



Acts of Expropriation in Albania, the Deadline for Filing a Lawsuit in Court, and Dilemmas That Have Been Noticed in Albanian Judicial Jurisprudence

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Abstract: *Expropriation is an extraordinary manner of limiting ownership, based on which the ownership of properties passes from private to public ownership, so using this limitation of ownership, the owner is completely deprived of ownership of his property. For this reason, expropriation is provided directly in Article 41 of the Constitution of the Republic of Albania. This article guarantees every natural/legal person the right to fair remuneration and the right to contest the value of such remuneration in court. According to Albanian law, the Council of Ministers issue the expropriation act, while the affected subjects have the right to file a lawsuit in the competent Administrative Court. Such an act of expropriation can be challenged judicially only in terms of the remuneration the Council of Ministers granted. Regarding the exercise of the constitutional right of judicial appeal toward the value of the expropriation determined through the relevant act of expropriation, there have been different interpretations in Albanian judicial practice. These interpretations differ about when the owners are notified of the final act of expropriation, which determines the value of fair remuneration. The interpretation regarding the moment of the beginning of the term to file a lawsuit against the value of the remuneration appears to be very important for guaranteeing the right of access to the court, considering that this right is guaranteed by Article 6 of the European Convention on Human Rights. The different interpretations of the courts on the access of the plaintiffs to oppose the value of remunerations of the expropriation created many problems with the conventional right of access to the courts until the Administrative Panel of the High Court of Law unified a fair interpretation following the conventional right for access to the court.*

1. INTRODUCTION

Article 41 of the Constitution of the Republic of Albania, which provides for the legal protection of the ownership right as one of the fundamental human rights in the Albanian legal order, also provides the legal institute of expropriation ([The Constitution of the Republic of Albania](#)). According to this constitutional article, it is provided that expropriation or restrictions of the right of ownership, which are considered similar to expropriation, are allowed only against fair remuneration. This constitutional provision is following the European Convention of Human Rights, which guarantees the peaceful enjoyment of ownership rights to every person or legal entity and guarantees that nobody can be deprived of his or her ownership except when exists a public interest and always in accordance to the legal provisions of contracting states and the general principles of the international law ([Art. 1 of 1st Additional Protocol of the European Convention of Human Rights](#)).

In the Albanian legal framework, expropriation is regulated by the law “On expropriations and temporary use of private property for public interest” ([Law no. 8561, dated 22nd December 1999](#)). This law has been amended several times in the past years. In its content, this law provides the

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definitions of expropriation, temporary use of property, which refers to the concept of requisition, provides the specific motives for which the expropriation can be initiated, methods of evaluating assets that are subject to expropriation, and the responsible institutions that lead this process. The law provides the modality of the act of expropriation and the manner of its notification for the effect of opposing the value of remuneration in court by affected subjects. In particular, the different judicial interpretations of the provisions on the notification of the value of expropriation's remuneration to the affected subjects have brought a legal debate in Albania on the respect of the right of access to the courts within the framework for a fair process as a human right imposed by the European Convention of Human Rights.

2. THE LEGAL REGULATION IN ALBANIA ON ACTS OF EXPROPRIATION, THEIR NOTIFICATION AND THE RIGHT TO FILE A LAWSUIT IN COURT

The Civil Code of the Republic of Albania provides that assets may be expropriated only for public interests recognized by law and only in exchange for fair remuneration. Their ownership title of such assets transfers in favour of the state or other public body, in whose favour the expropriation was completed (**Art. 190 of Civil Code of Republic of Albania**). The law "On expropriations and temporary use of private property for public interest" provides that the Council of Ministers issues the act of expropriation as the competent collegial body (**Art. 5 of Law no. 8561, dated 22nd December 1999**). Although the right to propose the expropriation of a certain asset is held by various public and private entities, the decision of the Council of Ministers constitutes the final act of expropriation of an asset. According to Article 11 of the law, every request for expropriation must be filed at the State Agency of Expropriation. This public agency is responsible for directing the expropriation process and coordinating the implementation of its procedure.

During the follow-up of the expropriation procedure, the law foresees several steps for the notification of the affected subjects. Thus, according to Article 14 of the law, the State Agency of Expropriation, after signing the agreement with the requesting entity, must directly notify each owner or co-owner of the assets that will be subject to expropriation within ten days. Simultaneously with the notification procedures, the competent line minister also issues the official publication of the request for expropriation. Such an official publication appears in the Official Gazette in order for other third parties to have the opportunity to file their claims on the ownership of the assets to be expropriated. Further, according to Article 16 of the law, if third parties dispute the ownership of the assets that will be subject to expropriation, the expropriation procedure is not stopped, as the value of remuneration is deposited in a bank account to the winning party of the trial.

After the issuance of the final act of expropriation by the Council of Ministers, Article 24 of the law provides that the State Agency of Expropriation makes a direct notification to the owners, and the notified subjects have the right to appeal to the competent court regarding the value of remuneration within a deadline of thirty days from the notification. Article 21 of the law provides that the final act of expropriation is also published in the Official Gazette. This moment of the expropriation procedure has caused different interpretations by the courts. In certain cases, it has been interpreted that the thirty-day deadline for appealing to the court runs after the owners have been notified directly and personally, while in other cases, it has been interpreted that the owners are considered notified through publication in the Official Gazette. This second way of interpretation has appeared problematic, denying the right of access to the courts of expropriated owners. It has become the subject of review by the Constitutional Court of Albania, which also influenced the unification of judicial practice by the High Court of Law.

3. THE DIFFERENT LEGAL ATTITUDES OVER THE YEARS OF THE ALBANIAN JURISPRUDENCE ABOUT THE ACCESS TO THE COURTS FOR EXPROPRIATED OWNERS

From the observation of Albanian jurisprudence over the years, it is found that various judicial bodies, including the High Court of Law panels, have held different interpretative attitudes toward the notification of the final act of expropriation and the beginning of the deadline for filing a lawsuit in court. According to an *earlier interpretation*, it was interpreted as based to Article 24 of the law on expropriation, the responsible body must notify directly and nominally every expropriated subject of the act of expropriation and the corresponding value of remuneration. This moment will also mark the beginning of the deadline for filing a lawsuit in court against the remuneration's value of expropriation.

Such an interpretative attitude has been held by the civil panel of the High Court of Law of Albania in some cases. For example, in one case, the Civil Panel of the High Court of Law has found not based on the law the decision of the Court of Appeal of Tirana ([Decision no. 800, dated 24th June 2004](#)) with the argument that the beginning of the deadline for filing a lawsuit against the value of remuneration could not start immediately after the publication of the act of expropriation in the Official Gazette. In this case, the Civil Panel of the High Court of Law has interpreted that, as can be seen from the content of this provision (ref. Article 24 of the law on expropriation), it connects the thirty-day appeal deadline with the moment of taking notice of the expropriated subject. On the other hand, regarding the notification, it defines obligations for the competent ministries to notify the expropriated owners directly. It has also been argued that during the trial, the defendant did not present any evidence to prove that it complied with the notification procedures, and this notification was made earlier than the plaintiff claims ([Decision no. 1097, dated 7th July 2005, p. 4](#)).

The same interpretation was followed by the High Court of Law in 2011. According to the Civil Panel of the High Court of Law, the defendant's claim that the notification was made by publishing the act of expropriation in the Official Gazette and two of the newspapers with the largest circulation constitutes an unfair claim. The High Court of Law has argued that the law "On expropriations and temporary use of private property for public interest" contains norms of a procedural nature and norms of a material nature. The procedural norms of this law explicitly provide for the right of the party to learn directly about the expropriation being carried out, as well as the obligation of the state authority to make a direct notification to the subject being expropriated. Such an obligation is imposed by the law since the owner is deprived of his right of ownership, this right guaranteed and protected by the Constitution and all other laws that regulate the ownership, as well as because the notification of the act of expropriation directly conditions the effects that the act of expropriation brings after the subject to be expropriated is notified. The legislator connects the moment of filing a lawsuit in the competent court with the expropriated entity's knowledge of the expropriation and not with the moment when the state body makes the announcement of the entities to be expropriated in the daily newspapers. The lack of notification of the subjects that are expropriated directly, according to a form and procedure expressly provided in the law, cannot be replaced by other means, such as the announcement in daily newspapers with wide circulation or the announcement in the Official Gazette ([Decision no. 403, dated 27th September 2011, p. 6-8](#)). This interpretation has been followed even by different courts of first instance and courts of appeal ([Decision dated 7th February 2019 and Decision no. 2671, dated 4th October 2021](#)).

According to a *later interpretation* of recent years, the expropriated subjects will be considered notified from the moment of publication of the act of expropriation in the Official Gazette, regardless of whether or not their nominal notification by the State Agency of Expropriation has been carried

out. Thus, the thirty-day deadline for filing a lawsuit in court to challenge the expropriation's remuneration value will be considered to run automatically from the day of its publication in the Official Gazette. For example, in one case, the Administrative Panel of the High Court of Law has founded as not based on the law the decision of Administrative Court of Appeal of Tirana (**Decision no. 1077, dated 11th May 2016**) with the argument that Article 24 of law "On expropriations and temporary use of private property for public interest" does not invalidate or exclude the legal effects and legal presumption of the notification of interested subjects at the time of publication in the Official Gazette of the relevant act of expropriation. In this case, the Administrative Panel of the High Court of Law has interpreted that the publication in the Official Gazette is the maximum guarantee that the law has established for the protection of the rights of the expropriated subjects since through the publication in the Official Gazette, the recognition of the law itself is presumed, much less of other acts of lower legal importance (**Decision no. 64, dated 21st February 2022, p. 8**).

Such an interpretation has found support in other cases of the most recent jurisprudence of the High Court of Law. In another decision of the last years of the High Court of Law, it is argued that the direct and nominal notification of the expropriated subject is implemented in the intermediate period between the moment when the act of expropriation is approved, which comes into force immediately (and for therefore, it applies immediately from the date of its approval) and the later moment in time when this decision is published in the Official Gazette. According to this panel, even if in this interim period, the competent ministry does not make the individual notification of each owner who is expropriated, the latter are presumed to be regularly aware of the expropriation, at least from the day of publication in the Official Gazette of the respective act of expropriation (**Decision no. 276, dated 14th July 2022**). In the same line of reasoning, there are also other decisions of the courts of first instance and the courts of appeal in recent years (**Decision no. 209 (334), dated 4th April 2022 and Decision no. 466, dated 10th November 2022**).

4. THE STANDARD ESTABLISHED BY THE CONSTITUTIONAL COURT OF ALBANIA AND THE JURISPRUDENCE OF THE EUROPEAN COURT OF HUMAN RIGHTS FOR THESE CASES

The Constitutional Court of Albania came out with a decision based on a request from one of the expropriated subjects, who had lost the trial (**Trial finalized by decision no. 64, dated 21st February 2022**) in the High Court of Law based on the argument that the thirty-day deadline for judicially contesting the value of the remuneration must be calculated from the day of publication in the Official Gazette (**Decision no. 40, dated 22nd December 2022**). The main arguments of the applicant in the request filed in the Constitutional Court were related to violation of the right of access to court because the High Court of Law has ruled about the legal thirty-day deadline of filing the lawsuit and for the statutory time-limit of the lawsuit even though the litigants in the three trial levels have not claimed the existence of these causes. The applicant has also claimed the violation of the legal certainty principle because the High Court of Law has ruled beyond the provisions of Article 24 of the law "On expropriations and temporary use of private property for public interest" according to which the moment of birth of the right to file a lawsuit is that of learning about the act through individual notification and not that of publication in the Official Gazette. The other claims were related to the violation of the principle of equality before the law and the constitutional right of private ownership. These claims were related to the fact that certain judges applied a different standard of law enforcement, and for this reason, the right to remuneration from expropriation has been denied (**Decision no. 40, dated 22nd December 2022, pp. 3-4**).

The Constitutional Court ruled that the administrative procedure of expropriation law "On expropriations and temporary use of private property for public interest" has given the expropriated

subjects the privilege of being notified directly at each stage of the procedure. This manner of notification is different from the publication in the Official Gazette, which aims to create the opportunity to protect the interests of third parties that may be affected by the expropriation of private property. Referring to articles 147-163 of the Code of Administrative Procedures ([Law no. 44, dated 30th April 2015](#)), the notification through the publication of the act in the Official Gazette is an exception to the rule of personal notification and is applied only in specific circumstances when the parties are unknown when the place for the notification is not known, and the notification is not possible in one of the places where the individuals can be found (residence, residence, place of work, place of activity) when any other form of notification is inappropriate or impossible, as well as in any other case expressly determined by the law ([Decision no. 40, dated 22nd December 2022](#)).

According to the Constitutional Court, competent public bodies in the process of expropriation must show due diligence and interpret and apply the law in such a manner as to enable the individual to guarantee the rights provided by Articles 41 and 42 of the Constitution of Albania. Even in the expropriation procedure, in order to guarantee the right to effective access to the court in order to protect the right of ownership, public bodies should make an effective notification to the individual ([Decision no. 40, dated 22nd December 2022](#)).

Although the above decision of the Constitutional Court does not refer to it, the assessment carried out by it is consistent with the assessment of the European Court of Human Rights in a concrete case. The European Court of Human Rights, in one of its cases, has accepted the request of a Turkish citizen against the Republic of Turkey ([Mörel v. Turkey, Application no. 33663/02 ECHR](#)). The applicant complained under Article 1 of Protocol No. 1 that he was deprived of his right to peacefully enjoy his property as the authorities expropriated his land without notifying him. He also complained under Article 6 of the Convention that he did not have a fair hearing as the Court of Cassation dismissed his case for failure to comply with the statutory time limit. Although initially, the courts of the Turkish jurisdiction had accepted the applicant's lawsuit by awarding the relevant remuneration values for the expropriation of land, after a request from the Ministry of Defense, the Court of Cassation in a subsequent trial decided to dismiss the trial of the case as the legal deadlines for filing a lawsuit were not respected.

The European Court of Human Rights ruled that notification through publications according to national law of owners of private properties in the process of expropriation, whose addresses are not found, is not adequate. The state authorities must update the information and organize the archives of public records. The failure of the Turkish authorities to find the names and official addresses of the entities to be expropriated is not justified. The court concluded that the authorities did not show due diligence in notifying Mr Mörel of the expropriation of the land he owned, depriving the applicant of a suitable remuneration. As a result, Article 1 of Protocol 1 of the ECHR is violated since the balancing of public interest with private interest has not been achieved ([Mörel v. Turkey, App. no. 33663/02 ECHR, par. 40 et seq](#)).

5. THE UNIFYING DECISION OF THE ADMINISTRATIVE PANEL OF THE HIGH COURT OF LAW ON THE MANNER OF NOTIFICATION OF THE EXPROPRIATED SUBJECTS AND THE EMERGING PROBLEMS

Following the different interpretations of the courts on the right of access to the court of expropriated subjects, as well as the aforementioned decision of the Constitutional Court of Albania, the Administrative Panel of the High Court of Law took the initiative to unify the judicial practice in such trials. Specifically, on 14th May 2024, this panel reached the unifying conclusion that the

right to file an administrative lawsuit to contest the value of properties subject to expropriation for public interest arises from the moment of receiving notice of the Decision of the Council of Ministers, which must have been notified directly and personally to the plaintiff by the responsible authority (State Agency of Expropriation) according to Articles 159 and 160 of the Code of Administrative Procedures and Article 24 of law “On expropriations and temporary use of private property for public interests” (Gjykata e Lartë, 2024).

This unifying sentence continues by determining that in administrative proceedings, the responsible authority (State Agency of Expropriations) has the burden of proof for the actions committed for the direct notification of the Decision of the Council of Ministers to the expropriated subjects. Only in the case where, for objective reasons, the owner does not receive notice at the address of the notification, as it is not found, then the right to file a lawsuit arises from the moment it is presumed to have been notified through the most appropriate legal notification, which is the publication of the Decision of the Council of Ministers in the Official Gazette, according to Article 163 of the Code of Administrative Procedures. Whereas when in the above cases and in the content of the Decision of the Council of Ministers, the right and deadline for filing a lawsuit are not foreseen, then the deadline for exercising the right to file an administrative lawsuit to contest the value of the property subject to expropriation for public interest will be one year (Gjykata e Lartë, 2024).

This unification of judicial practice, although it has accepted the highest standard of direct and personal notification of the final act of expropriation to the expropriated subjects, in our opinion, continues to have problems concerning the standard established by the European Court of Human Rights in the case of “Mörel v. Turkey”. The European Court of Human Rights has established a standard according to which the responsibility for the creation and maintenance of public registers, including address systems, is a responsibility that belongs to the state and cannot be transferred to the individual.

That said, the implementation of the notice by publication in the Official Gazette when the expropriated owner is not at the address risks violating the standard established by the jurisprudence of the European Court of Human Rights. If the European Court of Human Rights establishes a certain standard and a minimum protection for fundamental human rights, member states may adapt their legal framework towards an even higher level standard, but they must not violate the standard established by the European Court of Human Rights’ jurisprudence (Gerards, 2022).

6. CONCLUSION

In conclusion, it can be said that the early positions of the High Court of Law of Albania on the implementation of direct and personal notification of expropriated subjects have been correct and in accordance with the standard established by the European Court of Human Rights. The publication of expropriation acts in the Official Gazette cannot be sufficient in terms of guaranteeing the right of access to court for expropriated subjects.

The current unification of judicial practice by the High Court of Law of Albania, although confirming the direct and personal notification of expropriated subjects, leaves an open window for notification by publication in the Official Gazette. Allowing such an option may create problems in implementing the standard established by the case “Mörel v. Turkey”, because the responsibility for the good administration of the address system and the notification of the person remains with the state, which must implement efficient mechanisms for this purpose.

References

- “The Constitution of the Republic of Albania” approved by law no. 8417, dated 21st October 1998 by the Parliament of Albania and referendum of 22nd November 1998.
- Article 1 of 1st Additional Protocol of the European Convention of Human Rights.
- Article 190 of Law no. 7850, dated 29th July 1994 “Civil Code of Republic of Albania”.
- Article 5 of Law no. 8561, dated 22nd December 1999, “On expropriations and temporary use of private property for public interest”.
- Decision dated 7th February 2019 of Administrative Court of First Instance of Tirana and decision no. 2671, dated 4th October 2021 of Administrative Court of First Instance of Tirana.
- Decision no. 1077, dated 11th May 2016 of Administrative Court of Appeal of Tirana.
- Decision no. 1097, dated 7th July 2005 of Civil Panel of the High Court of Law of Albania, p.4.
- Decision no. 209 (334), dated 4th April 2022 of Administrative Court of First Instance of Shkodra and decision no. 466, dated 10th November 2022 of the Administrative Court of Appeal of Tirana.
- Decision no. 276, dated 14th July 2022 of the Administrative Panel of the High Court of Law of Albania.
- Decision no. 40, dated 22nd December 2022 of Constitutional Court of Albania; Applicant: Mr Stefanaq Panariti v. Council of Ministers, Ministry of Infrastructure and Energy, Albanian Road Authority.
- Decision no. 403, dated 27th September 2011 of Civil Panel of the High Court of Law of Albania, p.6-8.
- Decision no. 64, dated 21st February 2022 of Administrative Panel of the High Court of Law of Albania, p.8.
- Decision no. 800, dated 24th June 2004 of Court of Appeal of Tirana.
- Gerards, J. (2022). Article 53 ECHR and Minimum Protection by the European Court of Human Rights. *European Convention on Human Rights Law Review*, 3(4), 451-480. <https://doi.org/10.1163/26663236-bja10053>.
- Gjykata e Lartë. (2024, May 14). Njoftim i Kolegjit Administrativ për njësim të praktikës gjyqësore. *Gjykata e Lartë*. Retrieved July 9, 2025, from <https://www.gjykataelarte.gov.al/sq/lajme/publiku/njoftim-i-kolegjit-administrativ-per-njesim-te-praktikes-gjyqesore-i-dates-14.05.2024-2>
- Law no. 44, dated 30th April 2015, “Code of Administrative Procedures of Republic of Albania”.
- Law no. 8561, dated 22nd December 1999, “On expropriations and temporary use of private property for public interest”.
- Mörel v. Turkey, Application no. 33663/02 (ECHR, 14th September 2007). [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-81078%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-81078%22]})

