

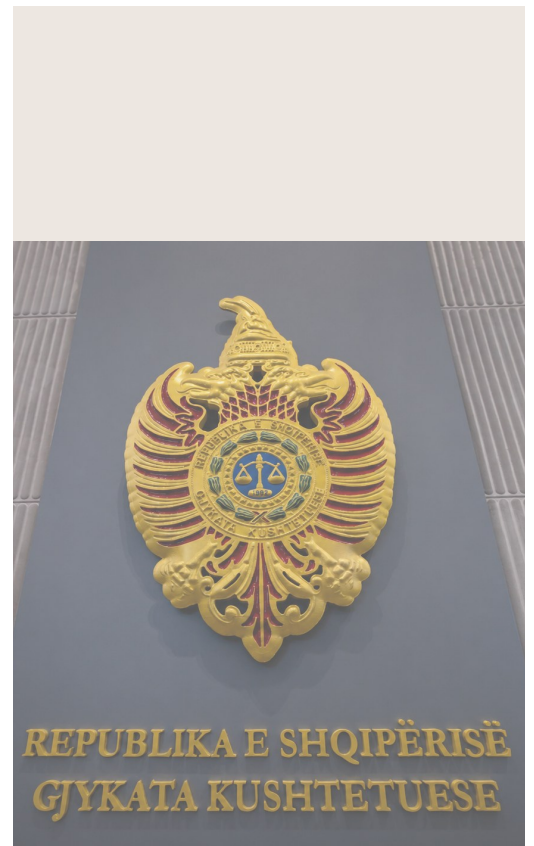
PERIODIC NEWSLETTER

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REPUBLIKA E SHQIPËRISË
GJKATA KUSHTETUESE

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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 a Periodical Newsletter of its judgments. This newsletter presents a summary of cases and respective judgments.

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.

Guarantees under Article 138 of the Constitution – Inviolability of the judge’s salary – Legislature’s discretion in regulating magistrates’ remuneration

KEY WORDS

Justice reform package/ Basic reference salary/ Position salary/ Supreme State Audit recommendation/ Salary coefficient/ Appropriateness of remuneration with the function/ Hidden reduction/ Targeted reduction/ Salary freeze/ Salary indexation

Within the meaning of Article 138 of the Constitution, the principle of the appropriateness of remuneration requires that - it be of an amount that ensures a standard appropriate to the duties and function; consequently, it also requires that the remuneration increases and keeps pace with economic and financial developments and the very standard of living in the country, whilst naturally adapting to the financial situation of the State.

A “salary freeze” in a specific context may constitute a “hidden reduction in salary”, beyond the exceptions expressly provided for in this provision.

Union of Judges of Albania

Legal amendments to the magistrates’ remuneration formula **Judgment No. 15 of 17 February 2026**

Facts

In 2016, the justice reform package was adopted, which included Law no. 96/2016 of 6 October 2016 “On the Status of Judges and Prosecutors in the Republic of Albania”, which, in Article 12 § 5, stipulates the constituent elements of the gross monthly salary of magistrates. Letter (a) of this provision, in its original wording, provided that the basic reference salary was equal to the “position salary” of first-category, third-class civil servants in the position of director general at the Prime Minister’s Office, or any other equivalent position. The implementation of such scheme commenced after 1 January 2019. Following a 2021 recommendation by the Supreme State Audit, the application of such provision was corrected, resulting in a salary increase.

By Law no. 50/2021 of 23 March 2021, the Assembly amended the basic reference salary formula for magistrates, linking it to the “position supplement” of the monthly salary for the position of director general or any other equivalent position, at the Prime Minister’s Office. Such provision was subsequently annulled by the Court in Decision no. 35/2022, as it was found to be incompatible with Article 138 of the Constitution. Following this decision, the Assembly, by Law no. 33/2023 of 25 May 2023, amended Article 12 § 5 (a) of Law no. 96/2016, providing that the basic reference salary “is equal to the salary of the President of the Republic multiplied by a coefficient of 0.36”. It further provided for its indexation by means of a Decision of the Council of Ministers (DCM). Therefore, the Union of Judges lodged an application with the Court challenging the provisions of Law no. 33/2023.

Court’s Assessment

Regarding the alleged violation of Article 138 of the Constitution – In analyzing the case, the Court noted the applicable constitutional standards and focused on the concept of the “legislature’s discretion” in regulating magistrates’ remuneration, highlighting the criteria to be considered by the legislature: (i) fundamental rules on remuneration shall be prescribed “by law”, rather than by subjective and variable discretionary decisions; (ii) the verification of situations falling under the exceptional circumstances of Article 138 of the Constitution. Against this background, the concept of “salary reduction” under Article 138 of the Constitution encompasses not merely a numerical reduction (in absolute value), but also intended or targeted reductions stemming from the use of instruments containing “discretionary elements” of a subjective nature, such as instances where the remuneration is no longer capable of providing the same standard of living, nor is it appropriate with the importance of the function; (iii) remuneration cannot remain “frozen” in the face of inflation, particularly over prolonged periods.

In light of such standards and principles, the Court considered that in the present case the first and third criteria appeared to be met. Regarding the second criterion, it examined whether the remuneration formula complies with the requirements of Article 138 of the Constitution in terms of appropriateness with the duties and the prohibition of hidden reductions. Despite the increase in the reference salary under both the original and the current formulas, it appears that the magistrates’ remuneration was intentionally maintained at the level resulting from the interpretation of the previous legal provision in the Court’s Decision no. 35/2022, so that, apparently, it would not be reduced in absolute value, thus effectively freezing it in a targeted manner, which inherently constitutes a hidden reduction. The failure to adjust the magistrates’ salary – viewed not as an isolated event, but taking into account the considerable time elapsed since the implementation of the new formula, the country’s socio-economic context which has undergone significant changes (given the increase in the standard of living, public funds, and the salaries of other employees), as well as the fact that the reference was altered in such a way that both official reference salaries were significantly changed through the temporal shifting of the adoption of the relevant legal amendments – leads to the conclusion that the non-adjustment of the judge’s remuneration amounts to a targeted hidden reduction. The method employed in 2023 constitutes a “hidden reduction” of the remuneration concerning the benefits deriving from the original wording of Article 12 of Law no. 96/2016.

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CONTROL OF NORMATIVE ACTS

Although the result of the magistrates' remuneration in absolute financial values is not lower than that produced by the previous formula, the impugned formula, in relation to economic growth and price increases, constitutes *per se* a hidden and targeted reduction of the salary, effectively freezing it for almost ten years from 2016, when it was first adopted, until 2026, when the first indexation took place.

The discrepancy between the increase of magistrates' remuneration and the increase of other salaries in the public civil service can be interpreted as a hidden and targeted reduction of magistrates' remuneration.

Although the financial outcome produced by the new formula is not lower than that produced by the previous one, the principle of appropriateness of remuneration is not satisfied. Such principle requires that the financial remuneration of magistrates, within the context of the country's economic, social, and financial situation, guarantee economic independence compatible with the responsibilities of the office and the dignity of the function, in order to protect them from any external interference or pressure in the exercise of their duties – which is considered a key element in the fight against corruption. Given the absence of any of the exceptional circumstances provided for in Article 138 of the Constitution, and insofar as there is a discrepancy between the increase of magistrates' remuneration and that of other salaries in the public civil service, this is interpreted as a hidden and targeted reduction of magistrates' remuneration.

Even though Article 138 of the Constitution does not define the threshold/limit or the indicative criteria for assessing the appropriateness of the magistrates' remuneration level, the legislature must adapt it to the development of the general economic conditions of the country over a certain period of time, and in relation to the increase of both the reference salaries and the salaries of other public officials.

Decision-making

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

The principle of representative democracy – Freedom of expression of Members of Parliament

KEY WORDS

Rules of Procedure of the Assembly/ Accelerated examination of draft acts/ Manner of convening the meeting/ Parliamentary minority/ Representative mandate/ The right of Members of Parliament to speak/ Constitutional loyalty

The time-limits for convening a meeting (plenary session) are not merely formal; rather, they constitute a guarantee that the meetings of Members of Parliament are convened in accordance with the Rules of Procedure, with the aim of ensuring the prudent conduct of parliamentary activity in compliance with the rights of Members of Parliament.

In the absence of the prior communication of draft acts, the effective exercise of the additional rights afforded to Members of Parliament – namely the right to present alternative proposals and amendments, as well as to discuss about the draft act – becomes illusory.

Not less than one-fifth of the Members of Parliament of the Republic of Albania

Parliamentary procedure for the approval of amendments to the Rules of Procedure of the Assembly

Judgement Nr.18 of 23 February 2026

Facts

A group of five Members of Parliament (MPs), members of the Socialist Party Parliamentary Group, proposed several additions and amendments to the Rules of Procedure of the Assembly, which had been approved by decision no. 166 of 16 December 2004.

At the plenary session of 16 September 2025, upon the request of 30 MPs, the Assembly decided to examine the proposal to amend the Rules of Procedure of Parliament under an accelerated procedure during the plenary session of the same day. By decision no. 57/2025 of 16 September 2025, the Assembly approved the amendments to its decision no. 166/2004. Specifically, it amended Article 19 § 1 of the Rules of Procedure, changing the number of Parliament's standing committees from 8 to 11, along with their designations and areas of responsibility. Furthermore, Article 20 of the Rules of Procedure was amended by repealing paragraph 3, which had provided for the possibility of members of the European Integration Committee to also serve as members of other committees. On 23 September 2025, the applicant – a group of thirty-nine MPs – lodged an application with the Constitutional Court (the Court) seeking the annulment and the stay of execution of the Assembly's decision no. 57/2025. By a decision of 3 December 2025, the Meeting of Judges of the Court, by a majority, decided to reject the request for the stay of execution of the act, as unfounded.

Court's Assessment

As regards the Court's jurisdiction – The applicants' complaints essentially concern the restriction on the exercise of the rights of Members of Parliament (MPs) arising from their constitutional representative mandate, within the meaning of Articles 70 and 71 of the Constitution. Insofar as such claims relate to the infringement of rights stemming from constitutional norms, the impugned provisions of the Rules of Procedure fall within the constitutional jurisdiction.

As regards the alleged violation of the principle of representative democracy in respect of freedom of expression – The claim concerning the violation of the principle of representative democracy from the perspective of freedom of expression is based on two main aspects of the parliamentary procedure: (i) the manner of convening the Assembly, in breach of Article 78 § 2 of the Constitution; and (ii) the speed of the procedure, in breach of Article 83 § 2 of the Constitution. The Court examined the manner in which the constitutional and procedural provisions regulating these aspects of parliamentary procedure were applied, in order to determine whether the principle of representative democracy had been violated.

As regards the manner of convening the Assembly in a plenary session – Article 78 § 2 of the Constitution serves as a referencing provision to the provisions of the Rules of Procedure regarding the manner and procedure of convening the Assembly in a plenary session, and is complemented by Rule 27/1 of the Rules of Procedure, which stipulates the manner of convening the session and its time-limits. A breach of such provision implies the invalidity of the session itself. Referring to the procedure followed in the present case, the meeting of MPs was convened on the same day the proposal was submitted by the group of MPs and only one day before the plenary session, with MPs being notified via email by the parliamentary administration. It does not appear that the minority MPs were made aware of the submitted draft decision; they only became acquainted with the act at the moment – the request for the approval of the proposals under an accelerated procedure was examined – i.e. on the very day the act was approved. Similarly, the notification regarding the change in the agenda (which included the amendment of the Rules of Procedure under an accelerated procedure) was made less than twenty-four hours before it took place, and without making the specific amendments available to the MPs, thus they became acquainted with the draft decision only during the plenary session. The manner in which the plenary session was convened rendered it impossible for the MPs, particularly those of the parliamentary minority, to freely exercise the rights derived from their status as MPs. Such conduct, in the present case, deprived the MPs of the right to discuss and debate the issues proposed for amendment and to propose amendments in their respect. Insofar as the claims regarding parliamentary procedure issues, although formally permitted to be raised, were in essence neither heard nor taken into consideration, made it impossible for the minority MPs to cast an informed vote. The manner in which Parliament acted was not in accordance with the principle of constitutional loyalty, thereby resulting in a violation of the principle of constitutional democracy.

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CONTROL OF NORMATIVE ACTS



As regards the approval of the amendments to the Rules of Procedure of Parliament under an accelerated procedure – With reference to Rule 117 of the Rules of Procedure, the provision of Article 83 § 2 of the Constitution is exhaustive regarding the types of acts subject to accelerated examination, which includes a draft decision for amending the Rules of Procedure. Following the reconvening of the plenary session, the parliamentary minority was given the opportunity to discuss procedural matters during the session, whereby fifteen minority MPs and several parliamentary majority MPs took the floor on procedure, but not on the substance of such amendments. The amendment of the Rules of Procedure, due to its inherent importance, has been equated by the Assembly itself with the legislative process for examining draft laws in all of its aspects, including the right to debate the substance of the amendments, as well as the right of MPs to propose amendments. On the one hand, this freedom and the manner of its exercise in accordance with the provisions of the Rules of Procedure cannot be left to the discretion or interpretation of the Speaker of Parliament. The restriction or deprivation of the right to speak of the parliamentary minority MPs by the Speaker of Parliament, which resulted in the impossibility of exercising their constitutional rights within a reasonable time, is also considered to exceed his/her functional competences and incompatible with Article 70 § 1 and Article 75 § 2 of the Constitution. On the other hand, voting under an accelerated procedure to approve the provisions of the Rules of Procedure, without affording the minority MPs the opportunity to acquaint themselves in advance with the content of the draft decision, exceeds the Assembly's discretion in organizing parliamentary procedures and fails to strike a fair balance between the principle of parliamentary autonomy and that of representative democracy. In order to ensure that MPs have the opportunity to acquaint themselves with the content of the Assembly's draft acts, they must be afforded a reasonable period of time to analyze them and form an opinion thereon. The manner of convening the Assembly in a plenary session, as well as the accelerated procedure for approving the amendments to the Rules of Procedure, resulted in a violation of the principle of representative democracy in respect of the freedom of expression of the parliamentary minority MPs.

Decision-making

The Court decided, unanimously, to accept the application, to repeal the Assembly of the Republic of Albania Decision no. 57/2025 of 16 September 2025 (one judge expressed a concurring opinion). The repeal effects of this decision shall enter into force 30 days after its publication in the Official Gazette.

DECISIONS OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF ALBANIA 1998-2011

VENDIME TË GJYKATËS KUSHTETUESE TË REPUBLIKËS SË SHQIPËRISË 1993-2015

VENDIME TË GJYKATËS KUSHTETUESE TË REPUBLIKËS SË SHQIPËRISË 1993-2015

**VENDIME TË GJYKATËS KUSHTETUESE
TË REPUBLIKËS SË SHQIPËRISË 2012**

**VENDIME TË PËRZGJEDHURA TË GJYKATËS KUSHTETUESE
TË REPUBLIKËS SË SHQIPËRISË 1922-2022**

CONFLICT OF COMPETENCES BETWEEN POWERS

Principle of separation and balance of powers – The immunity regime of a member of the Council of Ministers

KEY WORDS

*Conflict of competences/
Constitutional competences/
Constitutional organs/
Interpretation of a
constitutional provision/
Personal precautionary
measure/ Suspension of a public
official from duty/ Minister/
Sovereignty/ Immunity/ Political
responsibility*

A concrete conflict of constitutional competences has arisen between the Prime Minister and the Council of Ministers, on the one hand, and the First Instance Special Court, on the other, due to the imposition by the latter of a personal preventive measure – namely suspension from public office – against the Deputy Prime Minister and Minister of Infrastructure and Energy in the context of criminal proceedings.

The Prime Minister of the Republic of Albania

Conflict of competences between the Prime Minister, the Council of Ministers, and the First Instance Special Court against Corruption and Organized Crime, arising from the decision to suspend a member of the Council of Ministers from public office
Judgment No. 8 of 6 February 2026

Facts

In the context of a criminal investigation, the Special Prosecution Office filed an application with the First Instance Special Court against Corruption and Organized Crime (hereinafter – the First Instance Special Court) seeking, inter alia, the imposition of a personal precautionary measure, namely – suspension from the exercise of public office or public service (provided for by Article 242 of the Code of Criminal Procedure), against the Deputy Prime Minister and Minister of Infrastructure and Energy, who concurrently holds a mandate as a Member of Parliament. The First Instance Special Court accepted the application and subsequently ordered the continued enforcement of such measure. Furthermore, the Prime Minister of the Republic of Albania lodged an application with the Court to resolve the conflict of competence that had arisen between the Prime Minister, the Council of Ministers, and the First Instance Special Court as a result of the impugned judicial decisions. The applicant sought the repeal of such decisions and requested an interpretation of Article 103 (3) of the Constitution to the effect that a member of the Council of Ministers who enjoys parliamentary immunity is entitled to all procedural safeguards afforded to Members of Parliament, not only under the Constitution but also under the applicable criminal procedural legislation.

During the preliminary ruling proceedings, the Meeting of Judges decided a stay of the execution of the judicial decisions rendered by the First Instance Special Court.

Court's Assessment

Regarding jurisdiction – The Court observes that the Prime Minister and the Council of Ministers, acting as constitutional bodies of the executive branch, and the First Instance Special Court, acting as a constitutional body of the judicial branch, are entities established by the Constitution and exercise competences defined therein. While the Constitution does not expressly stipulate the competence of the Prime Minister, or of any other body, to suspend a minister from public office, the preventive measure imposed by the First Instance Special Court in the context of criminal proceedings has, by its very nature and practical effects, entailed institutional consequences. Such consequences affect both the exercise of the minister's constitutional functions and the overall functioning of the Council of Ministers. Therefore, the Court finds that there exists, prima facie, a concrete conflict of constitutional competences between the executive and judicial branches, which falls within constitutional jurisdiction. Thus, the Court holds that the applicant has the requisite locus standi to lodge an application seeking the resolution of the conflict of competences and, consequently, the final interpretation of the relevant constitutional provision.

Regarding the regime of the minister's immunities in light of the principle of the separation and balance of powers – The Court observes that Article 103 (3) of the Constitution stipulates that members of the Council of Ministers enjoy the immunity of a Member of Parliament. Insofar as such constitutional provision assimilates the minister's immunity to that of a Member of Parliament, any analysis of this immunity regime requires reference to Article 73 of the Constitution, which defines the nature and scope of parliamentary immunity.

Additionally, the Court finds that the rules set forth in Article 73 of the Constitution are also applicable to the ministers and establish the constitutional framework of their immunity. Since the Constitution itself substantially equates the immunity enjoyed by a member of the Council of Ministers with the immunity of a Member of Parliament, the procedure for the lifting of a Member of Parliament's immunity, provided for in Article 73, shall also be applicable to a member of the Council of Ministers who is not a Member of Parliament.

However, the Court reiterates that minister's immunity does not constitute an individual privilege or absolute protection against criminal jurisdiction. Rather, it serves as a limited functional safeguard aimed at ensuring the free and independent exercise of their official duties.

The Court also emphasizes that, although ministers are afforded a special immunity regime, its sole legitimate aim is to guarantee the free and independent exercise of public functions by protecting them from unjustified interference or politically motivated attacks. In this regard, it cannot be interpreted as a shield against the application of criminal law. A minister, like any individual, remains subject to criminal liability and is obliged to answer to the competent authorities and be subject to criminal sanctions in the event of having committed a criminal offence.

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CONFLICT OF COMPETENCES BETWEEN POWERS

Article 242 (2) of the Code of Criminal Procedure, which precludes the imposition of the measure of suspension from public office on persons elected pursuant to the relevant electoral legislation, constitutes a special procedural safeguard for such officials. This safeguard is intrinsically linked to the protection of their representative function, as well as to the observance of the principle of popular sovereignty. However, such safeguard cannot be interpreted as an extension of the immunity regime beyond the limits prescribed by the Constitution.

Regarding other procedural safeguards in light of the principle of separation and balance of powers – The Court considered that the statutory provision of Article 242 (2) of the Code Criminal Procedure Code, by its very nature, constitutes an exception of a procedural character, which lacks a direct basis in the constitutional text concerning Members of Parliament or ministers.

The Court further, emphasizes that a statutory norm cannot serve as a source to give substance to, or broaden the scope of, a constitutional norm; on the contrary, it is the constitutional norm that defines the framework and limits within which ordinary legislation must be interpreted and applied. Therefore, the aforementioned provision cannot be considered part of the constitutional framework of immunity, the scope of which is exhaustively defined by the Constitution.

Regarding the subject matter of the application, at the conclusion of the deliberations, the judges' assessments were divided into two views, thus – the Court failed to reach the requisite majority to deliver a decision.

According to one view, despite the fact that in the constitutional sense, the immunity regime does not constitute an exemption or absolute protection from criminal prosecution, it cannot be examined in isolation from the safeguards related to the constitutional function in question, namely the free and independent exercise of official duties. The imposition of a suspension measure on a member of the Council of Ministers (a minister), which is not expressly provided for by the Constitution, constitutes, by its nature and degree of intensity, a direct interference with the exercise of their official duties.

Striking a fair balance between the public interest in the effective administration of criminal justice and the exercise of the judicial function, on the one hand, and the interest in guaranteeing the effective functioning of the executive branch, on the other, necessarily requires the intermediation of the Parliament (Assembly), by means of its prior authorization. This requirement does not stem from an expansion of the immunity regime beyond the intent of drafters of the Constitution; rather, it derives from the need to preserve the constitutional equilibrium between the branches of power and to ensure that any interference with the composition and functioning of the executive branch (the government) is not carried out without the participation of the very body to which it is politically accountable.

According to the other view, the present case cannot be resolved either solely through an isolated interpretation of Article 73 (2) of the Constitution, or by means of a broad, evolutive interpretation that creates a new constitutional norm. The measure of suspension from the exercise of a public office, imposed on a minister pursuant to Article 242 of the Code of Criminal Procedure, does not require the prior authorization of the Assembly and does not fall within the scope of immunity safeguards, for the following reasons: a) it is not included in the list of measures set out in Article 73 (2) of the Constitution; b) norms concerning immunity must be strictly interpreted and do not permit and do not permit an expansive interpretation or the creation of new norms by way of judicial interpretation; c) the existing constitutional framework provides sufficient safeguards against arbitrary, politically motivated criminal prosecution; d) the factual effects on the exercise of the official functions are not directed at the institution itself, but at the individual who is suspected of being in a position to seriously impair the criminal investigation if they remain in office, and do not, per se, constitute a violation of the separation and balance of powers.

Decision-making

The Court decided to reject the application and to lift the stay of execution imposed by the decision of the Meeting of Judges, due to the failure to reach the requisite majority of five judges, within the meaning of Article 73(4) of Court's Organic Law (two judges also expressed a concurring opinion).



REPUBLIKA E SHQIPËRISË



GJYKATA KUSHTETUESE

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

**Principle of legal certainty
– Principle of equality
before the law – Right to
work**

KEY WORDS

*Legal assistant/ Ex officio entities/
Reference salary/ Judicial civil
servants/ Legislative amendments/
Non-modification of a favorable legal*

The Court observed that the provisions of Law no. 98/2016 also refer to newly appointed legal assistants, whereas for those who were already in office at the time the legislative amendments took effect, as is the case of the applicants, the legislature had provided an alternative safeguard through Article 165 of Law no. 96/2016, namely the opportunity to pursue a career as a magistrate. In the event that they did not pursue a career as a magistrate, this category was guaranteed a position as a legal assistant with civil servant status under Law no. 98/2016, thereby securing their right to work in accordance with their amended legal status.

In this regard, the legislative amendments introduced by Law no. 98/2016 arose from a genuine need and were enacted in the public interest, as they enable the deployment of legal assistants across all lower courts of general and administrative jurisdiction. This aims to ease the workload of judges by providing a significantly larger number of assistants than before, while simultaneously offering the latter the safeguards afforded by civil servant status.

Majlinda Miska, Jurgen Selimi

On the legal amendments regarding legal assistants' remuneration

Judgment No. 1 of 14.01.2026

Facts

The applicants, serving as legal assistants at the Administrative Court of Appeal, were appointed pursuant to the provisions of Law no. 49/2012 and under Article 6 (2), were paid at 75% of the remuneration of a judge of the court where they exercised their duties. Law no. 39/2017 repealed certain provisions of Law no. 49/2012, which defined the competences, appointment criteria, and remuneration of legal assistants of the administrative courts. From 2019, their remuneration was adjusted in line with the judges' salaries as modified pursuant to Court Decision no. 34/2017. However, with reference to

the provisions of Law no. 98/2016, following their admission/assignment to a position as legal assistants in the judicial civil service, in accordance with the decisions of the High Judicial Council (HJC), they are paid at the remuneration level of a Directorate Director in a ministry. It transpires that they underwent the transitional re-evaluation process as ex officio entities and successfully passed it, thereby falling within the scope of the provisions of Article 64 of Law no. 98/2016. Claiming that the stipulation of such provision has adversely affected their rights, due to the fact that they are treated with a lower remuneration than the one they enjoyed prior to their assignment to this position, as well as the fact that their duties are comparable to those of legal advisers at the Court or the High Court, the applicants lodged an individual constitutional complaint with the Constitutional Court seeking the repeal of the second sentence of Article 64 (6) of Law no. 98/2016, as incompatible with the Constitution.

Court's Assessment

As to the alleged violation of the principle of equality before the law – The Court observed that the legislature has reserved the legal advisory units for the two highest-ranking courts in the hierarchical structure and for the highest prosecution office of ordinary jurisdiction. This implies that these are specialized units corresponding to the competences and duties of those bodies, and in particular, to their hierarchical level. Examining the competences and duties of such units, the Court found that the competences of the legal advisory units are broader than those of the legal assistants, providing a more in-depth level of expertise. Furthermore, the number of advisers is more limited, and moreover, the work of the legal advisers is of a significantly higher degree of complexity due to the jurisdiction and hierarchical level of those institutions. The Court further observed that the employment criteria for the two categories also differ, with the criteria for legal advisers being far more stringent from a qualitative standpoint. The Court held that, insofar as this does not concern two identical categories of civil servants subjected to differential treatment, but rather two distinct categories which are treated in proportion to the importance and complexity of the duties they perform, it does not appear that Article 64 (6), second sentence, of Law no. 98/2016 has violated the principle of equality before the law.

As to the alleged violation of the principle of legal certainty in relation to the right to work – The Court held that, given that the provisions of Law no. 98/2016 classify the legal assistant as a judicial civil servant, their remuneration shall also be categorized in accordance with the acts regulating remuneration based on civil servant status. Since the previous statutory regulation regarding legal assistants at both the administrative courts and the High Court was replaced by an entirely new framework – which introduced new rights and safeguards for such category of employees, and was simultaneously accompanied by a change in the basis for calculating remuneration – no violation of the principle of legal certainty linked to the right to work is established. Therefore, the Court found that the applicants' claim regarding the violation of the principle of legal certainty linked to the right to work is unfounded, since the provision is clearly formulated and consistent with other statutory provisions regulating the category of legal assistants. Regarding the claim that such provision adversely affects the remuneration of the applicants, as well as of the category of legal assistants who were in office at the time of the legislative amendments – the Court held that such claim is unfounded; the principle of legal certainty does not guarantee every expectation of the non-modification of a favorable legal situation, since such principle cannot prevail in every instance, particularly when the employment relationship undergoes a fundamental change.

Decision-making

The Court decided, unanimously, to reject the application.

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Right not to be subjected to inhuman and/or degrading treatment – Standard of a reasoned judicial decision – Standard of the binding force of the Constitutional Court’s decisions – Right not to be

KEY WORDS

Russian national/ International arrest warrant/ Asylum request/ Extradition/ Extradition Convention/ Stay of extradition proceedings by decision of the Constitutional Court/ Surrender of the extradited person/ Expulsion of an alien/ Amicus curiae/ Victim of a constitutional violation/ Real risk of ill-treatment/ General assurances in the extradition request

The assurances provided by the requesting State regarding the guarantee of the applicant’s fundamental rights did not relieve the Albanian authorities of their obligation to conduct an independent and thorough assessment of the existence of actual risks in this regard.

Igor Kokunov

Extradition proceedings of a foreign national
Judgment No. 2 of 14 January 2026

Facts

The applicant, a Russian national subject to an international arrest warrant issued by Interpol Moscow, was apprehended on Albanian territory and placed in detention pending extradition (remand in custody) by the Shkodra First Instance Court of General Jurisdiction. On September 18, 2023, Russian authorities submitted a formal request for the applicant’s extradition. Following the request of the Shkodra Prosecution Office, the Shkodra First Instance Court of General Jurisdiction allowed the applicant’s extradition to the Russian Federation. Upon the applicant’s appeal and appeal on points of law, the higher courts upheld the extradition. Furthermore, his request for asylum in Albania was rejected, since it was considered a tactic to obstruct the extradition.

After the High Court’s decision had been delivered, but the full reasoned judgment had not yet been drafted, the applicant lodged a constitutional complaint with the Constitutional Court (the Court) seeking the stay of execution of such decision. After the General Prosecution Office forwarded the case files regarding the applicant’s extradition process, the Minister of Justice approved the applicant’s extradition from Albania to the Russian Federation and his surrender by Interpol Tirana by October 30, 2024.

On October 30, 2024, the Panel of Judges of the Constitutional Court decided to apply an interim measure, temporarily staying the extradition proceedings pending a further decision by the Court; however, on the same date, the applicant was surrendered to Russian authorities at Rinas Airport.

Therefore, the applicant lodged an application with the Court, seeking the repeal of the judicial decisions that had allowed the extradition.

Court’s Assessment

Regarding the applicant’s locus standi – Although the impugned measure has been executed, given that the applicant has been extradited, this does not constitute grounds for excluding it from constitutional review. Otherwise, there would be a risk of unreasonably diminishing the level of protection of fundamental rights that the constitutional complaint aims to guarantee, thereby calling its effectiveness into question.

The applicant retains a legitimate interest to set in motion such proceedings and may claim to be a “victim” of the alleged violation.

Regarding the claim concerning the right to asylum, despite the applicant’s communications with the competent authorities, the asylum request was not examined on its merits because the authorities considered that it did not meet the formal requirements. Although the applicant had effective legal remedies at his disposal, he did not apply to the administrative courts to challenge the authorities’ refusal or to compel them to register and examine his asylum request.

Regarding the violation of the right not to be subjected to inhuman and/or degrading treatment, linked to the standard of a reasoned judicial decision – The applicant’s claims concerning his state of health, they are not of such a nature as to raise an issue regarding the right to life within the meaning of Article 21 of the Constitution and Article 2 of the ECHR. As long as it has not been proven that such medical issues cannot be treated in detention, or that Russian authorities are incapable of treating them while the applicant is in custody, these claims do not shift the burden of proof to the authorities regarding the assessment of risks and consequences to the applicant’s life.

Regarding the assurances provided by the Russian authorities in the extradition request, they are general in nature, provided by a State that is neither a member of the Council of Europe nor a party to the European Court of Human Rights, and in the present case, their reliability is highly questionable. In cases where there are substantial grounds for believing that a requested person would face a flagrant denial of a fair trial in the requesting State, the claim regarding the violation of this right cannot be excluded a priori from the assessment of the ordinary courts.

The judicial decisions allowing the extradition failed to fulfill the obligation to fully clarify the factual circumstances arising from the evidence submitted by the applicant. Such decisions also failed to assess whether it was necessary to obtain documentation of their own motion (*proprio motu*), nor did they request additional assurances regarding the alleged risk of ill-treatment in detention facilities in the Russian Federation, relying merely on the general assurances provided in the extradition request. Although, the competent authorities and the courts were aware of and had sufficient information regarding the systemic human rights problems in the Russian Federation, they failed to conduct an

(continues on page 14)

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

In the context of the extraterritorial dimension of fair trial standards in extradition proceedings, although the requested State is not obliged to fully verify the requesting State's compliance with due process for the proceedings prior to the extradition, it cannot disregard evidence demonstrating the existence of a real risk that, in the event of extradition, the person might suffer a flagrant denial of justice. Such a circumstance constitutes sufficient grounds to preclude extradition to the requesting State.

The Court's decisions, irrespective of whether they are interim decisions (interim measures), such as the one staying the extradition, carry the same binding force for the authorities or parties to whom they are addressed..

The reasoning of the ordinary courts does not meet the requirements of a fair trial; by failing to sufficiently analyze the claims regarding the existence of absolute impediments to extradition under Article 491 of the Code of Criminal Procedure, inherently, they failed to guarantee the right not to be subjected to inhuman and degrading treatment and to have practical and effective protection of his fundamental rights and freedoms.

Regarding the non-enforcement of the Constitutional Court's decision – From the time the decision staying the extradition was adopted and communicated until the applicant's departure from Albanian territory, the competent authorities failed to take any steps or measures to delay the extradition pending the Court's final decision, despite the absence of any obstacles to communication. Moreover, they also failed to inform the Court of the unfolding situation.

The surrender of the applicant to the Russian authorities does not, per se, constitute a transfer of the Albanian State's jurisdiction, nor does it grant the requesting State the right to exercise extraterritorial jurisdiction. Given that the Court had ordered the staying of the enforcement of extradition, the applicant's continued residence in the Albanian State was lawful, therefore he enjoyed all constitutional rights, guarantees, and protections, including those under Article 39 of the Constitution.

In the absence of a High Court's reasoned decision allowing the extradition, the individual is placed in a position of real impossibility to lodge a constitutional complaint, and the Court is placed in objective difficulty in making a prima facie assessment of the admissibility of the application. The "decisive procedural moment" for setting the administrative proceedings in motion and calculating the time limits for an appeal must also consider the notification of reasoned judicial decision, which enables the effective exercise of the right to lodge a constitutional complaint and the proper conduct of the administrative proceedings concerning the extradition. The ordinary courts must ensure, as promptly as possible, the drafting and notification of reasoned decisions, while the authorities responsible for the administrative proceedings must organize and undertake procedural actions in such a way that the exercise of the constitutional complaint and the request for interim measures (stay of extradition) are not rendered impossible in practice.

Decision-making

The Court decided, by a majority of votes, to partially accept the application; to find a violation of the applicant's right not to be subjected to inhuman and/or degrading treatment, linked to the standard of a reasoned judicial decision; to find a violation of the applicant's right not to be expelled (principle of non-refoulement), linked to the public authorities' obligation to enforce the decisions of the Constitutional Court. The remainder of the applicant's claims were rejected (one judge expressed a dissenting opinion and one judge expressed a partly dissenting opinion).

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Imposition of preventive measures – Procedural and substantive aspects of the right to liberty and security

KEY WORDS

Failure to comply with a lawful judicial order/

House Arrest/ Two-month periodic report/ Duration/ Purpose and necessity of continuation of the measure

Regarding the duration of the preventive measure, the Court held that whether a period of pre-trial detention is reasonable must be determined by the particular facts of each case, not in the abstract. Continued deprivation of liberty is justified only when specific, genuine public interest requirements outweigh the individual's right to liberty under Article 5 of the ECHR, even in light of the principle of presumption of innocence.

Sali Berisha

Substitution of the personal preventive measure in the context of the prosecutor's two-month periodic report Judgment No. 3 of 15 January 2026

Facts

The applicant had previously challenged two sets of judicial decisions imposing coercive measures against him. The first set of proceedings concerned the initial imposition of an 'obligation to report to the judicial police' and a 'ban on leaving the country'. The second set of proceedings concerned the subsequent replacement of such measures with 'house arrest', due to the applicant's failure to comply with his reporting obligations. In a third set of proceedings, the Special Prosecution Office, the First-Instance Special Court against Corruption and Organized Crime, the Special Court of Appeal, and the High Court, requested the continuation of the preventive measures against the persons under investigation. These courts held that the legal criteria justifying the preventive measure of 'house arrest' were still met. Thus, the applicant lodged an individual constitutional complaint with the Court, challenging the judicial decisions of the third set of proceedings.

Court's Assessment

Regarding the alleged violation of the right to personal liberty – The Court observed that, in authorizing the continuation and extension of preventive measure of "house arrest", the domestic courts relied on generalized reasoning. By merely citing the general criteria for the imposition and necessity of the measure, the courts failed to provide specific justification for the continued deprivation of his personal liberty. Relying on the same arguments, the Court, in its decision no. 81/2024, had previously found that the personal preventive measure of the "obligation to report to the judicial police" appeared to satisfy the demands of the proceedings. The Court noted that in the impugned decisions of the ordinary courts, although 7 months had elapsed since the imposition of "house arrest", there was no reasoning regarding the applicant's risk of absconding. As for the risk of tampering with evidence, the prosecution subsequently, as well as the ordinary courts at the initial moment of imposing the security measures, had assessed that this risk was adequately mitigated by the measure of the "obligation to report to the judicial police". However, for the very same security need, and without identifying any new circumstances regarding any specific conduct of the applicant in relation to such need, the ordinary courts in the present case considered that it was to be met by a more severe preventive measure, namely that of "house arrest". The restriction of the applicant's personal liberty through the measure of "house arrest" cannot be considered to strike a fair balance between the importance of securing compliance with a lawful court order and his right to liberty. The duration of such measure was not commensurate with the purpose of the order previously imposed on the applicant by the courts, which he had failed to comply with. The Court noted that the individualization of the preventive measure of 'house arrest' in the applicant's case did not correspond to the necessity of such a measure, and the domestic courts failed to justify its prolonged duration, thus resulting in a deprivation of the applicant's liberty that was disproportionate to the needs of the investigation. Consequently, the Court held that the impugned decisions subject to these constitutional proceedings, which ordered the continuation and extension of the house arrest, are incompatible with the Constitution. The Court concluded that the reasoning provided by the special courts and the High Court were insufficient to justify the continued necessity of such measure; therefore, the applicant's claim regarding the violation of his right to liberty is founded. However, since the preventive measure of house arrest is no longer in force – having been replaced by the Special Court of Appeal on 3 January 2025 with an obligation to report to the judicial police – the Court deemed it appropriate not to repeal the impugned decisions subject to this constitutional review.

Decision-making

The Court decided, by a majority, to accept the application in part (two judges expressed a concurring opinion and one judge expressed a partly dissenting opinion).

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Procedural and substantive aspects of personal liberty – Revocation and substitution of a preventive measure

KEY WORDS

House arrest/ Criminal proceedings/ Restriction of personal liberty/ The prosecutor's two-month periodic report/ Reasonable doubt/ Revocation and substitution of a preventive measure/ Article 246 of the Code of Criminal Procedure (CCP)

The two-month periodic report submitted by the Special Prosecution Office was not addressed in a formalistic or mechanical manner by the courts, but was examined as a new element for the purposes of such periodic review. The ordinary courts did not confine themselves to an automatic repetition of the grounds that justified the initial imposition of the preventive measure; rather, they conducted an updated review regarding the necessity of its continuation.

Jamarbër Maltezi

Substitution of the personal preventive measure in the context of the prosecutor's two-month periodic report
Judgment No. 04 of 15 January 2026

Facts

In the context of criminal proceedings against the applicant, the preventive measure of house arrest was imposed, a decision which was subsequently upheld by the High Court. The judicial proceedings concerning the imposition of such measure were subject to review by the Constitutional Court, which rejected the applicant's request. Consequently, pursuant to Article 246 § 6 of the Code of Criminal Procedure (CCP), the Special Prosecution Office submitted its two-month periodic report, stating that the preventive measure should be continued. Furthermore, the applicant requested the revocation of such measure. Ultimately, the domestic courts decided to maintain the application of the personal preventive measure. Such judicial proceedings were also challenged by the applicant before the Court, alleging once again a violation of his right to personal liberty in both its procedural and substantive aspects.

Court's Assessment

As regards the applicant's standing – Regarding the criterion of the exhaustion of legal remedies, the Court held that, despite the fact that the impugned judicial decisions were of a periodic nature – as they were issued on the basis of the prosecutor's obligation to inform the court every two months about the progress of the investigation and the need for the preventive measure – they are considered final for the purposes of constitutional review.

Alleged violation of the right to personal liberty – The Court first considered that the domestic courts had provided sufficient reasoning that there continued to exist a "reasonable doubt" that the applicant had committed the criminal offences of which he was accused. In this regard, the courts provided concrete reasons for the necessity of the continuation of the preventive measure, citing the risk of absconding in order to evade criminal proceedings, as well as the risk of tampering with evidence.

The courts reasoned that the investigative actions reflected in the periodic report not only did not diminish the reasonable doubt, but rather consolidated it. Furthermore, the fact that the investigation had not yet been concluded and the nature of the evidence collected were assessed as elements that, at this procedural stage, rendered the continuation of the preventive measure necessary, in accordance with the statutory criteria and the requirement for a continuous and proportional justification for the restriction of personal liberty. Considering the subject matter of the judicial proceedings challenged by the applicant, which relates to the two-month periodic report in the context of the criminal proceedings instituted against him, the Court held that the grounds provided by the special courts and the High Court were constitutionally sufficient to justify the continuation of the personal preventive measure of "house arrest" against the applicant. Therefore, their decisions met the standard of a reasoned judicial decision, and consequently, the applicant's complaint concerning the violation of his right to personal liberty is unfounded.

Decision-making

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

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Right to a fair trial

KEY WORDS

*Fatal road traffic accident/
Insurance company/
Compensation/ Pecuniary
damage/ Moral and existential
damage/ Default interest/ Decree
no. 295/1992/ Unifying Decision
no. 12/2007*

The reasoning of the High Court's decision complied with the criteria established by constitutional jurisprudence, thereby also safeguarding the very essence of the right to life, enshrined in Article 21 of the Constitution and Article 2 of the ECHR, in the sense of guaranteeing the right to appropriate compensation for the victim's relatives.

The right to claim default interest is in itself a statutory right and is not conditional upon the timing of the filing of the claim; the defendants themselves or the bailiff, at the time of enforcement, must calculate the default interest according to the base interest rate approved by the Bank of Albania.

Zoica Lina and Ilirjan Lina *Compensation for the loss of life of a relative* Judgment No. 5 of 26 January 2026

Facts

In a road traffic accident, initially - the national K.L. lost his life, and one month later, his son also passed away as a result of the injuries sustained. The vehicle that caused the accident was insured with the insurance company under a policy valid until 21 April 2007. Given that the accident occurred on 9 April 2007, the resulting damage was to be covered by the insurance policy.

Seeking compensation for the damage sustained as a result of the accident, the applicants, acting in their capacity as heirs (specifically, the wife/mother and the son/brother respectively), brought proceedings before the first-instance court. They lodged a civil claim against the interested party, namely the insurance company of the vehicle involved in the accident, seeking the payment of pecuniary and non-pecuniary damage, other reasonable and necessary expenses, as well as default interest.

The Tirana District Court partly upheld the claim, while rejecting the request for default interest. Following a remittal for retrial by the Court of Appeal due to procedural violations, the first-instance court again partly upheld the claim. The Court of Appeal amended the first-instance decision, recalculating the amount of compensation for pecuniary and non-pecuniary damage in favor of the applicants, and rejected the claim in respect of default interest. Following an appeal on points of law lodged by the applicants, the Civil Chamber of the High Court upheld the Court of Appeal's approach regarding the applicable law and the assessment of the compensation amount. However, it found the lower courts' position concerning the payment of default interest to be unfounded in law, holding that the calculation of default interest in the present case should run from the moment it was claimed until the enforcement of the Tirana Court of Appeal's decision.

Therefore, the applicants lodged an individual constitutional complaint with the Constitutional Court.

Court's Assessment

Regarding the alleged violation of the right to a fair trial – The Court considered that the very essence of the complaint related to the claim for compensation for damage resulting from the loss of life, and thus, it examined the matter from the standpoint of the right to a fair trial. The Court found that the Civil Chamber of the High Court, in observance of the principle of subsidiarity, had found to be correct the Court of Appeal's approach regarding the methodology for assessing the compensation for pecuniary and non-pecuniary damage, referring to Decree no. 295/1992 and its implementing regulation concerning the assessment of pecuniary damage, as well as to Unifying Decision no. 12/2007 governing non-pecuniary damage.

The High Court addressed the claims raised by the applicants in their appeal on points of law regarding the applicable law for the resolution of the instant case and the reopening of the judicial examination by the Court of Appeal. The applicants exercised their right to seek compensation and default interest (contrary to the positions held by the two lower courts), arising from the loss of their relatives' lives. Furthermore, the Civil Chamber of the High Court also established the criteria to be taken into consideration in the calculation of interest, according to the relevant base deposit interest rate established by the Bank of Albania.

Therefore, the Court held that the applicants' claim regarding the alleged violation of the right to a fair trial was unfounded.

Decision-making

The Court decided, unanimously, to reject the application.

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Admissibility criteria for lodging an individual

KEY WORDS

Ratione personae/ Legal entity exercising public authority/ Administrative acts/ Invocation of constitutional rights and guarantees/ Substantive and procedural rights

A legal entity does not automatically enjoy the status of a holder of fundamental rights or constitutional guarantees. Rather, it must be subjected to a two-step test: (i) first, it must be assessed whether the alleged fundamental right or constitutional guarantee is compatible with the purpose for which the legal entity exists and operates – namely, whether the invocation of that right is consistent with its status, function, and activities in the specific legal relationship at issue; and (ii) second, it must be assessed whether the inherent nature of that right or guarantee allow for its extension to the legal entity, without undermining its constitutional rationale and protective scope. Only if these two criteria are met cumulatively may the fundamental right or constitutional guarantee be considered applicable to the legal entity in question.

Ministry of Agriculture and Rural Development *Admissibility ratione personae of a legal entity exercising public authority–locus standi* Judgment No. 6 of 28 January 2026

Facts

The applicant, acting in its capacity as an employer, dismissed an employee by means of administrative acts, which were subsequently challenged before the ordinary courts. The latter examined the lawfulness of the applicant's actions and found that the termination of employment was not in accordance with the law, therefore, the acts issued for this purpose were unlawful. The applicant subsequently lodged an individual constitutional complaint seeking a constitutional review of the judicial proceedings conducted by the lower jurisdiction courts. Relying on Article 42 of the Constitution, the applicant claimed a violation of its right to a fair trial in several respects by the ordinary courts.

Court's Assessment

Regarding the applicant's locus standi in relation to the ratione personae criterion – The Court notes that the applicant is a ministry, namely a public-law entity, which in the context of the civil service relationship under review, acted as an administrative authority and a public employer. Its general purpose lies in the exercise of public functions and the enforcement of the law in the public interest. Procedural guarantees, are inherently designed to protect aggrieved parties from the exercise of public authority and to prevent arbitrariness in decision-making. Thus, they are primarily intended for the entities subject to the state power, rather than for the public authorities themselves, which, within the constitutional framework, bear the obligation to uphold and secure such rights.

Furthermore, the Court emphasizes that such assessment does not imply a denial, in the abstract, of the constitutional nature of the procedural guarantees enshrined in Article 42 of the Constitution. Rather, it concerns the applicant's lack of locus standi as a public-law entity in the specific circumstances of the instant case – to invoke these guarantees as a holder of such rights. Therefore, the Court holds that the applicant fails to satisfy the ratione personae criterion, in the light of Article 131(1), letter "f" of the Constitution, and hence it lacks the requisite standing to set in motion constitutional proceedings.

Decision-making

The Court decided, unanimously, to reject the application (one judge expressed a concurring opinion).

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Imposition of a personal preventive measure – Procedural and substantive aspects of personal liberty – Reasonable doubt – Principle of proportionality

KEYWORDS

Criminal proceedings/ Article 230 of the Code of Civil Procedure/ Sine qua non/ Restriction of personal liberty/ Reasonable doubt/ Replacement of the preventive measure/ Remand in custody/ Bail/ Proportionality of the measure

The main purpose of Article 27 of the Constitution is to prevent the arbitrary or unjustified deprivation of liberty, since the right to personal liberty is of vital importance in a ‘democratic society’.

The requirement of ‘reasonable doubt’ of having committed a criminal offense, which justifies the restriction of an individual’s personal liberty, presupposes the existence of facts or information which would convince an objective observer that the person concerned may have committed the offense. Such facts do not need to be of the same level as those necessary to justify the bringing of charges or a criminal conviction, which belong to a later stage of the criminal investigation proceedings.

Ilir Beqaj *Restriction of personal liberty* **Judgment No. 7 of 28 January 2026**

Facts

Since 2021, the applicant had served as the Director of SASPAC, acting as the National Coordinator for the European Union’s Instrument for Pre-Accession Assistance (IPA) regarding foreign aid for development programs and projects. He is suspected of having unlawfully failed to declare assets which, according to the investigation, are owned by him, and is suspected of having obtained unlawful benefits as the Director of SASPAC. The Special Prosecution Office registered the names of the suspected perpetrators, including the applicant. The latter is suspected of having committed the criminal offenses of ‘Fraud’, committed in complicity with serious consequences, ‘Violation of the equality of participants in public tenders or auctions’, committed in complicity, ‘Passive corruption of persons exercising public functions’, committed in complicity, ‘Passive corruption of high state officials’, committed in complicity, ‘Active corruption of persons exercising public functions’, and ‘Refusal to declare, non-declaration, concealment, or false declaration of assets and private interests of elected persons and public servants or any other person legally obliged to declare’. Based on such suspicions, the three levels of jurisdiction imposed the preventive measure of remand in custody. The applicant essentially claimed that the preventive measure of remand in custody was disproportionate and that the courts had conducted an irregular legal process (violation of the right to a fair trial), thereby infringing his right to personal liberty. The applicant’s claims were contested by the interested party, namely the Special Prosecution Office.

Court’s Assessment

Regarding the alleged violation of personal liberty in relation to the standard of reasonable doubt based on evidence – The Court noted that the restriction of the applicant’s personal liberty was imposed by a judicial decision, based on a reasonable doubt that he had committed the suspected criminal offenses, and in accordance with a procedure prescribed by law. The Court also noted that there is no indication that the ordinary courts rendered a decision contrary to the legal provisions of the Criminal Procedure Code (CPC), nor is there evidence that their interpretation was broadened to such an extent as to infringe the procedural guarantees established by the CPC, thereby placing the applicant in a less favorable position in the present case. Furthermore, the Court of Appeal did not expand the factual basis of the offense presented by the prosecution in the request for the imposition of the preventive measure; it is clear that its assessment regarding the existence of the elements of the criminal offense of forgery of documents, based on the facts presented by the prosecutor, does not constitute the bringing of a new charge by the court. Additionally, the cited decisions, though seemingly similar, are not unifying or standardizing decisions binding for implementation; thus, they are insufficient to create a legitimate expectation for the applicant. Therefore, the applicant’s claims regarding the violation of personal liberty based on the argument of a lack of reasonable doubt based on evidence, as well as his claim regarding legal certainty, are unfounded.

Regarding the principle of proportionality of the preventive measure – The Court found that in their decisions, the courts provided relevant, and sufficient reasons – such as the risk of tampering with evidence, the risk of absconding, and, albeit to a lesser extent, the risk of the applicant reoffending – which are appropriate and sufficient from a constitutional and Convention perspective to justify the continuation of an individual’s pre-trial detention. The Court assessed that release on bail under Article 28 (3), of the Constitution is related to the length of the measure, in the event of a subsequent review of the decisions imposing it. Therefore, the Court, taking into consideration the subject matter of the constitutional complaint, namely the initial imposition of the preventive measure, the principle of subsidiarity, and the legal remedies available to the applicant, refers to the factual moment when such measure was assessed by the ordinary courts, rather than the time elapsed from its imposition to the moment of constitutional review.

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INDIVIDUAL CONSTITUTIONAL COMPLAINTS

The Criminal College of the High Court has confirmed that the appropriateness and proportionality of the measure are satisfied in relation to the factual circumstances, the role and position of the person under investigation, as well as the precautionary needs (reasons justifying detention). The ordinary courts provided relevant and sufficient reasons demonstrating the existence of such risks in the present case.

In particular, they highlighted the complexity of the investigation in terms of the duration of the suspected criminal activity, the complicity, his role in the commission of the criminal offenses, as well as the potential negative impact he could have on the continuation of the investigations.

Furthermore, this provision regulates the length of pre-trial detention and requires that the measure of deprivation of liberty must have lost its purpose, i.e., it is no longer justified by reasons of public interest. Thus, the Court considered that the submission of a request to be released pending trial against a bail requires the passage of a period of time, after which the court can verify whether the conditions and requirements for the preventive measure are still met.

The Court held that the applicant's claims regarding the restriction of personal liberty, due to the imposition of the personal preventive measure of 'remand in custody', are unfounded, provided that the measure was imposed for a legitimate aim – guaranteeing the proper conduct of the criminal proceedings against him – and it does not appear to be disproportionate in the context of the circumstances of the case and in relation to the criminal offenses of which he is suspected, and that it is in compliance with the procedural rules of the CPC regarding its imposition.

Decision-making

The Court decided, by a majority, to reject the application (two judges expressed a concurring opinion).

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Applicant's admissibility regarding the exhaustion of effective remedies – Principle of legal certainty in respect of *res judicata*

KEY WORDS

State Advocate General/ Disciplinary measure/ Disciplinary warning/ Dismissal from office/ Time-Limit for appeal/ Re-examination of the case/ Non-final decision/ Exhaustion/ Subsidiarity

Decisions concerning the re-examination of the case shall be subject to constitutional review only in exceptional circumstances, concerning a violation of the principle of legal certainty in respect of *res judicata*, which is intrinsically linked to the fact that the ordinary courts have adopted an express and final position on a matter of fact and/or law that has determined the course of the proceedings.

Endri Kotherja

Inadmissibility due to non-exhaustion of effective remedies
Judgment No. 9 of 11 February 2026

Facts

The applicant served as a State Advocate and, following three disciplinary warnings, was dismissed from office. His claim seeking the annulment of the dismissal order and of the three other disciplinary measures, as well as his reinstatement, was upheld by the Administrative Court of First Instance. The State Advocate General lodged an appeal against such decision, but the first-instance court declared it inadmissible due to formal defects. Furthermore, the Administrative Court of Appeal amended that decision, while the Administrative Chamber of the High Court subsequently declared the applicant's appeal on points of law inadmissible. His complaint was declared inadmissible on the grounds that the criterion of the exhaustion of effective domestic remedies had not been met.

In the meantime, the merits of the case were examined by the Administrative Court of Appeal, which upheld the decision allowing the claim. The High Court overturned the court of appeal's decision and remitted the case for retrial at second instance, in order to verify compliance with the statutory time-limit for lodging the claim.

Therefore, the applicant lodged another individual constitutional complaint with the Court, raising once more the issue of the time-limit for the appeal.

Court's Assessment

Regarding the applicant's admissibility in relation to the exhaustion of effective remedies – The Court observed that the court of appeal, upon retrial, in addition to its statutory obligation to implement the instructions and findings of the High Court, ought to exercise its subsidiary constitutional role in safeguarding fundamental rights, by providing an express response to the complaint concerning the time-limit for lodging the appeal by the State Advocate General.

The other facet of the principle of subsidiarity relates to the need to identify and redress the violation of fundamental rights as promptly as possible, namely as soon as they are brought to the attention of the ordinary courts. The latter, having jurisdiction to examine the legal disputes of citizens, are best placed to initiate and, if necessary, to give binding force to a constitutional interpretation that protects fundamental rights.

The Court concluded that the alleged violations could and should be addressed during the retrial of the case before the Administrative Court of Appeal. Therefore, the impugned decision of the High Court challenged in the individual constitutional complaint was not final for the purposes of constitutional review.

Decision-making

The Court decided, unanimously, to reject the application.

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

**Right to a fair trial –
Right of access to a court
in relation to the right to
be defended and be
heard – Standard of a
reasoned judicial
decision related to the
principle of legal
certainty in respect of
*res judicata***

KEY WORDS

*Court of Peace/ Forged
document/ Res judicata/
Notification of the hearing/
Electronic address/ In chambers*

The Court, referring to Article 480 of the Code of Civil Procedure, observed that the inadmissibility of an appeal on points of law is decided in chambers, in the absence of the parties, in the cases provided for by such provision. Furthermore, the Court held that although the applicants bear the burden of proof in this regard, they had failed to substantiate, from a constitutional perspective, a violation of the right to a fair trial due to the examination of the appeal on points of law in chambers.

Kadri Pazari and Engjëll Kazazi

Standard of a reasoned judicial decision in relation to the principle of legal certainty regarding “res judicata”
Judgment No. 10 of 11 February 2026

Facts

The subject matter of the judicial dispute challenged before the Constitutional Court (the Court) concerns a property dispute over a plot of land, the ownership of which had been recognized by a decision of the former Property Restitution and Compensation Commission. During the proceedings before the ordinary courts, the applicants (the defendants), in support of their claims regarding the ownership of the plot, submitted as evidence a 1939 decision of the Court of Peace. At the conclusion of the proceedings at all instances, the claim was dismissed. Such judicial proceedings were also subject to review by the Court, which, in 2001, dismissed the complaint. Regarding the 1939 decision of the Court of Peace, the prosecution authorities, despite having instituted two sets of criminal proceedings for the criminal offence of forgery of documents, decided at the conclusion of the investigation to discontinue the criminal case and not to initiate criminal proceedings. The prosecution authorities' decision was upheld by the courts at all three instances. Therefore, the parties instituted further judicial proceedings, at the conclusion of which it was established that the 1939 decision of the Court of Peace was forged.

These proceedings subsequently became the subject of review by the Court.

Court's Assessment

Regarding the alleged violation of the right of access to a court in relation to the right to be defended and to be heard – The Court considered that the proceedings before the High Court were instituted on the basis of the appeal on points of law lodged by the applicants, represented by their chosen lawyer, who had the opportunity to submit all their arguments therein, as well as the fact that the interested parties, the plaintiffs in the main proceedings, did not lodge a cross-appeal, but only requests for the expedition of the proceedings. Under these circumstances, in the Court's assessment, it has not been proven that they were placed at a disadvantage vis-à-vis the opposing party in the proceedings concerning the right to be heard from a substantive perspective. Furthermore, the Court held that the High Court had also notified the applicants individually, via their lawyer's email address, thereby safeguarding the parties, and in particular the applicants right to a fair trial, including proper notification as an element of those proceedings.

Regarding the alleged violation of the standard of a reasoned judicial decision in relation to the principle of legal certainty in respect of *res judicata* – Following the examination of this complaint, at the conclusion of the deliberations, the judges' assessments were divided into two views, thus the Court did not reach the required number of votes to adopt a decision, in accordance with the provisions of Article 133 § 2 of the Constitution, as further detailed in Article 72 § 2 of the Court's Organic Law.

According to one view, the courts, in the impugned decisions, conducted a comprehensive analysis of the facts and the approaches of the ordinary courts throughout the judicial proceedings between the litigating parties, analyzing the existence or not of *res judicata*, and subsequently concluding that the complaint concerning the violation of legal certainty in connection with *res judicata* was unfounded. Furthermore, according to this view, the applicants' arguments essentially relate to High Court decision no. 38/2016, by which the case was remitted for retrial to the court of appeal, a decision which does not appear to have been previously challenged by the applicants.

According to the opposing view, the issue of the authenticity of the Court of Peace decision acquired the authority of *res judicata*; therefore, in observance of the principle of legal certainty, no court could re-examine it without following the statutory procedures for rectifying fundamental defects in the administration of justice, such as the reopening of proceedings. However, the High Court, by its 2016 decision, in violation of the principle of legal certainty, reopened the issue of forgery, subjecting it once again to judicial debate and assessment, without having regard to the *res judicata* authority that the matter had acquired. The High Court decided to remit the case for re-examination to the court of appeal, instructing it to re-verify the claim regarding the forgery of the relevant decision. In implementation of such decision, the court of appeal and, subsequently, the High Court delivered the impugned decisions, which are likewise in violation of the principle of legal certainty.

Decision-making

The Court decided to reject the application due to the failure to reach the required majority of five judges (one judge expressed a concurring opinion).

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Right of access to a court – Standard of a reasoned judicial decision

KEY WORDS

*Dismissal order/ Civil Servant/
Absolute invalidity of an
administrative act/ Article 155 of
the Labor Code/ Formalistic
approach/ Right to earn a living
by lawful work/ iura novit curia*

Where an individual, challenges the unlawfulness of the termination of an employment relationship, the ordinary courts cannot confine themselves merely to finding whether the termination was lawful or not; rather, they have an obligation to also rule on the consequences of such unlawfulness.

The courts of ordinary jurisdiction must not act in a formalistic manner, by leaving essential complaints unanswered simply due to the fact that the plaintiffs failed to correctly identify the legal basis supporting their claims, as it is the duty of the court itself to qualify the dispute in accordance with the principle of iura novit curia.

The ordinary courts are not bound by the legal characterization given to the dispute by the parties.

It may transpire that the plaintiff erroneously invokes statutory provisions, yet the right they seek to protect emerges clearly from a reading of the statement of claim; therefore, it is the duty of the court to resolve the case in accordance with the cause of action that becomes apparent from an overall examination of the statement of claim.

Valentina Kodheli *Unlawful dismissal* Judgment No. 11 of 11 February 2026

Facts

The applicant filed a claim with the court seeking the repeal of her dismissal order, reinstatement in her position, and the payment of her salary, pursuant to Law no. 152/2013 “On the Civil Servant”, as amended (the Civil Service Act). The first-instance court accepted such claim, declaring the administrative act null and void, and ordering the respondent party to reinstate the applicant to her previous position and to pay her salary from the date of her dismissal onwards. Such decision was overturned by the court of appeal, which held that the dispute at issue was governed by the Labor Code and not the Civil Service Act, holding that civil servant status is not acquired ipso jure. Subsequently, that court held that the employment contract had been terminated abruptly and without justifiable cause by the former employer; thus, it awarded the applicant compensation pursuant to Article 155 of the Labor Code.

The High Court overturned the decisions of the lower courts and dismissed the claim in its entirety, holding that, although the court of appeal had correctly identified the applicable law, it had resolved the dispute on a different legal basis, which had neither been claimed nor requested by the applicant.

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

Court’s Assessment

Regarding the alleged violation of the right of access to a court in relation to the standard of a reasoned judicial decision – The Court first noted that, despite the fact that the dismissal order was not based on the Labor Code but on the provisions of the Civil Service Act, both the court of appeal and the High Court failed to analyze such circumstance. Even though the applicant had alleged the unlawfulness of her dismissal/ termination of her civil service relationship and sought redress for the consequences of this unlawfulness, the appellate court acknowledged the unlawfulness of the termination of the employment relationship, considering it not as a civil service relationship, but rather as a relationship governed by the Labor Code. The High Court upheld the court of appeal’s position regarding the applicable law, but failed to examine on the merits whether or not the dismissal from office was in accordance with the law – even the law it had identified as applicable – reasoning that the claim did not contain requests for redress of the consequences of the unlawful dismissal under the Labor Code.

The Court considered that the essence of the applicant’s claim, regardless of the legal basis invoked, was the unlawful termination of her civil service relationship (a type of employment relationship) and the regulation of the ensuing consequences. In this context, the Court held that the core complaint concerning the unlawfulness of the termination of the employment relationship and the redress of its consequences had not received a response from the High Court, not even under the law it had identified as applicable. According to the Court, the High Court adopted a formalistic approach by failing to look beyond the statutory provisions to safeguard the very essence of the right. Consequently, the Court found that the applicant’s right to earn a living by lawful work, as guaranteed by Article 49 of the Constitution, had also been violated.

Decision-making

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

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Binding force of the Constitutional Court's decisions – Standard of a reasoned judicial decision

KEY WORDS

Former military officer/ Demotion/ Presidential decree/ Minister's order/ Pecuniary rights/ Active-duty officer/ Reserve officer/ Special legislation on military ranks and status/Judicial decision/ Binding force/ Ratio decidendi/ Constitutional obligation/ Force of law/ Constitutional loyalty

References that could be interpreted as assessments regarding the constitutional role of this Court, or as calling into question, as a matter of principle, the binding force of its judgments, are incompatible with the spirit of institutional dialogue and may undermine the coherence of the constitutional order. The debate over jurisdictional boundaries is permissible insofar as it is conducted at the level of technical arguments; however, it must be expressed in measured language and in a spirit of mutual institutional respect, having regard to the constitutional competences of each authority, and ensuring it does not undermine public confidence, which is so vital in a State governed by the rule of law.

Gjergj Vladi

Remanding of the case to the High Court for re-examination

Judgment No. 12 of 12 February 2026

Facts

The applicant, a former active-duty officer of the Armed Forces holding the rank of "Brigadier General", was dismissed from his duties in 1997 by a Presidential Decree and was subsequently demoted for a serious breach of military discipline. In 1998, the applicant was placed on the reserve list by order of the Minister of Defense, and his financial rights as an active-duty officer were discontinued.

Therefore, the applicant filed a claim with the court seeking the annulment of the demotion decree. The Tirana District Court, by Decision no. 3142 of 01 June 2006, partially annulled the Presidential Decree and ordered the enforcement of such judgment. In 2007, the applicant was once again placed on the reserve list and was granted a transitional payment. Thus, the applicant filed another claim before the court, seeking to compel the interested entity, namely – the Ministry of Defense, to pay salary compensation, seniority pay, rank-related compensation, as well as his spouse's salary compensation for the period he was deprived of his rank between 1998 and 2007.

Subsequently, the Tirana District Court rejected such claim. The decision was partially altered by the Tirana Court of Appeal, but the Administrative College of the High Court upheld the first-instance court's decision. Furthermore, in 2016, the applicant lodged an application with the Constitutional Court, claiming that the High Court's decision had violated the principle of legal certainty and the right to a reasoned judgment (Application no. 1). The Court repealed the High Court's decision as incompatible with the Constitution and remanded the case to that court for

re-examination. The Administrative College of the High Court once again reversed the Court of Appeal's decision and upheld the Tirana District Court's decision. Thus, in 2023, the applicant lodged another application with the Court, claiming that the High Court's decision had violated his right to a fair trial with regard to the principle of legal certainty, the right to a tribunal established by law, the standard of a reasoned judicial decision, as well as the standard of mandatory enforcement of the Court's decisions (Application no. 2). The Court, having found the applicant's claim regarding the violation of the standard of mandatory enforcement of its decisions to be founded, repealed the decision and remanded the case to that court for re-examination. Subsequently, the Administrative College of the High Court re-examined the case in a public hearing, with a panel composed of five judges, with the aim of developing the case-law regarding the rights deriving from holding active-duty and reserve military officer status. Thus, it once again reversed the Court of Appeal's decision and upheld the Tirana District Court's decision.

Therefore, the applicant lodged an individual constitutional complaint with the Court, according to its subject-matter.

Court's Assessment

Regarding the violation of the standard of the mandatory enforcement of the Court's decisions linked to the right to a reasoned judicial decision – The Court considered that in its previous decisions, when identifying the need for the High Court's intervention to ensure the uniformity and coherence of case-law, its intention was not merely the delivery of a unifying judgment in the formal sense of the term, but rather the safeguarding of the principle of legal certainty through a uniform and reasoned approach to the legal issue raised, in order to avoid conflicting jurisprudential stances and to ensure the foreseeability of the application of the law. Under these circumstances, the Court observed that the High Court had fulfilled such obligation: firstly, from a procedural perspective, by referring the case for examination to a five-judge panel, as the body which, pursuant to the new constitutional and statutory provisions, exercises the function of unifying or developing the case-law; and, secondly, from a substantive perspective, by taking an explicit stance on the essential issues raised in the proceedings, in the exercise of its jurisdiction under Article 141 of the Constitution.

In compliance with the Court's instruction to provide reasoning regarding the effects of the final judgment which had annulled the decree on the applicant's demotion, the High Court argued that the annulment of such decree did not entail the repeal of the Minister of Defense's order transferring the applicant to the reserve, and thus did not result in the restoration of his status as an active-duty military officer.

Therefore, the Court considered that the High Court's course of action had fulfilled, not only formally but also in substance, the objective of the instruction given by this Court.

Decision-making

The Court decided, unanimously, to reject the application

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Principle of the right of access to a court in the context of an effective remedy, in relation to the standard of a reasoned judicial decision – Standard of the binding execution of Court’s judgments – Right to property

KEY WORDS

Immovable property/ Notarized contract/ Land Acquisition Certificate/ Local Immovable Property Registration Office/ Cadastral register/ Initial registration of property/ Unifying Decision no. 1/2009/ Civil circulation/

Although the applicant’s appeal on points of law did not explicitly link the alleged misapplication of the law to the property’s registration in the cadastral registers of the time (which were distinct from the immovable property registers), the High Court effectively addressed this claim. While confining its review to the grounds of appeal and considering the applicant’s prior preliminary written submissions, the High Court held that under substantive civil law, the decisive factor is registration in the immovable property register, rather than in any other type of public register.

Amelia Zerri

Violation of the right of access to a court in relation to the standard of a reasoned judicial decision

Judgment No. 13 of 16 February 2026

Facts

The applicant A.Z., the legal heir of the late S.Z., claims ownership of two plots of land purchased by him through notarized contracts in 1996. In 2005, the national S.Z. was issued property certificates and subsequently he sold the properties, but the sales contracts were revoked because, following an investigation by the Prosecution into forgery of documents and abuse of office, it transpired that the property certificates were forged. In the meantime, the representative of one of the sellers of the plots was convicted of the criminal offence of fraud, and the plots had been resold to other buyers. As a result of the criminal proceedings, the Tirana Local Immovable Property Registration Office placed a restriction on transactions concerning the plots of land “owned” by S.Z. Subsequently, upon the request of another buyer, A.E., the courts lifted such restriction in 2010 and recognized A.E.’s property rights.

Therefore, in 2011, the applicant and the other heirs sought the recognition of their ownership, the absolute invalidity of the other sales contracts, the restitution of property, its registration in their name, and compensation for damages. The court of first instance partially accepted the claim, declaring the absolute invalidity of the other sales contracts and ordering the cancellation of the property registration in the name of A.E. from the register of the Tirana Local Immovable Property Registration Office, as well as its registration in the name of the applicant and the other heirs of S.Z. The Tirana Court of Appeal (2014) amended such decision and rejected the applicant’s claim. The Civil College of the High Court reversed the court of appeal’s decision and upheld the first-instance decision, holding that the Court of Appeal had failed to properly assess the cause of the dispute between the litigants, as a result of misinterpreting the substantive law, misapplying Unifying Decision No. 1/2009, and failing to assess the circumstances of the case in their entirety.

Thus, in 2023, the national A.E. lodged a complaint with the Constitutional Court seeking the annulment of the High Court’s decision, alleging a violation of the principle of legal certainty in relation to the right to property, the right of defense, and the standard of a reasoned judicial decision. The Court accepted the complaint and remanded the case for re-examination due to a violation of the right of defense and the right to a tribunal established by law in relation to the standard of a reasoned decision. Following the re-examination of the case, the Civil College of the High Court declared the appeal on points of law filed by the applicant (and the other plaintiffs) inadmissible. Therefore, the applicant lodged an individual constitutional complaint with the Court, as per the subject matter of the application.

Court’s Assessment

Regarding the alleged violation of the right of access to a court in terms of an effective remedy in relation to the standard of a reasoned judicial decision and the standard of the binding force of the Court’s decisions – The Court found that during the retrial proceedings, the High Court had examined the question of law for which the retrial had been ordered and adopted an explicit and reasoned position in that regard, thereby fulfilling the requirements arising from its Decision No. 57/2023. In this context, the Court observed that the High Court had provided an explicit and reasoned response concerning its position on the legal validity of the immovable property registration, specifically holding that, prior to its disposal, the property must have been subject to initial registration in the immovable property registers administered by the Local Immovable Property Registration Office (currently the State Cadaster Agency). Furthermore, the Court noted that the High Court’s approach regarding the relationship between Articles 83 and 195 of the Civil Code, as well as Unifying Decision No. 1/2009, in the present case, did not appear, from a constitutional perspective, to be unreasoned, arbitrary, or manifestly unreasonable, thus providing the applicant with a clear, reasoned, and sufficient response in the constitutional sense. Therefore, the applicant’s complaint concerning the violation of the right of access to a court in terms of an effective remedy linked to the standard of a reasoned judicial decision and the standard of the binding nature of the Court’s decisions is unfounded. Given that the applicant’s claim regarding the violation of the right to property is inextricably linked to her claim regarding the violation of the right to a fair trial, and since the latter is unfounded, the Court held that the claim regarding the violation of the right to property is likewise unfounded.

Decision-making

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

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

**Right to private property –
Standard of a reasoned
judicial decision**

KEY WORDS

**Commercial activity/ Tax
authorities/ Administrative fine/
Regional Directorate of Taxes /
Settlement of tax liability/
Equivalence to private property/
Proportionality**

The constitutional claim relates to the fair balance that must be struck between the aim of protecting the public interest – safeguarding the tax system against the informal economy through the imposition of a fine – and the protection of the individual’s fundamental right to property. Thus, imposing an excessive burden on an individual undermines the fair balance that the principle of proportionality seeks to protect.

Fundamental rights must be interpreted in a manner that renders them effective; otherwise, the outcome might be incompatible with the aim of the Constitution, namely – to protect rights that are practical and effective, rather than theoretical or illusory.

The court of appeal’s assessment was excessively narrow and formalistic. Therefore, the limited reasoning of the High Court in declaring the appeal on points of law inadmissible was insufficient from a constitutional perspective.

“International Distribution for Albania” J.S.C *Courts’ interpretation of the law regarding the proportionality of the fine* Judgment No. 14 of 17 February 2026

Facts

The applicant company operates a coffee shop (commercial activity). During an inspection by the tax authorities, it was established that it had failed to issue a tax invoice, and a substantial fine was consequently imposed on the applicant company. The amount of the fine was calculated on the basis of an administrative offence for each table found on the premises. Following an unsuccessful administrative appeal, she lodged a claim with the courts.

The First-Instance Administrative Court partly accepted the claim and reduced the fine, on the grounds that the tax authority had misapplied Article 122 of the Law on Tax Procedures, as the relevant case constituted a single administrative offence.

Furthermore, the Administrative Court of Appeal overturned such decision and upheld the original amount of the fine, and rejected the claim. The Administrative Chamber of the High Court declared the applicant’s appeal on points of law inadmissible. Thus, the applicant lodged an individual constitutional complaint with the Constitutional Court.

Court’s Assessment

Regarding the alleged violation of the standard of a reasoned judicial decision in relation to the right to property – The Court found that the court of appeal had concluded that Article 122 § 1 of the Law on Tax Procedures applied to each individual instance (table) found without a tax invoice, and not merely as a single offence. The court of appeal’s decision entirely lacked a legal assessment regarding the proportionality of the fine, in contrast to the first-instance administrative court, which had provided detailed reasons for its determination of the case. Although the applicant’s appeal on points of law concerned a potential violation of the constitutional right to property with respect to the proportionality of the fine, the High Court declared the appeal inadmissible with limited reasoning, without providing an explicit response to a decisive argument for the resolution of the case – an argument which, given the significant discrepancy in the financial amount (a 100-fold difference), required particular attention on its part. Additionally, the diametrically opposed interpretation of Article 122 of the Law on Tax Procedures by the lower jurisdiction courts, as well as the High Court’s failure to provide a definitive response on the application of the law, meant that, in essence, the applicant’s constitutional complaint remained unresolved.

Decision-making

The Court decided, unanimously, to accept the application

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Principle of an impartial tribunal – Principle of presumption of innocence – Standard of a reasoned judicial decision – Right of access to a court

KEY WORDS

*Reopening of proceedings/
Enforcement of the ECtHR judgment/
Grounds of the appeal on points of law/
Article 423 of the Code of Criminal Procedure/
Principle of subsidiarity/
Life imprisonment/
Sole evidence/
Reasoned response*

The Court reaffirmed that the High Court, pursuant to Article 141 of the Constitution, exercises its role as a court of law for the entire territory of the country. Due to such constitutional feature, in principle, it is not precluded that the same judge may deliver several decisions within the same judicial proceedings, provided that the legal issues under examination are different.

When examining complaints concerning an alleged violation of the principle of an impartial tribunal due to the participation of the same judge in the delivery of two decisions at the High Court, it must be assessed whether the impugned decisions were rendered at the conclusion of judicial proceedings possessing distinct characteristics and based on different views and assessments by the judges.

Although the Criminal Chamber of the High Court did not expressly address the claim raised in the appeal on points of law concerning the violation of the principle of the presumption of innocence, in the context of the circumstances of the present case and the fact that such claim was unfounded in substance, this deficiency is not such as to lead to the conclusion that the reasoning of the impugned decision violated the applicant's right to a fair trial.

Arben Frroku

Reopening of proceedings following a judgment of ECtHR Judgment No. 16 of 17 February 2026

Facts

The applicant was charged with the criminal offences of “murder in other qualifying circumstances” committed in complicity and “unauthorized production and possession of military weapons and ammunition”. The First-Instance Court for Serious Crimes found the applicant innocent. Following an appeal by the prosecution, the Court of Appeal for Serious Crimes overturned such decision and found the applicant guilty for the aforementioned offences. Furthermore, the applicant filed an appeal on points of law, but the Criminal Chamber of the High Court declared it inadmissible and upheld the decision of the Court of Appeal for Serious Crimes.

Therefore, the applicant lodged an individual constitutional complaint with the Constitutional Court (the Court), which due to the failure to reach the requisite statutory quorum provided for in Article 72 § 2 of its Organic Law, deemed the application rejected. Thus, the applicant lodged an application with the European Court of Human Rights (ECtHR), which found

a violation of the right to a fair trial in respect of the standard of a reasoned decision, since the applicant had not received a reasoned response to the claims raised in his individual constitutional complaint previously lodged with the Court.

Based on the ECtHR's judgment, he lodged another application with the Court seeking the reopening of the criminal proceedings conducted against him and the repeal of the relevant judicial decisions.

Court's Assessment

Regarding the reopening of proceedings – In the instant case, the Court notes that the scope of the examination of the case is determined by the grounds for the reopening, thus the applicant cannot expand the grounds of the initial constitutional complaint, nor add further arguments in relation to them.

In this regard, the Court decided to examine and provide a reasoned response solely to the claims raised in the previous constitutional complaint.

Regarding the alleged violation of the principle of an impartial tribunal and the presumption of innocence – The Court considered that the mere fact that some members of the bench had previously participated in the assessment of the pre-trial detention measure in the same case could not be regarded as rendering it biased. Furthermore, the participation of the same judges in both decisions, which concerned different circumstances of the case, did not give rise to objectively justified doubts as to the observance of the principle of a hearing by an impartial tribunal, given that they addressed distinct legal issues. When assessing the preventive measure, the Criminal Chamber examined the existence of a “reasonable doubt” and other criteria which, under the procedural provisions, permit the imposition of measures restricting liberty. Conversely, in the second instance – namely the examination of the appeal on points of law against the court of appeal's decision convicting the applicant – the legal question brought before the judges of the Criminal Chamber of the High Court concerned the assessment of the grounds of appeal against the applicant's conviction (the merits of the case). According to the Court, in challenging the conviction, the Criminal Chamber examined the applicant's claims concerning the decision of the court of appeal, which had examined the issue of his guilt on the merits; therefore, by dismissing the appeal on points of law, it formally upheld the applicant's conviction.

Regarding the alleged violation of the right of access to a court in relation to the standard of a reasoned judicial decision – In the present case, the Court held that the court of appeal had sufficiently reasoned its decision by inherently addressing the applicant's claims raised in the counter appeal, and by analyzing the grounds as to why the first-instance court's decision was not just and had to be amended. Furthermore, in the Court's assessment, the court of appeal reached the conclusion set out in the operative part of its judgment by conducting a comprehensive examination and analysis of the evidence, without taking the prosecution's submissions or conclusions for granted. Consequently, the Court found that the court of appeal's decision was not unreasoned, contradictory, illogical, or confusing. As regards the decision of the Criminal Chamber of the High Court, the Court considered that, despite its limited reasoning, such decision did not fail to meet the criteria established by constitutional case-law regarding the duty to provide reasons. The reasoning part of the decision was logically connected to the conclusion reached in its operative part, fully reflecting the circumstances of the case, the grounds of the appeal on points of law, and the chamber's assessment of the nature of such grounds.

Decision-making

The Court decided, by majority of votes, to accept the request for the reopening of proceedings before the Court, to repeal the Constitutional Court's Decision No. 14 of 24 April 2018, and to reject the individual constitutional complaint (two judges expressed a concurring opinion)

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Principle of legal certainty – Right to property

KEY WORDS

Reopening of constitutional proceedings/ European Court of Human Rights (ECtHR)/ Final decisions of the Property Restitution and Compensation Commission (PRCC)/ Competence of the Property Restitution and Compensation Agency to examine the decisions of the PRCCs/ State Advocacy Office/ Property

The reopening of constitutional proceedings may be sought only where the violation found by the international court derives from a previous judgment of this Court.

Although the request for the reopening of the proceedings was lodged with the Constitutional Court, the latter notes that, inherently, such request concerns the review of the High Court’s decision, within the meaning of Article 494 § 2 (ë) of the Code of Civil Procedure. In these circumstances, with a view to guaranteeing the effective protection of the applicants’ fundamental rights and their right to an effective remedy for the redress of the violation found by the ECtHR, the Court holds that the case under examination must be remitted to the competent court, namely the High Court.

Hysnie Mahmuti, Melaize Ruli, Lale Meçi *Reopening of proceedings following a judgment of ECtHR* Judgment No. 17 of 23 February 2026

Facts

The applicants are the heirs of the national H.G. (their father).

By a 2006 decision of the Gjirokastër Local Property Restitution and Compensation Commission (LPRCC), he was recognized as the owner of a pasture area in Gjirokastër. This plot of land was physically restituted to the heirs of H.G.

In 2009, following amendments to Law no. 9235 of 29 July 2004 “On Property Restitution and Compensation”, as amended (the Property Restitution and Compensation Act), and acting upon a request by an interested party, the State Advocacy Office lodged an appeal against the aforementioned decision of the Gjirokastër LPRCC with the Director General of the Property Restitution and Compensation Agency (PRCA). The latter, by decision no. 186 of 25 May 2010, declared the decision of the Gjirokastër LPRCC null and void.

In the meantime, the Constitutional Court repealed several provisions of the amended Property Restitution and Compensation Act, on the grounds that the Property Restitution and Compensation Agency competence to review the decisions of the former property commissions, even proprio motu, was unconstitutional, as such competence belonged exclusively to the judicial authorities. The Court subsequently declared further legislative amendments of 2010 unconstitutional as well, finding that such provisions violated the principle of legal certainty and the right to property.

The applicants’ father sought the annulment of the Property Restitution and Compensation Agency Director’s decision (2010), but the first-instance court rejected the claim. The Court of Appeal ruled in his favor, overturned the PRCA’s decision, whereas the High Court rejected such decision and upheld the first-instance court’s decision, holding that it lacked evidence regarding ownership and that the Local Property Restitution and Compensation Commission’s decision had not become final. In 2016, the Panel of the Court decided not to admit the case for examination, finding the complaints raised to be manifestly unfounded.

In 2024, the European Court of Human Rights found a violation of the principle of legal certainty (Article 6 of the European Convention on Human Rights), as the Tirana District Court and the High Court had annulled the Gjirokastër final Local Property Restitution and Compensation Commission’s decision without a substantial and compelling reason, on which grounds the proceedings had to be reopened and re-examined.

Meanwhile, the applicant in such proceedings passed away and the heirs requested the reopening of proceedings before the Court.

Court’s Assessment

Regarding the applicant’s locus standi – The Court noted that the reopening of constitutional proceedings may be sought only where the violation found by the international court derives from a previous decision of this Court. In this regard, the Court observed that, although the European Court of Human Rights (ECtHR) found a violation of Article 6 § 1 of the ECHR in respect of the principle of legal certainty, it did not attribute such violation to the decision of the Panel of the Court, but rather to the decisions of the courts of ordinary jurisdiction – specifically, the Tirana District Court and the High Court – which annulled the final decision of the Gjirokastër LPRCC in the absence of substantial and compelling grounds justifying such a measure. Consequently, the Court held that the applicants lacked standing *ratione materiae*, within the meaning of Article 71/c § 3 of its Organic Law, to request the reopening of the constitutional proceedings.

On the other hand, the Court considered that, in essence, the request concerned the revision of the High Court’s decision, within the meaning of Article 494 § 2 (ë) of the Code of Civil Procedure. Under these circumstances, in order to guarantee the effective protection of the applicants’ fundamental rights and their right to an effective legal remedy to redress the violation found by the ECtHR, the Court remitted the case for examination to the competent court, namely the High Court.

Decision-making

The Court decided, unanimously, to reject the request for the reopening of constitutional proceedings and to remit the case to the High Court for examination (one judge expressed a dissenting opinion against remitting the case for examination to the High Court).

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Right to a fair trial – Right to an impartial tribunal

KEY WORDS

Licensing Commission/ Exclusion from public procurement procedures/ Temporary suspension of the license/ Impartiality of the tribunal/ Recusal

The judge's failure to request her recusal from the case, despite the existence of the same ground on which she had previously acted differently in another case involving the applicant company that was connected to the case at hand, is such as to cast doubt on her impartiality, even if only as to appearances. Under its objective test, the principle of judicial impartiality requires that the court itself provides sufficient guarantees of an impartial trial to exclude any legitimate doubt in this respect. The participation of Judge E.M. in the examination of the applicant company's case before the Administrative Chamber of the High Court gives rise to objectively justified doubts as to her impartiality.

The Court has affirmed in its jurisprudence, the constitutional trial process is of an argumentative nature, which means that it is up to the parties to present the factual and legal arguments on which they base their claims, consequently the applicant's insufficient arguments cause that her claim of violation of the right to an impartial trial to be unfounded.

"Geci" LLC.

Violation of principle of impartiality in trial of the case at the Supreme Court

Judgment No. 19 of 24 February 2026

Facts

The applicant company is a legal entity whose business activity includes the construction, reconstruction, and maintenance of civil and industrial buildings, etc. For various categories of construction work, it was issued a license by the Special Commission for Granting Professional Licenses (the Licensing Commission) at the Ministry of Public Works and Transport (MPWT). Due to findings of false declarations concerning the Dragobi-Valbonë road segment, the Minister of MPWT requested the Licensing Commission to initiate procedures for imposing an administrative sanction on the applicant company. Within the framework of these administrative proceedings, the Licensing Commission, by Decision no. 23 of 15 November 2010 (Decision no. 23/2010), imposed an administrative measure on the applicant company, revoking its right to conduct business activities for a period of three years in the categories: NP-4, roads, highways, bridges, overpasses, railways, etc. Subsequently, the Licensing Directorate at the Ministry of Public Works and Transport notified the applicant company of the temporary suspension of its license categories, informing it that its license was invalid. Thus, the applicant company filed a civil claim with the court against such decision. The Tirana District Court accepted the claim and partially repealed the Licensing Commission's Decision no. 23/2010. Such decision was upheld by the Tirana Court of Appeal, and the Administrative Chamber of the High Court declared the appeal on points of law filed by the defendant inadmissible. Subsequently, the applicant company participated in several public procurement procedures conducted by the Albanian Development Fund for road reconstruction. Claiming to have submitted a lower financial offer than the winning operators, the applicant company requested the reasons for not being declared the winner and why it had not been notified of the conclusion of the contract. The Albanian Development Fund replied that the Evaluation Committee had rejected its offers, considering that it failed to meet the qualification criteria due to its non-performance and unresolved judicial disputes. Thus, the applicant company filed a request with the court, seeking to compel the MPWT to pay compensation for the non-contractual damage caused as a result of the temporary suspension of its license. The first-instance court accepted the request and ordered the defendant, the MPWT, to compensate the applicant company. Following an appeal lodged by the Ministry of Infrastructure and Energy and the State Advocacy Office, the Court of Appeal partially amended the first-instance decision, rejecting the claim regarding the payment of interest. Following an appeal on points of law by the Ministry of Infrastructure and Energy and the State Advocacy Office, and a cross-appeal by the applicant company, the High Court amended the decisions of both lower courts and rejected the applicant company's claim in its entirety. The High Court held that, contrary to the findings of the courts of fact, the applicant company's claim was statute-barred, having been lodged outside the 3-year statutory time-limit.

Court's Assessment

Regarding the alleged violation of the principle of impartiality – At the conclusion of its deliberations, the Court failed to reach the requisite majority to deliver a decision, consequently, the application was deemed rejected.

According to one view, it was considered that the grounds for questioning the impartiality of Judge E.M. related to the existence of serious reasons of partiality due to her personal/family connections with the sole shareholder and administrator of the applicant company. It transpired that the case under examination, in which Judge E.M. acted as the judge rapporteur in the High Court, was connected to a previous case from which she had recused herself at the first instance. While the first-instance proceedings concerned the challenge to the Licensing Commission's decision suspending the applicant company's license, the proceedings before the High Court (the present case) concerned the claim for non-contractual damage caused precisely by that temporary suspension.

According to the opposing view, the grounds presented by the applicant company did not constitute a convincing factual basis to cast doubt on the impartiality of the judge rapporteur in the High Court – therefore, the presumption of her impartiality remained valid. It was noted that: (i) the applicant company itself had not filed a request for the recusal of the judge rapporteur from the bench of the High Court, despite having been duly notified of the bench composition; (ii) the circumstance of family/personal connection is fundamentally different from a situation of enmity, pursuant to Article 72 (3) of the Code of Civil Procedure (CCP), meaning that, logically, the judge's impartiality should have been challenged by the applicant company's opposing party in the proceedings, not by the applicant itself; and (iii) the circumstance of the family/personal connections had been declared 14 years prior

to the relevant case (i.e. 2010), when she was serving as a first-instance judge.

Decision-making

The Court decided to reject the application due to the failure to reach the requisite majority of five judges, within the meaning of Article 73 (4) of the Court's Organic Law

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

Principle of the presumption of innocence – Standard of a reasoned judicial decision

KEY WORDS

Regional Directorate of Social Insurance/ Insurance period/ Reasonable doubt/ Insurance fraud/ Sentence/ In dubio pro reo principle/ Burden of proof/ Documentary evidence

The burden of proof regarding the existence of the elements of the criminal offence lies with the prosecution. However, the Court of Appeal failed to examine whether the enterprise’s archival documentation was complete and reliable, particularly considering that the court of first-instance had found it incomplete. The existence of a doubt regarding the archive completeness or deficiency cannot be interpreted to the applicant’s disadvantage. On the contrary, in light of the in dubio pro reo principle, any doubt must operate to her benefit. The High Court adopted a formalistic approach, without examining whether the constitutional standard for proving guilt and the requirements on the burden of proof had been observed by the Court of Appeal.

Shadije Lika

Criminal proceedings for insurance fraud
Judgment No. 20 of 24 February 2026

Facts

The applicant was charged with ‘insurance fraud’ following a criminal complaint by the Dibër Regional Directorate of Social Insurance, claiming that the applicant had unlawfully obtained a pension by means of forged documents. The Dibër District Court discontinued the criminal proceedings, holding that the prosecution should not have been initiated, since the objective elements of the offence had not been established.

However, the Tirana Court of Appeal reversed such decision, found the applicant guilty of insurance fraud, and sentenced her to a fine of ALL 100,000. It held that the court of first-instance had failed to assess the evidence in accordance with Article 152 of the Code of Criminal Procedure. Subsequently, the Criminal College of the High Court declared the applicant’s appeal on points of law inadmissible, since it lacked statutory grounds.

Court’s Assessment

Regarding the alleged violation of the principle of the presumption of innocence in relation to the standard of a reasoned judicial decision – It does not appear that the Court of Appeal examined whether the prosecution had proven that the applicant, in order to obtain the pension, had used forged documents, particularly the employment record book and the certificate from the Liquidator Enterprise of Workers’ Supply Company, Krastë. According to the Court, the documents submitted by the applicant and the derivative document submitted by the prosecution (the certificate of Dibër Regional Directorate of Social Insurance which notes that the applicant has worked in another peasant cooperative) constitute official documents with full probative value until proven otherwise. In this sense,

the burden of proving the falsity of the derivative document issued by the relevant institutions, or of further substantiating the existence of the employment relationship, was implicitly shifted to the applicant. The Criminal College of the High Court also confined itself to a general finding that the Court of Appeal had made a proper assessment of the evidence and a correct interpretation of the law, considering the matter as pertaining to the assessment of evidence and, consequently, falling outside its strictly legal scope of review. The Court held that, by failing to take an explicit and substantive stance on the constitutionally-based complaints raised in the appeal on points of law – in particular regarding the principle of the presumption of innocence, the standard of proof beyond reasonable doubt, and the prohibition on shifting the burden of proof – the High Court failed to meet the standard of a reasoned decision.

Decision-making

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