

The Application of the European Convention on Human Rights and its Jurisprudence by the Albanian Constitutional Court in Administrative Disputes

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This paper investigates the use of individual constitutional complaints within the domain of administrative jurisdiction, with a specific focus on how human rights norms have been interpreted and enforced in administrative disputes

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between 1 January 2022 and 31 December 2024. The analysis begins by identifying administrative cases in which human rights considerations have played a decisive role. It further examines the legal reasoning and interpretative methods employed by the Constitutional Court in resolving these cases. The findings suggest that the Albanian Constitutional Court increasingly adopt an intersectoral legal approach, integrating international human rights standards with domestic administrative law principles. This evolving jurisprudence reflects a broader trend toward constitutionalization of administrative law and contributes to the consolidation of democratic governance in Albania.

Keywords: Albania, European Convention on Human Rights, Human Rights, Administrative Disputes, Constitutional Court

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1. Introduction

Although Albania gained independence back in 1912, the communist regime ignored fundamental human rights for 45 years (Dushnyck, 1975; Abdurrahmani, 2024). Since 1991, Albania has been constructing a constitutional democracy.

Constitutional democracy is built in three different stages, each with its own requirements: 1. Drafting and establishing a new constitutional regime, which might take around six months; 2. Creating a market economy, which takes around six years; and 3. Establishing a civil society requires a more extended period of three generations (Dahrendorf, 1990, p. 86).

Regarding the first stage of constitutional democracy in the case of Albania, the democratic protests started in December 1990 and the first democratic elections were held in March 1991, introducing the Law No. 7491 of 29 April 1991 “On the Main Constitutional Provisions”, and the democratic regime at a constitutional level.

Regarding the second stage of constitutional democracy, Art. 10 of Law No. 7491 of 29 April 1991 underlined the importance of national economy by stating that it is based on private property and free initiative of all economic entities. However, economic initiatives could not be developed in ways that were contrary to social interests. On the contrary, Art. 11 of the Constitution 1998 states that the national economic system is also based on market economy and freedom of economic activity. Additionally, Law No. 7491 of 29 April 1991 “On the Main Constitutional Provisions” also recognized several economic rights in Ch. IV.

During the first two phases – drafting a constitutional democracy and the creation of market economy – concluded within the first decade of post-communism, the creation of a democratic civil society also included the review of the absence of violation of human rights by local administration. With this in mind, this research focuses on applying human rights in administrative disputes by the Albanian Constitutional Court from 1 January 2022 to 31 December 2024.

For clarification purposes, it is important to note that citizens in Albania have direct access to the Albanian Constitutional Court (ACC) (Art. 131/1f and Art. 134/1g of the Constitution) under certain conditions. In addition, due to the Vetting process (a comprehensive background check

of magistrates to assess their integrity, professional competence, and assets), the ACC did not function from April 2018 to January 2021.

This research applies a constitutional case-law method of study, since case-law systems aim to increase the value of the evolving legal tradition (Ponzetto & Fernandez, 2008, p. 379). Even though the Albanian law-maker seems to have codified the *jurisprudence constante* in recent years, which is very similar, but not identical to the principle of *stare decisis*, the decisions of the Constitutional Court are mandatory (Art.132/1 of the Constitution) (Veshi, Koka & Pupe, 2025).

This scientific contribution applies a legal intersectoral approach, since it connects international human rights, the European Convention on Human Rights (ECHR) and its jurisprudence, in administrative disputes by the ACC. Thus, it shows that the ACC aims to protect human values rather than state values by shaping the state's behaviour, represented by local administrations in this paper. It shall be underlined that the international doctrine has emphasized the importance of shaping State behaviour by applying human values (Henkin, 1995; Hathaway, 2007).

In addition, the paper also includes a short legal historical approach. While the paper focuses on the constitutional case-law between 2022-2024, it is important to underline the historical approach of individual constitutional complain. Through a short constitutional legal history, the manuscript highlights the value of individual constitutional complaints, not only to the principle of fair trial, as established in the original constitutional version of 1998, but also for any kind of violation of a constitutional right, as reformed in 2016.

Moreover, the research applies a comparative approach, indicating the importance of the Albanian individual constitutional complaints. The paper shows the high number of individual constitutional complaints (Art. 131 Constitution). This right is established for all individuals, also migrants or refugees, after dealing with the administrative complaint within the Albanian administration. Indeed, this result is similar to the areas of individual constitutional complaints in the areas of civil (Koka & Sheme, 2025) and criminal (Veshi, Koka & Pupe, 2025) disputes.

Furthermore, the paper also uses critical legal reasoning. In other words, the national case-law has been investigated by reviewing the main legal facts and the application of international human rights that have been applied. This is fundamental, considering the fact that the Albanian academic scientific output is low (NHR, 2024), ranking last in Europe

(Euronews Albania, 2023). Therefore, different studies have recently applied a critical analysis of national case-law in various field of law, such as time-sharing contract (Veshi, 2025), medical civil (Koka, Veshi, & Morina, 2025) or criminal (Veshi, Bozheku & Castaldo, 2024) liabilities, or consumer law (Veshi, 2025).

The innovative part of this paper lies in the correlation of international human rights with administrative disputes in constitutional case-law. Thus, the paper outlines the blurry distinction between different law sectors by associating international human rights with constitutional and administrative laws. In addition, considering that the present paper considers the ECHR and ECtHR's (European Court of Human Rights) case-law, it shows the importance of international human rights law in the Albanian legal system through constitutional judicial application. This is also based on Art. 5, Art. 116/1b, and Art. 122/2 of the Albanian Constitution, which establish that international treaties ratified by the Albanian Parliament are mandatory and have a higher rank than domestic legislation.

This research is divided as follows: Sect. 2.1. describes the right to individual constitutional complaint through a legal historical approach. In addition, Sect. 2.2. identifies the cases where the ACC has applied or referred to international human rights concerning administrative law issues. Sec. 3 reviews concrete instances in which the ACC has referred to international human rights in interpreting national law in administrative matters by distinguishing between the principles of fair trial, effective remedies, and the functioning of justice (Sect. 3.1) and the protection of substantive rights, such as dignity, equality, and non-discrimination (Sect. 3.2). In conclusion, this research emphasizes the application of legal intersectoral approach by the ACC on administrative issues.

2. Identification of Individual Constitutional Complaints in Administrative Disputes

This section examines the mechanism of individual constitutional complaints in the context of administrative disputes. Subsection 2.1 elucidates the public's entitlement to lodge such complaints by adopting a legal-historical perspective. Subsection 2.2 analyses the case-law in which the ACC has applied or referred to international human rights standards in matters

related to administrative law. Between different international treaties, the paper only considers the application of the ECHR and ECtHR's case-law.

2.1. Individual Constitutional Complaints in Albania: A Legal Historical Approach

During the 20th century, Albania experienced different political regimes: constitutional principate (1914), parliamentary republic (1925), democratic monarchy (1928), constitutional monarchy (1939), people's republic (1946 and 1950), socialist republic (1976), and the current parliamentary republic (1991, confirmed in 1998) (Shyle, Koka & Morina, 2025).

The judiciary system at the constitutional level was already established in the *Statuti Organik i Shqipërisë* (Organic Statute of Albania) of 1914. However, in the basic law recognized by the Court of Appeal, "the establishment of a court higher than the Court of Appeal, as well as of any other special court, is left to the discretion of the prince and his government" (Art. 168 Organic Statute of Albania of 1914). In addition, the Organic Statute of Albania of 1914, in the Section of Justice (Art. 159–169), ruled in detail the organization of the judiciary system. Moreover, since the Statute of the People's Republic of Albania of 1946, Albania has at the constitutional level not only a Section ruling the Judiciary system, but also the recognition of the Supreme Court.

The absence of a constitutional court during the communist regime was common in all the Communist Bloc, except for Yugoslavia, since 1963, and Poland, since 1985 (Sadurski, 2005). In Albania, the Law No.7491 of 29 April 1991 "On the Main Constitutional Provisions," which is the main basic law after the fall of the communist regime, did not establish the Constitutional Court. However, precisely one year later, the Law No.7561 of 29 April 1992 established for the first time the ACC.

In 1998, the current Constitution entered into force. For the first time in the Albanian legal history, individual constitutional complaints were established, enabling individuals direct access to the Constitutional Court. However, this right was limited to violations of the right to a fair trial (Art.131/1f original version of 1998).

For clarity purposes, it should be mentioned that the recent reforms have also underlined the right to a fair trial in administrative disputes, especially regarding an effective remedy within a reasonable time. Indeed, Art.

25/1 Law No. 49 of 11 May 2012 “On Administrative Courts and the Adjudication of Administrative Disputes” states that within seven days from the date of filing the lawsuit, the judge shall perform several actions that can help to understand the file in its complexity. In addition, Art. 48/2 and 60/2 of the Law No. 49/2012 state that the Administrative Court of Appeal reviews the case within 30 days from receipt of the appeal, while the Supreme Court reviews the case within 90 days from receipt of the appeal or 45 days if it deals with the illegality of a bylaw.

These rules aim to give a final remedy within a reasonable time. In addition, considering that Art. 1/2 Law No. 49/2012 delegates to the civil procedure code the supplementary provisions of the administrative procedure, Law No. 38/2017 of 30 March 2017 included the concept of reasonable time for the first time in the Albanian legal democratic history. According to Art. 399/2(1) (a) of the Civil Procedure Code, the administrative trials at first instance and on appeal shall be completed within one year from their commencement at each instance.

While the original version of the Albanian democratic constitution established the individual constitutional complaints, only with the 2016 constitutional reform has the individual constitutional complaint been established for any kind of violation of a constitutional right. So, the current Albanian Constitution provides for a constitutional complaint in cases of human rights violations (Art. 131/1f; Art. 134/1)). Through a comparative constitutional approach, the constitutional complaint seems to be a historical constitutional instrument of protection of human rights (Veshi et al., 2025; Koka & Sheme, 2025; Veshi, Koka, & Sheme, 2025; Pupe et al., 2023). In other words, Albania recognizes a constitutional complaint, which is also similar to what has been established in Germany (Art. 93/1(4a) German Basic Law), or Spain (Art. 161/b Constitution). The common historical background between these countries is that all these countries had a totalitarian regime, either communist, Nazism, or the Franco regime.

To sum up, individual constitutional complaints were established with the Constitution of 1998. However, only with the reform of 2016 has this right been established for any kind of violation of a constitutional right.

2.2. Application of International Human Rights by the ACC in Administrative Disputes

Until 2012, the judicial system in Albania had only one general jurisdiction divided into competence by territory or subject, in addition to Alternative Dispute Resolutions (Veshi, 2025). In 2012, the Albanian Law 49/2012 “For Administrative Courts and Judgment of Administrative Disputes,” of 3 May 2012, establishes the District Administrative Court, Administrative Court of Appeal, and the Supreme Court, Administrative Session. Different from other countries – i.e., Italy or France – where administrative and civil proceedings are parallel, the highest court in administrative matters in Albania is always the Supreme Court. So, while the supreme administrative courts, *Consiglio di Stato*¹ and the *Conseil d’État*, and the *Corte di Cassazione* and *Cour de Cassation* in France and Italy respectively, do not have jurisdiction over administrative law, the Supreme Court with the Administrative Chamber is the highest court for administrative matters in Albania. In simple words, while Italy and France have a two-layer system for administrative matters, Albania continues to have a three-layer one.

This subsection identifies the cases where the ACC has applied the ECHR and its jurisprudence from 1 January 2022 to 31 December 2024. In 2024, while 76 out of 84 decisions dealt with individual constitutional complaints, only 27 addressed individual constitutional complaints related to administrative law issues.² Of the 27 individual constitutional complaints dealing with administrative law issues, the Constitutional Court referred to the ECHR in 24 decisions;³ the Constitutional Court cited the ECtHR’s case law in 10 decisions;⁴ and the judges referred to both the ECHR and the ECtHR’s case law in 10 decisions.⁵

From among the 27 individual constitutional complaints related to administrative law, the decision with the highest number of ECHR articles cited

¹ It should be underlined that this is the case for the entire state of Italy, except for Sicily, which has its own Appeal Court, the Council of Administrative Justice for the Sicilian Region. *Giustizia Amministrativa*, available online.

² ACC, 2024, Decisions No. 7, 14, 15, 21, 23, 24, 25, 28, 30, 31, 37, 38, 39, 44, 47, 57, 59, 60, 65, 68, 69, 71, 72, 73, 74, 77, 80.

³ ACC, 2024, Decisions No. 14, 21, 23, 24, 25, 28, 30, 37, 38, 39, 44, 47, 57, 59, 60, 65, 68, 69, 71, 72, 73, 74, 77, 80.

⁴ ACC, 2024, Decisions No. 14, 30, 37, 38, 39, 47, 57, 73, 74, 80.

⁵ ACC, 2024, Decisions No. 14, 30, 37, 38, 39, 47, 57, 73, 74, 80.

without repetition is Decision No. 77, dated 05 November 2024 (Art. 1; 6; 13; 14; 18) (ACC, 2024, Decision No. 77). In Decision No. 73 of 17 October 2024, the ACC cited the highest number of ECtHR judgments without repetition, including “Mutu and Pechstein v. Switzerland (2018, §96), Apollo Engineering Limited v. the United Kingdom” (2019, §38), “Suda v. the Czech Republic” (2010, §48), “Beg S.p.A v. Italy” (2021, §127), and “Cudak v. Lithuania” (2010, §59) (ACC, 2024, Decision No. 73). In only three decisions, the Constitutional Court referenced neither the provisions of the ECHR nor the case law of the ECtHR.⁶

In addition, while 64 out of 70 decisions dealt with individual constitutional complaints in 2023, only 30 dealt with individual constitutional complaints dealing with administrative law issues.⁷ Of 30 individual constitutional complaints dealing with administrative law issues, the Constitutional Court applied the ECHR in 24 cases;⁸ the Constitutional Court referred to the ECtHR’s case law in 12 cases;⁹ and the Constitutional Court referred both to the ECHR and the ECtHR’s case law in 11 cases.¹⁰

In 2023, the decision with the highest number of ECHR articles cited without repetition was Decision No. 17, of 23.03.2023, which referred to Art. 6 and 8 of the Convention, and Art. 2 of Protocol No. 1, while the decision with the highest number of references to ECtHR’s case law without repetition was the decision No. 33 of 30 May 2023, which referred to multiple judgments including “Vigani v. Albania” (2022), “Fullani v. Albania” (2022), “Kasmi v. Albania” (2020), “Sharxhi and Others v. Albania” (2018), “Ramadhi and Others v. Albania” (2007), “Pincová and Pinc v. the Czech Republic” (2002), “Holy Monasteries v. Greece” (1994), “James and Others v. the United Kingdom” (1986), “Lithgow and Others v. the United Kingdom” (1986), “Tunaitis v. Lithuania” (2015), and “Jahn and Others v. Germany” (2005). In only six decisions, the Constitutional

⁶ ACC, 2024, Decisions No. 7, 15, 31.

⁷ ACC, 2023, Decisions No. 3, 4, 5, 6, 7, 9, 10, 12, 13, 14, 16, 17, 20, 22, 23, 25, 27, 29, 33, 34, 37, 41, 43, 44, 49, 54, 55, 59, 64, 66, 68.

⁸ ACC, 2023, Decisions No. 3, 4, 5, 6, 9, 10, 13, 14, 17, 22, 25, 27, 33, 34, 37, 41, 43, 44, 54, 55, 59, 64, 66, 68.

⁹ ACC, 2023, Decisions No. 6, 9, 12, 17, 25, 33, 43, 44, 59, 64, 66, 68.

¹⁰ ACC, 2023, Decisions No. 6, 9, 17, 25, 33, 43, 44, 59, 64, 66, 68.

Court referenced neither the provisions of the ECHR nor the case law of the ECtHR.¹¹

Moreover, in 2022, while 35 out of 43 decisions dealt with individual constitutional complaints, only 18 dealt with individual constitutional complaints dealing with administrative law issues.¹² Of 18 individual constitutional complaints dealing with administrative law issues, in 12, the Constitutional Court applied the ECHR in 12 cases¹³ the Constitutional Court referred to the ECtHR's case law in eight cases,¹⁴ and the Constitutional Court referred to both the ECHR and the ECtHR's case law in eight cases.¹⁵

Of 18 individual constitutional complaints dealing with administrative law issues, the decision with the highest number of ECHR's articles cited without repetition is decision No. 33 of 14 November 2022, where the ACC referred to Art. 6; 13; 53 of the Convention, Art. 1 of Protocol No. 1, and Art. 46/1, while the decision with the highest number of ECtHR judgments cited without repetition in 2022 was Decision No. 3, dated 17 February 2022, where the ACC referred to "Bara and Kola v. Albania" (2021, §63), "Boddaert v. Belgium" (1992, §39), "Guincho v. Portugal" (1984, §40), "Zimmermann and Steiner v. Switzerland" (1983, §29), "Qufaj v. Albania" (2004), "Süßmann v. Germany" (1996, §61), "Buchholz v. Germany" (1981, §51), "Frydlender v. France" [GC] (2000, §43), and "Xero Flor sp. z o.o. v. Poland" (2021). Only in six decisions did the Constitutional Court not reference either the provisions of the ECHR or the case law of the ECtHR.¹⁶

To sum up, between 1 January 2022 to 31 December 2024, the ACC has constantly applied the ECHR and its jurisprudence in administrative disputes.

¹¹ ACC, 2023, Decisions No. 7, 16, 20, 23, 29, 49.

¹² ACC, 2022, Decisions No. 2, 3, 8, 11, 13, 17, 19, 23, 24, 26, 27, 28, 29, 33, 36, 40, 41, 43.

¹³ ACC, 2022, Decisions No. 2, 3, 11, 13, 17, 26, 27, 33, 36, 40, 41, 43.

¹⁴ ACC, 2022, Decisions No. 2, 3, 11, 13, 27, 33, 41, 43.

¹⁵ ACC, 2022, Decisions No. 2, 3, 11, 13, 27, 33, 41, 43.

¹⁶ ACC, 2022, Decisions No. 8, 19, 23, 24, 28, 29.

3. Examination of Administrative Law in Correlation with Human Rights

The integration of human rights principles into administrative law is fundamental for ensuring justice, accountability, and transparency in governance (Boughey, 2009; Rastorhuiev et al., 2021; Schwarze, 1986; Simamora & Zuliah, 2021; Türk, 2017). Administrative law, which governs the interactions between individuals and the State, often poses challenges when State authority intersects with individual rights (Gellhorn, 1979). The ECHR and the ECtHR have provided a comprehensive framework that ensures procedural and substantive protection for individuals in administrative disputes (Mirate, 2012).

Among the provisions of the ECHR, Art. 6 and 13 of the ECHR and Art. 1 of Protocol No. 1 hold a central role in addressing the procedural and substantive aspects of administrative disputes. Other articles frequently complement the aforementioned, such as Art. 3; 8; 14, and 7 of the ECHR, or Art. 2 and 5 of Protocol No. 1, or Art. 1; 33; 41; 42, and 46 of Protocol No. 12. Together, they form a cohesive framework that ensures fairness in administrative procedures, effective remedies for violations, proportionality in state interference, and robust protections against discrimination and abuse of power.

Subsection 3.1. reviews some of the most important principles of fair trial, effective remedies, and the functioning of justice, while subsection 3.2. investigates the protection of substantive rights, such as dignity, equality, and non-discrimination.

3.1. The Right to a Fair Trial, Effective Remedies, and the Functioning of Justice

One of the most persistent and prominent concerns of the Constitutional Court of Albania has been the failure of the justice system to guarantee the fundamental procedural rights protected by the ECHR. This is particularly reflected in the violations of Art. 6 of the Convention (right to due process), which forms the foundation of procedural fairness, and of Art. 13 (right to an effective remedy), which requires that any violation of rights be accompanied by a real and functional means to be addressed.

Along with these, the Constitutional Court has also interconnected Art. 1 of Protocol No. 1 (right to property), in those cases where procedural failures – such as long delays, lack of reasoning or non-implementation of decisions – have directly affected the effective exercise of the right to enjoy property. From this point of view, property is not only treated as a substantive right, but as a component that depends on the proper functioning of procedural mechanisms. The Constitutional Court has also used Art. 5/5 (the right to compensation in case of illegal detention), Art. 2 of Protocol No. 1 (right to education), Art. 33 (obligation to address structural violations) and Art. 53 (obligation to interpret more favourably for the individual) of the ECHR, to strengthen the application of the standards of the Convention in the framework of administrative law.

These provisions show that the State not only has the formal obligation to follow the procedural rules but also has an essential responsibility to guarantee a real, fair and understandable process, conducted within a reasonable time, by impartial courts and with well-reasoned decisions. The case-law of the Constitutional Court reflects an evolving approach, which aims to protect not only the legal form of the process, but also its real effectiveness, institutional transparency and citizens' trust in the rule of law.

At the heart of procedural fairness lies Art. 6, which guarantees the right to a fair trial. The Constitutional Court has repeatedly referred to this article to ensure procedural fairness in disputes involving administrative bodies.¹⁷ For instance, the judges invoked Art. 6 to address procedural delays in administrative courts, recognizing that prolonged proceedings violate the right to a trial within a reasonable time.¹⁸

In its case-law of recent years, the Constitutional Court has dealt with several issues related to the application of Art. 6 of the ECHR, highlighting several frequent problems in the Albanian judicial and administrative system. One of the most frequent topics has been the delay of court cases longer than reasonable time. In some cases, processes have been suspended for years, significantly exceeding legal deadlines and putting individuals in the face of prolonged legal uncertainty. The Constitutional Court, referring to the ECtHR standards, emphasized that heavy workload of the

¹⁷ ACC, 2024, Decisions No. 21, 23, 28, 30, 37, 39, 47, 57, 59, 60, 65, 71; ACC, 2023, Decisions No. 44, 54, 66; ACC, 2022, Decision No. 2.

¹⁸ ACC, 2024, Decisions No. 73, 80, 14; ACC, 2023, Decisions No. 3, 4, 5, 41; ACC, 2022, Decisions No. 3, 11, 26, 36.

Supreme Court or the delays related to the justice reform cannot justify the violation of the right to trial within a reasonable time, because the citizens should not have to bear the burden of these delays.¹⁹

Another noteworthy problem is the formalistic approach of ordinary courts, which has often led to denial of real access to court. In one case, the Constitutional Court evaluated that the overly narrow interpretation of the limitation periods had made it impossible to effectively review claims for damages, violating the essence of the right of access to the court. In another situation, concerns were raised about how limiting jurisdiction in favour of arbitration could have violated the right to be heard and to make a decision based on the facts of the case. In both situations, the problem is related to the fact that Art. 6 requires not only formal access, but the possibility of an effective and substantial judicial process.²⁰

Other issues have highlighted the importance of respecting the principle of the court established by law and its impartiality. In some decisions, the Constitutional Court found that the handling of cases by incompetent bodies, such as the Administrative College of the Supreme Court instead of the Civil Chamber, or the Supreme Court instead of the Special Appeals Chamber, constituted a violation of Art. 6, as the trial was conducted by an unauthorized body. This approach is in line also with the ECtHR standards, where the guarantee of a court designated by law is seen as an essential element of due process.²¹

Another repeated dimension is related to the quality of reasoning of court decisions. In some cases, the applicants claimed that the decisions of the lower courts had been deficient, failing to address the essential arguments raised by them. In one decision, the Constitutional Court acknowledged that deficiencies in reasoning had violated the right to due process, while in another situation it limited itself to a more restrictive interpretation, finding no violations for the lack of the necessary majority. However, it was noted in all cases that the standard of Art. 6 requires full and individualized reasoning, in order to respond to the key claims of the parties.²²

¹⁹ ACC, 2024, Decision no. 80; ACC, 2022, Decision No. 3.

²⁰ ACC, 2024, Decisions No. 14 and 73.

²¹ ACC, 2023, Decision No. 3; ACC, 2022, Decision No. 36.

²² ACC, 2023, Decisions 5 and 41; ACC, 2022, Decision No.11.

Also, some decisions reflect the tension between formal and substantive access to court. In these cases, it was argued that the procedures followed had violated the right to be heard, the transparency and impartiality of the process. Although the Constitutional Court did not always find violations, it recognized that such restrictions should be measured in light of Art. 6 and that due process of law requires not only formal respect for the law, but also the guarantee of the citizens' trust in justice.²³

Referring to Art. 6 of the ECHR and the jurisprudence of the ECtHR, the Constitutional Court has emphasized again that the state has a positive obligation to guarantee not only a formal process, but an effective and substantial process, conducted within a reasonable timeframe, with impartial courts and reasoned decisions. In this way, the Court affirms that delays, procedural formalism or deficient justifications cannot be justified by institutional burdens or lengthy reforms, as they violate the essence of the right to a fair trial that is protected by Art. 6 of the ECHR.²⁴

To reinforce this point, in addition to the ECHR, the Constitutional Court have cited the ECtHR jurisprudence such as "Gorokhov and Rusyayev v. Russia" (2005, §34), "Bielński v. Poland" (2022, §48), and "Mocie v. France" (2003, §22), with the goal of establishing benchmarks for what constitutes an undue delay and emphasized the need for judicial systems to operate efficiently and predictably. In one decision, the case involved the lack of full reasoning by the Supreme Court, which had not addressed all the allegations raised by the party, creating legal uncertainty and violating the equality of the parties in trial. The Constitutional Court, relying on Art. 6 of the ECHR and the ECtHR jurisprudence, emphasized that adequate reasoning is an essential element of due process and the rule of law. Art. 6 was applied in order to emphasize that court decisions must be clear and reasoned so that individuals understand their basis and have real opportunities to pursue other remedies.

In this context, the Constitutional Court also referred to "Nejdet Şahin and Perihan Şahin v. Turkey" to address that adequate reasoning is a fundamental component of procedural fairness, as it enables individuals to understand and eventually file a lawsuit against administrative decisions (ACC, 2024, Decision No. 47). In the same decision, the Constitutional

²³ ACC, 2023, Decision No. 4; ACC, 2022, Decision No. 26.

²⁴ ACC, 2024, Decisions No. 14, 73, 24; ACC, 2023, Decisions No. 3, 4, 5, 41; ACC, 2022, Decisions No. 3, 11, 26, 36.

Court found that the lower courts and then the Supreme Court had given contradictory decisions and avoided the unifying practice, creating legal uncertainty and leaving the individual without real protection. Relying on Art. 13 of the ECHR, the court emphasized that remedies must be effective and remedial, not only formal.

The interconnectedness of Art. 6 with other provisions, such as Art. 13, reinforces the broader framework of procedural justice by ensuring that violations arising within administrative systems are effectively addressed. Art. 13 complements Art. 6 by guaranteeing the right to an effective remedy for violations of rights. While Art. 6 focuses on procedural fairness within the judicial process, Art. 13 ensures that any breach of rights, whether procedural or substantive, can be remedied in a practical and meaningful way. Administrative disputes often involve systemic delays, inefficiencies, or failures to comply with procedural safeguards. Constitutional Court has invoked Art. 13 in various cases²⁵ involving systemic delays in administrative procedures, emphasizing the need for mechanisms that address procedural inefficiencies.

An important decision of constitutional case-law on Art.13 of the ECHR has emphasized that legal remedies must be effective indeed, not only formally foreseen. In some cases, the Constitutional Court has found that the lack of reasoning by the lower courts turns the right of access into a worthless formality, leaving individuals without real guarantees for the protection of their rights (ACC, 2024, Decision No. 24). It has also been noted that processes are not effective when courts are limited to formal examinations and do not provide answers on substantive claims, leaving the individual without a genuine defence mechanism (ACC, 2024, Decision No. 25).

The Court has also emphasized that legal remedies lose their effectiveness when the case law is contradictory or does not respect unifying decisions, as this creates legal uncertainty and undermines public trust in the justice system. In this context, the Court also relied on the ECtHR jurisprudence to emphasize the obligation for coherent and functional means (ACC, 2024, Decision No. 47).

In other cases, the tension has emerged between the requirement for the formal exhaustion of legal remedies and the substantive standard of their

²⁵ ACC, 2024, Decisions No. 24, 25, 44, 47, 68.

effectiveness. While the majority of the judges of the ACC have emphasized the importance of adhering to procedures, the minority have defended the idea that even in the absence of full exhaustion, the courts must ensure that the right to an effective remedy does not remain illusory (ACC, 2024, Decision No. 44).

Finally, the Court has underlined that procedural formalism and mechanical interpretations of the law can render the process ineffective, leaving individuals without a decision on the merits of the claim. In these cases, it has been emphasized that Art. 13 requires practical mechanisms that offer real solutions and not only procedures provided for in the letter (ACC, 2024, Decision No. 68).

To support their reasoning, Constitutional Court referred to the ECtHR's judgments, which highlighted the obligation of States to provide timely and substantive remedies for procedural violations. In a case related to prolonged delays in administrative processes, the Constitutional Court emphasized that legal remedies cannot be only formal but must be realistically effective to correct violations. Although the applicants had followed all legal remedies, their case remained pending for more than three and a half years, while the request for expedition was denied. The Court, relying on the ECtHR jurisprudence, underlined that the malfunctioning of internal tools to address systemic delays constitutes a violation of Art. 13 of the ECHR and requires the state to provide practical tools that provide real solutions for individuals (ACC, 2023, Decision No. 25; "Beshiri v. Albania" (2020); "Frydlender v. France" [GC] (2000), §43; "Süßmann v. Germany" (1996), §61; "Boddaert v. Belgium" (1992), §39). The focus of Art. 13 of the ECHR ensures that justice is not theoretical but accessible and capable of resolving grievances effectively, particularly in cases where individuals seek restitution for harm caused by administrative decisions.

In another case, where the lower courts and then the Supreme Court did not respect the standard of reasoning and extended the review beyond the limits of the recourse, the Constitutional Court emphasized that Art. 13, in combination with Art. 6, requires means that guarantee a fair, reasoned and enforceable decision, especially when the case has consequences on the employment and property of the individual (ACC, 2023, Decision No. 55). The correlation between Art. 6 and 13 highlights the importance of a holistic approach to justice, where procedural safeguards and effec-

tive remedies work together to uphold the rule of law and foster public confidence in administrative institutions.²⁶

In matters involving property rights, Art. 1 of Protocol No. 1 of the ECHR provides a crucial safeguard by protecting peaceful enjoyment of possessions. This article is especially significant in administrative disputes, where the State's regulatory or expropriation powers frequently intersect with individuals' property rights. Art. 1 of Protocol No. 1 of the ECHR establishes that any interference with property must be lawful, pursue a legitimate public interest, and maintain proportionality.

The ACC has emphasized that Art. 1 of Protocol No. 1 requires that any intervention on the right to property be based on the law, serve a legitimate public interest and maintain proportionality. In its analysis, it was underlined that formal compliance with legality is not sufficient if clarity and predictability are lacking, as this creates legal uncertainty and violates reasonable expectations of individuals. Referring to the ECtHR standards, the Court emphasized that interventions must be balanced, avoiding imposing an excessive burden on the individual. This approach shows that the protection of the right to property requires not only a legal basis, but also transparency and a real guarantee that public and private interests are harmonized in a fair way (ACC, 2023, Decision No. 9).

Proportionality is a critical principle, as it requires that the state's interference does not impose an excessive burden on the individual. The Constitutional Court has emphasized in several decisions that interventions on property are permissible only when they respect the balance between public interest and individual rights. It has been found that fines, procedural delays, overlapping of titles, lack of fair compensation or disciplinary measures affecting income constitute violations when they impose a disproportionate burden on individuals. In this context, it was underlined that Art. 1 of Protocol No. 1 requires that any restriction be clear, justified and proportionate, guaranteeing trust in the rule of law.²⁷

In expropriation cases, for instance, the Constitutional Court referred to ECtHR jurisprudence to underline the principle of fair compensation and the importance of balancing public and private interests. In these cases, the Constitutional Court acknowledged that the intervention was for a

²⁶ ACC, 2024, Decisions No. 24, 25, 74, 77; ACC, 2023, Decisions No. 10, 25, 27, 55; ACC, 2022, Decisions No. 33, 41.

²⁷ ACC, 2024, Decisions No. 14, 44, 68, 69, 74, 77.

legitimate public interest, but made clear that the compensation must be fair, reasonable and linked to the real value of the property. It noted that the right to challenge the assessment in court is an essential guarantee and, referring to the ECtHR jurisprudence, emphasized that without such a remuneration, the intervention becomes disproportionate and unfair.²⁸ The reliance on ECtHR jurisprudence ensures that administrative actions impacting property are transparent, justified, and aligned with international standards.²⁹

This provision is further strengthened when viewed alongside Art. 6, as procedural fairness ensures that disputes concerning property rights are adjudicated in a manner that respects both individual and collective interests. In one case, the Constitutional Court relied on the ECtHR pilot judgment (*Manushaqe Puto and Others v. Albania*), emphasizing that the lack of execution of court decisions and systematic delay constitute violations of the right to property and the right to a trial within a reasonable timeframe, underlining the obligation of administrative authorities to act with clarity and efficiency (ACC, 2022, Decision No. 41). In another case, it was emphasized that the non-provision of real compensation and the lack of balance between public and private interest lead to a direct violation of Art. 1 of Protocol No. 1, requesting that any administrative intervention on the property be justified with full and transparent reasoning (ACC, 2022, Decision No. 43).

Likewise, the importance of sufficient reasoning was highlighted, as individuals cannot understand and challenge a state's decision if it is not clear and evidence-based, which is closely related to the right to due process and administrative transparency guaranteed by Art. 6 of the ECHR (ACC, 2023, Decision No. 17). The Constitutional Court has also considered the principle of fair compensation as fundamental for maintaining the balance between the public interest and individual property rights, emphasizing that it must be reasonable and closely linked to the market

²⁸ ACC, 2023, Decision No. 33; *Vigani v. Albania* (2022); *Fullani v. Albania* (2022); *Kasmi v. Albania* (2020); *Sharxhi and Others v. Albania* (2018); *Ramadhi and Others v. Albania* (2007); *Pincová and Pinc v. the Czech Republic* (2002); *Holy Monasteries v. Greece* (1994), §71; *James and Others v. the United Kingdom* (1986), §54; *Lithgow and Others v. the United Kingdom* (1986), §18.122; *Tunaitis v. Lithuania* (2015), §41; *Jahn and Others v. Germany* (2005), §95.

²⁹ ACC, 2024, Decisions No. 14, 74; ACC, 2023, Decisions No. 9, 17, 33, 43; ACC, 2022, Decisions No. 33, 41, 43.

value, otherwise the intervention of the state becomes disproportionate and imposes an excessive burden on the individual (ACC, 2023, Decision No. 33).

In other cases, the Constitutional Court has set limits of proportionality and reasonableness in administrative acts, emphasizing that regulatory measures or financial fines also fall within the scope of property protection and must be justified by a real public interest.³⁰

The Constitutional Court has also referred to additional provisions to reinforce the application of the ECHR within the context of administrative law. For instance, Art. 5/5 of the ECHR has been invoked to uphold the principle that individuals must receive compensation, thereby ensuring accountability for administrative authorities involved in such cases. In one decision, which involved the arrest and subsequent acquittal of the applicant, the issue was the lack of an effective compensation mechanism for the period of unjust deprivation of liberty. The Constitutional Court found that not only had the standards of Art. 6 for trial within a reasonable time been violated, but also that inactions and long delays weakened the guaranteed function of Art. 5/5 of the ECHR. This article, according to ECtHR, is not a declarative norm, but a practical guarantee that requires the state to establish real means of compensation for damages arising from unjust arrest (ACC, 2023, Decision No. 68).

In addressing issues of educational access, Art. 2 of Protocol No. 1 of the ECHR has been applied to highlight the importance of equitable and non-discriminatory administrative policies. In one decision, the Constitutional Court reviewed the case of a candidacy at the School of Magistrates, where the applicant was excluded from the process due to the interpretation of the law regarding the rehabilitation of a previous criminal conviction. In this context, the Court identified that the decisions of the ordinary courts had been contradictory and unclear, creating legal uncertainty for the candidate. The Constitutional Court evaluated this as an unjustified restriction of the right to education, emphasizing that Art. 2 of Protocol No. 1 requires that administrative policies be clear, transparent, and non-discriminatory. This decision shows that the right to education

³⁰ ACC, 2024, Decision No. 14; ACC 2023, Decision No. 43.

should not remain formal but should be realistically guaranteed through predictable and equal criteria for all individuals.³¹

Art. 33 of the ECHR has been utilized to facilitate state-level actions addressing systemic human rights violations through interstate complaints, emphasizing the shared obligation of states to safeguard human rights. The Constitutional Court has emphasized that the notification of the parties is an essential guarantee of the right to due process and that the practice of public announcement, without ensuring real knowledge, violates access to the court and effective protection. Referring to Art. 33 of the ECHR, the Constitutional Court underlined the obligation of the state to prevent practices that create repeated and structural violations, seeing this article as a mechanism that strengthens the responsibility for the protection of human rights (ACC, 2023, Decision No. 34).

Furthermore, Art. 53 of the ECHR has been relied upon to underscore the need for domestic interpretations of the ECHR to meet the highest standards of human rights protection, ensuring that administrative practices remain fair, transparent, and aligned with the principles of accountability. The Constitutional Court have used Art. 53 of the ECHR to emphasize that the interpretation of rights should always be done in the most favourable way for the individual. One decision was related to the compensation of properties, where the change of the cadastral entry significantly reduced the value of the compensation for the heirs. The Court found that the authorities had not respected the minimum standard previously established by the Constitutional Court and ECtHR case-law, violating legal certainty, proportionality and the right to due process. Relying on Art. 53, the Court underlined that national interpretations cannot limit the broader protection of fundamental rights, transforming this article into a guarantee of transparency, accountability and full protection of the individual before the administration.³²

The interplay of these provisions demonstrates the ECHR's holistic approach to human rights, where procedural safeguards, substantive protections, and broader principles of equality and accountability work together to create a robust framework for justice. Based on this background, the ACC has reinforced its role as a guardian of justice through its reliance

³¹ ACC, 2023, Decision No. 17; *Naidin v. Romania*, 2014, §32; *Denisov v. Ukraine* [GC], 2018, §§115–116.

³² ACC, 2022, Decision No. 33; *Beshiri and Others v. Albania*, 2020, §196.

on these principles, ensuring that administrative law serves both public interests and the fundamental rights of individuals.

3.2. Protection of Substantive Rights: Dignity, Equality, and Non-Discrimination

While the abovementioned articles primarily address procedural and substantive fairness, others, such as Art. 3; 8 and 14, extend the ECHR's reach to ensure broader protection against state overreach and discrimination.

Art. 3, which prohibits inhuman or degrading treatment, imposes a positive obligation on states to act with accountability in administrative matters that could lead to harm. The Constitutional Court referred to this article in cases where administrative inaction or inefficiency resulted in harm to individuals, emphasizing the state's obligation to prevent foreseeable harm and to investigate claims thoroughly (ACC, 2023, Decision No. 6). Art. 3 also underscores the importance of rigorous and transparent investigations, as delays or inadequate responses exacerbate harm and deny justice.³³ Its procedural dimensions are amplified by Art. 6, ensuring that allegations of mistreatment are examined thoroughly and fairly (ACC, 2023, Decision No. 6, paras. 7–8).

Art. 14 of the ECHR, which prohibits discrimination in the application of rights, plays a crucial role in administrative law by ensuring that individuals are treated equally. The Constitutional Court has applied this article to ensure that administrative decisions do not disproportionately disadvantage individuals based on race, religion, or other protected characteristics. For instance, in cases involving access to public services, the Constitutional Court referred to Art. 14 in conjunction with Art. 1 of Protocol No. 1 to emphasize that equal treatment is integral to procedural and substantive fairness.

The Constitutional Court has often linked Art. 14 of the ECHR to Art. 1 of Protocol No. 1, emphasizing that equal treatment is essential for the protection of rights to property and access to public services. In one case,

³³ ACC, 2023, Decision No. 6, p. 14, para. 5; "Ebru and Tayfun Engin Colak v. Turkey" (2006), §§74–75; "Angelova v. Russia" (2007), §§41, 48; "Cunha Martins da Silva Couto v. Portugal" (2015); "V.K. v. Croatia" (2012); "Veliyev v. Russia" (2010), §§173, 178; "Intiba v. Turkey" (2005), §§52–55; "Poiss v. Austria", §57; "Wiesinger v. Austria" (1991), §57; "Humen v. Poland [GC]" (1999), §66.

the claim of unequal treatment by the Supreme Court was examined in relation to the impact that the sentence had on the person's property and ability to support themselves (ACC, 2024, Decision No. 10).

In another case, discrimination in the workplace and loss of income were treated as a violation of the right to enjoy the right to property equally (ACC, 2024, Decision No. 77). These decisions show that Art.14, in combination with Art.1 of Protocol No. 1, guarantees real equality in the exercise of rights over property and vital resources.

Discrimination, whether direct or indirect, undermines the principles of fairness and equality, also recognized by the ECHR. In one case, the applicant claimed that they were a victim of unequal treatment, while court decisions had produced discriminatory consequences, violating equality before the law and the right to due process. The Constitutional Court emphasized that discrimination is not limited to direct treatment but also includes practices or omissions that bring indirect and disproportionate consequences. Therefore, the Constitutional Court reiterated that the principle of non-discrimination is a fundamental element of the Convention, closely linked to all substantive and procedural rights, and that any form of discrimination undermines the foundations of equality and is incompatible with its standards (ACC, 2024, Decision No. 64, p. 17, para. 4).

Art. 14 of the ECHR often operates in conjunction with other provisions, such as Art. 1 of Protocol No. 1 or Art. 6, to address disparities in treatment and ensure that administrative actions do not disproportionately disadvantage specific groups (ACC, 2024, Decisions No. 77, 10). In its case-law, the Constitutional Court has interpreted Art. 3; 8 and 14 of the ECHR together, extending the protection beyond procedural and property boundaries. Art. 3 has been used by the ACC to emphasize the obligation of the State to avoid inhumane treatment arising from delay or administrative omissions. Art.14 has served to link the principle of non-discrimination with the exercise of other rights, preventing unequal treatment in access to justice or public services. Art. 8 has been applied in cases where administrative interventions have violated not only the property, but also the private life and legal security of individuals. In this context, the court has emphasized that the responsibility of the State is to guarantee equal treatment, dignity and effective protection of the private sphere, in accordance with the standards of the ECtHR.

Furthermore, the Constitutional Court has cited Art. 41 and 46 of the ECHR to emphasize the obligation of states to implement ECtHR judg-

ments and provide just satisfaction for rights violations. In one case, it was highlighted that non-compliance with procedural deadlines and uncertainties over the property violated these standards (ACC, 2023, Decision No. 59). In another case, it was highlighted that the lack of clear compensation mechanisms created a disproportionate burden, relying on Art. 41 on remuneration and Art. 46 on systemic implementation of standards (ACC, 2022, Decision No. 33). In other decisions, the court has underlined that these articles impose not only individual, but also structural obligations to prevent the repetition of violations and to ensure real and effective compensation (ACC, 2024, Decisions No. 24 and 25; ACC, 2023, Decision No. 13).

Other provisions, such as Art. 8, which protects private and family life, and Art. 7, which prohibits retroactive penalties, address specific issues within administrative law. Art. 8 has been invoked in cases involving housing, environmental policies, and urban planning, where administrative actions have the potential to interfere with personal interests disproportionately. The Constitutional Court referred to Art. 8 to ensure that such actions are balanced against the need to protect public interests.

The ACC has emphasized that procedural delays and administrative interventions affect not only the right to a due process, but also the private, family and professional life of the individual, creating uncertainty and violation of dignity (ACC, 2022, Decision No. 17). Furthermore, exclusion from professional opportunities or unequal treatment are considered violations of personal and professional integrity, protected by Art. 8 in conjunction with the principle of equality (ACC, 2022, Decision No. 27). It is important to mention that Art. 8 has been also used to protect individuals from unjustified exclusions or excessive interference affecting the private and professional spheres (ACC, 2024, Decision No. 77; ACC, 2023, Decisions No. 17 and 42). This shows that the court interprets Art. 8 broadly as a guarantee not only for intimate and family life, but also for professional integrity and equality before the administration.

Similarly, Art. 7 of the ECHR has been applied to safeguard individuals from retroactive penalties, ensuring that administrative sanctions adhere to established legal frameworks. In one matter, the key element was related to the punishment of the applicant on the grounds of a legal norm that was not in force at the time when the alleged act was committed. The Constitutional Court, referring to Art. 7 of the ECHR, emphasized that any administrative punishment must be based on a clear and predicta-

ble legal framework, which provides legal certainty and protection against arbitrariness. This decision shows that the main issue was legal predictability, which not only violates the principle of legality, but also violates the trust of individuals in the legal system. By giving importance to these standards, the Constitutional Court helped strengthen the protection of people from unfair punishments and used Art. 7 to make sure the administration only acts within the law (ACC, 2024, Decision No. 72).

4. Conclusions

This paper examined the application of the ECHR and its case-law by the ACC in administrative cases. In addition, it showed the importance of individual constitutional complaints in the Albanian legal system. Furthermore, it aimed to show the application of an intersectoral approach – human rights and administrative disputes – by the ACC.

In particular, this paper showed that the ACC has expressly referenced human rights codified in the ECHR norms and the ECtHR's case-law in administrative cases. The main topics where the issues of human rights were referenced are: 1. Unconstitutionality of administrative acts, 2. Fair trial and Due process; 3. Judicial Delays and Timely Process; 4. Property Rights and Expropriation and 5. Access to Justice and Effective Remedies. The ACC has applied not only the ECHR but also its Protocols, such as Protocol No. 1 and No. 12. However, the main articles that have been referred to were Art. 6 (Right to fair trial), Art. 13 (Right to an effective remedy), and Art. 1 of Protocol No. 1 (Protection of property).

Art. 6 of the ECHR safeguards procedural fairness by ensuring timely and impartial hearings, addressing delays and power imbalances in administrative processes. The ACC aligns with the Albanian policy: the original version of the current constitution, adopted in 1998, emphasized the importance of protecting the right to a fair trial by establishing an individual constitutional complaint. In addition, Law No. 38/2017 of 30 March 2017 included the notion of reasonable deadline for the first time in the Albanian legal democratic history. Quite connected with the violation of Art. 6 of the ECHR is also Art. 13, which strengthens the right to effective remedies, allowing individuals to legally challenge violations of their rights in a meaningful way.

Although Art. 1 of Protocol No. 1 protects property rights, in several cases related to expropriation, the ACC has underlined that administrative actions affecting possessions shall be lawful, proportionate, and shall include fair compensation. The continued application of Art. 1 of Protocol No. 1 of the ECHR shows the importance of the right to private property in Albania in administrative disputes as well. Indeed, while the communist regime protected only personal property, the current constitution recognizes the protection of all kinds of private property (Venditti, Veshi & Koka, 2020).

Interestingly, in addition to the application of norms related to private law (i.e. Art. 1 of Protocol No. 1 of the ECHR), Constitutional Court has also applied norms that are related to criminal law (i.e. Art. 5/5 of Protocol No. 1 of the ECHR) by underlying the importance of a fair compensation. The convergent application of norms typically related to private or criminal laws shows that a state's actions can damage the entire spectrum of human rights.

Thus, Sect. 2.1 underlined that individual constitutional complaint was established in 1998 and its original version limited the individual constitutional complaint only to fair trial. Due to the Vetting process, as well as its original acknowledgement in 1998, fair trial and Art. 6 were among the main topics valued by the ACC. Furthermore, during the communist regime, private property – as a liberal concept known as today (Venditti, Veshi & Koka, 2020) – was abolished. The new private property rules established in 1990s brought several problems. Therefore, Art. 1 of Protocol No. 1 of the ECHR was also one of the main norms applied by the ACC. As a result, the historical legal approach could also explain why judges of the ACC have applied these two norms.

Although this research included only the case-law from 1 January 2022 to 31 December 2024, the doctrine has underscored the importance of the role of precedence in the decision of Constitutional Courts (Gerhardt, 1991). This is specific also in the case of Albania, in both civil (Koka & Sheme, 2025) and criminal (Veshi, Koka & Pupe, 2025) case-law.

To conclude, this paper illustrated that the ACC is aware of the role of the ECHR and eager to apply the ECtHR's case-law also in administrative cases. Analysis of the majority of the decisions for the period January 2022 to December 2024 shows that judges of the ACC referred at least to the relevant ECHR norms, or to the ECtHR's case-law. This research

unambiguously confirms the application of intersectoral approach in Albanian constitutional jurisprudence.

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THE APPLICATION OF THE EUROPEAN CONVENTION ON
HUMAN RIGHTS AND ITS JURISPRUDENCE
BY THE ALBANIAN CONSTITUTIONAL COURT
IN ADMINISTRATIVE DISPUTES

Summary

This paper examines how Albania's Constitutional Court has contributed to strengthening democratic civil society through the protection of human rights, particularly in the realm of administrative law, following the 2016 constitutional reform. Since then, individuals can directly file constitutional complaints in cases of alleged fundamental rights violations—an essential indicator of democratic maturity. Between 1 January 2022 and 31 December 2024, the Court issued 197 decisions on individual constitutional complaints. In 2024, 90% (76 out of 84) of decisions involved such complaints, with 32% (27 cases) relating to administrative law. Among these, 89% referenced the European Convention on Human Rights (ECHR), 37% cited the European Court of Human Rights (ECtHR) case-law, and 37% referred to both. In 2023, 91% (64 out of 70) of decisions addressed individual complaints, with 43% (30 cases) involving administrative law. Of these, 80% applied the ECHR, 40% cited ECtHR case-law, and 37% referenced both. In 2022, 81% (35 out of 43) of decisions addressed individual complaints, with 51% (18 cases) concerning administrative matters. Among these, 67% invoked the ECHR, while 44% cited ECtHR jurisprudence, and 44% referred to both. The most frequent human rights themes were: (1) unconstitutionality of administrative acts; (2) fair trial and due process; (3) judicial delays; (4) property rights and expropriation; and (5) access to justice. The most frequently applied provisions were Art. 6 (right to a fair trial), Art. 13 (effective remedy), and Art. 1 of Protocol No. 1 (protection of property). Albania's evolving jurisprudence illustrates a growing alignment with international human rights standards and highlights the increasing role of constitutional adjudication in safeguarding individual freedoms against administrative action.

Keywords: Albania, European Convention on Human Rights, Human Rights, Administrative Disputes, Constitutional Court

PRIMJENA EUROPSKE KONVENCIJE ZA ZAŠTITU LJUDSKIH PRAVA I TEMELJNIH SLOBODA I SUDSKE PRAKSE EUROPSKOG SUDA ZA LJUDSKA PRAVA PRED ALBANSKIM USTAVNIM SUDOM U UPRAVNIM SPOROVIMA

Sažetak

U radu se analizira doprinos Ustavnog suda Albanije jačanju demokratskoga građanskog društva kroz zaštitu ljudskih prava, osobito u upravnom pravu, nakon ustavne reforme iz 2016. godine. Od tada pojedinci mogu izravno podnositi ustavne tužbe u slučajevima navodnih povreda temeljnih prava što predstavlja važan pokazatelj demokratske zrelosti. Od 1. siječnja 2022. do 31. prosinca 2024. sud je donio 197 odluka o individualnim ustavnim tužbama. U 2024. godini 90 % odluka (76 od 84) odnosilo se na takve tužbe, pri čemu se 32 % (27 predmeta) odnosilo na upravno pravo. Među njima se u 89 % predmeta upućivalo na Europsku konvenciju za zaštitu ljudskih prava i temeljnih sloboda (EKLJP), u 37 % na praksu Europskog suda za ljudska prava (ESLJP), dok se u 37 % upućivalo i na EKLJP i na praksu ESLJP-a. U 2023. godini 91 % odluka (64 od 70) odnosilo se na individualne ustavne tužbe, od kojih je 43 % (30 predmeta) bilo povezano s upravnim pravom. Među njima je u 80 % primijenjen EKLJP, u 40 % citirana je praksa ESLJP-a, a u 37 % upućivalo se na oboje. U 2022. godini 81 % odluka (35 od 43) odnosilo se na individualne ustavne tužbe, pri čemu se 51 % (18 predmeta) odnosilo na upravne stvari. Među njima se u 67 % pozivalo na EKLJP, u 44 % na praksu ESLJP-a, dok se u 44 % upućivalo i na EKLJP i na praksu ESLJP-a. Najčešće teme u području ljudskih prava bile su (1) neustavnost upravnih akata, (2) pravo na pravično suđenje i postupovna jamstva, (3) prekomjerno trajanje sudskih postupaka, (4) pravo vlasništva i izvlaštenje te (5) pristup sudu. Najčešće primjenjivane odredbe bile su članak 6. (pravo na pravično suđenje), članak 13. (pravo na djelotvorno pravno sredstvo) i članak 1. Protokola br. 1 (zaštita vlasništva). Razvoj albanske sudske prakse pokazuje sve veću usklađenost s međunarodnim standardima zaštite ljudskih prava te naglašava rastuću ulogu ustavnog sudovanja u zaštiti individualnih sloboda od djelovanja uprave.

Ključne riječi: Albanija, Europska konvencija za zaštitu ljudskih prava, ljudska prava, upravni sporovi, ustavni sud