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THE APPLICATION OF THE ECHR AND ITS JURISPRUDENCE BY ALBANIAN CONSTITUTIONAL JUDGES IN CRIMINAL DISPUTES¹

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Abstract

The application of human rights is one of the main variables that measure the democratic status of a country. While in traditional literature, public law, which includes human rights, and criminal law were divided, in recent years, judges have also applied human rights in legal decisions related to criminal cases. This is more evident in the case of Albania, where an individual constitutional complaint against the violation of human rights has also been established in the Constitution. In other words, after the decision of the Supreme Court, citizens have direct access to the Constitutional Court, if their human rights have been violated. This paper studies the individual constitutional complaints in criminal cases in Albania. The case of Albania was chosen as one of the countries with a previous totalitarian regime. After

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identifying the criminal cases where human rights have been applied, this paper reviews the application of human rights in concrete disputes. In the conclusions reached, the research underlines the application of international human rights by Albanian constitutional judges.

Keywords: Albania, ECHR, Human Rights, Criminal Cases, Constitutional Court

Introduction

Albania was recognized as an independent country only in 1912. Quite interestingly, during the XXth century, Albania changed its constitutional background several times in less than ninety years.

During the time from 1914, the beginning of the first Albanian basic law, to the current constitution of 1998, Albania has changed its constitutional background six times: constitutional principate (1914), parliamentary republic (1925 and 1991, confirmed in 1998), democratic monarchy (1928), constitutional monarchy (1939), people's republic (1950), and socialist republic (1976). For clarity purposes, the current constitution was established in 1998, although in 1991, Law No. 7491 of 29.4.1991 *On Main Constitutional Provisions* established the new democratic regime.

Other Western European countries have had their constitutions for several decades, where fundamental human rights have been protected. For instance, the Italian Constitution of 1948 focuses on Part I (Arts. 13-54) on citizens' rights and duties, including ethical, social, economic, and political rights. The German Constitution of 1949 starts with a Section on basic rights (Arts. 1-19). The Spanish Constitution of 1978 focuses on Part I (Arts. 10-55), which includes public freedom and economic and social policy.

The *Statuti Organik i Shqipërisë* (Organic Statute of Albania) of 1914, Chapter III (Arts. 22-39) entitled Population, established the protection of fundamental human rights. Art. 27 established the principle of equality,⁴ and Art. 28 establishes the prohibition of self-justice,⁵ and Art. 29 states that "individual freedom is guaranteed" [authors' translations]. Thus, "no one may be prosecuted, imprisoned or in any way infringed upon his personal freedom, except in the cases provided for by law and in legal forms" [authors' translations]. In addition, "no one may be excluded from appearing before a court established by law, nor be subject to a punishment provided for by law" [authors' translations]. In other words, Art. 29 of the Organic Statute of Albania of 1914 codifies some of the most critical criminal principles, such as legality, legal certainty or specificity, and fair trial.

This paper focuses on the application of human rights by Albanian constitutional judges in criminal disputes. Albania's case was chosen for three

⁴ 27. All Albanian citizens are equal before the law.

⁵ 28. No one may exercise self-justice in any form, whatsoever, otherwise he shall be subject to the punishment provided for by law.

main reasons. First, as explained above, Albania changed its constitution several times in the previous century. Second, during the totalitarian regime, human rights were frequently violated (Abrahams, 1996; Gibney, 1997). Third, Albanian integration into the EU is composed of six clusters: 1. Fundamentals; 2. Internal Market; 3. Competitiveness and Inclusive Growth; 4. Green Agenda and Sustainable Connectivity; 5. Resources, Agriculture and Cohesion; and, 6. External Relations. Cluster 1 is called Fundamental Clusters. Within it, Chapter 1 is entitled Judiciary and Fundamental Rights.

This paper applies a case-law study by reviewing the decisions of the Albanian constitutional court in the last three years, from 1st January 2022 to 31st December 2024. Adopting a case-law-based approach is particularly relevant in the Albanian context, where academic output is notably low, ranking last in Europe (NHR, 2024; Euronews, 2023). In other words, the paper does not aim to provide an exhaustive doctrinal analysis; it simply addresses a fundamental question: To what extent do Albanian constitutional judges apply the European Convention on Human Rights (ECHR) and its jurisprudence in national criminal disputes?

The innovative part of this paper lies in the correlation of human rights with criminal disputes by Albanian constitutional judges. The paper underlines the intersection between human rights and criminal law. In addition, it shows the importance of international human rights law in the Albanian legal system through a judiciary application. Although there are more than 200 treaties, the ECHR established the possibility of individual access under the admissibility criteria (Arts. 34-35 ECHR) (Gamble et al., 2001; Böckenförde & Sabsay, 2013).

This research is divided as follows: Section 2 identifies the cases where Albanian constitutional judges have applied or referred to human rights concerning criminal law issues, Section 3 uncovers concrete cases where Albanian judges have referred to human rights in interpreting national law in criminal matters. In conclusion, this research emphasizes the application of human rights by Albanian constitutional judges in criminal disputes by underscoring the importance of an intersectoral legal approach as well as the jurisprudence of the European Court of Human Rights (ECtHR). In addition, it shows the importance of individual constitutional complaints as an instrument to protect the interests of Albania as well as to filter the decisions that will go before the ECtHR.

Identification of Individual Constitutional Complaints related to Criminal Disputes

This section applies a constitutional judicial approach for three main reasons. First, the Constitutional Court is bound solely by the Constitution (Article 124(2) of the Constitution). Second, the decisions of the Constitutional Court are binding for enforcement (Article 132(1) of the Albanian Constitution). Third, the 2016 constitutional reform introduced individual constitutional complaints (Article 131(1)(f) and Article 4(1)(i) of the Albanian Constitution)

(Anastasi, 2021). In other words, in Albania, individuals can access the Albanian Constitutional Court directly after the decision of the High Court, if the judicial decision violates their fundamental rights and freedoms guaranteed in the Constitution. This approach is different than other countries, such as Italy, France, or Portugal, but similar to some countries, such as Germany or Spain (Pupe, 2023).

This section includes only the individual constitutional complaints dealing with criminal law issues in the last three years. It considers the application of the ECHR articles, which cover several aspects of human rights, as well as its case law. The statistics mentioning the cases where the ECHR articles have been included without citing the ECtHR case law aim to show that Albanian judges have applied the ECHR articles to justify their decisions by directly interpreting these articles.

While the annex presents annual tables to facilitate data visualization, the present section provides a descriptive examination of their content. Each table systematically categorizes the relevant topics and subtopics, indicating the corresponding headings of the criminal code, the specific articles under which charges are brought, and their official English translations. The final two columns establish a linkage with the applicable provisions of the ECHR and the pertinent case law of the ECtHR.

In concrete, in 2024, while 76 out of 86 decisions dealt with individual constitutional complaints, only 23 dealt with individual constitutional complaints dealing with criminal law issues (Albanian Constitutional Court, Decisions Nos. 4, 8, 10, 12, 13, 17, 18, 19, 22, 29, 32, 40, 42, 46, 49, 61, 63, 70, 79, 81, 83, 86, 2024). Of 23 individual constitutional complaints dealing with criminal law issues, in 21, constitutional judges applied the ECHR (Albanian Constitutional Court, Decisions No. 4, 8, 12, 13, 17, 18, 22, 27, 29, 32, 40, 42, 46, 61, 63, 70, 79, 81, 83, 86, 2024); in 15, constitutional judges referred to the ECtHR's case law (Albanian Constitutional Court, Decisions No. 4, 13, 17, 18, 19, 22, 29, 40, 42, 49, 61, 70, 81, 83, 86, 2024); and in 14, constitutional judges referred both to the ECHR and the ECtHR's case law (Albanian Constitutional Court, Decisions No. 4, 8, 13, 17, 18, 19, 22, 29, 40, 42, 61, 70, 81, 83, 86, 2024). From among 23 individual constitutional complaints dealing with criminal law issues, the decision with the highest number of ECHR's articles cited without repetition is decision No. 83 of 05.12.2024, while the decision with the highest number of ECtHR's cases cited without repetition is decision No. 81 of 21.11.2024.

In 2024, the main topics that Albanian constitutional judges used in the ECHR's articles or ECtHR's jurisprudence are Article 6 (right to fair process), Article 5 (freedom and security), Article 1 of Protocol No. 1 (protection of property), and Articles 7 (no punishment without law), 13 (right to an effective

remedy), 14 (prohibition of discrimination), and 18 (limitation on use of restrictions on rights) of the ECHR. In contrast, for the year 2024, the criminal charges brought against defendants in cases where Albanian constitutional judges engaged with international human rights norms were mostly limited to two categories: the production and sale of narcotics, and the laundering of proceeds derived from criminal activity.

Of the 23 individual constitutional complaints dealing with criminal law issues, in only 12 cases did the Constitutional Court accept the defendant's requests (Albanian Constitutional Court, Decisions No. 4, 13, 18, 19, 22, 29, 40, 49, 79, 83, and 86, 2024). From these 12, four were partially accepted (Albanian Constitutional Court, Decisions No. 42, 63, 70, 81, 2024). In addition, from these 23 individual constitutional complaints dealing with criminal law issues, in only nine cases⁶ did the Constitutional Court have dissenting opinions.

⁶ The cases with dissenting opinions by the Constitutional Court in 2024 are: Decision No. 4 of 31.01.2024 (Fiona Papajorgji, Sandër Beci, and Ilir Toska: while the majority rejected the defendant's reasoning, these judges aimed to accept the rejection of the High Court, Criminal Session); Decision No. 19 of 21.03.2024 (Marsida Xhaferllari and Sonila Bejtja: while the majority rejected the applicant's reasoning, these judges aimed to uphold the applicant's challenge against the High Court's decision.); Decision No. 22 of 04.04.2024 (Elsa Toska: while the majority rejected the applicant's standing, this judge aimed to accept the rejection of the High Court, Criminal Session); Decision No. 27 of 11.04.2024 (Holta Zaçaj and Ilir Toska: while the majority accepted the applicant's reasoning, these judges aimed to reject the applicant's claims against the High Court, Criminal Session); Decision No. 29 of 16.04.2024 (Sonila Bejtja: while the majority rejected the applicant's reasoning, this judge aimed to accept the challenge against the High Court, Criminal Session); Decision No. 32 of 23.04.2024 (Elsa Toska, Sandër Beci, Ilir Toska, and Marjana Semini: while the majority accepted the applicant's reasoning, these judges aimed to reject the applicant's claims against the High Court, Criminal Session.); Decision No. 40 of 14.05.2024 (Marsida Xhaferllari, Fiona Papajorgji, Sonila Bejtja, and Sandër Beci: while the majority rejected the applicant's reasoning, these judges aimed to accept the applicant's claims against the High Court, Criminal Session.); Decision No. 49 of 20.06.2024 (Holta Zaçaj, Sonila Bejtja, and Genti Ibrahim: while the majority rejected the applicant's reasoning, these judges aimed to accept the applicant's claims against the Prosecution and the decisions of the regular courts); Decision No. 81 of 21.11.2024 (Fiona Papajorgji and Ilir Toska: while the majority partially accepted the applicant's claims, these judges aimed to reject the request entirely regarding the High Court, the Special Court of First Instance, and the Special Court of Appeal for Corruption and Organized Crime)

In 2023, while 61 out of 70 decisions dealt with individual constitutional complaints, only 11 dealt with individual constitutional complaints dealing with criminal law issues (Albanian Constitutional Court, Decisions No. 19, 24, 30, 38, 45, 47, 48, 51, 56, 58, 63, 2023). Of 11 individual constitutional complaints dealing with criminal law issues, in eight cases, the constitutional judges applied the ECHR (Albanian Constitutional Court, Decisions No. 19, 24, 38, 48, 51, 56, 58, 63, 2023); in five cases, the constitutional judges referred to the ECtHR's case law (Albanian Constitutional Court, Decisions No. 19, 30, 51, 58, 63, 2023); and in four cases, the constitutional judges referred both to the ECHR and the ECtHR's case law (Albanian Constitutional Court, Decisions No. 19, 51, 58, 63, 2023). In 2023, the decision with the highest number of ECHR's articles cited without repetition is decision No. 38 of 12.07.2023, while the decisions with the highest number of references to ECtHR's case law without repetition is decision No. 58 of 13.11.2023.

In 2023, the main topics that Albanian constitutional judges used in the ECHR's articles or ECtHR's jurisprudence are Article 6 (right to fair process), Article 5 (freedom and security), Article 3 (prohibition of inhuman treatment), Article 13 (right to an effective legal remedy), Article 1 of Protocol No. 1 (protection of property), as well as Article 4 of Protocol No. 7 (right not to be tried or punished twice). In contrast, for the year 2023, the criminal charges brought against defendants in cases where Albanian constitutional judges engaged with international human rights norms were mostly limited the following categories: were intentional murder and in other qualifying circumstances, possession and production of weapons without a permit, trafficking and sale of narcotics, fraud, theft of weapons, intentional injury, as well as favoring illegal entry into the territory of the state.

From these 11 individual constitutional complaints dealing with criminal law issues, only in five cases the Constitutional Court accepted the defendant's requests (Albanian Constitutional Court, Decisions No. 19, 30, 38, 47 and 58, 2023). From these five, three were partially accepted (Albanian Constitutional Court, Decisions No. 45, 56, 63, 2023). In addition, from the 11 individual constitutional complaints dealing with criminal law issues, only in nine cases⁷ the Constitutional Court had dissenting opinions.

⁷ The cases with dissenting opinions by the Constitutional Court in 2024 are: Decision No. 19 of 04.04.2023 (Sonila Bejtja and Ilir Toska: while the majority rejected the applicant's reasoning, these judges aimed to accept the challenge against the High Court, Criminal Session); Decision No. 24 of 27.04.2023 (Marsida Xhaferllari: while the majority accepted the applicant's reasoning, this judge aimed to accept the rejection of the High Court, Criminal Session); Decision No. 30 of 29.05.2023 (Ilir Toska and Sonila Bejtja: while the majority rejected

In 2022, while 35 out of 43 decisions dealt with individual constitutional complaints, only 11 dealt with individual constitutional complaints dealing with criminal law issues (Albanian Constitutional Court, Decisions No. 5, 6, 10, 12, 14, 20, 21, 25, 32, 34, 2022). Of 11 individual constitutional complaints dealing with criminal law issues, in nine, the constitutional judges applied the ECHR (Albanian Constitutional Court, Decisions No. 5, 6, 10, 12, 14, 20, 21, 25, 32, 2022); in four, the constitutional judges referred to the ECtHR's case law (Albanian Constitutional Court, Decisions No. 5, 6, 32, 34, 2022), and in three, the constitutional judges referred to both the ECHR and the ECtHR's case law (Albanian Constitutional Court, Decisions No. 5, 6, 32, 2022). Of 11 individual constitutional complaints dealing with criminal law issues, the decision with the highest number of ECHR's articles cited without repetition is decision No. 20 of 22.09.2022, and decision No. 21 of 26.09.2022, while the decision with the highest number of references to ECtHR's case law without repetition is decision No. 5 of 22.02.2022.

In 2022, the main topics that Albanian constitutional judges have used in the ECHR's articles or ECtHR's jurisprudence are Article 6 (right to fair process), Article 5 (freedom and security), Article 7 (legality of criminal punishment), Article 13 (right to an effective remedy), Article 14 (prohibition of discrimination), as well as Articles 1 (obligation to respect human rights), 15 (derogation in time of emergency), 16 (restrictions on political activity of aliens), 17 (prohibition of abuse of rights) and 18 (limitation on use of restrictions on rights) of the Convention. In some cases, reference has also been made to Article 8 of the ECHR (right to respect for private and family life). In

the applicant's reasoning, these judges aimed to accept the challenge against the High Court, Criminal Session); Decision No. 38 of 12.07.2023 (Sandër Beci, Fiona Papajorgji and Marsida Xhaferllari: while the majority rejected the applicant's reasoning, these judges aimed to accept the challenge against the High Court, Criminal Session); Decision No. 45 of 03.10.2023 (Marsida Xhaferllari, Fiona Papajorgji, Ilir Toska and Marjana Semini: while the majority rejected the applicant's reasoning, these judges expressed a partially parallel opinion regarding the review of the applicant's claims; Decision No. 48 of 11.10.2023 (Holta Zaçaj, Elsa Toska, Ilir Toska and Genti Ibrahim: while the majority accepted the applicant's reasoning, these judges aimed to accept the rejection of the High Court, Criminal Session); Decision No. 51 of 18.10.2023 (Sandër Beci and Ilir Toska: while the majority accepted the applicant's reasoning, these judges aimed to accept the rejection of the High Court, Criminal Session); Decision No. 58 of 13.11.2023 (Holta Zaçaj, Marsida Xhaferllari, Sonila Bejtja, and Sandër Beci: while the majority accepted the applicant's reasoning partially, these judges aimed to accept the rejection of the High Court, Criminal Session); Decision No. 63 of 20.11.2023 (Sonila Bejtja: while the majority accepted the applicant's reasoning, this judge aimed to accept the rejection of the High Court, Criminal Session)

contrast, for the year 2022, the criminal charges brought against defendants in cases where Albanian constitutional judges engaged with international human rights norms were mostly limited the following categories: the crimes that the defendant was accused of were intentional and premeditated murder, intentional serious injury, coercion to give property, participation in a structured criminal group, trafficking in narcotics, illegal possession of military weapons and ammunition, fraud, forgery of documents, violent theft, as well as non-declaration or false declaration of assets.

From these 10 individual constitutional complaints dealing with criminal law issues, only in eight cases⁸ did the Constitutional Court accept the defendant's requests. From these eight, three were partially accepted (Albanian Constitutional Court, Decisions No. 10, 12, 32, 2022). In addition, from these 10 individual constitutional complaints dealing with criminal law issues, only in four cases⁹ did the Constitutional Court have dissenting opinions.

Examination of Criminal Cases in Correlation with Human Rights

This section analyzes how Albanian constitutional judges have applied human rights, in particular ECHR and its jurisprudence, in criminal cases, focusing on five main categories: 1. crimes against life, 2. crimes against state authority, 3. crimes against property and in the economic sphere, 4. criminal offenses affecting the administration of justice, as well as 5. offenses related to free elections and criminal organizations.

The Constitutional Court of Albania's handling of criminal cases related to crimes against life has highlighted the ongoing tension between the state's need to punish serious criminality and the obligation to guarantee a fair and equitable trial for every individual. This dilemma is mainly reflected in decision-making involving minors, security measures against publicly exposed

⁸ Thus, in the following cases, the Constitutional Court rejected the defendant's requests: Decision No. 14 of 21.06.2022; No. 25 of 13.10.2022.

⁹ The cases with dissenting opinions by the Constitutional Court in 2022 are: Decision No. 12 of 24.05.2022 (Altin Binaj dhe Elsa Toska: while the majority accepted the applicant's reasoning, these judges aimed to accept the rejection of the High Court, Criminal Session); Decision No. 25 of 13.10.2022 (Sandër Beci, Sonila Bejtja dhe Marsida Xhaferllari: while the majority accepted the applicant's reasoning, these judges aimed to accept the rejection of the High Court, Criminal Session); Decision No. 32 of 03.11.2022 (Ilir Toska, Sonila Bejtja dhe Altin Binaj: while the majority accepted the applicant's claims of breach of access to court by the High Court, these judges argued that the complaint should have been rejected as unfounded); Decision No. 34 of 17.11.2022 (Altin Binaj, Fiona Papajorgji dhe Ilir Toska: while the majority accepted the applicant's reasoning, these judges aimed to uphold the decision of the High Court, Criminal Session)

individuals, or cases with serious problems regarding the burden of proof and access to justice.

One case involving minors, which focused on the procedural protection for minors, turned out to be insufficient and is related to the non-implementation of Article 51 of the Criminal Code, which provides for the halving of the sentence for minors as a basic guarantee of criminal protection for this vulnerable category. Although the Constitutional Court found that this legal provision had not been respected (Tribunal of First Instance of Fier, Decision No. 319, 2001; Court of Appeal of Vlore, Decision No. 138, 2017; High Court of Albania, Decision No. 00-2023-739, 2023), it refused to describe the situation as a violation of the Constitution, avoiding an in-depth assessment of the consequences of this non-implementation in light of the rights protected by the Convention (Albanian Constitutional Court, Decision No. 13, 2024). Such a position contradicts the principle of criminal legality, enshrined in Article 7 of the ECHR, which codifies the principle *nullum crimen, nulla poena sine lege*. This is a fundamental pillar of the rule of law and requires not only the formal existence of the law, but also its predictable application for every individual, especially for persons in vulnerable situations such as minors. Respecting this legal guarantee affirms the Court's role as an active guardian of fundamental rights within the criminal justice process (Albanian Constitutional Court, Decision No. 13, 2024, by citing Nikitin v. Russia, ECtHR, 2004, §§ 55–57; Bujnița v. Moldova, ECtHR, 2007, § 20; Bota v. Romania, ECtHR, 2008, §§ 33–34; Lenskaya v. Russia, ECtHR, 2009, §§ 39–40; Giuran v. Romania, ECtHR, 2011, § 39; Yaremenko v. Ukraine (No. 2), ECtHR, 2015, §§ 52–56, 64–67).

Protecting the right to access the court has been at the center of several decisions where procedural formalism seriously affected the right to defense (Albanian Constitutional Court, Decisions No. 12, 27, 2024). Cases in which the request for appeal has been rejected for lack of a formal authorization from family members representing detained persons, or due to unjustified delays in the examination of claims for compensation, have been evaluated as violations of Article 6 of the ECHR.

Another important dimension is the positive obligation of the state to conduct effective investigations in cases of loss of life. In a case related to kidnapping and aggravated murder, the Constitutional Court highlighted that the lack of an immediate and independent investigation constituted a violation of the procedural aspect of Article 2 of the ECHR (Albanian Constitutional Court, Decision No. 42, 2024, by citing Prizren v. Albania, ECtHR, 2019, § 42; Jaloud v. the Netherlands [GC], ECtHR, 2014, § 186; Nachova and Others v. Bulgaria [GC], ECtHR, 2004, § 160). On the contrary, when the existence of a concrete danger to the life of an individual in a public environment is not

proven, the state cannot be held liable in the material or procedural aspect of Article 2, in accordance with the ECtHR standard (Albanian Constitutional Court, Decision No. 49, 2024).

Article 6 of the ECHR has also been used to evaluate cases related to the defendant's deterioration of position without a prosecution appeal. The Constitutional Court has emphasized that changing the criminal classification without an appeal by the prosecuting body contradicts the equality of arms and the principle of legal certainty (Albanian Constitutional Court, Decision No. 46, 2024).

The principle of presumption of innocence has been violated in some cases where the criminal conviction has been based on weak indications, such as the presence at the scene without a complete analysis of the material evidence. Based on the ECtHR's jurisprudence, Albanian constitutional judges have emphasized that any doubt must be interpreted in favor of the accused and that guilt must be based on clear and verifiable evidence (Albanian Constitutional Court, Decision No. 63, 2023).

In other words, the principle of the presumption of innocence means that instances have arisen in which the mere presence of the accused at the *locus delicti* has been treated as sufficient for establishing criminal liability, absent a comprehensive evidentiary analysis capable of substantiating guilt. Such an approach is incompatible with the standard of proof required in criminal adjudication, namely the requirement that guilt be established beyond reasonable doubt. This evidentiary threshold serves as a cornerstone of procedural fairness, ensuring that the burden of proof lies entirely with the prosecution and that no individual is convicted in the face of residual uncertainty. Failure to adhere to this standard not only erodes the normative force of the presumption of innocence but also threatens the legitimacy of the judicial process and the protection of fundamental rights.

Transparency of evidence and equality of arms have also been in focus in cases where the accusation was based on classified data, provided by foreign intelligence services, without being made available to the defense. Although the security measure was not repealed, the Constitutional Court found that there were violations of Articles 5 and 6 of the ECHR for lack of transparency and inequality in the process (Albanian Constitutional Court, Decision No. 63, 2024).

In another case, most constitutional judges judged the measure of arrest in prison against a candidate for mayor to be lawful for reasons of public security (Albanian Constitutional Court, Decision No. 19, 2023). However, a dissenting opinion raised concerns about the lack of an in-depth proportionality

analysis, especially in the context of an election campaign, referring to the ECtHR's jurisprudence linking criminal detentions to political influence (Albanian Constitutional Court, Decision No. 19, 2023, by citing *Selahattin Demirtaş v. Turkey* (No. 2), ECtHR, 2020).

Beyond these issues, the Albanian constitutional jurisprudence has exposed persistent problems with procedural formalism. Cases where convicts have been excluded from appeal for lack of a formal document, even though they were in custody, have been considered as unjustified restrictions on the right to a fair trial, based on the ECtHR jurisprudence (Albanian Constitutional Court, Decision No. 32, 2022; *Zubac v. Croatia* [GC], ECtHR, 2018, § 98) The lack of examination of allegations of unlawful evidence and the failure to guarantee the presumption of innocence are also evidence of a superficial procedural approach (Albanian Constitutional Court, Decision No. 38, 2023). Finally, the Court has explicitly emphasized that formal representation is not sufficient to ensure a fair trial. The right to legal aid must be practical and effective, in accordance with Article 6 of the ECHR and relevant jurisprudence (Albanian Constitutional Court, Decision No. 34, 2022, by citing *Daud v. Portugal*, ECtHR, 1998, § 38; *Artico v. Italy*, ECtHR, 1980, §§ 33, 36; *Czekalla v. Portugal*, ECtHR, 2002, §§ 65, 71).

Following this analysis, the decisions of the Constitutional Court of Albania related to crimes against the authority of the state show a constant confrontation between the need to maintain institutional authority and the obligation to respect the fundamental rights of the individual. Albanian judges are often faced with the dilemma of whether to prioritize the maintenance of order and the functioning of public bodies, or the effective protection of procedural rights guaranteed by the ECHR.

In some cases, the Court has avoided directly applying the standards of the Convention, treating measures that directly affect individual rights as purely procedural matters. This is what happened when a disciplinary measure against a lawyer did not activate the protection of Article 6 of the ECHR, although it had an impact on professional reputation, and there was no avenue for appeal (Albanian Constitutional Court, Decision No. 22, 2024). This approach has been criticized in the dissenting opinion as contrary to Article 13 of the ECHR and to the ECtHR's interpretation that emphasizes the effective protection of rights at every stage of the process (Albanian Constitutional Court, Decision No. 22, 2024, dissenting opinion, p. 1, by citing *Gestur Jónsson and Ragnar Halldór Hall v. Iceland* [GC], ECtHR, 2020, §§ 81, 89).

In cases involving the seizure of property for reasons of criminal investigations for corruption, the Court has emphasized the legality of the measures taken by the state, linking them to the public interest and national

security. However, the dissenting opinion judged that the lack of individual assessment of the owner and the proportionality analysis constitutes a violation of Article 1 of Protocol No. 1 of the ECHR, which requires a fair balance between public interest and the right of the individual to enjoy his property (Albanian Constitutional Court, Decision No. 29, 2024, dissenting opinion, p. 3; *Agosi v. United Kingdom*, ECtHR, 1986, § 54; *Silickiene v. Lithuania*, ECtHR, 2012, § 66).

More clearly, the Court has upheld the right to a fair trial in cases where defendants have been convicted *in absentia*. The Constitutional Court has emphasized that participation in the process must be real and not just formal, finding violations of Article 6 of the ECHR when a person has been convicted without being present and without a real opportunity for protection of all legal rights (Albanian Constitutional Court, Decision No. 32, 2024).

In cases related to the treatment of detainees, the Court has taken a more conservative stance. It emphasized that, as long as there is a possible health treatment in the penitentiary system, there is no violation of Article 3 of the ECHR (Special Court of First Instance against Corruption and Organized Crime, Decision No. 269, 2022; Special Court of Appeal against Corruption and Organized Crime, Decision No. 180, 2022; High Court of Albania, Decision No. 00-2023-313, 2023; Albanian Constitutional Court, Decision No. 40, 2024). However, a dissenting opinion has pointed out that the lack of an independent forensic assessment constitutes a serious violation of the right to protection from inhumane treatment (Albanian Constitutional Court, Decision No. 40, 2024, dissenting opinion, p. 4, by citing *Melnik v. Ukraine*, ECtHR, 2006, § 94). In another similar case, the seizure of a strategic asset for more than 21 months was considered justified by the majority, while the dissenting noted that such a measure, without a clear proportional assessment, does not respond to the ECtHR jurisprudence's requirements for balancing between the state's intention and the right of the individual (Albanian Constitutional Court, Decision No. 79, 2024).

In dealing with the security measures for people accused of corruption, the Court has supported the formal legality of the measure but has neglected the consideration of the possibilities for alternative measures (Special Court of First Instance against Corruption and Organized Crime, Decision No. 112, 2023; Special Court of Appeal against Corruption and Organized Crime, Decision No. 56, 2023). The dissenting opinion raised doubts about the lack of proportionality and possible discriminatory or political aims, contrary to Articles 14 and 18 of the ECHR, applied in the relevant ECtHR judgments (Albanian Constitutional Court, Decision No. 81, 2024, by citing *Assanidze v. Georgia* [GC], ECtHR, 2004, § 194; *De Tommaso v. Italy* [GC], ECtHR, 2017,

§§ 91, 104; *M.S. v. Belgium*, ECtHR, 2012, § 195; *Terheş v. Romania*, ECtHR, 2021, § 38).

Similar concerns have also been raised in the case where the Court has refused to consider the request for lifting a security measure on the grounds that it was no longer in force (Special Court of First Instance against Corruption and Organized Crime, Decision No. 112, 2023; Special Court of Appeal against Corruption and Organized Crime, Decision No. 56, 2023). The jurisprudence of the ECtHR (*Iladov v. Russia* [GC], ECtHR, 2012, § 161; *A. and Others v. United Kingdom* [GC], ECtHR, 2009, § 203; *Reinprecht v. Austria*, ECtHR, 2005, § 31; *Khlaifia and Others v. Italy* [GC], ECtHR, 2016, § 115; *Mooren v. Germany* [GC], ECtHR, 2009, § 106; *Marckx v. Belgium*, ECtHR, 1979, § 31; *Olsson v. Sweden* (No. 1), ECtHR, 1988, § 59; *Hutchison Reid v. United Kingdom*, ECtHR, 2003, § 65), has emphasized that the individual has the right to an effective review even after the end of the measure, if it has produced real consequences on his legal or personal status (Albanian Constitutional Court, Decision No. 83, 2024).

Positively, the Court has upheld the principle *ne bis in idem* and legal certainty in a case where a final criminal decision was amended after five years (High Court of Albania, Decision No. 00-2022-928, 2022). This action was considered a violation of Article 7 of the ECHR and an unacceptable interference with legal certainty (Albanian Constitutional Court, Decision No. 24, 2023).

Moreover, in dealing with criminal conviction cases without sufficient evidence, the Court has criticized the shift of the burden of proof to the defendant and has underlined that any conviction must be based on substantial evidence that meets the standard of proven beyond reasonable doubt (Albanian Constitutional Court, Decision No. 63, 2023).

Regarding the right to property, Albanian judges have dealt with the seizure of an apartment according to the anti-mafia law (Albanian Constitutional Court, Decision No. 25, 2022). Although the Court considered the measure to be temporary and lawful, the dissenting opinion emphasized that any measure that produces immediate consequences on the property must be subject to a proportionality analysis and procedural guarantees for the party.

Finally, it has been recognized that procedural obstacles cannot justify the denial of access to the court, as in the case when an appeal for lack of power of attorney was rejected, even though it existed. The Court emphasized the importance of guaranteeing effective protection and the right to family life in accordance with Articles 6 and 8 of the ECHR (Albanian Constitutional Court, Decision No. 6, 2022, by citing *Zubac v. Croatia* [GC], ECtHR, 2018, § 98).

The decision-making of the Constitutional Court of Albania in cases related to crimes against property and economic activity reflects a persistent tension between state interest in punishing criminal offences that violate financial and institutional integrity and the obligation to protect the fundamental rights of the individual during criminal proceedings. In this context, Albanian judges are faced with the dilemma between procedural formalism and a more substantial approach inspired by the ECHR, producing an unstable and often contradictory practice. Article 6 of the ECHR, which guarantees the right to a fair trial, has been one of the most contentious points in these cases. In some cases, the Constitutional Court has upheld the standard of procedural transparency and the necessity of open hearings (Albanian Constitutional Court, Decision No. 8, 2024), as well as emphasizing the need for real participation of the defense and thorough examination of the injured party's claims (Albanian Constitutional Court, Decision No. 61, 2024, by citing *Salabiaku v. France*, ECtHR, 1988, §§ 27–28; *Radio France and Others v. France*, ECtHR, 2004, § 24).

The respect for the guarantees of judicial impartiality is also considered. Situations where a judge participates in more than one phase of the criminal process have been evaluated as contrary to Article 6's requirements for an independent and impartial trial (Albanian Constitutional Court, Decision No. 21, 2022). Also, decisions that have imposed criminal liability on unjustified assumptions and without a precise analysis of the evidence have been judged contrary to the principle of legal certainty and the burden of proof in favor of the defendant (Albanian Constitutional Court, Decision No. 70, 2024 by citing *Navalnyy and Ofitserov v. Russia*, ECtHR, 2016, §§ 99, 115).

In the context of Article 5 of the ECHR, which relates to the right to liberty and security, the Court has examined cases of prolonged detention beyond legal limits and without clear justification. Such treatment has been considered a violation of the right to protection from arbitrary detention and to a regular review of security measures (Albanian Constitutional Court, Decision No. 56, 2023). At the same time, practices that restrict access to the court for formal reasons, such as rejecting the appeal for lack of documentation, even though it existed in the file, have also been criticized. These cases highlight formalism detrimental to the effective exercise of the right to defense (Albanian Constitutional Court, Decision No. 58, 2023, by citing *Saadi v. United Kingdom* [GC], ECtHR, 2008, § 67; *Mooren v. Germany* [GC], ECtHR, 2009, § 76; *Grubić v. Croatia*, ECtHR, 2012, § 37; *Steel and Others v. United Kingdom*, ECtHR, 1998, § 54).

Even outside the criminal sphere, in the conditions of the state of emergency, the Court has emphasized that restrictions on rights must be based on law and controlled by the courts (Albanian Constitutional Court, Decision

No. 12, 2022). The restriction of movement through the normative act without judicial review has been described as a violation of Articles 5 and 6 of the Convention.

Regarding Article 7 of the ECHR and the application of the *lex mitior* principle, the Constitutional Court has affirmed the right to benefit from the most favorable criminal law (Albanian Constitutional Court, Decision No. 20, 2022). In the area of the right to property, the implementation of Article 1 of Protocol No. 1 has highlighted different approaches (Albanian Constitutional Court, Decision No. 18, 2024). While the Court has justified measures such as seizure on the basis of public interest, judicial minorities have emphasized the lack of a proportionality analysis and assessment of the concrete situation of the possessor of the property (Albanian Constitutional Court, Decision No. 25, 2022, majority opinion; Albanian Constitutional Court, Decision No. 79, 2024). This absence has been considered as a violation of the requirement for a balance between the public interest and the protection of private property as cited by the ECtHR (*Căpățină v. Romania*, ECtHR, 2023, § 32; *Łysak v. Poland*, ECtHR, 2021, § 65; *Džinić v. Croatia*, ECtHR, 2016, § 48; *Benet Praha, Spol. S R.O. v. Czech Republic*, ECtHR, 2011, § 77).

Regarding criminal evidence, the Court has taken a critical stance towards convictions based on incomplete or insufficient evidence, emphasizing the importance of basing guilt on clear and indisputable evidence, in line with the principle of "proven beyond reasonable doubt" (Albanian Constitutional Court, Decision No. 63, 2023, by citing *Salabiaku v. France*, ECtHR, 1988, §§ 27–28; *Radio France and Others v. France*, ECtHR, 2004, § 24).

In one of the cases related to passive corruption of justice officials, the Constitutional Court was faced with the question of the legality and proportionality of an extended house arrest measure, as well as the right to judicial review. While the previous judges had refused to review the case due to the termination of the measure, the Constitutional Court found violations of Article 5 of the ECHR, emphasizing that any restriction of liberty must be subject to constant scrutiny, regardless of the form it takes (Albanian Constitutional Court, Decision No. 17, 2024).

To sum up, the Albanian Constitutional Court has used international human rights codified in the ECHR by citing concrete norms of the ECHR as well as by identifying the paragraphs of the ECtHR's jurisprudence.

Conclusions

This paper studied Albanian constitutional judges' application of human rights in criminal matters in the last three years: from 1st January 2022 to 31st December 2024.

Although the study covers only the last three years, the 2016 constitutional reform has also underlined the importance of case law in the Albanian legal system. In other words, Albanian constitutional judges have referred to their previous decisions. Since Article 6 ECHR is one of the most cited by Albanian constitutional judges, three examples of identical paragraphs related to it might be underlined. First, the right to a fair trial, guaranteed by Article 42 of the Constitution and Article 6 of the ECHR is one of the fundamental rights protected by the Albanian Constitution and the Convention (Albanian Constitutional Court, Decision No. 81, 2024; Decision No. 83, 2024; Decision No. 32, 2024; Decision No. 24, 2023; Decision No. 42, 2023; Decision No. 48, 2023; Decision No. 46, 2024; Decision No. 63, 2024; Decision No. 19, 2023; Decision No. 30, 2023; Decision No. 63, 2023; Decision No. 38, 2023; Decision No. 10, 2022; Decision No. 12, 2022; Decision No. 32, 2022; Decision No. 20, 2022; Decision No. 21, 2022). In this context, the Court has emphasized that "...unjustified delays in court proceedings constitute a violation of Article 6 of the ECHR..." (Albanian Constitutional Court, Decision No. 27, 2024; Decision No. 63, 2024). Furthermore, the Albanian judges have referred to "The right to a fair trial, guaranteed by Article 42 of the Constitution and Article 6 of the ECHR, requires that a case must be reviewed by an 'independent and impartial tribunal'. The independence of judges and courts is an essential element of the rule of law. The principle of independence, stated in several provisions of the Constitution, requires, in the first place, that judges and courts, while rendering justice, be subject only to the Constitution and laws." (Albanian Constitutional Court, Decision No. 12, 2022; Decision No. 38, 2023; Decision No. 81, 2024; Decision No. 42, 2023). Albanian judges have also emphasized that "...the principle of legal certainty is one of the fundamental requirements stemming from the ECHR and the rule of law..." (Albanian Constitutional Court, Decision No. 24, 2023; Decision No. 42, 2023). Subsequently, Albanian constitutional judges have referred to their precedent decision using the phrase: "The Constitutional Court is called upon to interpret fundamental rights in accordance with the standards laid down by the ECtHR." (Albanian Constitutional Court, Decision No. 42, 2023; Decision No. 6, 2022).

Other examples of the Albanian Constitutional Court, regarding the importance of past precedents, include the protection of personal liberty and security, or private property. Focusing on the case of protection of personal freedom, it has been continuously emphasized that personal liberty and security are protected by Article 5 of the ECHR, which provides for the right to seek judicial review of the lawfulness of the restriction of liberty (Albanian Constitutional Court, Decision No. 81, 2024; Decision No. 83, 2024; Decision No. 46, 2024; Decision No. 19, 2023; Decision No. 12, 2022). It is also mentioned that the principle of equality of arms and adversarial proceedings is

guaranteed by Article 6 of the ECHR. (Albanian Constitutional Court, Decision No. 24, 2023; Decision No. 63, 2024; Decision No. 38, 2023; Decision No. 30, 2023; Decision No. 63, 2023).

Regarding the criminal protection of private property, it has been found that ...the violation of the right to property, in violation of Article 1 of Protocol no. 1 of the ECHR, constitutes a violation of this right (Albanian Constitutional Court, Decision No. 18, 2024; Decision No. 29, 2024; Decision No. 79, 2024). Also, their reference to the rule of law cannot be conceived without recognizing individuals the right and opportunity to go to court (Albanian Constitutional Court, Decision No. 20, 2022; Decision No. 21, 2022). Regarding to the right to an effective legal remedy, the judges referred to the right to an effective legal remedy, guaranteed by Article 13 of the ECHR, is essential for the respect of other procedural rights (Albanian Constitutional Court, Decision No. 38, 2023; Decision No. 32, 2022).

This paper showed that constitutional judges have used human rights codified in ECHR norms and the ECtHR's case law in criminal cases. In some disputes, this is the result of the content of the norms, such as in Arts. 3-5 ECHR or Protocol No. 7 ECHR, while other cases relate to the concrete situation in Albania. For instance, Art. 6 ECHR has been applied in several cases. Quite interestingly, norms related to private law have also been mentioned. In particular, Protocol 1 ECHR deals with the protection of property. In the communist regime in Albania (1945–1991), ownership concepts differed from those known today in a democratic and market economy system.

To conclude, this paper showed that Albanian constitutional judges are aware of the ECHR's role and the ECtHR's case law in criminal cases. Although the paper focused on January 2022 to December 2024, due to the importance of case law in Albanian jurisprudence, similar results will likely be seen in the future.

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Table 1: Albanian Constitutional Court and individual constitutional complaints dealing with criminal law issues in 2024

No.	Decisions	Topic <i>Article found in sub-topics, which head is it?</i>	Sub-topic <i>The article of the criminal offense charge? What does the criminal offense say?</i>	Application of ECHR articles	References to ECtHR case law
1.	Decision no. 4 of 31.01.2024	Crimes against life	Murder in qualifying circumstances (Article 79(1))	Articles 1, 6, 13 and 14	Lekić v. Slovenia [GC], application no. 36480/07, of 11 December 2018, § 95; Beyeler v. Italy [GC], application no. 33202/96, of 5 January 2000, § 109; Hentrich v. France, application no. 13616/88, of 22 September 1994, § 42; Lithgow and others v. Great Britain, application no. 9405/81, of 8 July 1986, § 110; Centro Europa 7 S.r.l. and Di Stefano v. Italy [GC], application no. 38433/09, of 7 June 2012, § 141; Nejdet Şahin and Perihan Şahin v. Turkey, application no.

					13279/05, of 20.10.2011, §§ 56, 61, 80; Ferreira Santos Pardal v. Portugal, of 30.07.2015, § 42; Hayati Çelebi and others v. Turkey, of 09.02.2016, § 52; Beian v. Romania (no.1), 06.12.2007, § 38; Lupeni Greek Catholic Parish and others v. Romania, of 29.11.2026, § 118
2.	Decision no. 8 of 20.02.2024	Fraud, Forgery of documents	"Fraud", "Insurance fraud", "Forgery of documents" and "Forgery of civil status documents", provided. (Articles 143, 154, 186 and 191)	Article 6 of Protocol no. 7	-
3.	Decision no. 10 of 28.02.2024	Fraud	Fraud more than once and with serious consequences (Article 143(2))	-	-
4.	Decision no. 12 of 28.02.2024	Crimes against life, Criminal offenses against	Attempted murder in qualifying circumstances, disturbance of public peace	Article 6	-

		public order and security	and illegal production and possession of weapons and ammunition. (Articles 79/dh; 274 and 278(5))		
5.	Decision no. 13 of 07.03.2024	Attempt; Crimes against life committed intentionally; Criminal offenses against public order and security	Attempted premeditated murder; Intentional murder and Unauthorized production and possession of weapons and ammunition. (Articles 78 and 22; 76 and 278)	Article 7	Nikitin v. Russia, no. 50178/99, §§ 55-57; Bujnița v. Moldova, no. 36492/02, of 16 January 2007, §20; Bota v. Romania, no. 16382/03, of 4 November 2008, §§ 33 and 34; Lenskaya v. Russia, no. 28730/03, §§ 39 and 40, 29 January 2009; Giuran v. Romania, no. 24360/04, § 39; Yaremenko v. Ukraine (No. 2), No. 66338 /09, of 30 April 2015, §§ 52-56 and 64-67
6.	Decision no. 17 of 13.03.2024	Cooperation of persons for committing a criminal offense; Criminal offenses against justice	Passive corruption of judges, prosecutors and other officials of justice bodies (Articles 319/ç and 25)	Articles 5 and 6	Hysa v. Albania, of 21.02.2023, § 83; Nikolova v. Bulgaria (no. 2), of 30.09.2004, § 60; Ninescu v. the Republic of Moldova, of 15.07.2014, § 53; Delijorgji v.

					Albania, of 28.04.2015, § 75
7.	Decision no. 18 of 19.03.2024	Criminal offenses against the person	Fraud; Forgery of documents and Abuse of office (Articles 143, 186 and 248)	Articles 6 and 1 of Protocol no. 1	Căpățină v. Romania, of 28.02.2023, § 32; Łysak v. Poland, of 07.10.2021, § 65; Džinić v. Croatia, of 17.05.2016, § 48; Benet Praha, Spol. S R.O. v. Czech Republic, of 24.02.2011, §§ 77, 81; Demir and Baykara v. Turkey [GC], of 12.11.2008, § 146; Stołkowski v. Poland, of 21.12.2021, § 53
8.	Decision no. 19 of 21.03.2024	Cooperation of persons for committing a criminal offense; Criminal offences affecting free elections and the democratic electoral system	Active corruption in elections, carried out in cooperation. (Articles 328 and 25)	Articles 5 and 6	S, V and A v. Denmark, of 22.10. 2018, §74; Witold Litwa v. Poland, of 04.04.2000, § 78; James Wells and Lee v. United Kingdom, of 18.09.2012, §§191-195; Saadi v. the United Kingdom, of 29.01.2008 §§ 68-74; Stepuleac v. Moldova, of 06.11.2007, § 73; Moldovan v. Republic of

					<p>Moldova, of 14.09.2021, §§ 52-57; Merabishvili v. Georgia, of 28.11.2017, § 184; Ibrahimov and Mammadov v. Azerbaijan, of 25.08.2020, §§ 113-131; Buzadji v. the Republic of Moldova [GC], of 05.07.2016, § 88; Tiron v. Romania, of 07.04.2009, § 37; Smirnova v. Russia, of 24.07.2003, § 59; Becciev v. Moldova, of 04.10.2005, §§ 58-59; Selchuk v. Turkey, of 10.01.2006, § 34; Matznetter v. Austria, 10.11.1969, § 9; Buzadji v. the Republic of Moldova [GC], of 905.07.2016, §§ 89-91; McKay v. United Kingdom [GC], of 03.10.2006, §§ 41-43</p>
9.	Decision no. 22 of 04.04.2024	Crimes against the authority of the state	Abuse of office (Article 248)	Articles 6 and 13	<p>Žugić v. Croatia, no. 3699/08, of 31.0.5.2011, § 63; Adil Aktay v. Turkey, of</p>

					09.01.2024, § 45; Gestur Jónsson and Ragnar Halldór Hall v. Iceland [GC], of 22.12.2020, §§ 81 and 89
10.	Decision no. 27 of 11.04.2024	Crimes against life	Attempted murder in qualified circumstances (Article 79/dh)	Article 6(1)(b)	-
11.	Decision no. 29 of 16.04.2024	Crimes against the authority of the state	Passive corruption of senior state officials or local elected officials", "Refusal to declare, non-declaration, concealment or false declaration of assets, private interests of elected persons and public servants or any other person who has the legal obligation to declare" and "Laundering the proceeds of a criminal offense or criminal activity" (Articles 260, 257/a and 287)	Articles 6 and 1 of Protocol no. 1	Agosi v. United Kingdom, of 24.10.1986, § 54; Silickiene v. Lithuania, date 10.04.2012, §66

12.	Decision no. 32 of 23.04.2024	Crimes against the authority of the state	Production and sale of narcotics (Article 283(1))	Article 6	-
13.	Decision no. 40 of 14.05.2024	Cooperation of persons for committing a criminal offense; Crimes against the authority of the state	Abuse of office", "Passive corruption of senior state officials or local elected officials" and "Laundering of the proceeds of a criminal offense or criminal activity" (Articles 248 and 25, 260 and 25, 287(1)/a/b and 278(2))	Articles 3, 5, 6 and 18	Melnik v. Ukraine, of 28.03.2006, § 94
14.	Decision no. 42 of 29.05.2024	Criminal offenses against the person	Kidnapping or holding a person hostage (Article 109)	Article 2	Prizren v. Albania, of 11.06.2019, § 42; McCann and others v. United Kingdom, of 27.09.1995, §§ 161-163; Ramsahai and Others v. the Netherlands [GC], of 15.05.2007, § 324; Jaloud v. the Netherlands [GC], of 20.11.2014, § 186; Nachova and Others v. Bulgaria [GC],

					of 26.02.2004, § 160; Kolevi v. Bulgaria, of 5.11.2009, § 201; Angelova and Iliev v. Bulgaria [GC], of 26.07.2007, § 94; Ramsahai and Others v. the Netherlands [GC], of 15.05.2007, § 348; Velcea and Mazăre v. Romania, of 01.12.2009, § 113; Ataykaya v. Turkey, of 22.07.2014, § 47; Leyla Alp and Others v. Turkey, of 10.12.2013, § 76
15.	Decision no. 46 of 11.06.2024	Cooperation of persons for committing a criminal offense; Criminal offenses against the person; Crimes against the authority of the state	Kidnapping or holding a person hostage" and "Unauthorized production and possession of military weapons and ammunition (Articles 109(1), 25 and 278(1))	Article 6	-
16.	Decision no. 49 of 20.06.2024	Criminal offenses against the person	Causing suicide (Article 99)	-	Vasîlca v. the Republic of Moldova, of 11.02.2014, § 28; Mikayil Mammadov v. Azerbaijan, of

					17.12.2009, §§ 99 and 116; Mikayil Mammadov v. Azerbaijan, of 17.12.2009, §§ 111 and 115; Di Sarno et al. Albania, of 10.01.2021, § 110; Makaratzis v. Greece [GC], of 20.12.2004, § 57; S.P. v. Switzerland, of 30.06.2020, §§ 116121; Boychenko v. Russia, of 12.10.2021, § 97
17.	Decision no. 61 of 19.09.2024	Criminal offenses against property and in the economic sphere	Insurance fraud (Article 145)	Article 6	Salabiaku v. France, 7 October 1988, §§ 27-28; Radio France and Others v. France, 30 March 2004, § 24
18.	Decision no. 63 of 24.09.2024	Crimes against life; Crimes against the authority of the state	Murder in other qualifying circumstances and unauthorized possession of military weapons (Articles 79/dh and 278)	Article 6	-
19.	Decision no. 70 of 15.10.2024	Criminal offenses against the person	Illegal construction (199/a)	Article 6	Navalnyy and Ofitserov vs. Russia, date

					23.02.2016, §§ 99, 115
20.	Decision no. 79 of 12.11.2024	Crimes against the authority of the state	Abuse of office (Article 248)	Article 1 of Protocol no. 1	-
21.	Decision no. 81 of 21.11.2024	Crimes against the authority of the state	Laundering of the proceeds of a criminal offence (Article 287)	Articles 5, 7, 10, 14 and 18	Cordova v. Italy (no. 1), of 30 January 2003, § 63; Guzzardi v. Italy, 6 November 1980, §§ 92-93; Nada v. Switzerland [GC], no. 10593/08, § 225, ECtHR 2012. Austin and Others v. Kingdom of Merger [GC], No. 39692/09, 40713/09 and 41008/09, § 57; Assanidze v. Georgia [GC], 2004, § 194; De Tommaso v. Italy [GC], 2017, § 91; M.S. v. Belgium, 2012, § 195; Terheş v. Romania, no. 49933/20, 2021, § 38; De Tommaso v. Italy [GC], 2017, § 104;

					<p>Pagerie v. France, 2023, § 171; Battista v. Italy, 2014, § 37; Khlyustov vs. Russia, 2013, § 64; Labita v. Italy [GC], 2000, §§ 194-195; Bartik v. Russia, 2006, § 46; Soltysyak v. Russia, 2011, § 48 Berkovich and others v. Russia, 2018, § 93; Gochev v. Bulgaria, 2009, § 49; Battista v. Italy, 2014, § 41; De Wilde, Ooms and Versyp v. Belgium, 1971; Nielsen v. Denmark, 1988; H.M. v. Switzerland, 2002; H.L. v. United Kingdom, 2004; Storck v. Germany, 2005; A. et al. v. Bulgaria, 2011; Stanev vs. Bulgaria; Aftanache v. Romania, 2020; Cazan v. Romania, 2016; I.I. v. Bulgaria, 2005; Osypenko v. Ukraine, 2010; Salayev v.</p>
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					<p>Azerbaijan, 2010; Farhad Aliyev v. Azerbaijan, 2010; Kreangă v. Romania 2012; Seals vs. Turkey, 2008; Gillan and Quinton v. United Kingdom, 2010; Shimovolos v. Russia, 2011; Stănculeanu v. Romania, 2018; Rozhkov v. Russia (no. 2), 2017; Tsvetkova et al. v. Russia, 2018; Austin and Others v. United Kingdom [GC], 2012); house arrest measure (Buzadji v. Republic of Moldova [GC], 2016; Mancini vs. Italy, 2001; Lavents v. Latvia, 2002; Nikolova v. Bulgaria (no. 2), 2004; Dacosta Silva vs. Spain, 2006; Khlaifia and Others v. Italy [GC], 2016; J.R. and others v. Greece, 2018; Terheş vs. Romania (December), 2021.</p>
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22.	Decision no. 83 of 05.12.2024	Crimes against the authority of the state	Laundering of the proceeds of a criminal offence (Article 287)	Articles 5/1, 5(1); 5(2), 5(3), 5(4), 7, 8, 10, and 18	Iladov v. Russia [GC], of 22.02.2012, § 161; A. and others v. United Kingdom [GC], 2009, § 203; Reinprecht v. Austria, of 13.11.2005, § 31; Khlaifia and others v. Italy [GC], of 15.12.2016, § 115; Mooren v. Germany (GC), date Marckx v. Belgium, 13.01.1979, § 31 and Olsson v. Sweden (no. 1), 24.03.1988, § 5909.07.2009, § 106; Hutchison Reid v. United Kingdom, of 20.02.2003, § 65; A. and others v. United Kingdom [GC], of 19.02.2009, § 31
23.	Decision no. 86 of 30.12.2024	Crimes against life; Crimes against the authority of the state	"Premeditated murder", "Unlawful deprivation of liberty", "Abuse of office", "False expertise", "Forgery of documents", "Trafficking in narcotics", committed in	Article 5	Jaspar v. United Kingdom [GC]no. 27052/95, of 16 February 2000, § 52; Yuksel Yalcinkaya v. Turkey no. 15699/20, of 23 September 2023, § 71; Campanis v. Greece, 1995, §

			<p>cooperation, in the form of "Structured criminal group", "Committing criminal offenses by a criminal organization and a structured criminal group", "Laundering of the proceeds of a criminal offense or criminal activity" (Articles 78, 110, 248, 309, 186, 283/a, 333/a, 334 and 287)</p>	<p>47; Reinprecht v. Austria, 2005, § 31; A. and Others v. United Kingdom [GC], 2009, § 204; Dimo Dimov and Others v. Bulgaria, 2020, § 70; G.B. and others v. Turkey, 2019, § 176; Hysa v. Albania, §§ 66, 68, of 21 February 2023</p>
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Table 2: Albanian Constitutional Court and individual constitutional complaints dealing with criminal law issues in 2023

No .	Decisions	Topic <i>Article found in sub-topics, which head is it?</i>	Sub-topic <i>The article of the criminal offense charge? What does the criminal offense say?</i>	Application of ECHR articles	References to ECtHR case law
1.	Decision no. 19 of 04.04.2023	Crimes against life and Crimes against the authority of the state	Intentional murder and unauthorized possession of military weapons (Articles 76 and 278(2))	Articles 3, 5, 6	Selahattin Demirtas v. Turkey (no. 2) [GC], of 22.12.2020, §§ 314-315; Del Río Prada v. Spain, no. 42750/0, § 124, of 21 October 2013; Belozorov v. Russia and Ukraine, no. 43611/02, § 111, of 15 October 2015; Hysa v. Albania, §§ 66, 68, of 21 February 2023
2.	Decision no. 24 of 27.04.2023	Crimes against the authority of the state	Production and sale of narcotics (Article 283(2))	Articles 6 and 4 of Protocol no. 7	-
3.	Decision no. 30 of	Crimes against	Premeditated murder and	-	Bochan v. Ukraine

	29.05.2023	life; Crimes against the authority of the state	illegal possession of weapons (Articles 78 and 279)		(n.2), no. 22251/08, of 05.02.2015, §§ 61 and 62; Société Anonyme Sotiris and Nikos Koutras Attee v. Greece, of 16.11.2001; Brualla Gómez de la Torre v. Spain, 19.12.1997; Saez Maeso v. Spain, of 09.11.2004
4.	Decision no. 38 of 12.07.2023	Crimes against life; Crimes against the authority of the state	Murder in other qualifying circumstances and possession of weapons without a permit (Articles 79 and 278(4))	Articles 1, 6, 13 and 2 of Protocol no. 7	-
5.	Decision no. 45 of 03.10.2023	Criminal offenses against justice; Criminal offenses against property and in the economic sphere	Fraud and false reporting (Articles 305 and 143/ (2))	-	-
6.	Decision no. 47 of	Crimes against the	Production and sale of narcotics in	-	-

	05.10.2023	authority of the state	cooperation (Article 283)		
7.	Decision no. 48 of 11.10.2023	Crimes against the authority of the state	Production and sale of narcotics (Article 283)	Article 6	-
8.	Decision no. 51 of 18.10.2023	Criminal offenses against state borders and against morality and dignity	Favoring illegal entry into the territory of the state and prostitution	Article 6	Belozorov v. Russia and Ukraine, no. 43611/02, § 111, of 15 October 2015
9.	Decision no. 56 of 09.11.2023	Criminal offenses against property and in the economic sphere and crimes against cooperative life	Armed robbery and intentional slight injury (Articles 140 and 25; 89 and 25)	Article 6	-
10.	Decision no. 58 of 13.11.2023	Criminal offenses against property and in the economic sphere	Theft of banks and savings banks (Article 136(2))	Articles 1, 5 and 6	Saadi v. United Kingdom [GC], no. 13229/03, § 67, of 28.01.2008; Mooren v. Germany [GC], § 76, of 9.07.2009; Grubic v. Croatia, § 37, of 30.10.2012; Steel and Others v. United

					Kingdom, § 54, of 23.09.1998; Del Río Prada v. Spain, no. 42750/0, § 124, of 21 October 2013; Bozano v. France, of 18.12.1986, paragraph 54; Lukanov v. Bulgaria, of 20.03.1997, paragraph 41; Musiał v. Poland [GC], 1999, § 44; Koendjihari e v. Netherlands, 1990, § 29; E. v. Norway, 1990, § 66; Bezicheri v. Italy, 1989, § 25
11.	Decision no. 63 of 20.11.2023	Crimes against the authority of the state	Unauthorized production and possession of combat weapons and ammunition, Unauthorized production, possession, purchase or sale of cold weapons, and Unauthorized	Articles 3(d) and 6	Salabiaku v. France, 7 October 1988, §§ 27-28 and Radio France and Others v. France, 30 March 2004, § 24

			d production and possession of hunting and sporting weapons (Article 278(3); 279(1); 280))		
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Table 3: Albanian Constitutional Court and individual constitutional complaints dealing with criminal law issues in 2022

No .	Decisions	Topic <i>Article found in sub-topics, which head is it?</i>	Sub-topic <i>The article of the criminal offense charge? What does the criminal offense say?</i>	Application of ECHR articles	References to ECtHR case law
1.	Decision no. 5 of 22.02.2022	Crimes against life; Criminal offenses committed by armed gang and criminal organization	Coercion by means of intimidation or violence for the provision of property committed in cooperation with the Structured Criminal Group (Articles 109/b(1), 28(4), 334(1) and 333/a (1))	Article 6	Barbaro v. Italy, of 16.02.2010 ; Enea v. Italy, of 17.09.2009 ; Dry v. Italy, of 27.11.2007 ; Hooks v. Italy, of 30.10.2003 ; Provenzano v. Italy, of 25.10.2018 , § 150; Papalia v. Italy, of 04.12.2007 , § 27; Musumeci v. Italy, of 11.01.2005 , § 36; Werner v. Austria, of 24.11.1997 , § 66; Regner v. Czech

					Republic, of 19.09.2017 , §§ 153, 154
2.	Decision no. 6 of 22.02.202 2	Crimes against the authority of the state	Trafficking in narcotics (Article 283)	Articles 6 and 8	Zubac v. Croatia [GC], of 05.04.2018 , § 98;
3.	Decision no. 10 of 12.04.202 2	Crimes against life and crimes against state authority	Attempted murder due to family relationships (Article 79(c) and 22) and unauthorize d possession of military weapons and ammunition (Article 278(4))	0Article 6	-
4.	Decision no. 12 of 24.05.202 2	Criminal offenses against property and in the economic sphere; Crimes against the authority of the state	Attempted violent theft and unauthorised possession of explosive weapons and ammunition (Articles 139, 22 and 278(2))	Articles 5 and 6	-
5.	Decision no. 14 of 21.06.202 2	Crimes against life	Premeditate d murder (Article 78)	Articles 6, 7 and 14	-
6.	Decision no. 20 of 22.09.202 2	Criminal offenses against property and in the	Fraud and forgery of documents, abuse of powers (Articles	Articles 1, 6, 7, 13, 14, 15, 16, 17 and 18	-

		economic sphere	143(2); 186(2); 164)		
7.	Decision no. 21 of 26.09.2022	Criminal offenses against property and in the economic sphere	Forgery of documents (Article 186)	Articles 1, 6, 7, 13, 14, 15, 16, 17 and 18	-
8.	Decision no. 25 of 13.10.2022	Crimes against the authority of the state	Refusal to declare, fail to declare, conceal or falsely declare assets, private interests of elected persons and public servants or any other person who has a legal obligation to declare (Article 257/a (2))	Article 6(1)(b)	-
9.	Decision no. 32 of 03.11.2022	Crimes against life and Crimes against the authority of the state	Intentional murder and the unauthorised production and possession of military weapons and ammunition (Articles 76; 278(2), (4), (5))	Article 6(1)(b)	Zubac v. Croatia [GC], of 05.04.2018, § 98
10.	Decision no. 34 of	Crimes against life	Intentional grievous bodily harm	-	Falcao dos Santos v. Portugal,

	17.11.202 2		in cooperation (Articles 25 and 88(1))		2012; Daud v. Portugal, 1998, § 38; Artico v. Italy, 1980, §§ 33 and 36; Czekalla v. Portugal, 2002, §§ 65 and 71
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