedural methods for the High Court to dispose of cases.

The High Court ordered the case to be remanded for retrial, justifying its decision by the need to remedy a procedural violation by the court of first-instance, pursuant to Article 467(c) of the Code of Civil Procedure. Notwithstanding that the Civil College formally relied its ruling on such procedural provisions, it failed to provide reasoning as to why the legal remedies provided by the court of appeal during the proceedings on the merits – after reinstating the interested party’s procedural rights – were insufficient. This is particularly relevant, since the Civil College did not address the lack of awareness by “Alb-Italia” Ltd. Company in participating in the first-instance proceedings or the invalidity of notice. Furthermore, the Civil College, without providing a reasoning, disregarded the court of appeal’s conclusions and its argument – i.e. that remanding the case to the court of first-instance would prolong proceedings beyond a reasonable time, given the overall excessive duration of proceedings.

The Civil College, inherently, compelled the court of appeal to remand the case to the court of first-instance for retrial, thus exceeding its jurisdictional competences, as stipulated in Article 485 of the Code of Civil Procedure. According to such provision, the High Court may either dismiss an appeal (*recourse*) – if it is raised on grounds not provided for in Article 472 of the Code of Civil Procedure or issue rulings under the specific modalities stipulated in Article 485(b) (c) (d) (dh) or (e) of CCP regarding final decisions. By repealing a judicial decision that had resolved the case on the merits after adversarial proceedings with the parties’ participation, the Civil College, thereby transforming a procedural safeguard into an obstacle for the applicant to obtain a final and binding decision on the merits of its claim. Therefore, the applicant’s claim does not only concern the right to property but also the excessive length of proceedings beyond a reasonable time.

Decision-making

The Court decided, by majority vote, to accept the application (one judge expressed a dissenting opinion).

INDIVIDUAL CONSTITUTIONAL COMPLAINT

**Right to a fair trial –
Right to a hearing by a
tribunal established by
law – Standard of
reasoning of judicial
decisions – Standard of
mandatory
enforcement of Court’s
decisions**

KEY WORDS

**Employment Contract/
Labor Code / Regional
Directorate of Road
Transport Services/ Ratio
decidendi/ Ultra petita
partium/ Incorrect
Reference to the Law/
Unreasonable
Interpretation/ Principle of
Taxativity**

In the retrial proceedings, the Administrative College of the High Court failed to fully enforce its Decision No. 55/2023 by neglecting to rectify the procedural violations previously identified. The College examined the case without considering the constitutional and legal framework governing the scope of appeal review and it also failed to justify its approach to the mandatory enforcement of Court’s decisions.

The High Court’s unreasonable interpretation of Article 473/a (1) of the Code of Civil Procedure (CCP) – whereby it expanded the scope of review beyond the grounds of appeal raised by the parties – constitutes an arbitrary act, thus violating the applicant’s right to a tribunal established by law.

Esat Çoji (*Rectification of violations found by the Constitutional Court in the High Court’s retrial proceedings*)- Judgment No. 39, of 17.06.2025

Facts

The applicant E.Ç., served as an inspector in the Road Transport Control Sector under the Regional Directorate of Roads and Transport Services until his employment was terminated in 2013 due to institutional reorganization.

Thus, he filed a lawsuit with the Administrative Court, seeking reinstatement and salary payment for the period of unemployment. The court rejected such application. The Administrative Court of Appeal partially accepted his appeal, ordering the Regional Directorate of Roads and Transport Services to compensate him with 12 months’ salary under the Labor Code. However, following the appeal by the opposing party, the Administrative College of the High Court reversed the court of appeal’s decision and upheld the first-instance decision.

In 2023, the applicant lodged a constitutional complaint with the Constitutional Court, requesting the repeal of the High Court’s decision. The Constitutional Court, by its Decision No. 55/2023, accepted such application and remanded the case to the High Court for retrial. In the retrial proceedings, the Administrative College of the High Court once again reversed the court of appeal’s decision and upheld the first-instance decision.

Therefore, the applicant lodged an individual constitutional complaint with the Court.

Court’s Assessment

Violation of the right to a hearing by a tribunal established by law related to the standard of mandatory enforcement of Court’s decisions, as well as the standard of reasoning of judicial decisions – In its Decision No. 55/2023, the Court found the claims regarding the violation of the right to a tribunal established by law, as well as the right to defense and to a hearing related to the standard of reasoning of judicial decisions to be founded.

In the retrial proceedings, the High Court once again expanded the scope of its review, failing to confine itself to the grounds of appeal raised by the defendant. Albeit, formally applying Decision No. 55/2023, the High Court resolved the dispute between the parties without analyzing or examining the grounds submitted in the defendant’s appeal. This falls into conflict with the provisions of Article 473/a(1) of the Code of Civil Procedure (CCP), which enshrines the procedural principle of *non-ultra petita partium* (a court may not rule beyond the parties’ claims) and applies equally to administrative disputes. Therefore, the High Court failed to provide substantive justification for expanding the scope of its review. Similarly, regarding the standard of reasoning – previously identified as a violation in Decision No. 55/2023 – the High Court neglected to explain why the court of appeal had erred in resolving the case by relying on two High Court decisions (one of which i.e. a unifying judgment).

Thus, the Court notes that the High Court did not rectify the previously identified violations and thereby failed to enforce its own decision.

Decision-making

The Court decided, unanimously, to accept the application.

Personal Liberty

KEY WORDS

*Interpretation of Law/
Personal Liberty/ Statutory
Time-limit/ Security
Measure/ Home Detention/
Detention in Prison/
Duration of the Security
Measure/ Nullification of
a Security Measure*

The High Court, despite being faced with a clear legal provision (Article 237 (4) of the Code of Criminal Procedure), by employing several methods of legal interpretation, in fact, appears to have established a new procedural rule, whereby the duration of the “house detention” measure is double the time that of the “detention in prison” measure, thereby exceeding its legitimate aim.

The manner in which the ordinary courts interpreted Articles 263 and 267 of the Code of Criminal Procedure, in conjunction with Article 237 (4) thereof, did not effectively guarantee the applicant’s right to personal liberty.

Mimoza Margjeka (*Duration of the time-limit for the security measure of “home detention”*) – Judgment No. 40, of 17.06.2025

Facts

The applicant, was prosecuted for the criminal offence of passive corruption. The Special Court of First Instance against Corruption and Organized Crime imposed the security measure of “home detention” against her. Such decision was subsequently upheld by both – the Special Court of Appeal against Corruption and Organized Crime and the High Court.

During the judicial proceedings, the applicant requested the nullification of such measure on the grounds of exceeding the statutory time-limit. Such request was rejected by the Special Court of First-Instance against Corruption and Organized Crime and the Special Court of Appeal against Corruption and Organized Crime, which held that the duration of the “home detention” security measure is longer than that of the “detention in prison” security measure. Thus, the applicant filed an appeal (recourse) with the High Court. While the appeal was pending, the Special Court of First Instance against Corruption and Organized Crime found the applicant guilty of the charges and ordered the nullification of the “home detention” measure. Therefore, such decision was upheld by the Special Court of Appeal against Corruption and Organized Crime.

Regarding the appeal against the decision to nullify the security measure, the High Court declared the appeal inadmissible, holding that the case had become moot, since the security measure was no longer in force and the applicant had been convicted by a final decision. Following the applicant’s appeal, the Court, by Decision No. 17 of 13.03.2024, repealed the High Court’s decision and remanded the case for further proceedings. Upon re-examining the case, the High Court upheld the Special Court of Appeal against Corruption and Organized Crime decision. Subsequently, the applicant lodged another individual constitutional complaint with the Court.

Court’s Assessment

Regarding the applicant’s standing (locus standi) ratione personae – The Court found that, the applicant has standing *ratione personae*, since she has a personal and substantive interest in accordance with the Constitutional Court’s case-law and the standard of the European Court of Human Rights (ECtHR), which considers the security measure of “home detention”, due to its extent and intensity, a deprivation of liberty.

Regarding the Violation of Personal Liberty – In cases involving security measures that restrict an individual’s liberty, there are several legal safeguards to protect the individual from arbitrariness. The Court analyzed whether the High Court’s interpretation of the law concerning the duration of the “home detention” measure violated the applicant’s procedural guarantees of personal liberty to such an extent that the ordinary courts’ overall outcome of the judicial review on the duration of the measure – was unjust.

The Court found that the High Court, by employing several methods of legal interpretation, had concluded that the “home detention” security measure is double the time that of the “detention in prison” security measure. Through such an interpretation, the High Court effectively grants public authorities twice the amount of time to conduct investigations and judicial proceedings, thereby exceeding the law’s legitimate purpose of protecting individuals from arbitrariness in the restriction of personal liberty. The provisions of the Criminal Procedure Code cannot be narrowly interpreted by the High Court’s Criminal College, since individual rights must always be interpreted in a manner that renders them effective. The interpretation of criminal procedural provisions by the ordinary courts does not appear to be reasonable, and therefore it violated the applicant’s right to personal liberty.

In light of the above, the Court limited its ruling to finding of a violation of the right to personal liberty, since the “home detention” security measure had already been nullified. Consequently, remanding the case for further proceedings to ordinary courts would not lead to any effective remedies for the applicant.

Decision-making

The Court decided, unanimously, to accept the application and to find a violation of the right to personal liberty.

INDIVIDUAL CONSTITUTIONAL COMPLAINT

**Right to a fair trial –
Right to effective
access – Right to be
informed – Right to
legal assistance**

KEY WORDS

**State Police officer/ Legal
requirement/ Dismissal
from duty/ Compensation/
Redress of consequences/
Failure of appeal
notification/ Cross-
appeal/ Public
notification/ Written
notification/ / Procedural
flaws in notification**

**The court of appeal's
decision and the
appeal (recourse) were
sent to the address
provided in the
applicant's lawsuit via
receipts of written
communication, signed
by two individuals with
no documented
connection to the
applicant.**

**The deficiencies in the
notification of the
appeal impaired the
applicant's right to
effective access to
court, namely the right
to file an application
with the High Court
and obtain a final
decision on his claims,
as well as the right to
be heard in compliance
with the principle of
equality of arms.**

Fatos Gjini (*Failure to Notify of the Appeal Proceedings before the High Court*) – Judgment No. 41, of 24.06.2025

Facts

The applicant was dismissed from his position as a specialist assistant in the Vlorë Regional Police Directorate on grounds that his recruitment violated statutory criteria (legal requirements). He filed a lawsuit with the Gjirokastrë Administrative Court of First Instance, which partially accepted his application and ordered the Vlorë Regional Police Directorate to pay him 12 months' salary as compensation for unlawful termination. The Vlorë Regional Police Directorate filed an appeal with the Administrative Court of Appeal, which repealed the dismissal order, deeming it unlawful under domestic law. Following the Vlorë Regional Police Directorate appeal (recourse), the Administrative College of the High Court reversed the lower courts' decisions and rejected the applicant's lawsuit.

Therefore, the applicant in 2024 lodged an individual constitutional complaint with the Constitutional Court.

Court's Assessment

Regarding the violation of the right to effective access to court related to the right to be informed and legal assistance – The Court, on the basis of the case file documents, found that a copy of the defendant's appeal (recourse) was sent to the applicant at his residential address and the receipt of written communication was signed by E.B. More than seven years after the filing of the appeal (recourse), the High Court scheduled a hearing in the consultation chamber and made a public notification. The notification of the court of appeal's decision was signed by E.Ç., while the receipts of written communication issued by the court of first-instance were signed on the applicant's name.

The deficiencies in the notification of the defendant's appeal – i.e. the Vlorë Regional Police Directorate, objectively precluded the applicant both from being informed about the initiation of judicial proceedings before the High Court, as well as exercising his right to file a cross-appeal or submit defense motions to protect his legally protected interests and constitutional rights. Notwithstanding that the High Court's judicial administration formally complied with procedural rules by notifying the applicant of the hearing date, this did not suffice to rectify or remedy the procedural flaws identified in the notification process.

Decision-making

The Court decided, unanimously, to accept the application.



MEETING OF JUDGES DECISION

Right to a fair trial –
Right to be informed –
Right to legal assistance
– Principle of equality of
arms in judicial
proceedings – Right to a
fair trial by a tribunal
established by law –
Prohibition of
reformatio in peius (no
worsening of the
defendant's position on
appeal)

KEY WORDS

ECtHR decision/ Reopening of
proceedings/ Chosen defense
lawyer/ Ex officio lawyer/
Effective legal assistance

The purpose of the request to reopen proceedings, within the meaning of Article 71(c) of Law No. 8577/2000, is to restore the applicant to the situation prior to the established violation of rights. Thus, such procedure does not entitle the applicant to lodge a new constitutional complaint based on new or distinct grounds from those raised in the initial application that set into motion the reopening of proceedings.

Under the circumstances where the chosen defense lawyer failed to appear at the hearing – despite being duly notified and without informing the court of the reason – the court took lawful measures in order to ensure a fair trial. Therefore, the hearing was adjourned by one week, and an ex officio lawyer was appointed to guarantee the applicant's effective legal assistance, in compliance with the principle of equality of arms. In the context where the ex officio lawyer, basically fulfilled their procedural obligations, no liability can arise for the state, as represented by the High Court, in the instant case.

Besnik Ibrahim (Reopening of proceedings before the Constitutional Court following a decision of the European Court of Human Rights) – Meeting of the Judges' Judgment No. 122, of 21.05.2025

Facts

The applicant was convicted by the Berat District Court for the criminal offense of "Murder under Other Aggravating Circumstances" and sentenced to 25 years' imprisonment.

Such decision was modified by the Vloara Court of Appeal, which found him guilty of "Intentional Homicide" and "Intentional Serious Injury", thus reducing his sentence to 15 years' imprisonment. Subsequently, the High Court's Criminal College repealed the court of appeal's decision and upheld the first-instance court's decision. Therefore, the applicant lodged an individual constitutional complaint, which was declared inadmissible *ratione temporis* by the Constitutional Court's Panel by Decision No. 152/2017, since the complaint was lodged outside the statutory four-month time limit. Consequently, the applicant filed an application with the European Court of Human Rights (ECtHR), which held that the four-month time limit for submitting the constitutional complaint had not been calculated from the date of formal notification of the final judgment to the applicant. Following the ECtHR's ruling, the applicant lodged another application with the Constitutional Court requesting the reopening of the proceedings, as well as the repeal of its Panel prior decision (No. 152/2017). The Constitutional Court's Panel accepted the application, repealed its decision (No. 152/2017), and passed the case to the Meeting of Judges for preliminary ruling proceedings.

Meeting of the Judges' Assessment

On the Applicant's Standing (locus standi) – Regarding the standing *ratione temporis*, since the European Court of Human Rights (ECtHR) found a violation of Article 6 § 1 of the European Convention on Human Rights (ECHR) in the applicant's case – specifically concerning the right of access to Court due to lack of standing *ratione temporis* – the Meeting of Judges did not contest such criterion.

Regarding the standing *ratione materiae* – The purpose of such request, under Article 71(c) of Law No. 8577/2000, is to restore the applicant to the situation prior to the established violation. Such procedure does not entitle the applicant to lodge a new constitutional complaint based on new or distinct grounds from those raised in the initial application that set into motion the reopening of proceedings. Consequently, the Meeting of Judges restricted its examination to verifying the merits of the claims solely as presented in the applicant's initial constitutional complaint.

The Meeting of Judges held that the claims concerning the violations of the right to a fair trial specifically violation of the principle of trial by a tribunal established by law, the right to a fair trial, and the principle of not worsening of the defendant's position on appeal (*reformatio in peius*) – do not fall within the jurisdiction of the Court, thus such claims cannot be examined.

Regarding the Violation of the Right to Be Informed in Relation to the Right to Legal Representation and the Principle of Equality of Arms – The High Court was set into motion by an appeal drafted by the applicant's chosen defense lawyer and a prosecution appeal, which was communicated to the applicant's lawyer. The Criminal College passed the case for a public hearing, where the chosen defense lawyer was summoned but failed to appear without notifying the court of the reason for his absence. Additionally, the applicant did not previously inform the court that he was no longer represented by that lawyer. Consequently, the proceedings were adjourned to a later date, and an ex officio lawyer was appointed. The latter appeared and provided legal representation for the applicant. The applicant was duly notified of both – the prosecution's appeal and the scheduling of the hearing. Their right to effective legal assistance was neither violated nor obstructed. The ex officio lawyer fulfilled all procedural requirements and ensured effective legal assistance in line with the legal strategy proposed by the applicant's chosen defense lawyer. The High Court did not place the applicant in a disadvantageous position compared to the opposing party, thereby upholding the principle of equality of arms. Therefore, such complaint is manifestly unfounded.

Decision-making

The Meeting of the Judges decided, unanimously, not to pass the case for review in a plenary session.