

PERIODIC NEWSLETTER

MARCH-APRIL 2026



Periodical Bulletin of Decisions
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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 period March– April 2026.

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Freedom of
expression –
Freedom of press

KEY WORDS

*TikTok platform/ Social network/
Blocking of access/ Principle of
proportionality/ Public interest/
Bullying/ Minors/ Journalist*

Online platforms serve as forums for public debate, the dissemination of information and where applicable, the exercise of freedom of press, particularly when used by the media and journalists for public communication and audience interaction.

The complete blocking of the online platform “TikTok”, despite being aimed at protecting the rights and best interests of children and young people, is not sufficient to justify an absolute restrictive measure, nor does it not constitute the only effective means of achieving the aim pursued.

“Association of Journalists of Albania” and Balkan Investigative Reporting Network, Albania”

Temporary blocking of access to an online platform

Judgment No. 31 of March 11, 2026

Facts

The Council of Ministers enacted Decision no. 151/2025, which ordered the blocking of access to the online platform “TikTok” within the territory of the Republic of Albania for a twelve-month period, until the implementation by the platform provider of technical measures to regulate minors’ access to the platform and to harmful content. The applicants lodged an application with the Court, claiming that the Council of Ministers’ Decision had violated their constitutional rights and freedoms. Specifically, they claimed that the impugned measure imposed a complete and unconditional restriction on the access of journalists and media organizations to a vital channel for the dissemination of news, thereby hindering their interaction with the audience and the fostering of public debate. Furthermore, they argued that it had restricted the citizens’ access to information disseminated through such platform.

In the applicants’ submission, the measure imposed by the impugned decision failed to satisfy the constitutional requirements for the restriction of rights enshrined in Article 17 of the Constitution.

Court’s Assessment

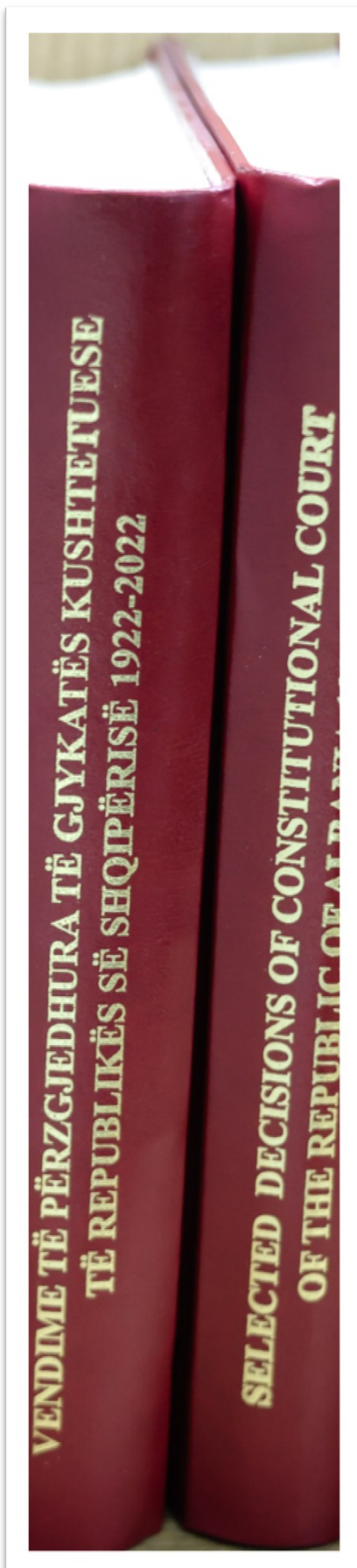
Regarding the alleged violation of freedom of expression and freedom of press

In order to address the applicants’ claims concerning the alleged violation of the constitutional rights guaranteed by Article 22 of the Constitution and Article 10 of the ECHR, the Court held as follows:

- a) *Whether there has been an interference* – Having regard to the nature of such measure, its application to all users and the fact that the applicants claimed that the platform in question served as a tangible forum for public communication, the dissemination of information, and audience interaction for the media and journalists, the Court considered that the “TikTok” platform, in the circumstances of the present case, constituted a means of exercising freedom of expression and freedom of the press. Consequently, the measure imposed by the impugned decision constitutes an interference with the exercise of such freedoms, within the meaning of Article 22 of the Constitution and Article 10 of the ECHR, insofar as it directly affected the applicants’ activities in the sphere of protecting freedom of expression and freedom of the press.
- b) *Whether the interference was justified* – The Court assessed whether the interference with the applicants’ right to freedom of expression and of press was justified – namely, whether it complied with the constitutional requirement for restriction within the meaning of Article 17 of the Constitution, as well as the relevant standards established in the ECtHR’s jurisprudence – by examining the following criteria:
 - i) *Whether the interference was prescribed by law* – The Court observed that it did not appear that the legislature itself had defined the essential elements of the restriction with the requisite clarity and precision, which would have ensured that the subordinate legislation remained

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CONTROL OF NORMATIVE ACTS



within its implementing function, within the meaning of Article 118 of the Constitution. In these circumstances, Decision no. 151/2025 could not be regarded merely as an act technically detailing a restriction already prescribed by primary legislation; rather it constituted an act that substantively established the essential elements of the restriction itself. The Court therefore concluded that the constitutional requirement that any restriction be provided for “only by law”, pursuant to Article 17 of the Constitution read in conjunction with Article 118, had not been satisfied.

ii) *Whether the interference pursued a public interest or a legitimate aim* – The Court considered that this requirement was satisfied, as the measure pursued the legitimate aim of protecting the rights and best interests of children and young people. Such a public interest is also directly safeguarded by Article 54 of the Constitution. However, the mere existence of a public interest, even when supported by the statistical data referred to by the interested party, was not per se sufficient to resolve the constitutional issue regarding the necessity of a complete blocking of the platform.

iii) *Whether the interference was proportionate to the situation that dictated it* – Regarding proportionality, the Court held that: (i) the aim pursued by the public authorities was sufficiently important to justify, in principle, a restriction on freedom of expression and freedom of the press; (ii) the interested party had failed to adequately consider the availability of less restrictive means, and had not convincingly demonstrated that a general blocking of the platform was the only effective and necessary means of achieving the aim pursued; (iii) Decision no. 151/2025 failed to provide for a transitional period prior to the entry into force of the measure. It did not afford the affected parties – including the media and journalists who used the platform as a channel of communication with the audience – sufficient time to adapt to the new situation and to arrange alternative means of communication, thereby increasing the intensity of the interference. Thus, a fair balance had not been struck between the intensity of the interference and the importance of the aim of protecting minors.

The Court further concluded that the interference failed to satisfy the proportionality requirement within the meaning of Article 17 of the Constitution. The means adopted by the public authorities were more restrictive than necessary to achieve the aim pursued and it had not been proven that a complete blocking of the platform constituted the only effective and necessary means of protecting the rights and best interests of children. Therefore, the Court considered the applicants’ claims to be founded; however, given that the impugned Council of Ministers Decision had been repealed, the Court confined itself to making a finding of a violation of freedom of expression and freedom of the press.

Decision-making

The Court decided, by majority vote, to accept the application in part (one judge expressed a dissenting opinion) and found a violation of the freedom of expression and freedom of press as a result of the implementation of the Council of Minister’s Decision no. 151/2025.





Right to a trial within a reasonable time

KEY WORDS

Property restitution and compensation process/ Financial assessment of property/ Length of proceedings/ Delay in proceedings/ Request for acceleration

The financial assessment of a property awarded to an expropriated former owner by a decision of the Tirana Regional District Office for the Restitution and Compensation of Property, by its very nature, although not directly related to vital interests that would inherently necessitate priority treatment, is linked to the right to property and the property restitution and compensation process. Regarding the latter, the Court has held that the examination of such cases requires priority treatment due to the interest they present for the applicants.

Alket Çela

Unreasonable duration of proceedings before the court of appeal

Judgment No. 21 of March 03, 2026

Facts

The applicant filed a claim with the Tirana Administrative Court of First Instance, seeking the financial assessment of a decision issued by the District Regional Office for the Restitution and Compensation of Property. This court accepted the claim, a decision which was subsequently appealed by the respondent party, the Property Treatment Agency, and the State Advocacy. The case was registered with the Administrative Court of Appeal on 09 April 2021. Relying on Decision No. 78/2019 of the High Judicial Council (HJC), the applicant submitted requests for the acceleration of the proceedings, which were rejected. Therefore, on 06 November 2024, the applicant filed an application to the High Court, seeking a finding of a violation of the right to a hearing within a reasonable time by the Administrative Court of Appeal. The High Court rejected the application, holding that the court of appeal failure to act was not attributable to subjective factors, such as arbitrary assessments or conduct on the part of the judge.

Court's Assessment

Regarding the alleged violation of the right to a hearing within a reasonable time

The Court, with regard to the criteria relating to the complexity of the case, the applicant's conduct, and the conduct of the competent authorities, did not find any new or different cause or circumstance that would lead to a different conclusion regarding their observance. The Court confined its analysis to the criterion of what was at stake for the applicant due to the delays in the proceedings. It found that, taking into consideration the particular circumstances of the present case and the importance of the interests that might be prejudiced by the length of judicial proceedings, a real risk to the applicant's interests had been established, the nature of which justified the priority examination of the case by the Administrative Court of Appeal. Therefore, observing that the case had been pending before the Administrative Court of Appeal for a period of four years and ten months, the Court concluded that there had a violation of the applicant's right to a hearing within a reasonable time, within the meaning of Article 42 of the Constitution.

Decision-making

The Court decided, unanimously, to accept the application.



Right of substantive access to a court –

Standard of a reasoned judicial decision

KEY WORDS

Serving a sentence/ Burrel Institution for the Execution of Criminal Decisions/ Remuneration for work/ 1989 decree/ Norms of the system of the dictatorship of the proletariat/ General Directorate of Prisons/ Law on the treatment of prisoners/ 2009 Prison Rules/ 10% of the salary retained in the account/ Misinterpretation of the law

Although the High Court was faced with claims of a constitutional nature – namely, regarding the standard of a reasoned judicial decision, in the sense of an arbitrary interpretation of the law by the lower courts, which affected the right to rehabilitation and compensation guaranteed by Article 44 of the Constitution – it ought to have expressly addressed the applicant's claims,

in the exercise of its judicial function and in accordance with the principle of subsidiarity. The determination of whether, under the applicable domestic law, the applicant was entitled to 10% of the total value or to the full amount thereof, falls within the jurisdiction of the High Court.

Gjergj Luka

Calculation of remuneration for prison work

Judgment No. 22 of March 03, 2026

Facts

In 1995, the applicant was sentenced to eighteen years' imprisonment and was remunerated for the work he performed while serving his sentence in the Burrel Institution for the Execution of Criminal Decisions (IECD), on the basis of a 1989 decree.

Following his release in 2014, the applicant instituted civil proceedings in the Tirana District Court against the Burrel IECD and the General Directorate of Prisons in Tirana, claiming that the remuneration for the work he had performed in prison should have been calculated in accordance with the Law "On the rights and treatment of prisoners". The lower courts, at both levels of jurisdiction, upheld his claims regarding the applicable law for remuneration while serving a sentence.

Furthermore, the applicant lodged an appeal on points of law with the High Court, claiming that the calculation (made by the court-appointed accounting expert) of the remuneration amount as 10 % of the minimum salary was erroneous, resulting from a misinterpretation of the Prison Rules. He argued that the Rules provided for the retention of this exact amount in the employed prisoner's personal account, to be handed over to him upon the completion of the execution of his prison sentence.

The Civil Chamber of the High Court declared the applicant's appeal on points of law inadmissible (on the grounds that it did not contain any of the causes provided for in Article 472 of the Code of Civil Procedure). Thus, the applicant lodged an individual constitutional complaint with the Constitutional Court.

Court's Assessment

Regarding the applicant's locus standi

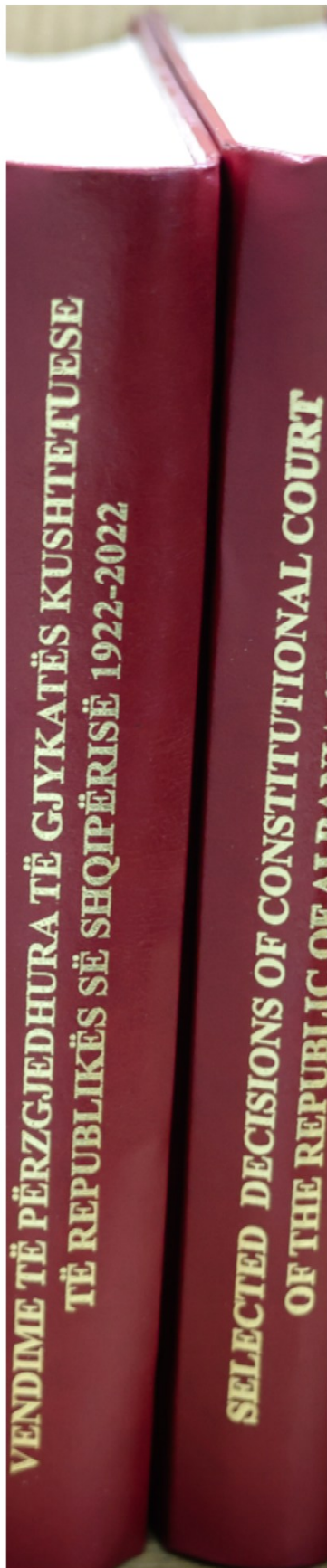
The applicant alleged, inter alia, a violation of the principle of equality before the law, as he had been treated differently from other prisoners who had performed similar work, who had either been paid the minimum salary or granted a reduction of their sentence for their work. In relation to such claim, the Court noted that the applicant had not raised it in his appeal on the points of law before the High Court, but only in his individual constitutional complaint. Consequently, in respect of such claim, he failed to exhaust the available domestic remedies.

Regarding the alleged violation of the right of substantive access to a court in relation to the standard of a reasoned judicial decision

The Court noted that in resolving the dispute brought before the lower courts, the latter – despite considering that the applicant's employment relationship with the Burrel IECD was governed by the Law on the treatment of prisoners and the 2009 Prison Rules issued pursuant thereto, and having established that the applicant had neither benefited from a reduction of his sentence for the work performed nor received the statutory remuneration – relied in their decision-making on the calculation contained in the expert report.

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INDIVIDUAL CONSTITUTIONAL COMPLAINTS



They determined that the Burrel IECD owed the applicant an amount equivalent to 10% of the total value calculated on the basis of the reference salary under the Council of Ministers Decisions in force during the period the work was performed by the applicant.

The High Court's declaration of the applicant's appeal on points of law as inadmissible – limiting itself to a *de plano* examination of the case without providing a reasoned response to a claim of a constitutional nature – called into question the observance and protection of fundamental constitutional rights.

In this regard, the Court, taking into consideration that no one shall be required to perform forced labor, highlighted that prison labor is considered an effective means of rehabilitation only if it is adequately remunerated.

Therefore, the Court concluded that the applicant's claim concerning the violation of the right to a fair hearing, in terms of substantive access to a court in relation to the standard of a reasoned judicial decision, was founded.

Decision-making

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



**Right to a fair trial -
Right of access to a court
- Standard of a reasoned
judicial decision - Right
to property**

KEY WORDS

*Bank loan/ Enforcement
proceedings/ Statutory time-limit
for challenging the actions of the
judicial bailiff/ Enforcement order/
Handwriting expert report/
Invalidity of notifications/ Sale of
property at auction/ Violation of
substantive and procedural law*

**The constitutional and legal
protection of an individual's
rights and freedoms can only
be achieved when exercised
within the prescribed
statutory time-limits.
The establishment of these
time-limits is not an end in
itself, but serves to protect the
rights of others.
The failure to establish such
time-limits would lead to a
situation where judicial
disputes would not be
definitively resolved between
the parties and their situation
would remain uncertain, since
at any given moment, a right
acquired through a judicial
decision could potentially be
violated or affected by a
decision delivered by a higher
court.**

Arjan Shtëmbari dhe Silvana Shtëmbari

*Failure to observe procedural limits during the enforcement
proceedings*

Judgment No. 23 of March 04, 2026

Facts

The applicants entered into a bank loan agreement with BNT, under which they were lent a sum of money with interest for a 36-month term. In order to secure the fulfillment of this obligation, on the same date, the parties entered into a mortgage agreement, whereby the first applicant mortgaged his immovable property, classified as "arable land", in favor of the bank. Subsequently, the mortgage agreement was also signed by his wife, acting as a guarantor. Due to the failure to fulfill the obligation to repay the loan, the creditor submitted a request to the court for the execution of the bank loan agreement. Consequently, the bailiff company ordered the seizure of the mortgaged immovable property and subsequently proceeded to sell it at auction. The interested parties were declared the successful bidders, and ownership of the property was transferred to them. This property was subsequently sold to another interested party. The applicant lodged a civil claim with the court, seeking to challenge the enforcement actions. The Tirana District Court dismissed the claim as unfounded in law, but such decision was overturned by the Tirana Court of Appeal.

At the retrial, the Tirana District Court upheld the claim, declaring the notifications for five enforcement actions invalid and, consequently, invalidating the actions themselves. Furthermore, it annulled the enforcement proceedings in their entirety, ordering the restoration of the parties to their previous situation. It also declared the sales contract invalid, ordered the mutual return of the sums received, and ordered the registration of the property in the name of the first applicant, owing to the annulment of the enforcement proceedings.

Following an appeal by the defendants, the Tirana Court of Appeal amended the first-instance court's decision and rejected the claim. The Civil Chamber of the High Court, sitting in chambers, declared the applicants' appeal on points of law inadmissible. Claiming that the actions of the judicial bailiff were carried out in bad faith, that they had not been notified of the procedure for the sale of the property at auction, and that the legal procedure for reaching an agreement with the debtor on determining the price of the property had not been followed, the applicants lodged a complaint with the Constitutional Court.

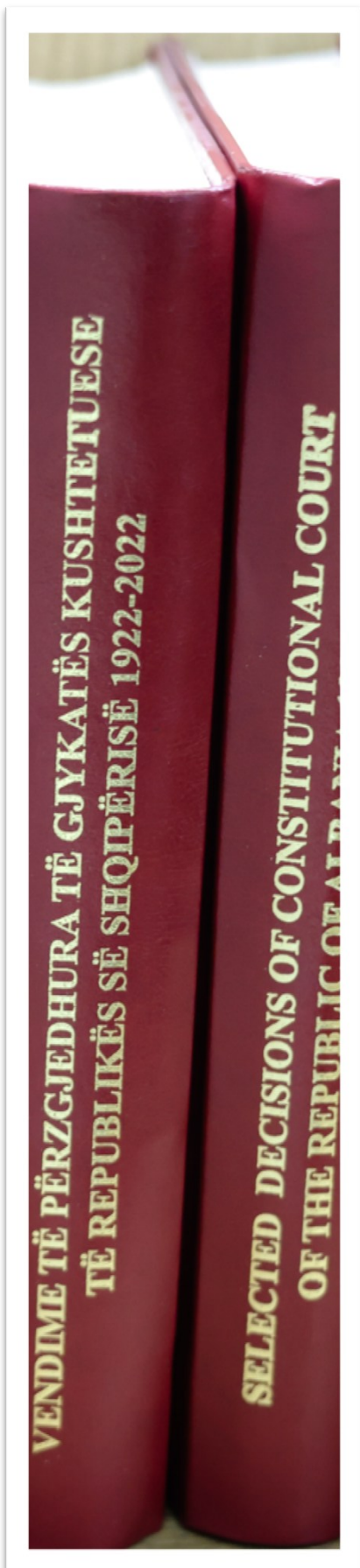
Court's Assessment

As regards the alleged violation of the right of access to a court and the standard of a reasoned judicial decision in relation to the right to private property

The Court, having examined the case, considered that the applicants' failure to comply with the statutory time-limits for challenging the actions of the judicial bailiff – which required setting out the specific action being challenged as well as the grounds of its unlawfulness resulted in the loss of their right to appeal, including the right to challenge the valuation of the property. The applicants were guaranteed the right to lodge a claim, but it had to be exercised within the time-limit prescribed by the law on civil procedure. This time-limit, within the meaning of the principle of legal certainty, constitutes a procedural safeguard for the other participants in the proceedings as well, both in respect of the continuation of the enforcement and the

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protection of their rights. Insofar as the applicants had missed the statutory time-limit for challenging each of the other enforcement actions preceding the auction, their appeal against the final enforcement actions did not restore their right to challenge the earlier enforcement actions.

The court of appeal – which found the first-instance court’s decision assessing all the actions challenged by the applicants to be unfounded – as well as the High Court, which declared the applicants’ appeal on points of law inadmissible, applied the procedural provisions, thereby correcting the erroneous application of the law by the first-instance court. The latter court had permitted an expansion of the scope of the dispute beyond the procedural limits prescribed by law; thus, the higher courts safeguarded the principle of legal certainty and effectiveness in the administration of justice.

The Court held that the applicants had received a final and reasoned response to their claims, thereby guaranteeing their right of access to a court in relation to the standard of a reasoned judicial decision.

Decision-making

The Court decided, unanimously, to reject the application.



Fair trial – Standard of a reasoned judicial decision

KEY WORDS

*Entrepreneurship agreement/
Absolute invalidity of a mortgage
contract/ Compulsory
enforcement/ De facto
expropriation*

An essential element of a fair decision is a reasoned judicial decision, which demonstrates to the parties that they have been heard and affords them the opportunity to challenge it. The obligation to provide reasons may vary according to the very nature of the decision and the circumstances of the specific case.

Although the High Court's decisions declaring an appeal on points of law inadmissible are de plano reasoned, they do not violate the constitutional standard of a reasoned decision, provided that such reasoning sets out the grounds for the inadmissibility of the appeal by its chambers during the preliminary ruling proceedings.

National Commercial Bank

Reasoning of the High Court's decision

Judgment No. 24 of March 04, 2026

Facts

The interested party concluded an entrepreneurship agreement with a construction company for the building of an apartment, the price of which was paid partly in cash and partly through a bank loan obtained from the applicant bank. Subsequently, the construction company initially registered the building's structural frame with the Immovable Property Registration Office and later obtained a loan from the applicant as well, placing the apartment purchased by the interested party as collateral.

Following the company's failure to pay off the loan, the applicant sought an enforcement order regarding the loan agreement. Such request was initially upheld by the court, but the enforcement proceedings were subsequently stayed, upon an application by the interested party. Furthermore, being unable to register the entrepreneurship agreement with the Immovable Property Registration Office due to the mortgage inscription registered in the applicant's favor over the apartment, the interested party brought civil proceedings. He sought the invalidation of the mortgage over his respective share, the deletion of the inscription, the registration of his entrepreneurship agreement, and the cessation of the interference with his property rights. The district court upheld the claim on the grounds that the interested party had fulfilled his contractual obligations and was in lawful possession of the apartment. Such decision was upheld by the court of appeal, which held that the agreement essentially constituted the sale of a future asset under Article 705 of the Civil Code and that, having received full payment and the handover of the apartment to the interested party, the construction company had no right to mortgage it. The applicant's appeal on points of law was declared inadmissible by the High Court.

Court's Assessment

Regarding the alleged violation of the standard of a reasoned decision – The Court observed that the court of appeal had adequately reasoned its decision concerning the establishment of the facts and the applicable domestic law for resolving the case at hand, specifically identifying the provisions of the Civil Code governing the sale of a future asset and the manner in which the interested party acquired ownership. Its identification and interpretation of the substantive law were subject to a review of lawfulness by the High Court, which, in the exercise of its jurisdiction as a court of law, found them to be correct.

In the Court's assessment, the domestic courts identified the applicable law governing the property title in the impugned proceedings without any manifest errors of law. Furthermore, the High Court's decision declaring the applicant's appeal on points of law inadmissible, albeit de plano reasoned, complied with the constitutional requirements for a reasoned judicial decision, given that it accurately set out the grounds of the appeal in its introductory part.

Decision-making

The Court decided, unanimously, to reject the application.



**Right to a fair trial –
Right of access to a court
- Right to a substantive
appeal**

KEY WORDS

**Insurance contract/ Persons
responsible for the damage/
Insurer's liability/ Compensation
for pecuniary damage/ Insurance
policy/ Regression lawsuit**

**The right of access to a court
encompasses not only the
right to institute proceedings,
but also**

**the right to obtain a final
determination of the dispute
by the court, since access to a
court must be effective, not
merely formal.**

**The relationship between
constitutional jurisdiction and
the jurisdiction of
the ordinary courts is
governed by the principle of
subsidiarity.**

**The protection of
constitutional rights is also a
function of the ordinary
courts, particularly the High
Court. The role of that court,
as a court of law, is
indispensable, as it has all the
means and powers necessary
to exercise this active role,
ensuring, first and foremost,
compliance with constitutional
standards in judicial
proceedings and effectively
influencing the decision-
making of the lower courts.**

National Commercial Bank

Right to compensation for pecuniary damage

Judgment No. 25 of March 05, 2026

Facts

The applicant, a commercial bank (BKT), had entered into a comprehensive insurance coverage contract with the insurance company "INSIG" JSC., valid for one year. In this contract, employee dishonesty was stipulated as an insured event.

During the validity period of the insurance policy, the applicant company discovered the misappropriation of significant amounts from clients' accounts and deposits by one of its employees. Consequently, one criminal and two civil proceedings were conducted concurrently. In the criminal proceedings initiated by the applicant, its former employee, G.H., and an associated individual, F.H., were found guilty of the criminal offences of "Theft by abuse of office", "Laundering the proceeds of a criminal offence", "Forgery of documents" and "Interference with computer data".

Following the conclusion of the criminal proceedings in the court of appeal, the applicant sought compensation from the perpetrators for the pecuniary damage sustained. In this civil case, the District Court and the Court of Appeal partially upheld the claim, ordering the defendants G.H., F.H., and the commercial company "A." to compensate the applicant.

The appeal on points of law lodged by the defendants F.H. and company "A." is currently pending before the High Court.

Meanwhile, the applicant company instituted civil proceedings against the insurance company, seeking recognition of its right to compensation under the relevant insurance policy.

The first-instance court upheld its claim, whereas the court of appeal, following an appeal by the insurance company, dismissed the applicant's claim. The Court of Appeal held that the applicant had already been compensated for the damage sustained by the perpetrators themselves, and therefore could not claim compensation from the insurer. The High Court, set in motion by the applicant, held that the applicant could not claim double compensation through an action brought against the insurer. Furthermore, the High Court observed that, if the insured party's claim for compensation against the insurer were upheld, the insurer would be deprived of the possibility of submitting a regression lawsuit against the person responsible for the damage.

Therefore, the applicant lodged an individual constitutional complaint with the Constitutional Court, challenging the High Court's decision delivered in the civil proceedings against the insurance company.

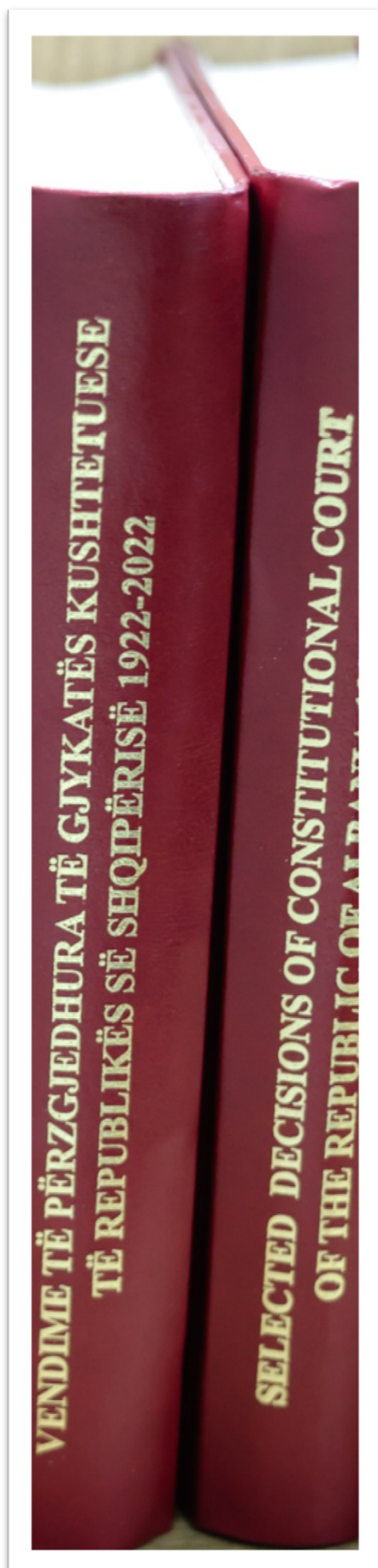
Court's Assessment

As regards the alleged violation of the right of access to a court in conjunction with the right to a substantive appeal and the standard of a reasoned judicial decision

The Court noted that the applicant had raised a complaint of a constitutional nature in its appeal on points of law, claiming that the court of appeal had based its decision on arguments and evidence which had not been the subject of proper adversarial

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INDIVIDUAL CONSTITUTIONAL COMPLAINTS



debate between the parties, thereby violating the principles of equality of arms and adversarial proceedings. Although the High Court reflected this complaint in the descriptive part outlining the grounds of appeal, it failed to take an express and specific position on it. Consequently, the Court concluded that the High Court's dismissal of the applicant's appeal on points of law as inadmissible, without providing a response to the complaint of a constitutional nature, violated the applicant's right of substantive access to a court and failed to meet the constitutional standard of a reasoned judicial decision.

Furthermore, the Court observed that, although the High Court stated that the grounds of appeal did not contain any of the statutory grounds provided for in Article 472 of the Code of Civil Procedure, it nonetheless reiterated and endorsed one of the fundamental arguments upon which the court of appeal had based its resolution of the dispute – namely, that the applicant had already exercised her right to compensation against the perpetrators of the damage and, therefore, could not seek compensation again from the insurer. Such reasoning makes it impossible to clearly understand whether the High Court declined to examine the appeal on points of law due to a lack of statutory grounds, or whether, conversely, it undertook an assessment of the merits of one of the main issues of the dispute, thereby endorsing the court of appeal's conclusion.

For these reasons, the Court considered that the High Court's reasoning appeared unclear, incomplete, and insufficiently justified, and thus failed to meet the constitutional standard of a reasoned judicial decision.

The Court, in observance of the principle of subsidiarity, considered it unnecessary to go further into the assessment of the complaint concerning the violation of the principles of equality of arms and adversarial proceedings, beyond noting that the High Court had failed to provide an express and reasoned response to this complaint, and that the reasoning of its decision did not meet the constitutional standard of a reasoned judicial decision.

Decision-making

The Court decided, unanimously, to accept the application.



Right of access to a court in relation to the right of defence

KEY WORDS

Land ownership/ Vloa Property Restitution and Compensation Commission/ Immovable Property Registration Office/ Heirs/ Building permit/ Criminal complaint/ Forgery of documents/ Discontinuation of proceedings/ Seizure of documents/ Summary appeal on points of law/ Article 414 of the Code of Criminal Procedure/ Fully reasoned appeal on points of law

It does not appear that the applicant was notified, either personally or through his chosen legal representative, of the plaintiff's fully reasoned appeal on points of law. Furthermore, the High Court failed to establish this fact during the examination of the case in chambers and it also failed to provide reasons as to whether the requirements under Article 414 of the Code of Criminal Procedure had been satisfied in the present case.

This shortcoming does not appear to have been remedied by the High Court, as it failed to verify beforehand whether the fully reasoned appeal on points of law had been notified to the applicant or to his chosen legal representative at both instances of the proceedings. Such omission was particularly significant given that the appeal on points of law challenged the court of appeal's decision which had ruled in the applicant's favor.

Edmond Hysenaj

Deficiencies in the notification regarding the examination of the appeal on points of law before the High Court

Judgment No. 26 of March 09, 2026

Facts

The applicant and his two brothers were recognized as the lawful owners of a plot of land in the "Uji i Ftohtë" area of Vloa, as heirs of Mr. M.H., whose property title had been recognized in 1995 by a decision of the Vloa Property Restitution and Compensation Commission (PRCC).

The property was duly registered with the Immovable Property Registration Office (IPRO), and a building permit had been issued in respect of it.

Furthermore, Mr. H.H. lodged a criminal complaint with the Prosecution Office at the Vloa District Court, claiming that Mr. M.H. had used forged documents to obtain the property, as it had previously been registered in the name of his father, Mr. F.H.

At the conclusion of the investigation, the Vloa Prosecution Office discontinued the criminal proceedings against the heirs of Mr. M.H. It reasoned that it had not been established that they were aware that the property they had registered and disposed of constituted the proceeds of the criminal offence of forgery of documents. In respect of the latter offence, the prosecution ordered the seizure of various documents from the Vloa local IPRO – including the site plans and the property registration file in the name of the Hysenaj co-owners, keeping them as part of the criminal case file.

Thus, the applicant filed an appeal, arguing that the acts in question did not constitute a criminal offence under the domestic law and requested the restitution of the seized documents. The Vloa District Court rejected his appeal, upholding the Vloa Prosecution Office's decision to discontinue the criminal proceedings.

Furthermore, the Vloa Court of Appeal amended the District Court's decision. It found that the acts in the present case did not constitute a criminal offence and consequently ordered the restitution of the seized documents. The plaintiff, Mr. H.H., filed an appeal on points of law with the High Court against such decision.

The Criminal Chamber of the High Court upheld the decision of the District Court. It held that the Court of Appeal had failed to provide sufficient reasons as to why the conclusions of the prosecuting authority, subsequently endorsed by the District Court, were unfounded. Therefore, in 2025, the applicant lodged an individual constitutional complaint with the Constitutional Court, raising the claims set out in the subject matter of the application.

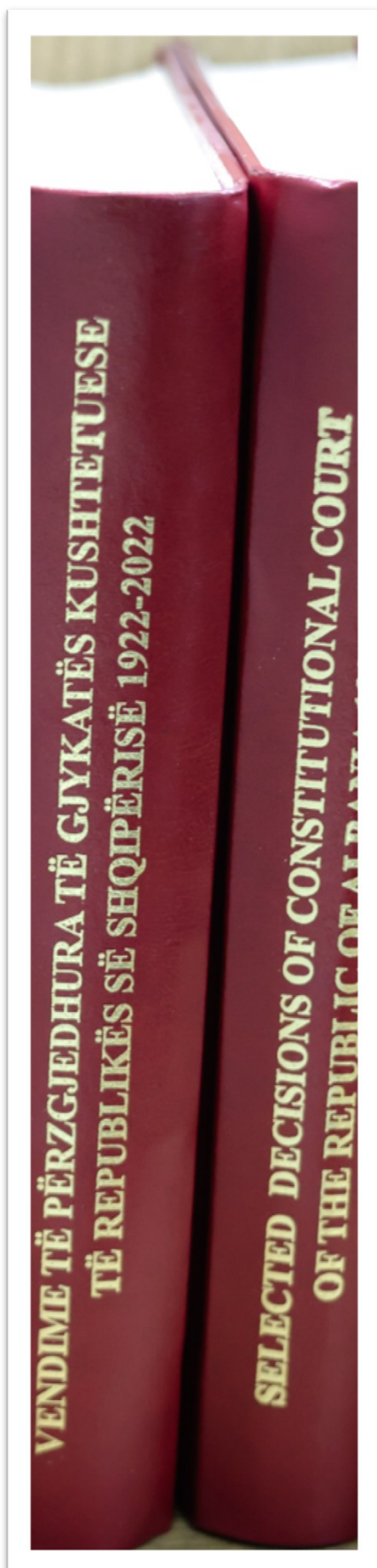
Court's Assessment

Regarding the alleged violation of the principle of legal certainty

The applicant submitted that the High Court had examined the appeal on points of law filed by the interested party, Mr. H.H., who lacked locus standi. Even though the claim regarding the alleged violation of the principle of legal certainty was raised against the High Court's decision, the Court observed that such claim had not been raised previously before the lower courts. In this regard, it further found that, the applicant had failed to exhaust the available domestic remedies.

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INDIVIDUAL CONSTITUTIONAL COMPLAINTS



Regarding the alleged violation of the right of access to a court in relation to the rights of defence

Although the High Court registry notified the applicant of the hearing date in accordance with the relevant procedural rules applicable to such proceedings, this was insufficient to correct and remedy the deficiencies identified in respect of the notification of the appeal on points of law. As a result of such deficiencies, the applicant was deprived of his right to file written submission in reply to the plaintiff's claims and to present his own position and arguments regarding the resolution of the case.

This shortcoming does not appear to have been remedied by the High Court, as it failed to verify beforehand whether the fully reasoned appeal on points of law had been notified to the applicant or to his chosen legal representative at both instances of the proceedings. Such omission was particularly significant given that the appeal on points of law challenged the court of appeal's decision which had ruled in the applicant's favor.

In light of the foregoing, the Court held that the applicant's claim concerning the violation of the right of access to a court and the rights of defence was founded.

Decision-making

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



Right to a trial within a reasonable time

KEY WORDS

Decision of the Property Restitution and Compensation Commission/ Recognition and restitution of property/ World Bektashi Headquarters/ Lack of subject-matter jurisdiction/ Remanding of the case/ Length of proceedings

The final resolution of property restitution and compensation claims constitutes a priority, given that the right to property serves as a fundamental pillar of the country's economic system and development. Having regard to the importance of the constitutional right to private property – which encompasses the right to enjoy and dispose of it, as well as the right to compensation under the legal framework in force – the length of the judicial proceedings takes particular significance in light of what is at stake for the parties to the litigation.

Qazim Musabelliu

Unreasonable duration of proceedings before the court of first instance

Judgment No. 27 of March 10, 2026

Facts

In 1999, by a decision of the Skrapar Property Restitution and Compensation Commission (PRCC), the applicant was recognized as the owner of, and was restituted, a plot of pasture land measuring 56 hectares. In 2002, by a decision of the PRCC, the World Bektashi Headquarters was recognized as the owner of a plot of pasture land measuring 245 hectares, which included the area recognized to the applicant; however, only a portion of it was restituted, as the rest had already been restituted to the applicant. The Bektashi Headquarters filed a lawsuit seeking the annulment of the 1999 PRCC decision and the full restitution of the property, while the applicant filed a counterclaim seeking the partial annulment of the 2002 decision. The Berat District Court upheld the lawsuit, annulling the 1999 PRCC decision and partially annulling the 2002 decision, thereby restituting the 56-hectare area to the Bektashi Headquarters. Such decision was upheld by the Vlorë Court of Appeal. These decisions were subsequently overturned by the High Court in a 2014 decision, and the case was remanded to the first-instance court for re-examination. By a decision of 2017, the Berat District Court declared a lack of subject-matter jurisdiction; this decision was overturned by the High Court in 2018. On 14 February 2018, the applicant's case was registered with the Berat First Instance Court of General Jurisdiction. Since the case had still not been adjudicated by 2025, the applicant lodged an application concerning the unreasonable length of the proceedings with the Court of Appeal of General Jurisdiction, which rejected his application. Therefore, the applicant lodged an individual constitutional complaint with the Constitutional Court.

Court's Assessment

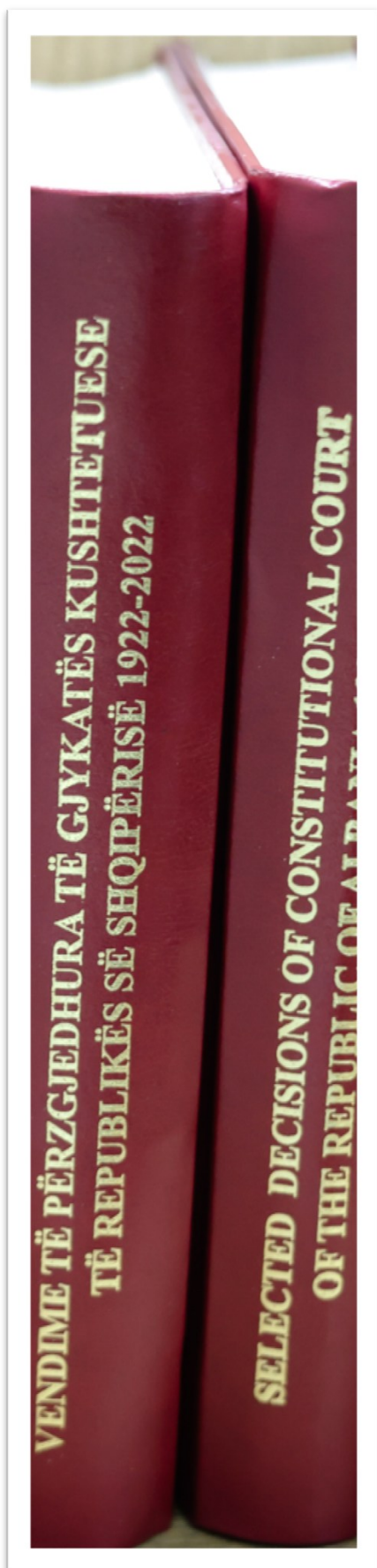
Regarding the alleged violation of the right to a hearing within a reasonable time

The Court examined the specific circumstances of the present case and the criteria established by its constitutional jurisprudence relating to: (i) the applicant's conduct; (ii) the complexity of the case; (iii) the conduct of the authorities; and (iv) what is at stake for the applicant. With regard to the applicant's conduct, the Court considered that he had not been the cause of the delay in examining the case. Concerning the conduct of the authorities, it found that the conduct of the first-instance court had impacted the length of the judicial proceedings due to its inactivity for a prolonged period following the remanding of the case for re-examination, a situation linked to several factors. As to the complexity of the case, while not denying that - given the large volume and nature of the documents in the case file, the Court held that neither the overall length of the proceedings of 18 years, nor the period of 8 years without any action being taken by the first-instance court, could be justified by the complexity of the case.

As regards the criterion of *what is at stake for the applicant*, the Court emphasized that the subject matter of the dispute concerns the protection of the right to private property, insofar as the proceedings concern the lawfulness of the applicant's property title within the property restitution and compensation process.

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INDIVIDUAL CONSTITUTIONAL COMPLAINTS



Having regard to the importance of this constitutional right, which also encompasses the right to compensation, the length of the judicial proceedings takes particular significance in light of what is at stake for the parties to the litigation.

From the date the applicant's case was first lodged with the court until the lodging of the individual constitutional complaint, 18 years had elapsed. Furthermore, 8 years had elapsed since its registration with the Berat First Instance Court of General Jurisdiction following the overturning of the decision declining jurisdiction (14 February 2018), and the applicant still does not have a final decision regarding his property title. In the view of the above, a violation of the right to a hearing within a reasonable time was found.

Decision-making

The Court decided, unanimously, to accept the application.



**Right to a fair trial -
Right of access to a court
- Standard of a reasoned
judicial decision**

KEY WORDS

*Execution of the ECtHR judgments/
Reopening of proceedings/ Panel
decision/ Employment dispute/
Article 155 of the Labor Code/
Reinstatement/ Non-substantive
errors*

**A High Court decision
declaring an appeal
inadmissible de plano -does
not breach the standard of a
reasoned decision, provided
that the introductory part
outlines the grounds of appeal
and the decision adequately
sets out the grounds for
inadmissibility.**

**The obligation to provide a
reasoned judicial decision
does not require a detailed
response to every argument
raised by the parties; rather,
the extent to which this duty
applies may vary according to
the nature of the decision.
However, when complaints of
a constitutional nature are
raised in an appeal on points
of law, the High Court is
required to examine them and
to state an express position in
that regard.**

Dedë Nika

*Reopening of proceedings following a judgment of the European
Court of Human Rights (ECtHR)*

Judgment No. 28 of March 10, 2026

Facts

The applicant was employed as an inspector at the Theth National Park within the Shkodër Forestry Service Enterprise. On account of disciplinary breaches committed in exercising of his duties, his employer issued a dismissal order.

The applicant challenged such order before the Shkodër District Court, which decided: i) to annul the dismissal order; ii) to find that the immediate termination of the employment contract was unjustified; iii) to order the employer to reinstate the applicant to his previous position and to pay him his salary based on his last month wage, until his actual reinstatement and to absolve the applicant of liability for the alleged damage; and iv) to order the employer to pay the salary arrears.

However, the Court of Appeal decided to discontinue the proceedings, holding that the civil claim was based on Article 324 of the Code of Civil Procedure (CCP) - a provision governing administrative disputes - and that the applicant had not submitted a request to amend the legal basis of his claim. The applicant lodged an appeal on points of law against such decision, and following the remanding of the case by the High Court for re-examination by the court of appeal, the latter upheld the District Court's decision and awarded compensation due to the employer's failure to observe the statutory procedure for terminating the employment contract. Subsequently, the High Court declared the applicant's appeal on points of law inadmissible, finding that it did not contain any valid grounds for appeal under Article 472 of the CCP, as in force prior to the 2017 amendments.

Thus, the applicant lodged an application with the Constitutional Court, seeking to challenge the decisions of the Court of Appeal and the High Court. The Court decided not to pass the case for examination in a plenary session, holding that the applicant lacked *locus standi ratione temporis*.

Following the Court's decision, the applicant lodged an application with the European Court of Human Rights (ECtHR), claiming a violation of his right to a fair hearing on the grounds that the Constitutional Court had refused to examine his complaint due to the application of a new four-month statutory time-limit. The European Court of Human Rights found that the applicant's right of access to a court had been violated. Therefore, the applicant requested the Court to reopen the proceedings. At the preliminary ruling proceedings, the panel of the Court decided to reopen the proceedings and to examine the case in a plenary session.

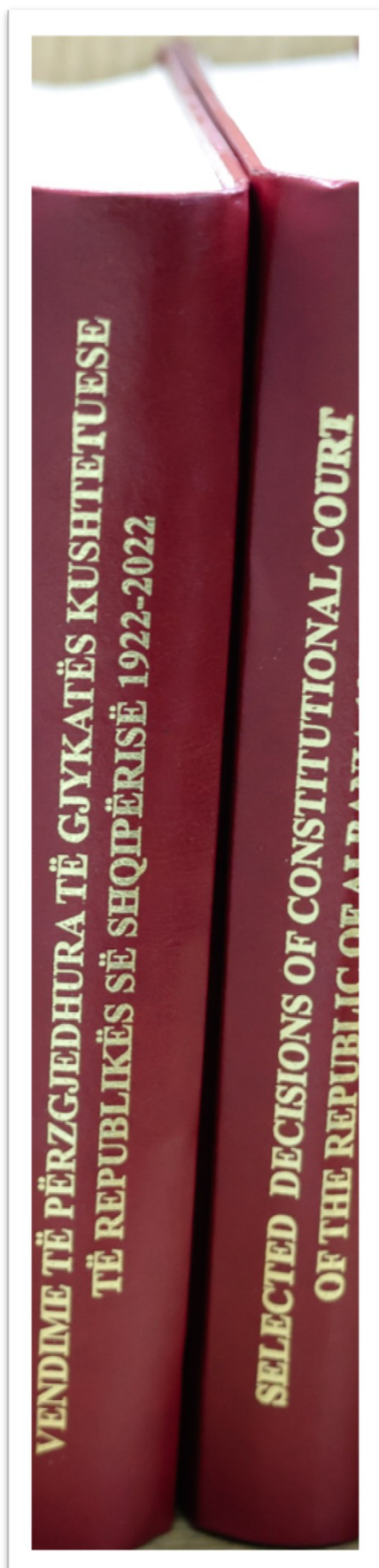
Court's Assessment

Regarding the alleged violation of the right of access to a court in relation to the standard of a reasoned judicial decision

The applicant's core complaint was that the courts of ordinary jurisdiction had failed to address his claim for reinstatement. In respect of such complaint, at the conclusion of the deliberations, the judges were divided into two opposing views. Consequently, the Court failed to reach the required statutory majority to adopt a decision, in accordance with the provisions of Article 133 § 2 of the Constitution, as further

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INDIVIDUAL CONSTITUTIONAL COMPLAINTS



detailed in Article 72(2) of the Court's Organic Law.

According to one view, the complaint is unfounded, since the High Court concluded that the lower courts had provided a reasoned and exhaustive response to the applicant's claim for reinstatement to his previous position, pursuant to Article 155 of the Labor Code. The decisions of the courts of ordinary jurisdiction satisfy the criteria established in the constitutional case-law regarding the standard of a reasoned judicial decision. Furthermore, the non-substantive errors noted – namely, the erroneous citation of the company INSIG JSC as a plaintiff, despite it not being a party to the specific judicial proceedings – are not of such a nature as to impair the decision-making of the High Court.

According to the opposing view, the complaint is founded. Although the High Court complied with the constitutional requirement to list the grounds raised in the appeal on points of law, it failed, in its capacity as a court of law, to address the applicant's main claim concerning the application of Article 155 § 3 of the Labor Code. As regards the non-substantive errors, while they may not affect the very essence of the decision, the High Court is nonetheless required to exercise due diligence in drafting even the formal elements of its decisions.

Decision-making

The Court decided to reject the application due to the failure to reach the requisite majority of five judges.



Fair trial - right to a trial within a reasonable time

KEY WORDS

Employment relationship/ Dismissal from office/ "Preventive or expediting" remedy/ Compensatory remedy/ Articles 399/1 et seq. of the Code of Civil Procedure/ Effective legal remedies/ "Personal and vital" interests/ A Article 42 of the Constitution

The conclusion of the first-instance proceedings, following the lodging of the individual constitutional complaint by the applicant, despite the length of time, does not constitute grounds for declining to examine the merits of the complaint. The application does not become devoid of purpose solely on account of the conclusion of the first-instance proceedings and the applicant preserves a constitutional interest in an examination on the merits, since the verification of the excessive length of proceedings and the finding of a violation serve as remedies for the restoration of the breached right in a compensatory aspect, in accordance with the relevant statutory provisions.

Altin Bashli

Unreasonable duration of proceedings before the court of first instance

Judgment No. 29 of March 10, 2026

Facts

In 2013, the applicant was employed at the Shkodër Local Immovable Property Registration Office (currently the State Cadastre Agency). In 2017, he was dismissed from his office, and therefore, he instituted civil proceedings in the Shkodër First Instance Court of General Jurisdiction, seeking a finding of discrimination, reinstatement to his office, and compensation for pecuniary and non-pecuniary damage, among other claims. Following a declaration of lack of jurisdiction by the Shkodër First Instance Court of General Jurisdiction, the High Court remanded the case to the same court for examination. For more than two years, due to dismissals, transfers, and new appointments within that court, the case remained unexamined. The applicant subsequently filed an application with the Court of Appeal of General Jurisdiction, seeking a finding of a violation of his right to a fair trial as a result of the failure to adjudicate the case within a reasonable time. His application was rejected on the grounds that the delay in examining the case had resulted from the court's high workload.

In 2025, the applicant lodged a complaint with the Constitutional Court (the Court). A few days prior to the holding of the plenary session before the Court, the Shkodër First Instance Court of General Jurisdiction rejected his application.

Court's Assessment

Regarding the alleged violation of the right to a hearing within a reasonable time

The Court noted that the examination of the applicant's case before the Shkodër First Instance Court of General Jurisdiction had lasted almost seven years from its filing with that court, significantly exceeding the two-year statutory reference time-limit. In the light of the circumstances of the case and with regard to what was at stake for the applicant due to the delay in the proceedings, it was evident that his personal and vital interests were at risk, the nature and importance of which required priority treatment and particular expedition.

Therefore, the Court concluded that the applicant's right to a hearing within a reasonable time, within the meaning of Article 42 of the Constitution, had been violated.

Decision-making

The Court decided, unanimously, to accept the application.



Right to a trial within a reasonable time

KEY WORDS

Right to property/ Reasonable time/ Partition of property/ Applicant's continuing interest/ Applicant's age

A lengthy period of inactivity cannot be regarded as compatible with the reasonable time requirement. Even where a civil dispute does not call for special priority, the parties involved are entitled under Article 6 § 1 of the European Convention on Human Rights, to a hearing within a reasonable time. For that purpose, they are not required to demonstrate that they have suffered any specific or additional prejudice as the result of the delay.

Bedrie Pana (Ruci)

Unreasonable duration of proceedings before the court of appeal

Judgment No. 30 of March 10, 2026

Facts

The applicant filed a civil claim for the partition of immovable properties jointly owned by her, her ex-husband and their son. After the judgment on the partition became final (the first phase of the proceedings), the Durrës District Court proceeded to the second phase and ordered the allocation of the respective parts in kind. The applicant's ex-husband filed an appeal against the first-instance judgment. The case was registered with the Durrës Court of Appeal on 10 May 2021. As the case had not been examined by 1 February 2023, on the 4 December 2024 the applicant submitted a request with (currently) the Court of Appeal of General Jurisdiction, seeking a finding of a violation of the reasonable time requirement and the acceleration of the proceedings. The request was forwarded to the High Court, but the Civil Chamber rejected it.

Therefore, the applicant lodged an individual constitutional complaint with the Constitutional Court seeking the repeal of the Civil Chamber of the High Court's decision.

Court's Assessment

As regards the alleged violation of the right to a hearing within a reasonable time

The Court noted that the judicial proceedings were instituted in 2018. As to the time-limit for hearing civil cases, the Code of Civil Procedure, in its provisions governing remedies for a violation of the reasonable time requirement, establishes a statutory time-limit of two years for the conclusion of proceedings before the Court of Appeal. With regard to the criteria relating to the applicant's conduct, the complexity of the case and the conduct of the authorities, the Court found no circumstance in the present case that would justify a different approach.

The Court considered it necessary to examine the criterion of what was at stake for the applicant, since the dispute concerned property rights and the use of such property. Having regard to the applicant's age, approximately 72 years, the case, by its nature, involved personal and vital interests which, as a rule, called for priority treatment. The fact that the applicant's former husband had died did not diminish her continuing interest in the prompt conclusion of the proceedings.

In view of the fact that the proceedings had lasted for more than seven years and two months, and that the case was pending before the Court of Appeal of General Jurisdiction for approximately four years and ten months, the Court concluded that the applicant's right to a hearing within a reasonable time had been violated.

Decision-making

The Court decided, unanimously, to accept the application.



**Right to a fair trial –
Right to trial within a
reasonable time**

KEY WORDS

*Employment relations/
Discrimination/ Non-pecuniary
damage/ Expedition of
proceedings/ Hearing within a
reasonable time*

The Court has held that a prolonged period of inactivity by the domestic authorities cannot be regarded as a reasonable time. Parties to civil disputes, even where the case does not require any particular priority treatment, are entitled, within the meaning of Article 6 § 1 of the European Convention on Human Rights to a hearing within a reasonable time. In this regard, such parties are not required to demonstrate that they have suffered any specific or additional prejudice as a result of the procedural delays.

Eranda Hidri

Unreasonable length of proceedings before the High Court

Judgment No. 32 of March 17, 2026

Facts

The applicant was dismissed from her position as a financial officer at a commercial company while she was on maternity leave. Subsequently, she instituted two sets of legal proceedings: (i) concerning her dismissal; and (ii) concerning protection against discrimination. In respect of the second set of proceedings, on 17 January 2017, she sought a finding of discrimination on the grounds of gender and temporary incapacity for work, as well as an order requiring the employer to compensate her and her family members for non-pecuniary damage. The first-instance court upheld the claim, finding that discrimination had occurred and ordering the employer to compensate the applicant and her family members for non-pecuniary damage. Following an appeal by the employer, the Court of Appeal overturned the first-instance court's decision and rejected the claim. Following an appeal on points of law filed by the applicant, the case was registered with the High Court on 10 May 2021. More than three years and nine months after the case was registered with the High Court, and having submitted several requests to expedite the proceedings, the applicant sought a finding of a violation of the "reasonable time" requirement and the expedition of the proceedings.

By a decision of 8 April 2025, the High Court rejected the request. On 22 September 2025, the applicant lodged an application with the Constitutional Court, and by the time of the examination of the individual constitutional complaint, a total period of nine years and two months had elapsed, while the case had been pending before the High Court for approximately four years and ten months.

Court's Assessment

Regarding the alleged violation of the right to a hearing within a reasonable time

The Court assessed the length of the proceedings in the light of the criteria established by its jurisprudence regarding the unreasonable length of proceedings. In the instant case, the Court focused its analysis on the criterion of what was at stake for the applicant. In this regard, the Court notes that the subject matter of the dispute, relating to employment and protection against discrimination, was of such a nature that called for particular diligence by the domestic authorities. Having regard to the prolonged period the case remained pending before the courts, the Court finds that there has been a violation of the right to a hearing within a reasonable time, within the meaning of Article 42 of the Constitution.

Decision-making

The Court decided, unanimously, to accept the application.



**Right to a fair trial–
Right to a trial within a
reasonable time**

KEY WORDS

*Property title/ Right of residence/
Rental value/ Mandatory
enforcement order/ Judicial
disputes/ Expedition of
proceedings/ Violation of the
reasonable time requirement*

The constitutional right to private property which enshrines the right to the peaceful enjoyment of possessions, is of particular importance concerning what is at stake for the plaintiff due to the excessive length of the judicial proceedings.

The overall duration of the proceedings instituted by the applicant, which lasted approximately twelve years, constitutes a relatively long period that fails to meet the “reasonable time” requirement. The Court notes that such period of inactivity was justified solely on grounds of a general nature, namely the reform of the judicial system and the high workload of judges.

Gjon Shkambi

Unreasonable length of proceedings before the High Court

Judgment No. 33 of March 17, 2026

Facts

The applicant acquired property rights over a building in the city of Shkodra, which was inhabited by several families, pursuant to the Law on the Restitution and Compensation of Property. Those families held a right of residence by virtue of a 1992 decision of the Municipal Council, owing to their “homeless” status. The applicant filed an application with the ordinary courts seeking the mandatory enforcement of his property title; however, during the enforcement proceedings, several judicial disputes arose challenging them, leading to diverging judicial outcomes. The applicant sought compensation from the respondent parties, in their capacity as possessors of the property owned by him, specifically claiming the rental value. Although twelve years have elapsed pending the resolution of the case, the courts have not yet delivered a final decision. The applicant claimed that, contrary to the statutory time-limit for the examination of cases before the High Court under Article 399 of the Code of Civil Procedure (CCP), his case has not yet been examined. According to the applicant, despite involving several respondent parties, the case is not complex; furthermore, he has not submitted any requests for the adjournment of the hearings and has therefore not contributed to the delays.

Court’s Assessment

Regarding the alleged violation of the right to a hearing within a reasonable time

The Court observed that seven years and four months have elapsed since the date the case was filed with the High Court, and that the overall length of the proceedings is approximately twelve years. The Court reiterated that the reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case and with reference to the following criteria: (i) the applicant’s conduct; (ii) the complexity of the case; (iii) the conduct of the authorities; and (iv) what is at stake for the applicant. Regarding such criteria, at the conclusion of the deliberations, the judges’ assessments were divided into two opposing views, and the Court did not reach the required number of votes to deliver a decision, pursuant to the provisions of Article 133 § 2 of the Constitution and Article 72 § 2 of its Organic Law .

According to one view, the Court noted that even the High Court had acknowledged that the delay was not caused by the parties’ requests or the complex nature of the case. Furthermore concerning the analysis of the criterion of what was at stake for the applicant due to the delays in the examination of his case in relation to the length of the proceedings, the Court found that the twelve-year duration constituted sufficient grounds for the High Court to find a violation of the right to a hearing within a reasonable time; therefore, the applicant’s complaint in this regard is founded.

According to the opposing view, the determining factors for length of the proceedings were the complexity of the case and the applicant’s conduct. The Court found that the case was complex with regard to the parties, the applicable law, the relevant evidence and the considerable number of pending cases.

As regards the applicant’s conduct, the Court found that the applicant’s own conduct

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INDIVIDUAL CONSTITUTIONAL COMPLAINTS

In the Court's view such grounds do not constitute constitutional arguments to justify such a delay.

The assessment of the applicant's conduct is a determining factor for the reasonable length of the proceedings. In this regard, the Court must examine – whether the applicant acted in accordance with his procedural rights – whether he demonstrated a sustained interest in the prompt resolution of his case – and whether any delays in the proceedings are attributable to his own conduct.

caused the excessive length of proceedings in several respects. In particular, the applicant pursued a litigation strategy that directly affected the course of the proceedings.

Moreover, the institution of a considerable number of sets of enforcement proceedings is a factor to be taken into consideration, particularly in the light of the circumstances of the instant case, where in the course of one of such proceedings, the murder of a judge occurred within the courtroom. Furthermore, it transpired that such judicial proceedings aimed at reinstating legal effects dealt with by previous court decisions. Having regard to the two aforementioned factors, which were decisive for the course of proceedings, the analysis of the remaining criteria becomes unnecessary; therefore, the complaint concerning the violation of the right to a hearing within a reasonable time is unfounded.

Decision-making

The Court decided to reject the application due to the failure to reach the requisite majority of five judges.



Constitutional right of a substantive nature

KEY WORDS

Bankruptcy administrator/ Closure of a company's activity/ Creditor's meeting/ Reorganization of the bankrupt debtor company/ Creditor with voting rights

Constitutional protection is of a final nature and, as such, applies only to decisions in respect of which judicial proceedings have been concluded. Constitutional review is subsidiary in nature, meaning that the individual must have exhausted all other legal remedies.

“Raiffeisen Bank” JSC.,

The applicant company's lack of locus standi in the proceedings

Judgment No. 34 of March 17, 2026

Facts

The applicant company is a creditor of a debtor company formerly administered by the national B.H. The District Court ordered the opening of bankruptcy proceedings in respect of the debtor company on grounds of insolvency and appointed a bankruptcy administrator. In the course of the proceedings, a creditors' reporting meeting was held in accordance with the Bankruptcy Law. The meeting decided to close the debtor company's activities and place it into liquidation, in order to pay off the creditors. Disagreeing with such decision, the bankruptcy administrator and another creditor, the Vlora Branch of the General Directorate of Taxes (DPDT), filed a request with the Vlora District Court seeking the continuation of the bankruptcy proceedings. They argued that the decision of the creditors' meeting was contrary to their common interests and that the applicant company, in its capacity as a secured creditor, had no voting rights in respect of decisions concerning the reorganization or liquidation of the bankrupt debtor company.

The first-instance court rejected the request for the reorganization of the debtor company. It held that the applicant company, as a creditor, had the right to vote on all decisions of the creditors' meeting, provided that its claims had not been contested by the bankruptcy administrator or any other creditor with voting rights. Furthermore, the Court of Appeal amended the decision of the court of first instance and upheld the bankruptcy administrator's request to quash the decision of the creditors' meeting and to submit a reorganization plan for the bankrupt debtor company. It considered that the applicant company, as a secured creditor, had no voting rights under Article 64 of the Bankruptcy Law. The High Court found no grounds to quash the court of appeal's decision and therefore declared the applicant company's appeal on points of law inadmissible. Such decision was taken despite being informed that, by a decision of the court of first instance, liquidation proceedings had been initiated in respect of the debtor company due to the failure to meet the conditions for reorganization.

Court's Assessment

As regards the fulfillment of the criteria for locus standi

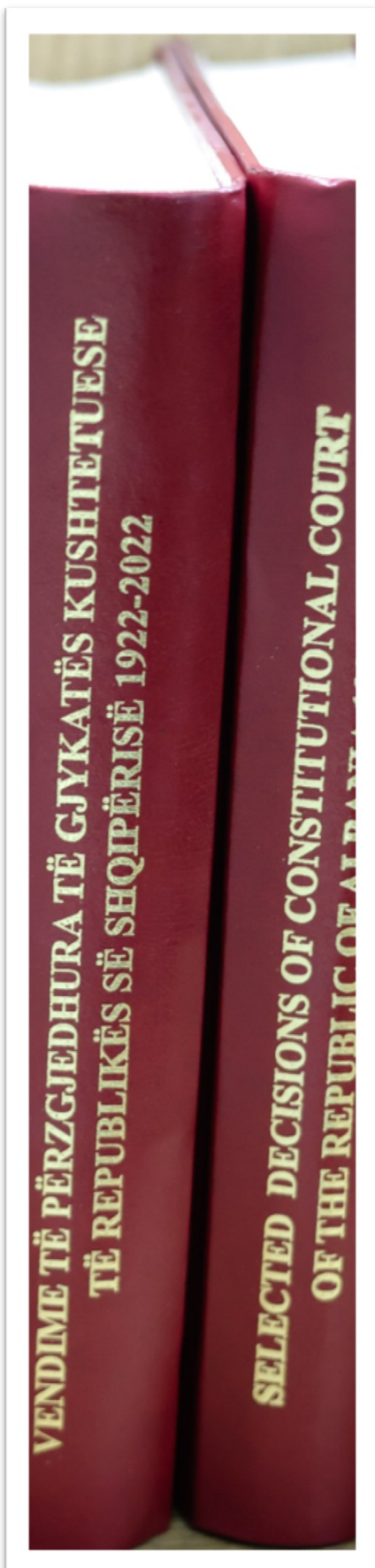
The Court observed that the applicant company's complaints focused on the procedural aspects of the proceedings concluded by the impugned decision, without identifying the substantive constitutional right it sought to protect through the exercise of the procedural constitutional right to a fair hearing.

In substantive terms, the applicant company's disagreement with the Court of Appeal's reasoning cannot constitute sufficient grounds to set in motion constitutional proceedings.

The Court further observed that the assessment of this criterion is also interconnected with the requirement of exhaustion of effective legal remedies, as laid down in Article 131 § 1 (f) of the Constitution. The judicial proceedings concluded by the High Court, which the applicant company is challenging, did not finally determine

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INDIVIDUAL CONSTITUTIONAL COMPLAINTS



the merits of the case. Even though the decision of the creditors' meeting, which ordered the closure of the debtor company's activities and placed it into liquidation, was appealed against and subsequently repealed by the higher jurisdiction courts, it does not appear that such decision violated the substantive right to property. The applicant company's property right is currently being examined in judicial proceedings capable of finally determining and resolving it. Consequently, the Constitutional Court considered that the applicant company lacked locus standi to lodge an individual constitutional complaint with this Court against a decision that merely kept the bankruptcy proceedings pending and did not constitute a final determination of the applicant company's rights.

Decision-making

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



Right to trial within a reasonable time

KEY WORDS

Criminal complaint/ Finding of a violation of the reasonable time requirement and expedition of the proceedings/ Finding of a violation of the right to register a criminal complaint/ Right to compensation for damage

In respect of criminal proceedings, the constitutional provisions afford protection for the reasonable time requirement in its entirety, namely – whether the criminal proceedings are at the preliminary investigation, trial, or enforcement stage. However, these provisions do not afford such protection for specific procedural actions.

Bardhyl Ibra

Unreasonable duration of proceedings before the court of appeal

Judgment No. 35 of March 18, 2026

Facts

The applicant filed a criminal complaint against a judge for the criminal offence provided for in Article 248 of the Criminal Code (CC). The prosecution office notified the applicant that his submission did not contain the constituent elements of a criminal complaint. Thus, the applicant lodged an application with the Constitutional Court, which found a violation of the right to have the criminal complaint registered and ordered its registration. The applicant subsequently filed a civil claim with the District Court seeking an order for the Ministry of Finance and the Ministry of Justice to compensate him the amount of ALL 400,000. The District Court rejected the claim as unfounded in law and in fact. Given that the applicant's case has not yet been examined by the Court of Appeal, he filed a request with the High Court seeking a finding of a violation of the reasonable time requirement.

The latter rejected the request, on the grounds that there had been no violation of the right to a fair trial.

Court's Assessment

Regarding the applicant's locus standi

The Court observed that the applicant complained of the unreasonable length of the proceedings in his case before the Court of Appeal, seeking also the repeal of the High Court's decision which had rejected his request to expedite the proceedings. The impugned proceedings concluded at first instance court with the rejection of the claim, on the grounds that the applicant's right to compensation for damage arises only when there is a final decision finding a violation of the reasonable time requirement in an investigation, trial, or enforcement procedure. Furthermore, the first instance court held that given that the criminal complaint had not been registered, the applicant did not enjoy the status of a party to the proceedings.

The Court further held that Article 42 of the Constitution does not afford protection to the judicial proceedings in respect of which the applicant raised his complaint regarding the length of proceedings, since their subject matter concerns a request for the registration of a criminal complaint by the Prosecution Office at the District Court. The applicant instituted separate judicial proceedings, while no criminal proceedings had been registered by the prosecuting authority, rendering this trial merely one of the procedural steps related to the registration of the complaint, in which the applicant had not yet even acquired the status of a party. In these circumstances, the Court held that the applicant failed to demonstrate a constitutional interest to institute proceedings before it.

Decision-making

The Court decided, unanimously, to reject the application.



**Right to a fair trial –
Standard of a reasoned
judicial decision**

KEY WORDS

*Decision of the Property
Restitution and Compensation
Commission (PRCC)/ Sales and
Purchase Agreement/ Criminal
complaint/ Forged documents/
Preventive seizure/ Annulment of
a property decision/ Confiscation/
Preliminary hearing judge/
Discontinuation of criminal
proceedings/ Statute of limitation/
Lack of locus standi ratione
personae/ Right to property*

During the proceedings before the ordinary courts, it was established that the Malësi e Madhe Property Restitution and Compensation Commission decision no. 38/2001, which is the act upon which the property was acquired by Mr. L.K., the father of Doloreza Derza, was forged. In these circumstances, the ordinary courts, in interpreting and applying Articles 190 or 391 of the Code of Civil Procedure, which provide for the manner of disposing of material evidence, declared the falsity of the document and ordered its annulment, providing a full and exhaustive reasoning for their decision.

**Antonela Derza, Federik Derza, Violeta Rreshpja,
Gjovalin Rreshpja**

Declaration of a forged document during the proceedings

Judgment No. 36 of March 19, 2026

Facts

In 2001, the Property Restitution and Compensation Commission (PRCC), by decision no. 38 of 17 April 2001, recognized Mr. Z.K. as the owner of a plot of land measuring 10,000 sq. m. The property was subsequently registered with the Local Immovable Property Registration Office in the name of the national L.K., Z.K' son and father of the applicant Antonela Derza. Furthermore, two sales transactions were concluded in respect of this property – the first between Mr. L.K. and the applicant, and the second between Federik Derza and the other applicants, Gjovalin Repshja and Violeta Repshja. Following a criminal complaint filed by several nationals, the Prosecution Office at the Shkodër District Court (the Shkodër Prosecution Office) instituted criminal proceedings no. 1203 of 2017 against L.K., the father of the applicant Antonela Derza, on charges of having committed the criminal offences of forgery of documents and laundering the proceeds of a criminal offence or criminal activity, as provided for in Articles 186 and 287 of the Criminal Code (CC). In that context, they also submitted a request for the preventive seizure of the relevant immovable properties, which was accepted by the Shkodër District Court. Thus, that decision became final in the absence of an appeal.

Following the investigation, the Shkodër Prosecution Office requested the Shkodër District Court to discontinue the criminal proceedings, on the grounds that the criminal offence of forgery of documents had become time-barred, while the proceedings concerning the criminal offence of laundering the proceeds of a criminal offence or criminal activity could not continue because the suspect, L.K., had died. Subsequently, the Shkodër Prosecution Office requested the confiscation of the aforementioned properties and the annulment of the Malësi e Madhe PRCC decision no. 38/2001, which was alleged to have been forged.

The Shkodër District Court partially accepted the request. It discontinued the criminal proceedings against L.K. but rejected the request for confiscation of the property and the annulment of PRCC decision no. 38/2001. Following an appeal by the Shkodër Prosecution Office, the Shkodër Court of Appeal fully upheld its request and also held that the claim on the falsity of the Malësi e Madhe PRCC decision no. 38/2001 was founded.

Upon an appeal on points of law filed by the applicant Antonela Derza, the Criminal Chamber of the High Court declared the appeal inadmissible. The applicants therefore challenged such proceedings before the Constitutional Court.

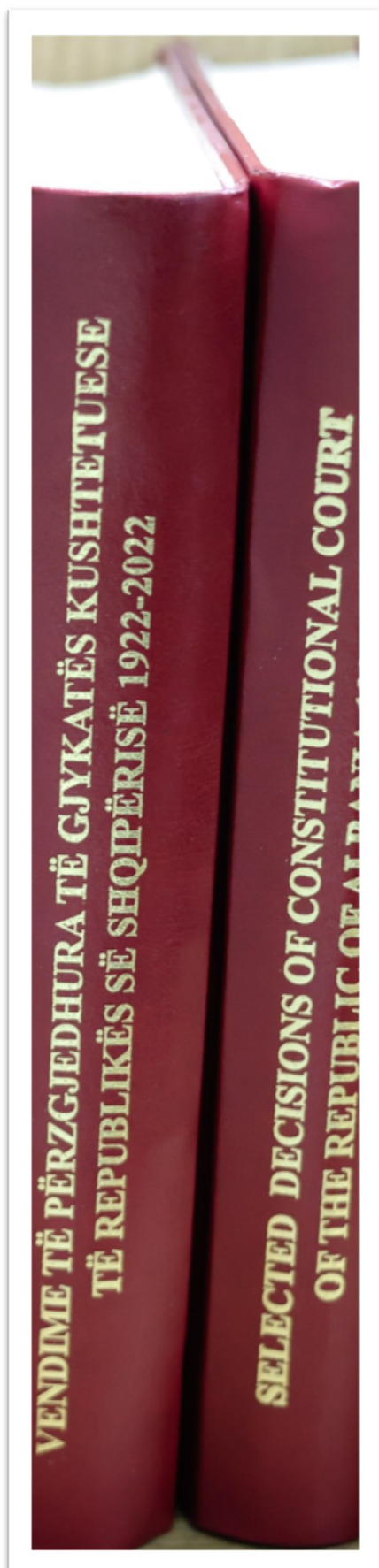
Court's Assessment

Regarding the locus standi ratione personae

As regards the procedural and substantive aspects of this criterion in respect of the applicants Federik Derza, Gjovalin Rreshpja, and Violeta Rreshpja, the Court, at the conclusion of its deliberations, failed to reach the required number of votes to deliver a decision, pursuant to Article 133 § 2 of the Constitution, as elaborated in Article 72 § 2 of the Court's Organic Law. For this reason, their application was considered

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rejected, and the Court proceeded to examine compliance with the remaining admissibility criteria solely in respect of the applicant Antonela Derza. It transpired that such criteria have been satisfied by the applicant.

Regarding the alleged violation of the standard of a reasoned judicial decision

The Court observed that the impugned judicial decisions did not disclose any manifest errors of fact or law in the assessment of the alleged falsity of the Malësi e Madhe PRCC decision no. 38/2001, nor in the conclusion that the procedural provisions governing the confiscation of the seized items were applicable. The Court further found that the falsity of the PRCC decision was established by the Court of Appeal following a comprehensive assessment of the evidence and the specific circumstances of the case, as adduced during those judicial proceedings.

The Court held that the Court of Appeal examined the evidence and the factual circumstances in their entirety and that its application of the law in resolving the instant case did not appear to be arbitrary or manifestly unreasonable. It also found that the aforementioned court had adequately set out in its decision all the arguments on the basis of which it reached the conclusion presented in the operative part.

The Court further noted that the High Court, in its capacity as a court of law, interpreted the relevant legal provisions applicable to the present case – namely Articles 190 and 391 of the Code of Criminal Procedure, and held that, where criminal proceedings are discontinued following a request by the prosecution, the competence to dispose of material evidence, and consequently to declare a document forged, lies with the preliminary hearing judge.

For these reasons, the Court concluded that the Shkodër Court of Appeal and the Criminal Chamber of the High Court conducted a fair trial, complying with the standard of a reasoned judicial decision. It therefore held that the applicant's claims were unfounded.

Decision-making

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



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

KEY WORDS

Road traffic accident/ Damage to Health/ Insurance company/ Calculation of pecuniary and non-pecuniary damage/ Special Law no. 10076/2009/ Albanian Financial Supervisory Regulation no. 53/2009/ Unifying Decision no. 12/2007/ Applicable law/ Legal nature of the act/ Entry into force

The High Court failed to provide reasoning as regards the legal nature of the regulation, in particular as to whether it was of a normative nature and, as such, whether its legal force was contingent upon publication in the Official Gazette or not. Depending on the conclusion to be drawn from such an analysis, the High Court would have been required to determine the precise moment at which the regulation entered into force and began to produce legal effects—that is, whether it entered into force upon publication on the official website of the AFSA or upon its publication in the Official Gazette.

Pren Ranxha, Lumnije Ranxha

Legal effects of the Albanian Financial Supervisory Authority Regulation

Judgment No. 37 of March 19, 2026

Facts

In 2011, the applicant, P.R., sustained injuries as a result of a road traffic accident and filed a claim with the motor vehicle insurance company of the person responsible for the accident, seeking compensation for the injuries sustained. The insurance company awarded him compensation for the damage to his health resulting in temporary incapacity for work.

In 2012, the applicants (spouses) and their three children filed a civil claim with the Tirana District Court, seeking considerable amounts of compensation for the pecuniary and non-pecuniary damage sustained as a result of the accident, including the corresponding bank interest.

The first-instance court partially upheld the claim and ordered the insurance company to pay the first applicant compensation in the amount of approximately ALL 4,400,000, plus interest and to pay his wife and children compensation in the amount of approximately ALL 5,200,000, plus interest.

The insurance company subsequently filed an appeal against such decision. The Tirana Court of Appeal amended the first-instance decision, significantly reducing the amount of compensation awarded. Thus, the applicants filed an appeal on points of law with the High Court. However, the Civil Chamber declared the appeal inadmissible, finding that it lacked the statutory grounds required under Article 472 of the Code of Civil Procedure.

Subsequently, the applicants 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 observed that the courts of fact had adopted divergent positions as regards the applicable substantive law governing the calculation of the amount of compensation. The first-instance court held that the applicable law was determined by the date of the accident, noting that the specific Law no. 10076/2009 was in force and applicable in the present case. It further noted that, for the matters not provided for by that law, the provisions of the Civil Code (CC) applied, in accordance with the interpretation set out the High Court's unifying decision no. 12/2007. The first-instance court further held that Albanian Financial Supervisory Authority (AFSA) Regulation no. 53/2009 was not applicable, pursuant to Article 117 of the Constitution, on the grounds that it had not been published in the Official Gazette at the time of the accident.

The Court of Appeal, on the other hand, found that the applicable law included, beside the specific Law no. 10076/2009, the AFSA Regulation no. 53/2009. The Court of Appeal noted that the latter, notwithstanding the fact that it had been adopted and published after the road traffic accident, expressly provided in its Article 51, it

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Furthermore, such analysis would have clarified the purpose of Article 51 of the regulation, which provided for retroactive effect from the moment the specific law entered into force, thereby also facilitating its practical application by the entities to whom it was addressed. In this regard, the applicants would have been able to access, become aware of, and consequently foresee the effects of the regulation, thus ensuring that they had sufficient clarity regarding the amount of compensation they were entitled to as a result of the accident.

applied retroactively from the moment the specific law entered into force. The High Court, pursuant to Articles 472 and 480 of the Code of Civil Procedure (CCP), declared the appeal on points of law inadmissible, by way of a *de plano* reasoned decision, without taking an express position regarding the applicants' complaint concerning the nature of the regulation and its legal force.

The Court considered that the High Court, in the exercise of its functions, was required to take an express position as regards the applicable law and the merits of the grounds of the appeal on points of law which raised issues of a constitutional nature pertaining to the conduct of judicial proceedings. Therefore, the Court finds that the applicants' claim concerning the violation of the right of access to a court in relation to the standard of a reasoned judicial decision is founded.

Decision-making

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



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

KEY WORDS

*Expropriated former owner/
Owned plot of land/ Sales and
purchase agreement/ Legal heirs/
Inherited property/ Co-ownership
by inheritance/ Reopening of the
proceedings/ New documentary
evidence/ Diligence in obtaining
evidence/ Central State Archives/
Documentary records from 1944–
1945/ Continuous updating of the
archives with documents*

In the context of decisions concerning requests for the reopening of proceedings, the High Court's reliance on the reasoning of the Court of Appeal does not satisfy the constitutional standard of a reasoned judicial decision, since it constitutes a reference to the reasoning of a decision that was not based on the newly adduced documents. The High Court, which has the statutory competence to examine requests for reopening, upon finding that the documents formally constitute newly discovered evidence, has an obligation to also examine the substance of those documents, in order to provide a reasoned response to the complaint as to whether or not the final judicial proceedings were vitiated by a fundamental defect.

Fatmira Allmuça

Request for the reopening of proceedings before the High Court concerning the newly discovered evidence

Judgment No. 38 of March 19, 2026

Facts

In 2000, the applicant purchased a plot of land from her father by means of a sale and purchase agreement, which she duly registered in her name. The property had been acquired through the Land Allocation Commission. The interested parties, who were relatives of the applicant, claimed that the plot of land did not belong to her father but to their grandfather (who was also the applicant's grandfather); consequently, the property also belonged to them in their capacity as legal heirs. Their civil action seeking recognition of co-ownership and the restitution of their respective shares was rejected by the Tirana District Court in 2001. That judgment was overturned in 2002 by the Tirana Court of Appeal, which recognized the right of co-ownership for all the heirs. Although the applicant's father filed an appeal, the High Court, in 2003, declared the appeal on points of law inadmissible; similarly, in 2003, the Panel of the Constitutional Court decided not to admit the application for examination in a plenary session, owing to the absence of grounds disclosing a violation of the right to a fair trial.

Between 2004 and 2010, the applicant and her father filed two requests for the reopening of the proceedings in respect of the Court of Appeal's 2002 decision and the High Court's 2003 decision, but both requests were dismissed. Therefore, in 2015, the applicant filed a third request for the reopening of the proceedings, relying on the existence of new documentary evidence regarding ownership, obtained from the Central State Archives. The High Court again declared the request inadmissible on the grounds that the submitted documents did not constitute new evidence. Such decision was challenged by the applicant by means of an individual constitutional complaint.

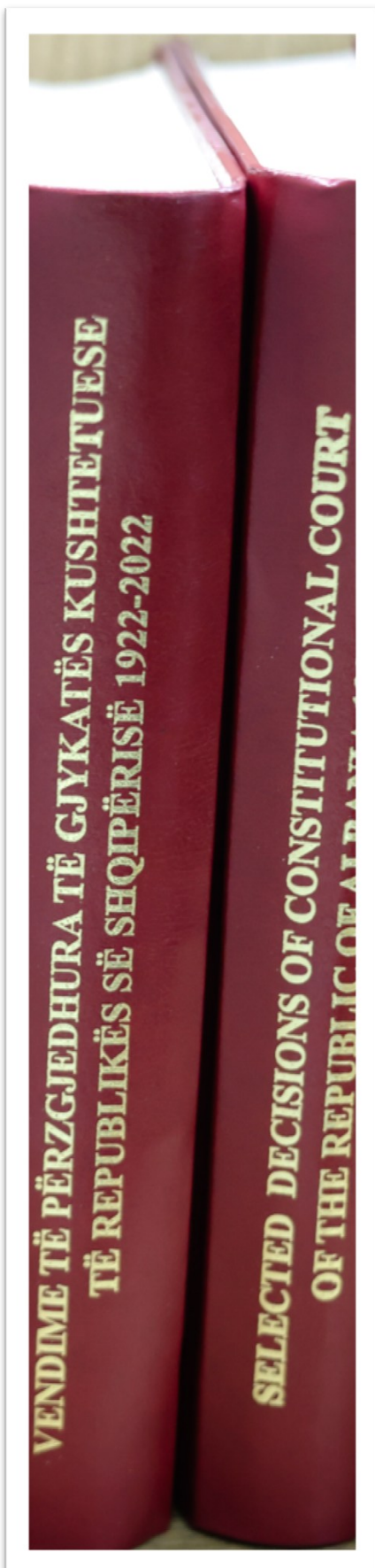
Court's Assessment

As regards the alleged violation of the standard of a reasoned judicial decision in conjunction with the right of access to a court

The Court noted that the documents considered as "new evidence" had been made available by the Directorate of Archives, which had officially confirmed that the database recording such documents was continuously updated with new records and data. Such documents pertained to a historical period (1944–1956) under a different system of government, whereas the judicial proceedings in question (the subject matter of the request for reopening) had taken place between 2001 and 2003, that is, approximately 13 years before the applicant obtained the documents from the Archives. Moreover, at that time, the institutions that had issued the documents in question had ceased to exist years earlier. In her request for the reopening of the proceedings, the applicant alleged an objective impossibility of securing the documents provided by the archives at the time of the trial. However, the High Court held that such documents could not be considered as newly discovered evidence which could not have been known earlier, and that the applicant had had the opportunity to obtain them during the trial by applying to the relevant institutions. The High Court reasoned so without specifying which institutions the applicant could

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have addressed in order to obtain such documents, thereby imposing an excessive burden on her.

The Court considered that the High Court had examined the request for reopening only formally, without paying due attention to the facts and circumstances that were beyond the applicant's control. It provided a de plano reasoning regarding the value of the new documents the value of the new documents in relation to the merits of the case, confining itself to the conclusion that they would not alter the outcome of the case, without providing any further explanation in this regard. It failed to provide sufficient and exhaustive reasoning as to why the new evidence adduced by the applicant did not fall within the categories provided by law, and how the applicant could have secured such evidence in due time, thus failing to provide a conclusive response to the applicant's main arguments.

Decision-making

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



Right of access to a court in relation to the right to a substantive appeal – Standard of a reasoned judicial decision

KEY WORDS

Search of premises/ Personal search/ Material evidence/ Articles 208/a and 209 of the Code of Criminal Procedure (CCP)/ Seizure of computer data and equipment/ Seizure of correspondence/ Telephone devices/ Validation of lawfulness/ Data extraction/ Evidentiary and legitimate aim/ Complaint of a constitutional nature

In cases where an applicant receives no response to their complaints of a constitutional nature as a result of a decision declaring an appeal on points of law inadmissible, there is a violation not only of the right to a reasoned judicial decision, but also of the right of access to a court within the meaning of Article 42 of the Constitution, as well as of the right to an effective appeal in a substantive sense, as provided for in Article 43 of the Constitution.

The case must be remitted to the High Court for re-examination. The High Court must assess the grounds of the appeal on points of law lodged by the first applicant and rule on them, as well as adopt an explicit and reasoned position regarding the complaint of a constitutional nature raised in the second applicant's appeal.

The company “GFI Albania” Ltd. and Ergys Sela

Validation of the seizure of computer data and equipment

Judgment No. 39 of March 26, 2026

Facts

The applicants, a commercial company (the first applicant) and its administrator (the second applicant), were involved in criminal proceedings concerning the offences of passive corruption of high state officials or local elected representatives and laundering the proceeds of a criminal offence or criminal activity. According to the Special Prosecution office, a national who indirectly held the capital of the first applicant had, personally or through a commercial company, transferred monetary sums to the son of a former public official in order to obtain financial benefits under a concession contract concluded by the first applicant. Pursuant to a search warrant issued by the preliminary investigation judge, judicial police officers at the National Bureau of Investigation carried out a personal search of the second applicant and a search of the premises of the first applicant's offices. They seized several items as material evidence, and the prosecutor subsequently validated that seizure as lawful. The applicants challenged the seizure before the courts, particularly contesting the seizure of computer data and equipment. The First Instance Special Court for Corruption and Organized Crime held that the prosecutor's decision validating the seizure was sufficiently reasoned, finding that the seizure of the equipment was necessary for the extraction of data to be used as evidence and was therefore lawful.

The Special Court of Appeal for Corruption and Organized Crime upheld that view, stating that the seizure pursued an evidentiary and legitimate aim. As to the claim that the authorities had exceeded the scope of the search warrant, mainly in relation to mobile devices, computer units, hard drives, and USB flash drives, the court of appeal found the search to be founded and lawful. In its view, those devices had been seized as items that could be used as material evidence.

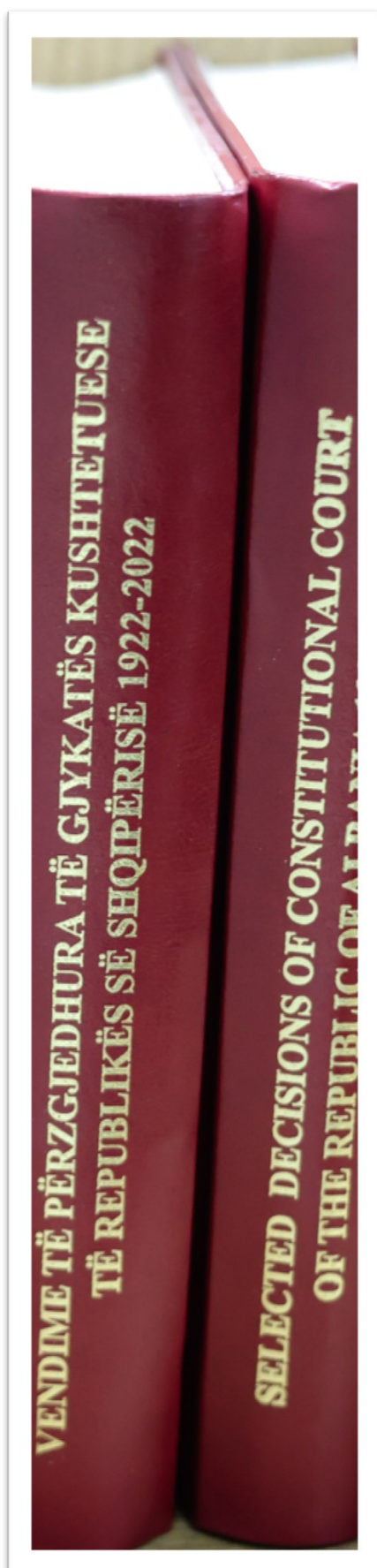
Concerning the alleged violation of Article 8 of the Convention and Articles 36 and 37 of the Constitution, the court reasoned that the right to respect for private and family life is not absolute. It further held that the interference was lawful, complied with the formal requirements, and was justified by the public interest in the context of an investigation conducted by the Special Prosecution Office. The measure was aimed at identifying the persons responsible in connection with the criminal proceedings, and the search was intended to uncover material evidence relevant to establishing the liability of the legal entity (the first applicant) or the individuals behind it, as well as the company's involvement in the circumstances under investigation during the period from 2022 to 2024, when the second applicant served as its administrator.

Regarding the allegation that the seizure of electronic devices violated the right to freedom and secrecy of correspondence because they contained personal correspondence or correspondence with third parties, the court dismissed the argument, holding that the prosecuting authority intended to use the information obtained from the seized material solely for investigative purposes.

The applicants subsequently lodged an appeal on points of law. The Criminal Chamber of the High Court declared inadmissible only the appeal lodged by the second applicant, holding that it did not contain any of the statutory grounds for appeal under Article 432 of the Code of Criminal Procedure. However, the High Court neither

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ruled on nor reflected in its decision the appeal lodged by the first applicant.

In 2025, the applicants lodged an individual constitutional complaint with the Constitutional Court, concerning the subject matter of the application.

Court's Assessment

As regards the alleged violation of the right of access to a court in relation to the right to a substantive appeal and the standard of a reasoned judicial decision

The Court noted that although the introductory part of the High Court's decision indicated that the criminal case in question involved two applicant parties, that decision reflected only the grounds of the appeal on points of law lodged by the second applicant.

It neither reflected any of the grounds of appeal raised by the first applicant, nor did it rule on them. Consequently, the Court found that the High Court had entirely deprived the first applicant of the right of access to a court in relation to the right to a substantive appeal, in the sense of receiving a response to the complaints raised in its appeal.

Furthermore, the Court observed that the second applicant had raised a complaint of a constitutional nature in his appeal, namely the alleged violation of the right to respect for private life, due to the failure to comply with the modalities for the seizure of computer data and equipment, which risked exposing other data unrelated to the criminal offence. Although the High Court reflected this complaint in the descriptive section outlining the grounds of appeal, it failed to adopt an express and concrete position on the matter. Thus, the High Court did not provide an express response to the second applicant's constitutional complaint concerning the manner in which the prosecution and the special courts had conducted the search and seizure of the computer equipment and data.

In the light of the foregoing, the Court found that the applicants' complaint concerning the violation of the right of access to a court in relation to the right to a substantive appeal and the standard of a reasoned judicial decision was founded.

Decision-making

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



Personal liberty – Standard of a reasonable doubt based on evidence – Principle of proportionality

KEY WORDS

Criminal proceedings/ Irregular financial benefits/ Public office/ Public procurement/ Company shares/ Questioning hearing/ Reasonable doubt/ Remand in custody/ Appropriateness of the measure

The doubt was considered reasonable, as it was based on facts, information, and evidence sufficient to satisfy the courts that there was an objective link between the suspect and the criminal offences under investigation.

In the light of the circumstances of the case and the offences of which the applicant was suspected, the measure did not appear disproportionate and had been imposed in accordance with the procedural rules of the Code of Criminal Procedure. The courts provided sufficient reasons for the appropriateness of remand in custody, and their conclusion that any alternative measure would have been inadequate did not appear unreasonable in view of the grounds justifying detention in the present case.

Evis Berberi

Proportionality of the measure restricting personal liberty

Judgment No. 40 of March 26, 2026

Facts

The Special Prosecution Office registered criminal proceedings no. 214/2023 in respect of the offence provided for in Article 258 of the Criminal Code and subsequently, also registered offences under Articles 244 in conjunction with Article 25, 259, and 287 § 2 of the Criminal Code. As regards the latter two offences, the applicant was also entered in the register on suspicion that, in his capacity as former Director General of the Energy Efficiency Agency and subsequently Director General of the Albanian Road Authority, he had indirectly accepted and received irregular financial benefits from company “N.”, which had been awarded public procurement contracts by the public authorities headed by the applicant. It was alleged that those benefits were received through company “D.”, which he indirectly owned, and were subsequently invested in the purchase of immovable property in the name of that company.

On 13 March 2024, the First-Instance Special Court imposed on the applicant the measure of remand in custody, which was enforced on the same date. Following a request by the Special Prosecution Office for the review of the conditions for the application of the coercive measure, on 16 March 2024 the First-Instance Special Court decided to continue such measure. That decision was upheld by the Special Court of Appeal on 25 April 2024, while the Criminal Chamber of the High Court, by decision of 17 October 2024, declared the applicant’s appeal on points of law inadmissible.

Therefore, the applicant lodged an individual constitutional complaint with the Constitutional Court seeking the repeal of the judicial decisions.

Court’s Assessment

As regards the alleged violation of the right of personal liberty

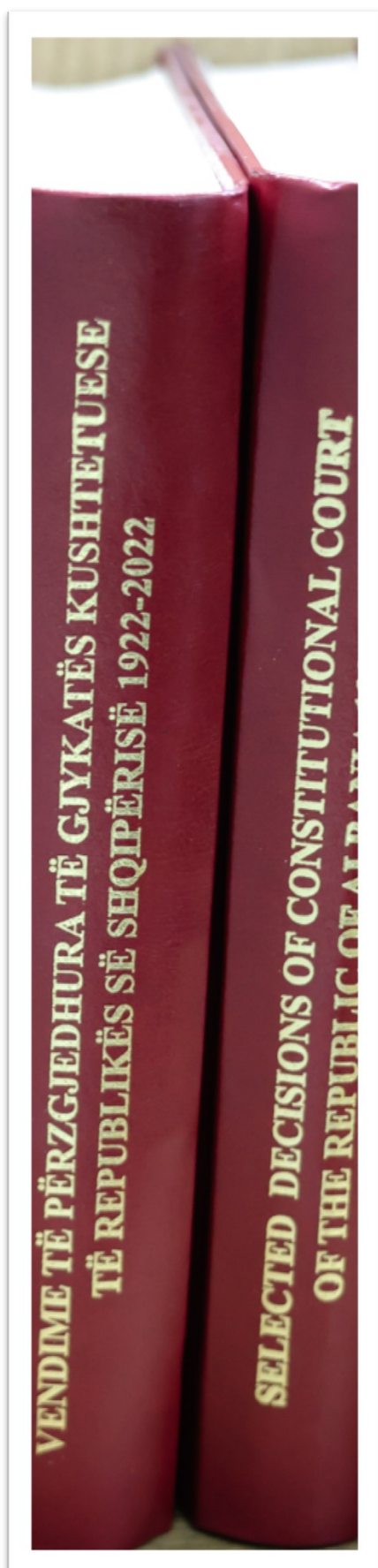
As regards the standard of reasonable doubt based on evidence

Pursuant to Article 27 of the Constitution, in order to determine whether the requirement of reasonable doubt for the arrest of an individual has been met, regard must be had to the overall context of facts of the case, including the applicant’s status and personality, the chronology of events, the manner in which the investigation was conducted and the conduct of the authorities. The Court further examined whether the ordinary courts, through the reasoning of their decisions, had complied with the constitutional requirement of reasonable doubt as a sine qua non condition for restricting the applicant’s right to liberty. It held that the ordinary courts had provided sufficient reasoning as to the existence of reasonable doubt, clearly identifying the facts and documentary evidence relied upon to impose the personal security measure on the applicant as a suspect in the commission of the criminal offences.

In the present case, there appeared to be information which would satisfy an objective observer that the applicant might have committed the criminal offences of which he was suspected; therefore, it could not be concluded that he had been arrested in the absence of a reasonable doubt within the meaning of Article 27 § 2 (c) of the Constitution.

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As regards the principle of proportionality

The Court examined whether the special courts had provided sufficient reasoning concerning the existence of compelling grounds indicating a risk of tampering with or destroying evidence, a risk of absconding, and a risk that, in view of the factual circumstances and the applicant's personality, he might commit further offences. The Court further had regard to the overall context of the facts in order to determine whether the measure was appropriate and proportionate to the legitimate aim pursued, and whether any alternative measure would have been inappropriate.

The ordinary courts imposed the security measure by taking into consideration objective factors, such as the nature of the criminal offence, the means and manner of its commission, and the ensuing consequences, as well as subjective factors related to the applicant's personality, the risk that he might commit further criminal offences, and the risk that he might tamper with evidence. These constituted relevant and sufficient reasons.

The courts' reasoning was not abstract; rather, it was grounded in a detailed assessment of the circumstances of the case as established by the investigation up to that stage.

In the view of the circumstances of the case and the nature of the criminal offences in question, the measure did not appear disproportionate and had been imposed in accordance with the provisions of the Code of Criminal Procedure. The courts specifically and adequately explained the existence of those risks in the present case, emphasizing the complexity of the investigation in light of the temporal scope of the alleged criminal activity, the applicant's role in the commission of the criminal offences, and the potential adverse impact he could have had on the continuation of the investigation.

Decision-making

The Court decided, unanimously, to reject the application.



Principle of legal certainty and legitimate expectations – Personal liberty in relation to the principle of proportionality

KEY WORDS

Violation of equality in public tenders/ Special Prosecution Office/ Special Court against Corruption and Organized Crime/ Criminal proceedings/ Articles 259 and 25 of the Criminal Code/ Person exercising a public function/ Investigative measures/ Search of offices/ Seizure of documents/ Seizure of mobile devices and computers/ Personal security measure/ Reasonable doubt/ Bimonthly information/ Legal characterization of the criminal fact/ Legal classification of the criminal offence

The position adopted by the Special Court of Appeal for Corruption and Organized Crime regarding the existence of elements of criminal offences different from those initially identified does not constitute the bringing of a new charge against the applicant, but relates to the assessment of the personal security needs and the analysis of the specific circumstances of the case. Furthermore, although the High Court did not remit the case for retrial in the present instance, its finding that this complaint had already been addressed and provided with a reasoned response during the judicial proceedings concerning the imposition of the personal security measure satisfies the criteria established by constitutional jurisprudence regarding the principle of legal certainty and legitimate expectations.

Redi Molla

Proportionality of the measure restricting personal liberty

Judgment No. 41 of March 26, 2026

Facts

The applicant R.M., appointed in 2016 as the Director general of the joint-stock company “Tirana Water Supply and Sewerage”, is involved, together with other individuals, in criminal proceedings concerning the criminal offences of “violation of equality of participants in tenders and public auctions” and “passive corruption of persons exercising public functions”. In 2023, the Special Prosecution Office, pursuant to a decision of the Special Court of First Instance for Corruption and Organized Crime, carried out investigative measures consisting of a search of the offices of the limited liability company “5D Konstruktion” (which had been declared the winner in several public procurement procedures for the period 2016-2022) and the seizure of documents, computer units and mobile telephone devices. Following IT examinations of the seized items, data was found indicating that the true shareholders of this company were the applicant and the national M.Q., who were suspected of having indirectly owned it since 2016.

Consequently, the Special Court of First Instance for Corruption and Organized Crime upheld the request of the Special Prosecution Office and imposed on the applicant the security measure of remand in custody for the commission of the criminal offence of “passive corruption of persons exercising public functions” in seven instances (four of which were committed in collaboration), as well as “refusal to declare, non-declaration, concealment or false declaration of assets and private interests of elected persons and public officials, or of any other persons subject to the obligation to declare” in five instances. The Special Court of Appeal for Corruption and Organized Crime upheld the decisions imposing and continuing the measure of remand in custody. The Criminal Chamber of the High Court decided to quash the decision of the Special Court of Appeal in respect of the applicant and the other person under investigation, and remitted the case to that court for re-examination by a different bench.

It reasoned that the preliminary investigation judge at the court of appeal had assumed the powers of the preliminary hearing judge by exercising review over the prosecutor’s activities through the legal classification of the criminal offence. Therefore, the applicant requested the substitution of the imposed security measure with a more lenient one. In the meantime, the criminal offence of “laundering of the proceeds of a criminal offence or criminal activity”, committed in collaboration, was also registered against him and the legal entity, the commercial company “5D Konstruktion”.

The Special Court of First Instance for Corruption and Organized Crime rejected the request for the substitution of the personal security measure of “remand in custody” and ordered its continued application. It found that, according to the bimonthly information submitted by the Special Prosecution Office, there had been no changes to the legal classification of the criminal facts that would result in a reassessment of the personal security needs justifying their mitigation. Departing from the approach taken by the Special Prosecution Office and the Special Court of First Instance for Corruption and Organized Crime, the Special Court of Appeal for Corruption and Organized Crime reasoned that they had failed to reflect in their positions the legal classification of the historical criminal facts under investigation.

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The domestic ordinary courts did not confine themselves to an automatic repetition of the grounds that justified the initial imposition of the security measure. Instead, they carried out an updated review of the necessity of its continuation, which satisfies the constitutional requirement for the ordinary courts to assess the security needs in an individualized manner. They provided sufficient reasoning regarding the proportionality of the continuation of the measure, including the aspect of the “appropriate measure”, namely whether it remained “suitable” in relation to the security needs.

This was despite the relevant reasoning of the previous decision of the Special Court of Appeal, according to which, in respect of the two persons under investigation, there were further investigative measures that consolidated the conviction regarding their authorship of the criminal offences and the activation of their criminal liability. The applicant lodged an appeal on points of law against this decision; however, the Criminal Chamber of the High Court upheld the decision of the Special Court of Appeal. Therefore, in 2025, the applicant lodged an individual constitutional complaint with the Constitutional Court.

Court's Assessment

As regards the locus standi ratione personae

Despite the fact that the security measure of “remand in custody” challenged by the applicant is no longer in force due to its change in melius, and consequently the impugned decisions no longer produce effects in his respect, this does not alter the fact that he was subjected to a measure depriving him of his liberty, which he alleges to be unconstitutional and contrary to his rights and freedoms. The Court considered that the applicant has *locus standi ratione personae* in both procedural and substantive terms.

As regards the criterion of exhaustion of domestic remedies concerning the request for the substitution of the security measure due to health reasons, that request cannot be examined by the Court, since the applicant has other available remedies at his disposal in that regard.

As regards the procedural aspect concerning the alleged violation of the principle of legal certainty and legitimate expectations - The Court considered that the alleged violation did not concretely affect the courts' decision-making regarding the personal security measure, nor did it worsen the applicant's procedural position. Furthermore, insofar as the applicant exercised his right to an appeal on points of law and his complaints were examined by the High Court, which provided a reasoned response in this regard, it does not appear that the procedural guarantees provided for by the Code of Criminal Procedure (CCP) were violated. Consequently, the complaint concerning the violation of personal liberty in its procedural aspect, in relation to the principle of legal certainty and legitimate expectations, is unfounded.

As regards the substantive aspect concerning the violation of personal liberty in relation to the principle of proportionality, the Court considered that the ordinary courts did not confine themselves to an automatic repetition of the grounds that justified the initial imposition of the security measure. Instead, they carried out an updated review of the necessity of its continuation, which satisfies the constitutional requirement for the ordinary courts to assess the security needs in an individualized manner. They provided sufficient reasoning regarding the proportionality of the continuation of the measure, including the aspect of the “appropriate measure”, namely whether it remained “suitable” in relation to the security needs. The domestic ordinary courts, in addition to analyzing the existence of reasonable doubt and the diligence of the prosecution authorities, also assessed why the legal requirements and criteria for its substitution were not met, therefore concluding that the measure of remand in custody should be continued. The continuation of the restriction of the applicant's personal liberty does not appear to be contrary to Article 28 § 3 of the Constitution, Article 5 § 3 of the European Convention on Human Rights, and the relevant provisions of the Code of Criminal Procedure governing the procedures for the restriction of this liberty. The Court considered that the grounds adduced by the Special Courts and the High Court are, from a constitutional standpoint, sufficient to justify the continued application of the measure of “remand in custody”. Consequently, the complaint concerning the violation of personal liberty in its substantive aspect, in relation to the principle of proportionality, is unfounded.

Decision-making

The Court decided, unanimously, to reject the application.



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

KEY WORDS

Immovable property/ Movable property/ Legalization process/ Unifying Decision No. 22/2002/ Article 207 of the Civil Code/ Partition of joint property/ Request for the acceleration of proceedings/ Interpretation and application of substantive law

The Court observed that the mere fact that the appeal on points of law was declared inadmissible was not sufficient, from a constitutional perspective, to call into question the judicial proceedings before the High Court with regard to the applicant's right of substantive access to that court. Furthermore, the reasoning of the Civil Chamber of the High Court did not appear arbitrary in its assessment of the grounds raised in the applicant's appeal, and it did not cast doubt on the observance of the right to a fair trial as regards the standard of a reasoned judicial decision.

Ermand Muça

Partition of jointly owned property

Judgment No. 42 of March 26, 2026

Facts

The applicant is the legal heir of Mr. H.M. The latter and his nephew (G.M.) were co-owners of a plot of land, holding 1/3 and 2/3 shares respectively. G.M. instituted legal proceedings for the partition of the property, requesting that full ownership of the plot be awarded to him against payment of compensation to his uncle corresponding to the value of his respective share. According to G.M., there had previously been an old dwelling on the plot, which had been donated to him by his grandmother. He had demolished it and built a new house, for which he had taken out several bank loans and had initiated legalization procedures. The house occupied the entire surface area of the plot, and the uncle had raised no objections to its construction. The first-instance court and the Court of Appeal upheld G.M.'s claim, recognizing him as the sole owner of the plot and ordering him to pay his uncle the value corresponding to his co-ownership share. The High Court declared the uncle's appeal on points of law inadmissible. In the meantime, while the case was pending before the High Court, the Local Immovable Property Registration Office registered the property in G.M.'s name. Therefore, in 2025, the applicant lodged an individual constitutional complaint with the Constitutional Court (the Court).

Court's Assessment

As regards the alleged violation of the right of substantive access to a court in relation to the standard of a reasoned judicial decision

The Court noted that the High Court had examined the applicant's complaints in his appeal on points of law concerning the erroneous interpretation and application of the law by the ordinary courts. This was in contrast to the position of the lower courts, which had held that, owing to the existence of a building on the plot, the property could not be partitioned in kind; therefore, for the resolution of the property dispute, Article 207 of the Civil Code (CC), governing the partition of joint property, was applicable. The High Court concluded that the Court of Appeal had delivered its decision in correct interpretation and application of substantive law, and that it had not raised any questions of law of which the parties were unaware. Taking into consideration that the proceedings before the lower courts were held in a hearing and in the presence of the parties, during which the applicant was able to participate and present his arguments on points of law, and that the High Court had been set in motion by his appeal on points of law, in which he set out his complaints against the decisions of the lower courts and was thereby afforded the opportunity to be heard before that court as well, the Court observed that the mere fact that the appeal on points of law was declared inadmissible was not sufficient, from a constitutional standpoint, to call into question the proceedings before the High Court in relation to the applicant's right of substantive access to that court. Furthermore, the reasoning of the Civil Chamber of the High Court did not appear arbitrary in its assessment of the grounds raised in the applicant's appeal and it did not cast doubt on the observance of the right to a fair trial as regard the standard of a reasoned judicial decision. In the view of the foregoing, the Court held that the applicant's complaints concerning the alleged violation of the right of substantive access to a court, in relation to the standard of a reasoned judicial decision, were unfounded.

Decision-making

The Court decided, unanimously, to reject the application.



Procedural and substantive aspects of personal liberty

KEY WORDS

Criminal proceedings/ Remand in custody/ Replacement of the security measure/ Risk of absconding/ Risk of tampering with evidence/ Reasonable doubt/ State of health/ Proportionality of the measure/ Restriction of personal liberty/ Penitentiary healthcare system

Within the meaning of Article 28 § 3 of the Constitution, read in conjunction with Article 27 thereof and Article 5 § 3 of the European Convention on Human Rights, the time spent in pre-trial detention constitutes a factor of constitutional importance when reviewing the continuation of the measure of remand in custody. However, the time spent in pre-trial detention does not automatically lead to the replacement or revocation of the measure; rather increases the burden on the prosecuting authorities to prove that the conditions and grounds justifying detention continue to exist.

Klodian Rjepaj

Restriction of personal liberty

Judgment No. 43 of March 31, 2026

Facts

The applicant was the Deputy Minister of Health and chairman of the Commission for the Award of Concessions/Public-Private Partnerships (PPP). In the exercise of this function, the applicant's duties included preparing the feasibility study for the sterilization concession contract, calculating its value, and drafting the standard concession documents. The Special Prosecution Office Criminal instituted proceedings against the applicant, seeking the imposition of coercive security measure of remand in custody, on suspicion of having committed the criminal offences of fraud, forgery of documents and abuse of office, committed in collaboration and resulting in serious consequences. The Special Courts (the First-Instance Special Court against Corruption and Organized Crime and the Special Court of Appeal) ordered the applicant's remand in custody, while the High Court declared his appeal on points of law inadmissible. Thus, the applicant lodged an application with the Constitutional Court. However, the Court decided not to refer the case for examination in a plenary session, holding that the applicant's complaints concerning the restriction of his personal liberty – arising from the imposition of the measure of remand in custody, in conjunction with the reasoning of the High Court's decision – were manifestly unfounded.

The Court noted that the measure had been imposed for a legitimate aim, namely to ensure the proper conduct of the criminal proceedings against the applicant. It further observed that the measure did not appear disproportionate in the light of the circumstances of the case and the criminal offences he was charged with and that it complied with the procedural rules of the Code of Criminal Procedure (CCP) governing its imposition. Subsequently, the applicant submitted a request to the First-Instance Special Court for the replacement of the measure of remand in custody with a more lenient measure. As grounds for modifying the measure, he cited, inter alia: his state of health; the fact that the grounds justifying his detention had diminished following the conclusion of the preliminary investigation; his inability to prepare an effective defense after seventeen months in custody; and various personal and family circumstances.

The First-Instance Special Court and the Special Court of Appeal dismissed the request, holding that, in the light of the circumstances of the case, there were no new grounds for mitigating the need for the applicant's continued detention. Furthermore, they noted that the conclusion of the investigation had resulted in three serious criminal charges being brought against him. Therefore, the High Court declared his appeal on points of law inadmissible, holding that it did not raise any of the grounds provided for in Article 432 of the CCP.

Court's Assessment

As regards the alleged violation of right to liberty

The Court held that the restriction of the applicant's personal liberty was ordered and continued by a judicial decision, based on a reasonable doubt that he had committed the criminal offences of which he was initially suspected and subsequently charged, and in accordance with the procedures prescribed by law.

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INDIVIDUAL CONSTITUTIONAL COMPLAINTS

In this regard, the prosecution must demonstrate that it has acted with the requisite special diligence and without unjustified delays in carrying out investigative or procedural actions. Meanwhile the court must verify, in an independent and individualised manner, not only the existence of a reasonable doubt, but also whether the other grounds advanced for keeping the person in pre-trial detention remain concrete, relevant, sufficient, and necessary.

Likewise, the court must examine whether, in the course of time, the grounds which initially warranted the measure continue to exist, and whether such measure could be replaced by a financial guarantee (bail) or other more lenient measures. This analysis must be conducted in an individualised basis, responding to the specific facts and circumstances of the case, without shifting the burden of proof to the detained person to demonstrate the reasons justifying his release.

This does not, however, absolve the detained person of the obligation to bring to the attention of the prosecuting authorities, in accordance with Article 260 of the CCP, any circumstances that might mitigate the need for continued detention.

Furthermore, the Court found that no new facts or circumstances had been presented that would alter the grounds justifying the applicant's continued detention under the specific conditions set out in Article 228 § 3 of the CCP.

As regards the applicant's complaint that the courts had failed to explicitly address the specific nature of the criminal offences attributed to him, the Court noted that at that procedural stage, the ordinary courts could not reach definitive conclusions on the defense's submissions, as such issues fell within the proceedings on the merits. Furthermore, the Court observed that the ordinary courts at all three levels of jurisdiction had examined the facts and evidence, providing reasoned responses to the applicant's complaints concerning his state of health and the availability of medical treatment within the penitentiary healthcare system.

The Court held that the applicant's complaints concerning the restriction of his personal liberty, arising from the continued application of the measure of remand in custody were unfounded. It further noted that there had been no change in the factual circumstances and that the measure remained proportionate to the gravity of the facts and the potential penalty for the criminal offences the applicant had been charged with. Moreover, the ordinary courts had provided the applicant with comprehensive and reasoned responses regarding the necessity and proportionality of maintaining the coercive measure of remand in custody, having regard to the specific circumstances of the case and in accordance with the relevant provisions of the Code of Criminal Procedure.

The reasoning in the decisions of the ordinary court was not abstract, but rather individualized in the light of the specific circumstances of the case. Such measure continued to pursue a legitimate aim, namely to ensure the proper conduct of the criminal proceedings against the applicant; therefore, it did not appear disproportionate and it complied with the procedural rules of the CCP governing the continuation of the measures.

Furthermore, the ordinary courts, in addition to examining the existence of a reasonable doubt and the diligence displayed by the prosecuting authorities, assessed how and to what extent the passage of time had affected the grounds justifying detention, thus concluding that the applicant's remand in custody should be continued.

Decision-making

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



Principle of the presumption of innocence – *Nulla poena sine lege* (no punishment without law)

KEY WORDS

Donation of a plot of land/ Re-evaluation process/ Concealment of assets/ False declaration of assets/ Nulla poena sine lege (no punishment without law)/ Summary proceedings/ Acquittal at first instance/ Reversing of the Decision and conviction on appeal/ Organization of the documents in the case file/ Refusal to admit defense evidence/ Reopening of the judicial examination/ Preliminary investigation file

In assessing whether the organization of the documents in the case file has violated the rights of the defense, several elements must be examined cumulatively:

(i) whether there are objective irregularities in the arranging, indexing, or inclusion of the documents; (ii) whether such irregularities genuinely hindered the defense access to and timely use of the evidence; (iii) whether such irregularities placed the individual at a procedural disadvantage; and (iv) whether these irregularities affected the overall fairness of the proceedings.

Sali Hasa

Constitutional procedural safeguards in criminal proceedings

Judgment No. 44 of April 2, 2026

Facts

Criminal proceedings were instituted against the applicant by the Special Prosecution Office for the criminal offences of “Passive corruption of judges, prosecutors and other justice officials” 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 that is legally binding for declaration”. The prosecution concluded that the applicant, in his capacity as a prosecutor, had concealed an asset, namely a plot of land (pasture) measuring 2,000 sq. meters, by formally registering it in the names of his two children. Furthermore, it was alleged that during the transitional re-evaluation (vetting) process, he had made a false declaration in respect of such assets, reporting it merely as a property of 1,000 sq. meters acquired by means of a donation from a third party in favor of his two children. At the conclusion of the summary proceedings, the Special Court of First Instance for Corruption and Organized Crime decided, *inter alia*, to acquit the applicant of the criminal offence provided for in Article 257/a § 2 of the Criminal Code, on the grounds that the facts constituting the criminal offence of concealment and false declaration had not been proven. Following an appeal by the prosecutor, the Special Court of Appeal for Corruption and Organized Crime convicted the applicant of both criminal offences with which he had been charged. It held, *inter alia*, that it had been proven beyond reasonable doubt that the applicant had concealed the asset and had made a false declaration in its regard, given that he had declared only a portion of the registered property. The High Court declared inadmissible the applicant’s appeal on points of law against the Court of Appeal’s decision in respect of the part convicting him of the charge under Article 257/a § 2 of the Criminal Code, on the grounds that none of the conditions provided for in Article 432 of the Code of Criminal Procedure had been met.

However, as regards the part convicting the applicant of the criminal offence of passive corruption, the High Court quashed such decision and remitted the case to the Court of Appeal for re-examination.

Court’s Assessment

As regards the alleged violation of right to defense on account of the organization of the case file documents

The Court emphasized that in voluminous criminal cases, the orderly arrangement and organization of the documents in the case file enables prompt access to the procedural acts, thereby facilitating the effective exercise of the rights of the defense and ensuring compliance with the principle of equality of arms. In this regard, the chronological and logical arrangement of the procedural documentation serves to orient the court and the parties to the proceedings, facilitates the administration and assessment of evidence, and prevents ambiguity or the disregard of elements essential to the proper resolution of the case.

As regards the alleged violation of the principle of the presumption of innocence

The Court examined whether, in the criminal proceedings conducted against the

(continued on page 45)

INDIVIDUAL CONSTITUTIONAL COMPLAINTS

If, following the acceptance of summary proceedings, the extensive administration of new evidence or the full reopening of the judicial examination were to be permitted, such instrument would lose its purpose, as it is based precisely on a balance between the procedural benefit of a reduced sentence and the public interest in conducting expedited proceedings in the interests of judicial economy.

The principle of *nulla poena sine lege* (no punishment without law) does not require the criminal provision to exhaustively foresee every specific situation that might arise in practice. The criminal provision ought to be sufficiently clear and foreseeable for the individual. The legal framework governing the declaration of assets is clear as regards the criminal liability of the persons who have a statutory obligation to declare.

the Court of Appeal and the High Court had respected the procedural safeguards of the principle of the presumption of innocence, specifically concerning: (i) the prohibition of bias arising from the refusal to admit exculpatory evidence; and (ii) the interpretation of doubts in the applicant's favor (*in dubio pro reo*).

The Court further observed that during the judicial examination, only the evidence gathered during the preliminary investigation was analyzed, whereas the applicant was afforded the opportunity to present his objections and arguments, which were subject to adversarial debate during the trial. The admission of defense evidence could not be accepted because of the application of the summary proceedings, as this involved documents that had not been collected during the preliminary investigation. Furthermore, it does not appear that the Court of Appeal altered the legal classification of the criminal offence or imposed a more severe sentence than that requested by the prosecutor. On the contrary, it respected the procedural benefits deriving from the summary proceedings. Moreover, the Court of Appeal based its conclusion on a comprehensive analysis of the administered evidence, which was logically interconnected; its reasoning was not based on general presumptions or on a shift of the burden of proof onto the applicant, but rather on a body of factual elements and evidence which, as the Court observed, established the applicant's knowledge, control, and *de facto* benefit in respect of the assets in question.

The High Court noted that the Court of Appeal's decision was based on a comprehensive and reasoned assessment of the evidence, without any shortcomings that would undermine the lawfulness of that decision. Similarly, it does not appear that the domestic lower courts shifted the burden of proof onto the applicant; rather, they adduced sufficient arguments demonstrating that the standard of proof of guilt beyond reasonable doubt had been met.

*As regards the alleged violation of the principle of *nulla poena sine lege* (no punishment without law)*

The Court observed that Article 257/a § 2 of the Criminal Code sets out the concept of concealment and/or false declaration by any public official who has a statutory obligation to declare their assets and private interests. The applicant held the office of prosecutor and was subject to the transitional re-evaluation (vetting) process, thus having a dual obligation of declaration. The first obligation stems from the Law on the Declaration of Assets, and the second was based on the rules set out in the Annex to the Constitution and the Law on Transitional Re-evaluation. The "Vetting" declaration form states that it constitutes an official document and that the inclusion of untrue, incomplete, or inaccurate data renders the declaration false and is punishable under criminal law. From the content of this legal framework, the Court found no lack of law or ambiguity therein regarding the fact that if a prosecutor conceals or falsely declares assets during the transitional re-evaluation process, they are subject to the criminal sanctions provided for in Article 257/a § 2 of the Criminal Code. In the present case, the domestic courts' interpretation of Article 257/a of the Criminal Code was based on recognized and consistent methods of interpretation, remaining within the reasonable meaning of the law and without undermining legal certainty or the constitutional safeguard enshrined in Article 29 of the Constitution.

Decision-making

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



Standard of binding force of the Constitutional Court's judgments – Standard of a reasoned judicial decision – Presumption of innocence

KEY WORDS

Murder/ Record of interrogation/ Guilt/ Investigative experiment/ Obtaining evidence through ill-treatment/ Invalidity of procedural acts/ Inadmissibility of evidence/ Self-incrimination/ Life imprisonment/ Burden of proof in criminal proceedings/ Presumption of fact

During the retrial proceedings, the ordinary jurisdiction courts, having thoroughly examined the applicant's complaints, provided reasoning that fully complied with the findings and conclusions set out in the Constitutional Court's previous judgments.

The Constitutional Court considers that the domestic courts' decisions comprehensively established the circumstances of the case and duly assessed the probative value and weight of each element.

Analyzed in the overall context, the decisions provided sufficient reasoning as to why those circumstances established the commission of the criminal offence and the applicant's involvement therein.

The finding of the criminal liability does not appear to be based on mere assumptions or doubts.

Luan Marra

Execution of the Constitutional Court's decision in the retrial of the case

Judgment No. 45 of April 2, 2026

Facts

By decision no. 107 of 23 May 2008, the applicant was convicted of the criminal offences provided for in Article 79 (a), (b) and (dh) and Article 278 § 2 of the Criminal Code, and was sentenced to life imprisonment. This decision was upheld by the higher domestic courts. By decision no. 14/2011, the Constitutional Court repealed such decisions after finding a violation of the applicant's right to legal assistance. The Court held that defense counsel ought to have been present during the interrogation of the detainee and the investigative experiment carried out by the police. It considered that the applicant's self-incrimination in the absence of defense counsel and a prosecutor raised serious doubts as to its lawfulness and as incompatible with the constitutional standards governing the gathering and assessment of evidence.

The Constitutional Court remitted the case to the first-instance court for re-examination. By a decision of 2 March 2012, the Berat District Court again found the applicant guilty, sentencing him to life imprisonment. This decision was subsequently upheld by the higher domestic courts.

Following a further constitutional complaint lodged by the applicant, the Constitutional Court by decision no. 20/2016 repealed the decisions of the ordinary courts and remitted the case for re-examination at first instance. It found that the ordinary courts had failed to comply with the binding obligations arising from its previous decision (no. 14/2011) and that the identified procedural defects had not been remedied, even by the higher courts.

During the subsequent retrial, the Berat District Court once again convicted the applicant and sentenced him to life imprisonment, a decision which was upheld on appeal by the higher domestic courts.

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

Court's Assessment

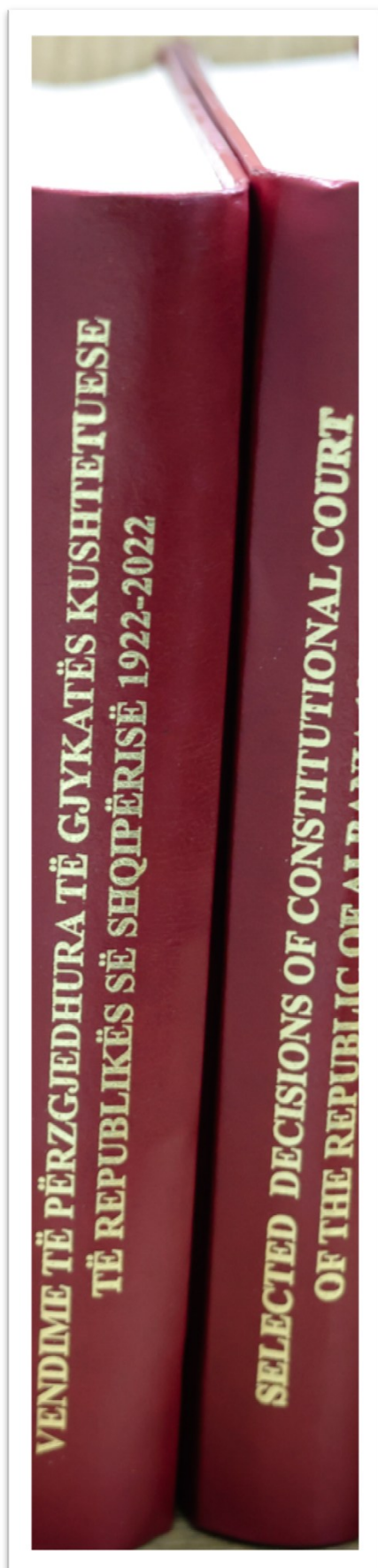
As regards the alleged violation of the standard of the binding force of the Constitutional Court's judgments

As regards the standard of a reasoned judicial decision

By decision no. 14/2011, the Court found a violation of the right to defense and the privilege against self-incrimination on account of the use of unlawfully obtained evidence. It based its findings on the fact that the applicant had made self-incriminating statements in the absence of defense counsel, as well as on doubts concerning the circumstances of his confession, which the State authorities ought to have investigated more thoroughly. Subsequently, the grounds for the Constitutional Court's judgment no. 20/2016 rested on the fact that the record of the applicant's interrogation (dated 30 October 2006) had been relied upon by the prosecution to rebut his statements in court, despite the fact that it could not be used even in that context. During the retrial proceedings, in respect of the interrogation record of

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INDIVIDUAL CONSTITUTIONAL COMPLAINTS



30 October 2006, the ordinary courts held that it had been neither requested nor admitted as evidence.

It was, however, admitted and utilized to rebut the applicant's testimony, following a judicial inquiry which established that the statements had been made in the presence of the applicant's defense counsel and signed by them on a voluntary basis. As regards the allegations of ill-treatment prior to and during the making of the self-incriminating statements, the domestic courts reasoned that there was no evidence to suggest that the statements had been obtained under conditions of vitiated consent resulting from police violence, accordingly, their use to rebut the defendant's trial testimony was permissible.

As for the investigative experiment, the trial court declared the evidence obtained thereby inadmissible, thus executing the Constitutional Court's decision no. 14/2011 in this regard.

As for the investigative experiment, the trial court declared the evidence obtained thereby inadmissible, thus executing the Constitutional Court's decision no. 14/2011 in this regard. Concerning the record of the applicant's interrogation in the absence of a lawyer, and having regard to the Constitutional Court's decision no. 20/2016, the courts conducting the retrial carried out a comprehensive investigation into the gathering of that evidence and concluded that the applicant's rights to defense had not been violated. Consequently, the Court found that it did not appear that the courts of ordinary jurisdiction had failed to observe the binding force of the Court's decisions. The High Court also fulfilled its obligation to provide a reasoned decision, which, from a constitutional standpoint, does not appear manifestly unreasonable.

As regards the alleged violation of the presumption of innocence

In the present case, the Constitutional Court examined whether, during the criminal proceedings against the applicant, the domestic courts had observed the requisite procedural safeguards by establishing his guilt beyond reasonable doubt, having regard to the prohibition against prejudging the assessment of the facts. The ordinary courts had not attached any pre-established weight to any particular piece of evidence; rather, they concluded that the applicant was the perpetrator of the criminal offences by analyzing the content of the evidence adduced and explaining their logical correlation.

The Constitutional Court further observed that the judicial decisions and other materials in the case file consistently referred to the applicant as a "defendant" rather than a "convicted person", thus demonstrating no premature expression of guilt or prejudicial conduct. Furthermore, the domestic courts had established the applicant's guilt beyond reasonable doubt on the basis of a comprehensive body of evidence, the content of which was adequately analyzed and reasoned, without relying on any unreasonable presumptions of fact or shifting the burden of proof onto the applicant.

Decision-making

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



**Right to a fair trial –
Right of access to a court
– Standard of a
reasoned judicial
decision**

KEY WORDS

Compensation related to official duties/ Applicable law/ Arbitrary interpretation/ Correct interpretation/ Statutory limitation period/ De plano reasoned decision/ Diametrically opposed decisions

The Administrative Chamber of the High Court, notwithstanding the fact that its decision was *de plano* reasoned, acted within the scope of its jurisdiction and in the exercise of its functions, in accordance with the procedural provisions governing such proceedings. It held that the grounds of appeal on points of law raised by the applicant were not of such a nature as to invalidate the judicial proceedings conducted before the Court of Appeal. Consequently, the Court upheld the Administrative Court of Appeal's interpretation and application of the relevant legal provisions.

Akile Dine

Reasoning of judicial decision before the High Court

Judgment No. 46 of April 02, 2026

Facts

On 22 June 2004, the applicant was reinstated as a Judicial Police officer at the Tirana Prosecution Office for Serious Crimes. It also appears that at that time, his family lived in the city of Korça. For this reason, he filed a request with the General Directorate of the State Police (GDSP), seeking compensation for losses incurred as a result of his official duties. Such request was rejected by the GDSP, and consequently, the applicant instituted judicial proceedings. The Tirana Administrative Court of First Instance upheld the claim and ordered the GDSP to pay the applicant a distance allowance (compensation for his place of residence). In the assessment of the first-instance court, the right to claim payment arose in the month following his appointment, therefore, the claim had been filed within the 10-year statutory time-limit. Following an appeal by the GDSP, the Court of Appeal overturned the first-instance court's decision and rejected the claim. The aforementioned court held that the claim had been filed one day beyond the 10-year statutory time-limit, calculating the start of the time-limit from the date of appointment. Furthermore, according to the court of appeal, the time-limit for filing the claim was the one provided for by the Labor Code and pursuant to Article 203 thereof, the claim had been filed beyond the 3-year statutory time-limit. Following the applicant's appeal on points of law, the Administrative Chamber of the High Court declared the applicant's appeal inadmissible, on the grounds that it did not contain any of the reasons provided for by Article 58 of Law no. 49/2012 on Administrative Courts and Adjudication of Administrative Disputes, as amended.

Court's Assessment

As regards the alleged violation of the right of access to a court in relation to the standard of a reasoned decision

Concerning the right of access, the Court observed that the applicant freely exercised his right of appeal on points of law to the High Court, where he submitted his complaints concerning the decisions of the lower courts. It further noted that the grounds of appeal were reflected in the introductory part of the Administrative Chamber's decision. The Court held that the court of appeal correctly assessed the application of the 3-year statutory time-limit for filing the same claim under Article 203 of the Labor Code, as the applicable law for resolving the specific dispute, given that the *lex specialis* (special law) did not contain such provisions. Furthermore, the decision of that court did not appear to be illogical or manifestly unreasonable so as to call into question the very essence of the right to a fair trial. As regards the applicant's complaint that the High Court should have taken an express position on the grounds of the appeal on points of law given the two diametrically opposed judicial decisions, the Court found that the High Court had adequately addressed the applicant's arguments in the impugned decision.

Therefore, the High Court complied with the requirement of a reasoned decision and implicitly endorsed the Administrative Court of Appeal's interpretation and application of the relevant legal provisions.

Decision-making

The Court decided, unanimously, to reject the application.



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

KEY WORDS

Criminal proceedings/ Conversion of sentence/ Normative act no.1/2020/ Seizure of assets/ Confiscation of assets/ Documentary evidence/ Live evidence/ Reopening of the judicial investigation

The judges' inner conviction was formed on the basis of a comprehensive assessment of the evidence and the circumstances of the case, without infringing the constitutional safeguards provided for in Article 30 of the Constitution; the finding of guilt was reached only after a full examination of the case and on the basis that criminal liability had been established "beyond reasonable doubt".

In the context of the complaints raised in the applicant's appeal on points of law, the High Court failed to exercise effective scrutiny to verify whether the reasoning of the Special Court of Appeal for Corruption and Organized Crime was sufficient to justify his conviction in accordance with the "beyond reasonable doubt" standard.

Jasin Kala (alias Avdyli)

Conviction without reopening the judicial investigation at the court of appeal

Judgment No. 47 of April 07, 2026

Facts

The applicant has been the subject of several sets of criminal proceedings. By a decision of 26 February 1999, the Durrës District Court convicted him of attempted premeditated murder and sentenced him to 15 years' imprisonment. Furthermore, by a decision of the Voghera Court in Italy, he was convicted of several criminal offences. This foreign decision was recognized by the Durrës District Court on 21 January 2015, which, by aggregating the sentences, imposed a total sentence of 27 years' imprisonment. This was subsequently converted to 25 years' imprisonment for the purpose of serving the remainder of his sentence in Albania.

Pursuant to Normative Act no. 1 of 31 January 2020 "On Preventive Measures within the framework of Strengthening the Fight against Terrorism, Organized Crime, Serious Crimes and Consolidating Public Order and Security", the Special Court of First-Instance for Corruption and Organized Crime ordered the seizure of several of the applicant's assets on 1 October 2021, and subsequently ordered their confiscation on 20 December 2022. By decision of 4 February 2022, the Special Court of First-Instance for Corruption and Organized Crime convicted the applicant of the criminal offence set out in Article 287 of the Criminal Code, sentencing him to 7 years' imprisonment, while releasing him of the remaining charges. Applying Article 36 of the Criminal Code, the court ordered the confiscation and transfer to the State of property no. 29/64 located in Durrës.

On appeal, the Special Court of Appeal for Corruption and Organized Crime upheld the first-instance decision in respect of the applicant's conviction and the confiscation of the property, but overturned it in respect of the release. It convicted the applicant additionally of the criminal offences provided for in Article 283 § 1, in conjunction with Articles 28 § 4 and 334 § 1, and Article 333/a § 2 of the Criminal Code. Eventually, the applicant was sentenced to a term of 12 years' imprisonment. The applicant lodged an appeal on points of law, seeking the repeal of the Special Court of Appeal for Corruption and Organized Crime decision and the discontinuation of the criminal proceedings.

Furthermore, the High Court declared the appeal inadmissible. Subsequently, the applicant lodged an individual constitutional complaint with the Constitutional Court, seeking the repeal of the impugned judicial decisions.

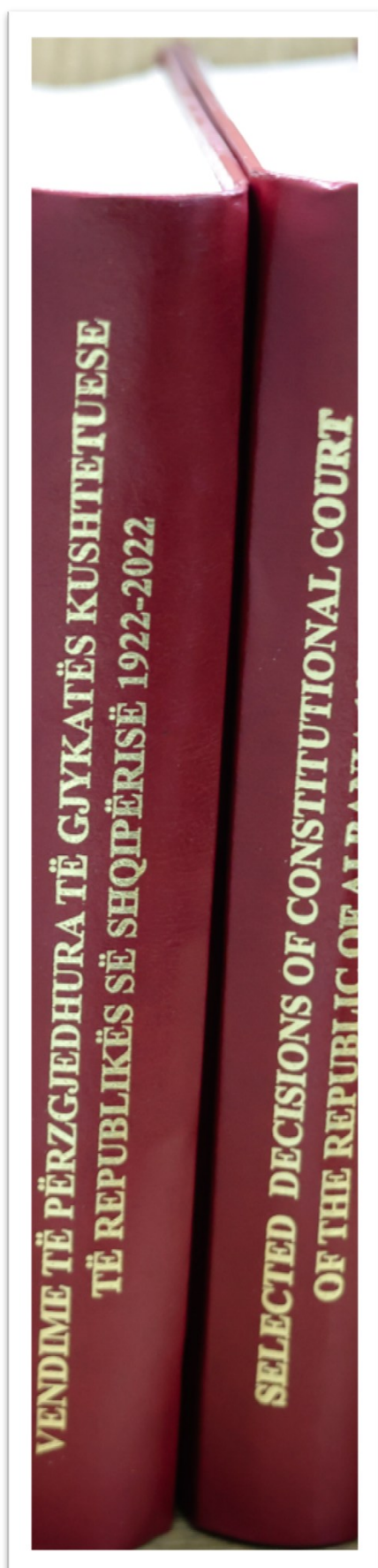
Court's Assessment

Admissibility ratione materiae

The applicant's complaints concerning the right to be informed promptly of the accusation, the right to be heard and to defend oneself, the right to an impartial tribunal, the standard of a reasoned judicial decision, the principle of legal certainty in respect of res judicata, the principle of ne bis in idem, the prohibition of reformatio in peius (the non-aggravation of the defendant's position), and the principle of presumption of innocence were considered to be manifestly unfounded and, consequently, were not examined on the merits.

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INDIVIDUAL CONSTITUTIONAL COMPLAINTS



As regards the violation of the principle of presumption of innocence in relation to the standard of a reasoned judicial decision

The applicant complained that the court of appeal had convicted him on the basis of the exact same evidence that the first-instance court had deemed insufficient to establish his guilt. He alleged that this was done in breach of Article 427 § 4 of the Code of Criminal Procedure (CCP) without reopening the judicial investigation, and that his conviction was primarily based on intercepted communications and hypothetical assumptions, unsupported by material evidence. In examining this complaint, the judges' assessments were divided into two divergent views, and the Court failed to reach the requisite statutory majority to adopt a decision on the merits.

According to one view, an analysis of the judicial decisions did not reveal any manifest errors of law that would render the proceedings unfair as a whole. The mere failure to reopen the judicial investigation did not render the examination of the case so incomplete as to infringe the principle of presumption of innocence. Furthermore, referring to the Court's established case-law, the decision to reopen a judicial investigation on appeal under Article 427 of the CCP falls within the discretionary assessment of the court of appeal. In the present case, there was no indication that the domestic courts had shifted the burden of proof onto the applicant; rather, they had provided adequate and sufficient reasons to support the conclusion that his guilt had been established beyond reasonable doubt.

According to the opposing view, although the Special Court of Appeal for Corruption and Organized Crime had identified certain elements of circumstantial evidence, it had failed to sufficiently explain how such elements, assessed in conjunction with one another, crossed the threshold of mere suspicion to establish the applicant's guilt beyond reasonable doubt. The court of appeal was under an obligation to provide a more detailed reasoning in order to explain why the first-instance court's assessment of the evidence had been erroneous and why the evidence, assessed in its entirety, justified the applicant's conviction. The High Court subsequently failed to remedy this shortcoming.

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.



**Personal liberty –
Standard of reasonable
doubt based on
evidence – Principle of
proportionality**

KEY WORDS

Criminal complaints/ Complex criminal facts/ High-ranking public official/ Exercise of State functions/ Lawfulness of the arrest/ Media broadcast of the arrest/ Use of force by State Police officers/ Torture, inhuman and degrading treatment/ Applicant's profile/ Reasonable doubt/ Satisfying an objective observer/ Proportionality of remand in custody/ Complicity/ Interference with and tampering with evidence

The circumstances concerning the specific actions of the police officers during the enforcement of the personal security measure, including the planning and execution of the operation, the alleged use of force, the applicant's conduct during the intervention, the necessity and proportionality of the force used, and the alleged consequences for his physical integrity, dignity, and overall condition, by their very nature require factual verification by the competent domestic authorities. They cannot be determined directly by the Court at this stage of the constitutional proceedings without the domestic remedies provided for this purpose having first been exhausted.

Ilir Metaj

Standard of reasonable doubt and the proportionality of the deprivation of liberty resulting from the security measure of remand in custody, and the review of the lawfulness of the manner of arrest

Judgment No. 48 of April 08, 2026

Facts

The Special Prosecution Office requested the court to impose the personal security measure of remand in custody, alleging several facts, acts, and omissions attributed to the applicant in connection with the exercise of his duties as a Minister, Speaker of the Parliament, and the chair of the Socialist Movement for Integration party (LSI). The Special Prosecution Office relied on several criminal complaints filed in 2018 and 2022, giving rise to doubts that the applicant had committed the criminal offences provided for in Articles 260 in conjunction with 25, 287 § 2, and 257/a § 2 of the Criminal Code.

The lower jurisdiction courts found that there was a reasonable doubt that he had committed the criminal offences of passive corruption of high-level State officials or local elected representatives in three (3) instances, two of which were committed in complicity; laundering the proceeds of a criminal offence or criminal activity, committed in complicity and on more than one occasion; and refusal to declare, non-declaration, concealment or false declaration of assets, private interests of elected persons and public servants or of any other person subject to a statutory obligation to declare. The Special Court of First Instance for Corruption and Organized Crime accepted the request and ordered the applicant's remand in custody.

Following the applicant's questioning and the verification of the conditions and criteria for applying the personal security measure, it ordered the continuation of the measure. That decision was upheld by the Special Court of Appeal for Corruption and Organized Crime, whose decision was subsequently upheld by the High Court.

All three courts concurred, holding that there was a reasonable doubt, based on evidence, that he had fulfilled the elements of the alleged criminal offences, some of which were committed in complicity with other suspects. They further held that there was an imminent risk that his unconditional release could lead to the tampering with evidence or jeopardize the discovery and securing of its original state.

Furthermore, owing to his past or present official functions, he could exert influence to interfere with the gathering and veracity of non-documentary evidence, such as the questioning of persons with knowledge of the facts under investigation, given that he was being investigated for several offences.

The courts noted that the power and connections the applicant had established by virtue of his functions or social standing created practical, unlawful opportunities to influence potential witnesses to the criminal facts, as well as other public entities, with the aim of "tampering with evidence" to alleviate his position in the criminal proceedings. Therefore, the applicant lodged an individual constitutional complaint with the Court.

Following the decision to examine the case in a plenary session, the applicant submitted written observations, which included, *inter alia*, a preliminary request for the case to be heard in a public plenary hearing in his personal presence and that of the media.

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The existence of facts and information would satisfy an objective observer that the applicant may have committed the criminal offences of which he is suspected. Consequently, it cannot be concluded that the deprivation of his liberty was carried out in the absence of a reasonable doubt, within the meaning of Article 27 § 2 (c) of the Constitution and Article 5 § 1 (c) of the European Convention on Human Rights.

The personal security measure was imposed on the applicant for a legitimate aim, namely to ensure the proper conduct of the criminal proceedings against him. Such measure is not disproportionate in the context of the circumstances of the case and the preventive needs, and it complies with the procedural rules of the Code of Criminal Procedure governing its application.

Court's Assessment

As regards the procedural issues concerning the constitutional proceedings

The Court examined the request to examine the case at a public hearing, in the personal presence of the applicant and the media. Following the examination, the judges' views were divided into two positions. The Court failed to reach the required majority to adopt a decision, as provided for in Article 133 § 1 of the Constitution and Article 72 (2) of the Court's Organic Law. Consequently, pursuant to Article 73 (4) of the same Law, the request was deemed to be dismissed.

According to one view – The case ought to have been examined at a public hearing in the presence of the parties, taking into consideration not only the nature of the complaints, but also the applicant's submissions concerning the public interest in the case, having regard to the high State offices he had held. Furthermore, regard was had to the fact that in March 2026 the case had proceeded to the trial stage, which is subject to the principle of a public hearing. Accordingly, there was no evidence indicating a need to preserve the secrecy of the investigation or to protect the personal data of third parties.

According to the opposing view – The procedure of examining the case on the basis of the case file was decided in accordance with the customary method for considering individual constitutional complaints. Holding a public hearing could have affected the proper conduct of the criminal proceedings, as well as the observance of the secrecy of the investigation and the rights of other persons involved. The constitutional review is confined to the assessment of the judicial acts and the legal arguments adduced by the parties. The parties had an effective opportunity to submit their complaints, objections, and evidence in writing. The case at hand did not disclose any need for oral argument, statements, or factual clarifications that could not be assessed on the basis of the materials in the case file. Thus, there were no grounds to justify a change of the form of proceedings.

As regards the substantial aspect – The Court notes that the applicant alleged, *inter alia*, a violation of the right not to be subjected to torture or to inhuman or degrading treatment or punishment, arguing that State Police officers had used force against him at the time of his arrest.

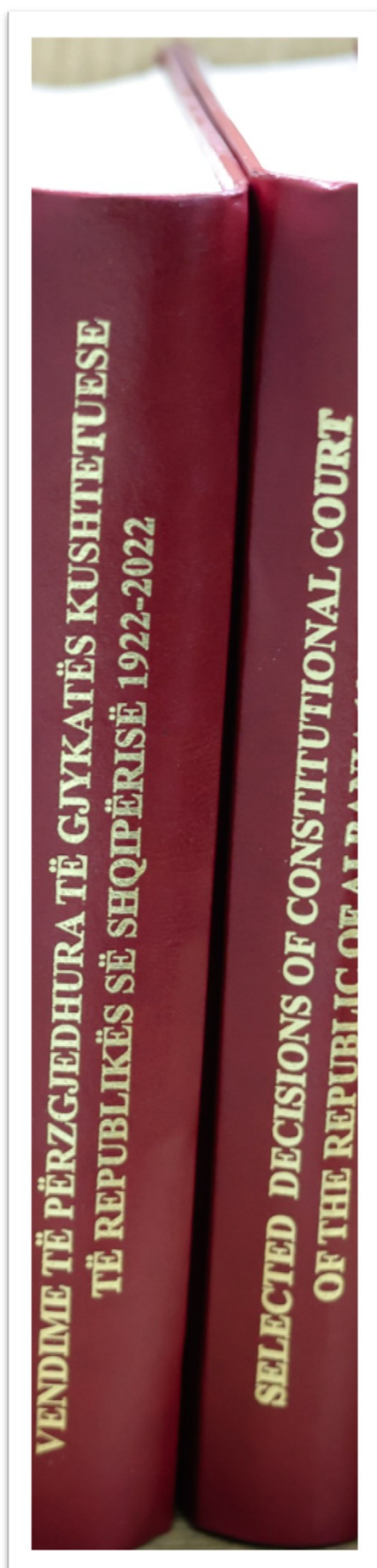
The Court observes that the mere fact that the applicant raised this complaint during the proceedings for the verification of the conditions and criteria of the personal security measure is not sufficient, *per se*, to conclude that the competent domestic authorities have completed their examination of its substance. This is particularly so given that the High Court itself noted that these allegations could be the subject matter of a criminal complaint against the police officers. Following a criminal complaint filed by the applicant, the Tirana Prosecution Office registered criminal proceedings in respect of the offence of "commission of arbitrary acts", and the investigation is currently ongoing.

This criminal proceeding is not linked to the merits of the criminal charges against the applicant, but relates directly to the verification of the lawfulness of the actions taken during the enforcement of the personal security measure and the potential liability of the police officers. At this stage, it does not appear from the case file, nor has the applicant demonstrated, that this remedy is merely formal, manifestly futile, ineffective, or inadequate to address the essence of his complaint.

For the Court to assess, at this stage, the factual circumstances of the arrest, the authorities' course of action, the necessity and proportionality of the force used, and the alleged consequences, would be tantamount to substituting itself for the competent domestic authorities in carrying out the verifications that fall within their jurisdiction, contrary to the principle of subsidiarity. This does not absolve the competent domestic authorities of their obligation to ensure that the criminal

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investigation is effective, independent, prompt, thorough, and capable of identifying the potential liability of the persons involved. In so far as the criminal proceedings concerning the manner of enforcement of the personal security measure are still pending and an action for civil damages does not appear to have been instituted, the Court considers that the applicant has not yet exhausted, in substance, the domestic remedies which are, in principle, available and capable of addressing such complaint.

As regards the alleged violation of the right to liberty in relation to the standard of a reasonable doubt based on evidence

The Court observes that the ordinary jurisdiction courts provided reasoned findings regarding the acts or omissions which the applicant is suspected of having committed within the constituent elements of the criminal offences of corruption, money laundering, and failure to declare assets, allegedly committed on several occasions and in complicity. The domestic courts based their decisions on the same facts as those adduced by the prosecution authorities and on the same legal classification of the offences.

The restriction of the applicant's personal liberty was ordered by a judicial decision, based on a reasonable doubt supported by evidence that he had committed the criminal offences of which he was suspected, and in accordance with a procedure prescribed by law.

The Court considers that in the criminal case against the applicant, there are facts and information which would satisfy an objective observer that he may have committed the criminal offences of which he is suspected. Consequently, it cannot be concluded that the deprivation of his liberty was imposed in the absence of reasonable doubt. It follows that the applicant's complaint concerning the alleged violation of his right to liberty on the grounds of a lack of reasonable doubt based on evidence is unfounded.

As regards the principle of proportionality

The Court notes that the ordinary jurisdiction courts did not justify the imposition and continuation of the applicant's security measure of remand in custody merely on the basis of a reasonable doubt that he had committed the criminal offences. Rather, they provided other specific grounds, such as the risk of interfering with the gathering of evidence or tampering with it, grounds which are "relevant and sufficient" from a constitutional and Convention perspective to justify an individual's continued pre-trial detention. The reasoning of the domestic courts in this regard was not abstract. On the contrary, in the most substantial part of their reasoning, they set out in a detailed and extensive manner the sources of evidence that gave rise to the reasonable doubt, evidence which could be "tampered with" through the defendant's efforts to undermine its probative value.

In so far as the personal security measure was imposed on the applicant for a legitimate aim, namely to ensure the proper conduct of the criminal proceedings against him, it is not disproportionate in the context of the circumstances of the case and the preventive needs. Furthermore, such measure complies with the procedural rules of the Code of Criminal Procedure governing its application.

Decision-making

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



Admissibility criteria for lodging an individual constitutional complaint

KEY WORDS

Magistrate/ Vacancy/ Promotion/ Ethical and professional evaluation/ Ranking of candidates/ Appeal against a decision of the High Judicial Council

The applicant failed to substantiate a breach of a substantive right resulting from the impugned decision, given that the legal effects of the decisions challenged by the applicant did not and could not, *per se*, entail direct consequences for her right to work and career development.

Altina Nasufi

*Lack of standing *ratione personae**

Judgment No. 49 of April 08, 2026

Facts

The applicant, a judge at the Administrative Court of Appeal, applied for vacant positions of judge at the High Court, as announced by the High Judicial Council (HJC). She brought judicial proceedings to challenge the ethical and professional evaluation carried out by the High Judicial Council in the context of those procedures. The Administrative Court of Appeal rejected the applicant's request, a decision which was subsequently upheld by the High Court. The HJC proceeded with the promotion procedure for the announced vacancies, approving the ranking of the candidates for the vacancy in the field of civil law, and proposed the highest-ranked candidate for appointment to that position. The latter was subsequently appointed as a judge of the High Court. The applicant challenged such decision before the domestic courts, arguing that there was not yet a final decision regarding her own ethical and professional evaluation. The Administrative Court of Appeal rejected the applicant's claim. Following an appeal on points of law lodged by the applicant, the High Court declared it inadmissible, holding that it did not contain any of the statutory grounds provided for in Article 58 of Law no. 49/2012 on Administrative Courts and the Adjudication of Administrative Disputes, as amended.

Therefore, the applicant lodged an individual constitutional complaint with the Constitutional Court, challenging the judicial decisions that had rejected her request seeking the repeal of the High Judicial Council's decision approving the ranking of candidates for the civil law vacancy, as well as the HJC's decision concerning her ethical and professional evaluation. Subsequently, the applicant withdrew the third claim of her complaint, which concerned the repeal of the HJC's decision on her ethical and professional evaluation, and lodged a new individual constitutional complaint regarding this specific claim. A panel of the Constitutional Court decided not to admit the new complaint for examination in a plenary session, finding the applicant's claims manifestly unfounded. As regards the instant individual constitutional complaint, however, the panel of the Court, during its preliminary ruling proceedings, decided to admit the case for examination.

Court's Assessment

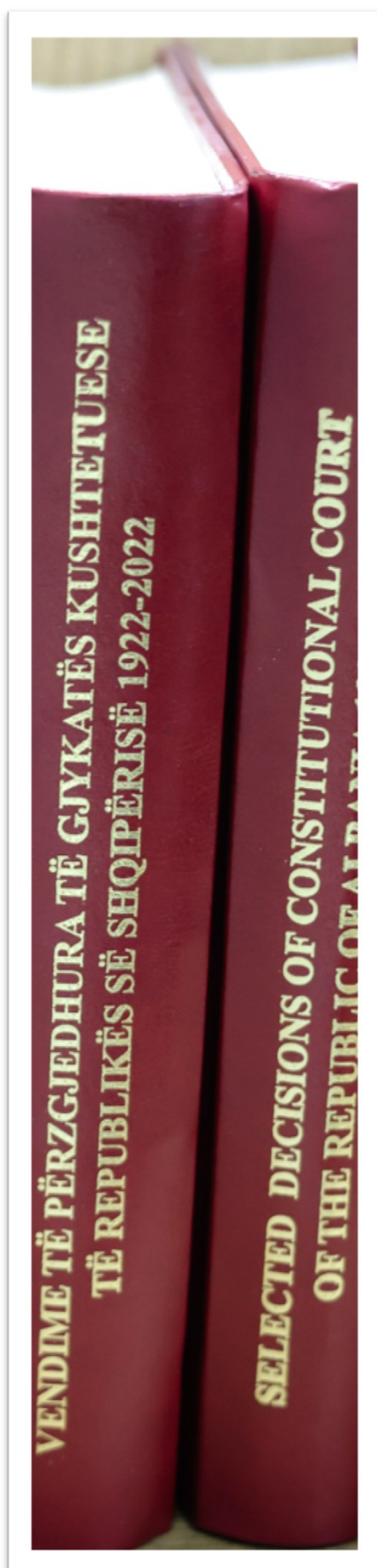
As regards the applicant's standing

The Court observed that the applicant's complaints encompassed two main claims: (i) her ethical and professional evaluation for the year 2021 carried out by the High Judicial Council, as materialized in Decision no. 537 of 14 December 2022; and (ii) the administrative judicial proceedings ending with the High Court's decision of 12 December 2024, in which the applicant had challenged the HJC's approval of the ranking of candidates for appointment to the vacant position in the civil law field at the High Court.

In respect of the first claim, the Court noted that, following her withdrawal of that claim, the applicant had lodged a new constitutional complaint, which had been resolved by decision no. 282 of 7 November 2025 of the panel of the Court.

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In these circumstances, the Court considered that, despite the fact that the applicant had withdrawn such claim, it had already been the subject matter of a previous decision by the Court's panel, and therefore could not be examined.

As to the second claim, the Court observed that the applicant's allegations focused on the procedural aspects of the impugned proceedings, linking them only superficially to the substantive constitutional right she sought to protect through the exercise of her procedural rights, namely the right to work and career development. The Court further held the process of ranking candidates and proposing them for appointment is intertwined with, and contingent upon, the fulfillment of a series of criteria, the primary criterion being not one, but two prior evaluations of the magistrate. In this regard, the Court decided not to examine the applicant's first claim concerning the High Judicial Council's ethical and professional evaluation for 2021, owing to her withdrawal of that claim and the prior decision of its panel. In the view of the foregoing, the Court held that the applicant had failed to substantiate a breach of a substantive right resulting from the impugned decision.

The legal effects of the decisions challenged by the applicant did not and could not, *per se*, entail direct consequences for her right to work and career development, in so far as the process of ranking candidates and proposing them for appointment was intertwined with, and dependent on the candidate evaluation process – a claim which the applicant had withdrawn and which, in any event, had been declared as unfounded by the panel of the Court. Thus, the impugned proceedings did not appear to have violated any of the applicant's fundamental rights. Consequently, the Court found that Article 42 of the Constitution did not afford protection to the judicial proceedings concerning which the applicant had raised her complaints, namely, the "ranking" process, which, *per se*, was not linked to the substantive constitutional right that the applicant sought to protect.

Decision-making

The Court decided, unanimously, to reject the application.



Right to a fair trial –
Right to be notified –
Right to a defense –
Right to be heard –
Principles of equality of
arms and adversarial
principle

KEY WORDS

Notification/ Legal heirs/
Procedural transfer/ Writ of
execution/ Bailiff

Regardless of whether it examines cases in a public hearing or on the basis of the case file, the High Court has an obligation to verify whether the parties to the proceedings were effectively notified of the appeal on points of law and the proceedings, with a view to safeguarding the right to a defense and the principle of equality of arms.

The failure to effect procedural transfer had a direct impact on the right to be heard, the principles of equality of arms and adversarial proceedings, as well as on legal certainty, particularly considering that the courts had ruled in favor of the applicant's testator in the parallel proceedings .

Dritan Gjeli

Failure to notify the applicant of the examination of the merits by the High Court

Judgment No. 50 of April 21, 2026

Facts

The applicant is the legal heir of his late father, the national Sh.Gj. The latter had purchased a plot of land from the National Privatization Agency, upon which he had constructed a commercial activity with a building permit, duly registered in the property register. Such property is located within a larger tract of land that had been allocated to the late M.A. by a decision of the Fier Commission for the Restitution and Compensation of Property (CRCP). One of the legal heirs of the former owner M.A., the interested party E.K., filed a civil claim with the court seeking the recovery of possession of the land. The Fier District Court upheld the claim and ordered the applicant's testator to vacate and surrender the disputed plot of land to the plaintiff, free of any encumbrances. This decision was reversed by the Vlora Court of Appeal, which rejected the interested party's claim. The High Court examined the case in camera and decided to quash the court of appeal's decision and uphold the decision of the court of first instance.

Following the conclusion of the judicial proceedings, a writ of execution was issued at the request of the interested party. Upon being informed by the applicant that his father had passed away, the judicial bailiff proceeded with the procedural transfer, substituting the deceased with his legal heirs, including the applicant.

Furthermore, in 2015, the applicant's testator and the national, F.Z., instituted civil proceedings concerning the same property. They sought the repeal of the Fier Commission for the Restitution and Compensation of Property decision which had recognized the late M.A. as the owner, an order requiring the defendants (the heirs of the former owner M.A.) to recognize them as the lawful owners of the disputed plot, and the deregistration of the overlapping property. The District Court decided to partly annul the Fier CRCP decision in respect of the land belonging to the plaintiffs, ordered the defendants to recognize them as owners, and ordered the Fier Local Immovable Property Registration Office to deregister that portion of land. This decision was upheld by the Court of Appeal.

Therefore, the applicant lodged an individual constitutional complaint with the Constitutional Court, challenging the High Court's decision, which had upheld the Fier District Court's decision ordering his testator to vacate and surrender the disputed plot of land.

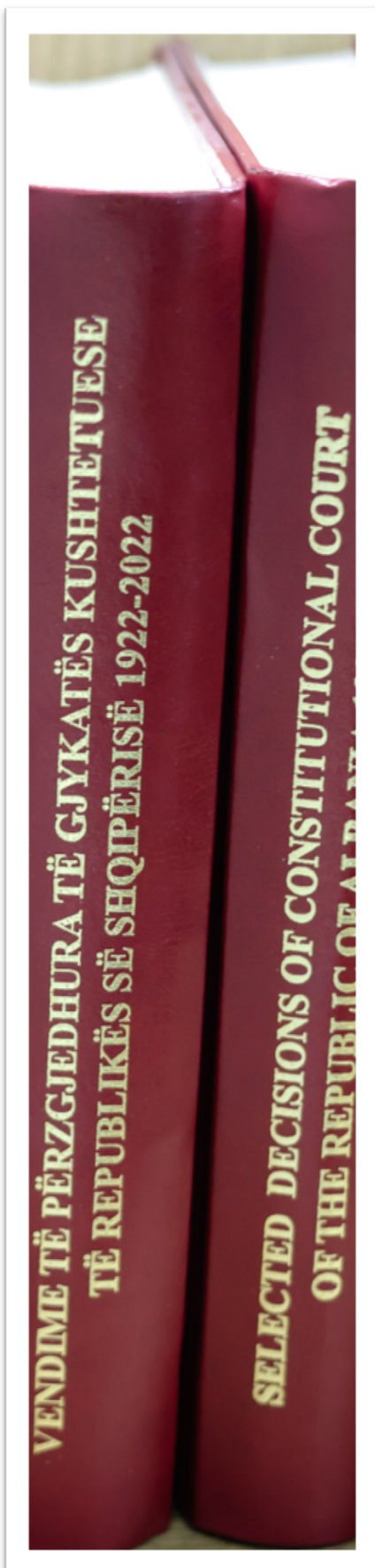
Court's Assessment

As regards the alleged violation of the right to be notified in relation to the right to a defense, the right to be heard, and the principles of equality of arms and adversarial proceedings

The Court observed that the High Court, despite being informed that the applicant's testator had passed away, failed to proceed with the procedural transfer in respect of the deceased party's heirs. This placed them in an objective impossibility not only to be informed of the proceedings before the High Court, but also to exercise their rights guaranteed by Article 42 of the Constitution. Taking into consideration, on the one

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hand, that the applicant demonstrated how this violation had a decisive impact on the course of the proceedings and his interests, namely, the existence of parallel judicial proceedings challenging the very property title underlying the case under examination and, on the other hand, that the High Court had examined the merits of the case, quashing the court of appeal's decision and upholding the court of first instance decision, the Court concluded that the violation was fundamental.

Although the High Court has an obligation to verify, from the standpoint of safeguarding the right to a defense and the principle of equality of arms, whether the court registry had taken the necessary measures to notify the litigating parties of the proceedings, it failed to carry out this assessment.

Having regard to the fact that, pursuant to the principle of subsidiarity, the review of compliance with constitutional standards is also a function of the High Court, the Court considered it unnecessary to examine the applicant's remaining claims.

Decision-making

The Court decided, unanimously, to accept the application.



Right to property – Standard of a reasoned judicial decisions

KEY WORDS

De facto owners/ Proceeds of crime/ Preventive seizure/ Seizure by “equivalent value”/ Seizure of assets belonging to persons not under investigation/ Article 41 of the Constitution/ Article 274 of the Code of Criminal Procedure

Referring to the reasoning of the impugned judicial decisions regarding the interpretation and application of Article 274 of the Code of Criminal Procedure as the applicable legal basis in the present case, the Court found that the Special Courts had provided reasoned responses to the applicant’s complaints concerning the lawfulness and proportionality of the seizure measure imposed on the assets considered to constitute proceeds of the criminal offences under investigation, providing sufficient reasoning in this regard. Their reasoning does not appear to be constitutionally unreasonable, in the sense that it discloses no manifest errors of law or facts.

“Restur” LLC, “Mediterranean Investment Group” LLC, Redi Molla, Ollga Molla

Judicial decisions ordering the preventive seizure of property

Judgment No. 51 of April 21, 2026

Faktet

The applicant R.M. and the national, M.Q., held managerial positions in a public enterprise subordinate to the Municipality of Tirana. According to preliminary investigations conducted by the Special Prosecution Office, they were suspected of being the de facto owners of the interested party, the company “5D”. The latter was suspected of having been unlawfully favored in public tendering procedures (during which time R.M. was the head of the contracting authority). For this reason, it became part of the criminal proceedings concerning the “laundering the proceeds of criminal offence or criminal activity”, committed in collaboration. In relation to the criminal offences of “violation of equality of participants in public tenders and auctions” and “passive corruption of persons exercising public functions”, the investigations were also extended to the asset declarations of the applicant R.M. (who had, in the meantime, been placed under the personal security measure of remand in custody). According to the Special Prosecution Office, the applicant’s parents (his late father, S.M., and the applicant O.M.) had acquired ownership of two immovable properties, with suspicions that their financing had been partly provided by the interested party, the company “5D”. Data from the commercial register indicated that the applicant R.M. was the sole shareholder and administrator of the company “Restur”, acquired by inheritance from his father, who had deposited monetary funds into the company’s account until 2023. This company also held a 24% share quota in the capital of the company “Mediterranean Investment Group”. Construction work for the latter had been carried out by the interested party, the company “5D”, for which it had been partially paid.

The Special Prosecution Office filed a request for the imposition of a property security measure, namely a “preventive seizure”, in respect of the aforementioned properties. The Special Court of First Instance for Corruption and Organized Crime upheld the request, considering that the legal requirements set out in Article 274 §§ 1 and 2 of the Code of Criminal Procedure were concurrently met in the present case. Regarding the two immovable properties registered in the names of the parents of the applicant R.M., the aforementioned court held that there was sufficient evidence that they constituted proceeds of crime, as they had not only been partly purchased with funds from the company “5D”, but also constituted assets concealed by the applicant R.M.

As regards the company “Restur” and its share quota in “Mediterranean Investment Group” LLC, the court ordered their seizure as an equivalent value of the proceeds of the criminal offences for which the applicant R.M. was being prosecuted, insofar as this could be determined at that stage of the proceedings. The applicants filed an appeal against such decision; however, the Special Court of Appeal for Corruption and Organized Crime upheld the decision of the Special Court of First Instance for Corruption and Organized Crime, finding that the legal requirements for imposing the property security measure of “preventive seizure”, as provided for by Article 274 of the Code of Criminal Procedure, were met.

Therefore, the applicants filed an appeal on points of law, arguing that the case file lacked a proper financial analysis of the lawful sources of the assets, and submitted to the High Court a financial analysis concerning the income of the parents of the applicant R.M. (the applicant O.M. and the late S.M.).

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The judges' assessments were divided into two views, and thus the Court did not reach the required majority 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 Constitutional Court Act:

According to the first view, the decisions of the Special Courts did not provide sufficient reasoning regarding compliance with the criteria permitting an interference with the constitutional right to private property, specifically in terms of the suitability and severity of the interference.

According to the second view, the applicants' complaint concerning the violation of the procedural aspect of the right to property is unfounded, since the courts provided sufficient reasoning regarding the necessity of imposing a preventive seizure by equivalent value.

The High Court dismissed the complaint as unfounded, holding that the grounds presented in the appeal on points of law did not demonstrate that the measures imposed on the assets were manifestly arbitrary or disproportionate.

On the 27 June 2025, the applicants lodged an individual constitutional complaint with the Constitutional Court (the Court).

Court's Assessment

As regards the alleged violation of the right to property in relation to the standard of a reasoned judicial decision

The Court considered that, in order to comply with the constitutional criteria for restrictions prescribed by law and the standards of a fair trial, the prosecution in its request for the imposition of a seizure measure, and the domestic ordinary courts in their examination and assessment thereof, must specify and clarify under which category of Article 274 of the Code of Criminal Procedure (CCP) and Article 36 of the Criminal Code (CC) each item sought to be seized falls. That is, they must clarify whether the measure concerns items or proceeds of a criminal offence (direct seizure) or the seizure "by equivalent value" of other assets that do not fall within the category of those directly linked to the criminal offence.

Referring to the reasoning of the impugned judicial decisions regarding the interpretation and application of Article 274 of the Code of Criminal Procedure as the applicable legal basis in the present case, the Court found that the Special Courts had provided reasoned responses to the applicants' complaints concerning the lawfulness and proportionality of the seizure measure imposed on the assets considered to constitute proceeds of the criminal offences under investigation, providing sufficient reasoning in this regard. Their reasoning does not appear to be constitutionally unreasonable, in the sense that it discloses no manifest errors of law or fact.

As regards the complaint that the seizure was imposed on the assets of a person who was not under investigation, the Court considered that this fact is irrelevant, provided that the impugned measure was imposed within the framework of criminal proceedings and for the purpose of their proper conduct, in respect of an asset suspected of being linked to the criminal offence under investigation.

For these reasons, the Court found that the applicants' complaint concerning the immovable properties owned by the parents of the applicant R.M. is unfounded.

– Regarding the seizure imposed on the company "Restur", including its movable and immovable properties, as well as its property rights over the 24% share quota in the capital of "Mediterranean Investment Group", following the examination of the applicants' complaint and at the conclusion of the deliberations, the judges' assessments were divided into two views. Consequently, the Court did not reach the required majority 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 the first view*, the request should have been partly upheld. The applicants' complaint concerning the violation of the procedural aspect of the right to property in respect of the assets seized "by equivalent value" is founded, as it does not appear that the Special Courts provided sufficient reasoning regarding the suitability of the interference caused by the preventive seizure, nor did they analyze whether the legitimate aim pursued under Article 274 of the Code of Criminal Procedure could have been achieved by less restrictive measures. The Special Court of Appeal for Corruption and Organized Crime refused to examine the applicants' claims regarding their financial capacity, which, according to them, would have proven that the seized assets were justified by lawful income. Instead, it concluded *a priori* and without any concrete analysis that each of the seized assets originated from the

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It must be reiterated that as regards the measure of seizure “by equivalence” – being a measure that extends to other assets, distinct from the objects or proceeds of the criminal offence, namely assets whose lawful origin is neither verified nor established in the criminal proceedings in question – the Court has held that the objective must be to restrict the rights related to the asset to the minimum extent necessary.

This is to ensure that the measure, on the one hand, imposes the least possible burden on the individual and, on the other hand, achieves its aim, which is to prevent the alienation or loss of the assets pending the conclusion of the criminal proceedings. In this context, the ordinary courts must exercise particular attention in the application of Article 274 of the Code of Criminal Procedure in relation to Article 36 § 1 (ç) of the Criminal Code, assessing, in so far as possible, the manner in which these provisions are applied in terms of their equivalence to the suspected proceeds of the criminal offence.

proceeds of crime generated over the years by the company “5D”. Furthermore, although the High Court formally examined such complaint, holding that the measure was the result of a fair balance between the public interest and the individual rights of the affected persons/entities, it does not appear to have addressed the argument as to why the intended aim of this measure could not have been achieved, for example, by imposing restrictions on their alienation in the relevant public registers, which would have constituted a more proportionate measure. An analysis of the rights intended to be affected or restricted, within the meaning of the proportionality of the interference, is absent from the impugned judicial decisions.

The manner in which the provisions of Article 36 of the Criminal Code were applied, without providing sufficient reasoning as to the suitability and severity of the interference, produced an arbitrary result regarding the constitutional right to private property, rendering such decisions incompatible with the Constitution.

– *According to the opposing view*, the applicants’ complaint concerning the violation of the procedural aspect of the right to property is unfounded, because the courts provided sufficient reasoning regarding the necessity of imposing a preventive seizure by equivalent value. According to this view, Article 36 § 1 (ç) of the Criminal Code and Article 274 § 2 of the Code of Criminal Procedure explicitly permit the seizure of any other property (equivalent assets), the value of which corresponds to that of the proceeds of the criminal offence. The courts’ decision-making was not unreasonable in finding that, insofar as the exact extent of the “proceeds of the crime” could not yet be determined with certainty at the initial stage of the investigation, and given that the assets in question were directly linked to the investigated person R.M., they could be subject to preventive seizure.

Pursuant to Article 41 § 3 of the Constitution, this constitutes a restriction prescribed by law on the exercise of the right to property, pursuing the public interest of ensuring the possibility of the eventual confiscation of the proceeds of crime or their equivalent value. Under Article 274 § 3 of the Code of Criminal Procedure, a preventive seizure may be lifted at any time if the conditions for its application change. According to this view, even though the restriction affected all property rights, it is considered that a reasonable relationship of proportionality exists between the seizure decision and the legitimate aim pursued; therefore, the restriction of the right to property is proportionate to the situation that dictated it and was applied in accordance with the rules prescribed by law, which seek to protect the public interest. In this real and factual context, the impugned measure, which restricted not only the right to dispose of the property but also the right to enjoy it, is considered to be proportionate in terms of its severity.

Decision-making

The Court held that the application was deemed rejected, due to the failure to reach the required majority of five judges, within the meaning of Article 73 § 4 of the Court’s Organic Law.



Standard of a reasoned judicial decision – Principle of legal certainty

KEY WORDS

Individual contract of undefined duration/ Employment period/ Notice period/ Procedure for termination of the employment contract/ Compensation/ Length of service/ Writ of execution

Compliance with the unifying decisions of the High Court creates a legitimate expectation as to the interpretation and the application of the law. Through such decisions, the High Court establishes binding standards which must be observed by the ordinary courts. Where the courts fail to examine a case in conformity with such decisions, they violate the principle of legal certainty as regards the application of the law in accordance with the established case-law.

Sokol Lila

Termination of work's contract for no reasonable causes

Judgment No. 52 of April 22, 2026

Faktet

For several years, the applicant was employed under a contract of undefined duration by a private-law entity. His employment was summarily terminated by his employer on the grounds that he had breached his duty of loyalty and integrity by admitting to having requested information regarding a tendering procedure on behalf of a relative. Upon his dismissal, the employer paid the applicant the remuneration for the work performed up to that date, two months' salary in lieu of the notice period for the termination of the employment contract, and fifteen days' pay for untaken annual leave.

The applicant brought civil proceedings before the District Court, seeking compensation for unjustified termination of his employment contract, for the employer's failure to observe the statutory termination procedure, and a length-of-service allowance. The District Court, noting that the applicant had not sought compensation for failure to observe the notice period, accepted the claim and granted all three of his requests.

The Court of Appeal upheld the District Court's decision only in so far as it concerned the award of the length-of-service allowance, and rejected the remainder of the applicant's claims.

Subsequently, the High court partly overturned the Court of Appeal's decision. It upheld the District Court's decision in respect of the compensation awarded for the failure to observe the statutory dismissal procedure, while upholding the Court of Appeal's decision regarding the length-of-service allowance.

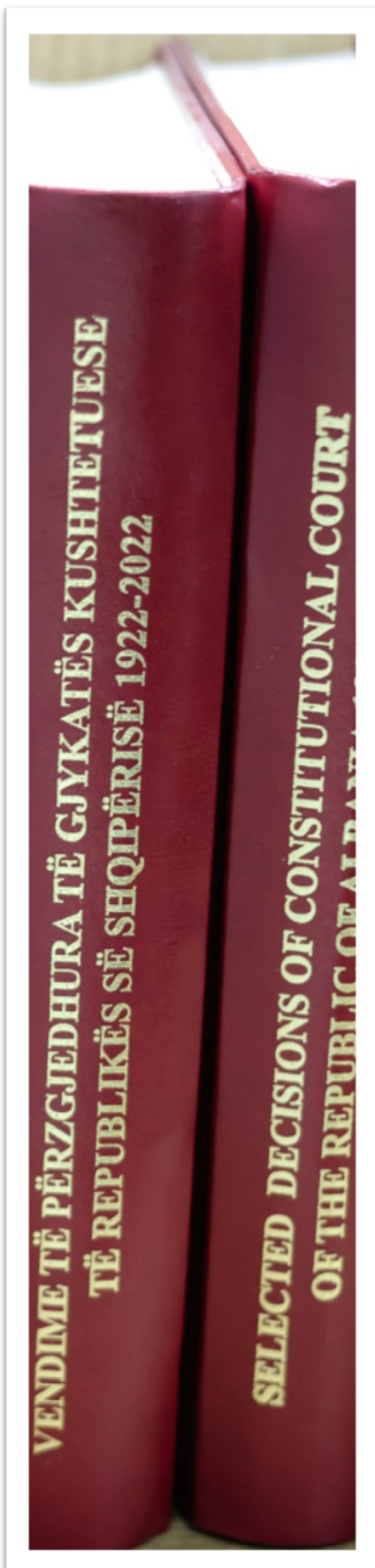
Court's Assessment

As regards the alleged violation of the standard of a reasoned judicial decision in relation to the principle of legal certainty

The Court observes that the essence of the applicant's arguments in his appeal on points of law concerned the determination of whether, in the light of Articles 141 and 143 of the Labor Code, his employment had been summarily terminated or whether the statutory notice period had been duly observed. In this regard, the Court notes that, whereas at the time of the Court of Appeal's examination of the case the relevant domestic case-law had not yet elaborated on the conditions to be considered for the purposes of observing the notice period, by the time the High Court examined the case, unifying decision no. 724/2023 had settled the case-law regarding this procedural aspect. In the present case, although the High Court referred to the aforementioned unifying decision, it concluded that the employment contract had been terminated in the ordinary manner, with the employer having observed the notice period. It based this finding on the fact that the applicant had received the relevant payments for the period from November 2013 to January 2014 and that his employment record book indicated 31 January 2014 as the date of termination. However, it failed to assess the employer's written notice, which had terminated the employment contract with immediate effect. In these circumstances, the Court

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considers that the High Court failed to conduct a comprehensive assessment of the circumstances of the case in accordance with the criteria established by its own binding, unifying case-law. Consequently, it failed to provide a specific and explicit response to the decisive arguments raised by the applicant in his appeal on points of law, in breach of his right to a fair hearing.

The Court further notes that, given that the complaints raised by the applicant in his appeal on points of law concerned the right to work guaranteed by Article 49 of the Constitution, the High Court ought to have provided adequate reasoning as to whether, in the specific circumstances of the case and in the light of its unifying stance, the dismissal had been summary or not. Furthermore, it should have addressed whether the applicant's claim, that the notice period had been observed by the employer in a purely formalistic manner, was founded.

In conclusion, the Court finds that the applicant's complaints regarding the violation of the standard of a reasoned judicial decision, viewed in conjunction with the principle of legal certainty as regards the protection of legitimate expectations, are founded.

Decision-making

The Court decided, unanimously, to accept the application.



**Personal Liberty –
Standard of a reasoned
doubt based on
evidence – Principle of
proportionality**

KEY WORDS

*Criminal proceedings/ Violation of
equality in tenders/ Fictitious
contracts/ Public procurement/
Reasonable doubt/ Remand in
custody/ Appropriateness of the
measure*

**The doubt justifying the
restriction of his right
to liberty was considered
reasonable, as it was based on
facts and information that
satisfied the ordinary courts
that there was an objective
link between the suspect and
the criminal offences under
investigation.**

**The Court considers that the
measure of remand in custody
is not disproportionate to
the legitimate aim of ensuring
the proper conduct of the
criminal proceedings, and it is
appropriate to the grounds
justifying detention and the
gravity of the criminal act of
which he is suspected, as well
as the penalty provided for by
law for such criminal offences.**

Ermal Kurtulaj

Proportionality of the measure restricting personal liberty

Jugdment No. 53 of April 28, 2026

Facts

The Special Prosecution Office registered criminal proceedings no. 190/2023 in respect of the criminal offences provided for in Articles 143 §§ 2 and 3, 258 § 2 in conjunction with Article 25, 244, 259 § 2 in conjunction with Article 25, 260 in conjunction with Article 25, and 257/a § 2 of the Criminal Code (CC).

Subsequently, on 26 December 2023, it registered the names of the suspected perpetrators. This included the applicant's name as a suspect for the criminal offences provided for in Articles 143 §§ 2 and 3, 260 in conjunction with Article 25, and 258 § 2 in conjunction with Article 25 of the CC. In the exercise of his function as coordinator of the Facility Point office of the EUSAIR project at the State Agency for Strategic Programming and Aid Coordination (SASPAC), the applicant had the duty of conducting procurement procedures on behalf of the project.

It is suspected that these procedures, in collaboration with other persons, were subsequently carried out in a fictitious manner with regard to the selection of the winning bids.

On 3 July 2024, the First-Instance Special Court imposed on the applicant the personal security measure of remand in custody, which was enforced on 4 July 2024. Following a request by the Special Prosecution Office for the verification of the conditions and criteria for imposing such measure and the grounds justifying detention, on 6 July 2024, the First-Instance Special Court decided to continue the application of the aforementioned measure. This decision was upheld by the Special Court of Appeal on 7 August 2024, while the Criminal Chamber of the High Court, by the decision of 14 January 2025, decided to uphold the decision of the Special Court of Appeal.

Therefore, the applicant lodged an individual constitutional complaint with the Constitutional Court seeking the repeal of the judicial decisions.

Court's Assessment

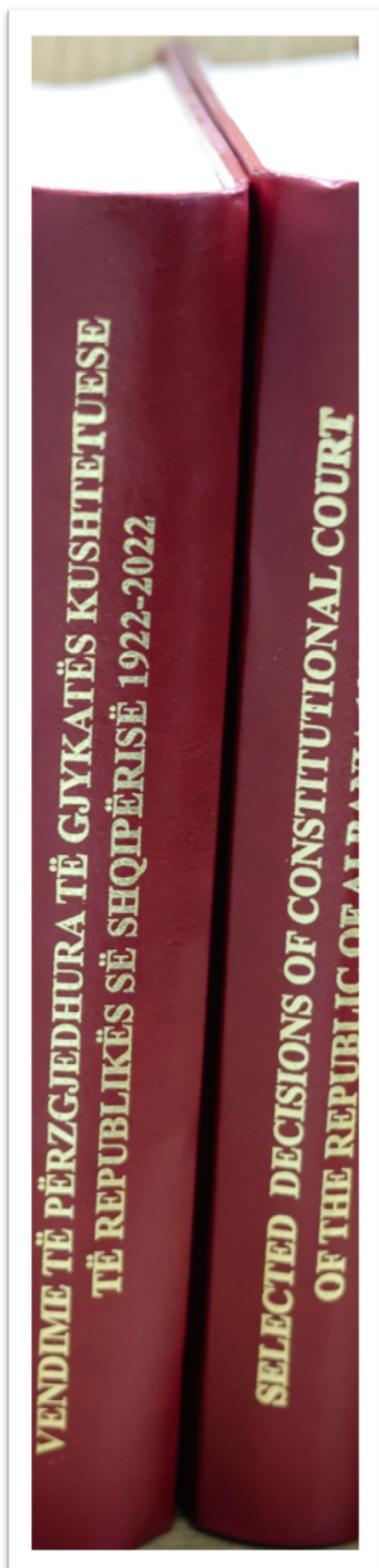
As regards the alleged violation of the right of personal liberty

As regards the standard of reasonable doubt based on evidence

The Court examined whether the ordinary courts, through the reasoning set out in their decisions, had complied with the constitutional requirement of reasonable doubt as a sine qua non condition for justifying the restriction of the applicant's right to liberty. The Court considered that, when imposing the personal security measure on the applicant, the ordinary courts had found that the conditions for its application were met in the initial stages of the investigation on the basis of the existence of a reasonable doubt. The lower courts also provided sufficient reasoning concerning the facts that served as the basis for the imposition of the measure. The restriction of the applicant's right to liberty was ordered by a judicial decision, based on the reasonable doubt that he had committed two criminal offences, and in accordance with a procedure prescribed by law. In the present case, there appeared to be information capable of satisfying an objective observer that the applicant might have committed

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INDIVIDUAL CONSTITUTIONAL COMPLAINTS



the criminal offences of which he was suspected; therefore, it could not be concluded that he had been arrested in the absence of a reasonable doubt, within the meaning of Article 27 § 2 (c) of the Constitution and Article 5 § 1 (c) of the European Convention on the Human Rights.

As regards the principle of proportionality

The Court examined whether the courts of ordinary jurisdiction, in imposing the measure, had provided sufficient reasoning concerning the existence of compelling grounds indicating a risk of tampering with or destroying evidence, a risk of absconding, and a risk that, in the view of the factual circumstances and the applicant's personality, he might commit further offences. The Court also had regard to the overall context of the facts in order to determine whether the measure was appropriate and proportionate to the legitimate aim pursued and whether any alternative measure would have been inappropriate.

The ordinary courts did not justify the applicant's continued pre-trial detention solely on the basis of a reasonable doubt that he had committed the criminal offences, but also relied on other specific reasons, including the risk of tampering with or destroying evidence, the risk of absconding and albeit limited, the risk of the applicant committing further criminal offences. Their reasoning was not abstract; rather, they specifically and adequately explained the existence of such risks, emphasizing the complexity of the investigation in light of the temporal scope of the alleged criminal activity, the applicant's role in the commission of the offences, and the potential adverse impact he could have had on the continuation of the investigation. Furthermore, the lower courts provided sufficient reasons for the appropriateness of the applicant's pre-trial detention, and their conclusion that any alternative measure would have been inappropriate did not appear unreasonable in view of the grounds justifying detention identified in the present case.

Decision-making

The Court decided, unanimously, to reject the application.



**Right to be notified –
Right to be heard – Right
to defend oneself –
Standard of a reasoned
judicial decision**

KEY WORDS

Law no. 152/2013/ Law no. 8549/1999/ Absolute invalidity of an administrative act/ Waiting list/ Notification of an appeal on points of law/ Compensation/ Declaration of consent/ Statutory competence to issue an administrative act

Although the applicant had formally appointed other lawyers by means of a power of attorney, the fact that their written submissions during the judicial proceedings bore the letterhead “Law Office of A.D.” leads the Court to conclude that he was fully aware of the progress of the proceedings in his case.

The consent of the party affected by an administrative act cannot substitute or remedy for a lack of competence on the part of the issuing authority.

Furthermore, the applicant’s consent does not legitimize the exercise of a statutory competence that the law has vested in another body.

Arben Braçe

The authority’s competence as an element in the assessment of the lawfulness of an act abolishing the post

Judgment No. 54 of April 30, 2026

Facts

The applicant, director in the General Regulatory Directorate of Justice Affairs at the Ministry of Justice and a civil servant, was notified in writing on 21 October 2013 of the abolition of his post, the impossibility of his redeployment to another position, and his placement on the waiting list. By order no. 413/4/1 of 1 November 2013 issued by the Minister of Justice, the applicant was placed on the waiting list with immediate financial effect. Subsequently, he lodged a claim with the Tirana Administrative Court of First Instance, which decided: (i) to accept the claim; (ii) to declare the Minister of Justice’s order absolutely invalid; (iii) to order the Ministry of Justice and the Department of Public Administration to reinstate the applicant in the civil service; and (iv) to order the Ministry of Justice to pay the applicant his salary arrears from the moment his remuneration was suspended until his reinstatement.

Following an appeal lodged by the Department of Public Administration and the State Advocate’s Office, the Administrative Court of Appeal upheld the decision of the Tirana Administrative Court of First Instance. However, the Administrative Chamber of the High Court overturned the decisions of both the Administrative Court of Appeal and the Tirana Administrative Court of First Instance, and rejected the applicant’s claim. While the appeal on points of law was pending before the High Court, the Ministry of Justice notified the applicant of its intention to enforce the final judgment of the Administrative Court of Appeal, subject to the condition that he waived his claim for reinstatement. Upon signing a consent declaration in December 2019, the applicant received full compensation for lost wages pursuant to the judicial decision.

Subsequently, on 23 July 2025, the applicant lodged an individual constitutional complaint with the Constitutional Court, seeking the repeal of the High Court’s decision and the stay of its execution.

Court’s Assessment

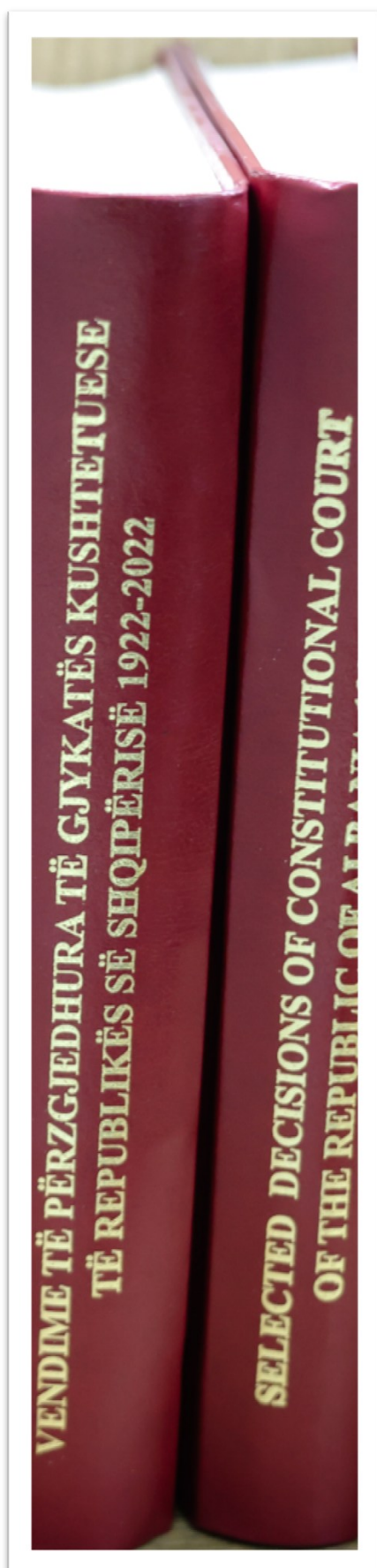
As regards the alleged violation of the right to be notified, to be heard and to defend oneself

In respect of the complaint that the High Court’s failure to notify the applicant of the appeals on points of law had deprived him of the opportunity to submit his observations in reply, the Constitutional Court noted that the High Court had, in fact, served the appeals on the applicant’s lawyer, A.D., who had signed the certificate of service.

All notifications issued by the High Court had been sent to the lawyer’s electronic address, including the notification of the final judgment. Given that the applicant acknowledged having been informed of the High Court’s judgments, which had been formally communicated to lawyer A.D., it could reasonably be deduced that the applicant had also been made aware of the appeals, which had been served on the same legal representative. Consequently, this complaint was found to be manifestly unfounded.

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INDIVIDUAL CONSTITUTIONAL COMPLAINTS



As regards the alleged violation of the standard of a reasoned judicial decision

Regarding the applicant's complaint that the High Court had adopted a divergent approach in his case compared to identical cases, the Constitutional Court – having regard to the arguments concerning the right to a tribunal established by law, equality before the law, non-discrimination, the principle of legal certainty, and the minimum standard of living – examined whether the impugned decision complied with the standards established in its case-law and whether it contained any elements of arbitrariness.

The first-instance court had held that the applicable law was Law no. 8549/1999, that the Minister had acted *ultra vires* since the competence to issue the order lay with the Secretary General, and that the administrative act was therefore absolutely invalid.

The Court of Appeal upheld the first-instance decision but reasoned that Law no. 152/2013 was applicable, concluding that the Minister of Justice was not the competent authority prescribed by law to dismiss a civil servant. The High Court, while acknowledging that Law no. 8549/1999 was applicable, held that the lower courts argument, that the Minister of Justice had acted *ultra vires*, was erroneous as regards the effect they attributed to it concerning the absolute invalidity of the administrative act. The Constitutional Court held that the fact that the applicant had consented to being placed on the waiting list was not a decisive factor in assessing the legal competence of the authority that issued the act. The High Court's reasoning, that the consequences would have been identical had the decision been taken by the Secretary General, relied on a hypothetical assessment of the procedural outcome rather than a strict verification of compliance with the statutory requirements governing the validity of administrative acts.

The Constitutional Court noted that, in a similar case, the High had reasoned that the Minister's administrative act had not been issued by the responsible official within the limits of the competence defined by Law no. 8549/1999. The High Court's reasoning in the present case was therefore considered insufficient to explain why a lack of competence was deemed a crucial element for assessing the act's lawfulness in one instance, but dismissed as a mere formal irregularity in another. Consequently, this complaint was considered to be founded.

As regards the stay of execution of the High Court's decision

The Court held that the consequences alleged by the applicant did not constitute irreparable harm such as to justify staying the execution of the impugned act.

Decision-making

The Court decided, unanimously, to accept the application.

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**