

**Conference of European Constitutional Courts  
XIIth Congress**

*The relations between the Constitutional Courts  
and the other national courts,  
including the interference in this area  
of the action of the European courts*

**Report of  
the Constitutional Court  
of the Republic of Albania**

### Note on the preparation of the Questionnaire

*The activity of the Constitutional Court of Albania may be divided in two main periods: a) the period before the entering into force of the Constitution ('92-'98), during which the Constitutional Court has functioned basing on the Main Constitutional Provisions, and b) the period after the entering into force of the Constitution and the Constitutional Court' law. These laws brought some important changes to the authorities of this body.*

*In order to make easier the completion of the questionnaire, we have been based on the second period of the activity of the Constitutional Court.*

*The questionnaire has been fulfilled by the members of the Constitutional Court of Albania and the final paper has been prepared by Department of Research, Publication and Information of this Court.*

## **I. The Constitutional Courts, the other courts and the constitutionality review**

### ***A. The judicial organization of the State***

#### **1. The judicial system**

*1. Please, give a brief presentation, using diagrams if necessary, of the different courts that exist in your State and the organization of their powers. This concerns the ordinary courts as well as the administrative or other courts, the courts of the Federal State as well as the courts of the federated States.*

**Answer:** The Albanian judicial system is constituted of the courts of first instance, the courts of appeal and the Supreme Court. These courts have the authority to decide on the cases of criminal law, military criminal law, civil law, administrative law, trade law, as well as any other cases foreseen by law.

The courts of the first instance are organized and operate on judicial district basis. These districts are spread all over the territory of Albanian country. The courts of appeal operate in six areas settled by the President of the Republic upon the proposal of the Minister of Justice, after having taken the opinion of the High Council of Justice. The courts of appeal examine in the second instance the appeals against the first instance courts' decisions. The military courts are organized and operate within the judicial system and are constituted of the courts of the first instance and the courts of appeal. The Supreme Court is the highest judicial authority and has a prior and subsequent review.

#### **2. Constitutional Court**

*2. What is the place of the Constitutional Court in the judicial organization of the State? If it is part of the judiciary, what is its status within the judiciary?*

**Answer:** The Constitutional Court is not a part of the judicial power. The Constitutional Court is the highest authority that guarantees the respect of the Constitution and delivers its final interpretation. The organization and operation of the Constitutional Court have been settled by the Constitution and the Constitutional Courts' law.

## ***B. The respective jurisdictions of the Constitutional Court and the other courts in the area of constitutionality review***

### **1. Review of laws and other acts**

#### ***§ 1. Types of review***

*3. What acts (of domestic law and international law) are reviewed by the Constitutional Court in relation to the higher standards that are the Constitution, the principle of constitutional value and the provisions of international law?*

**Answer:** The Constitutional Court reviews the compatibility of laws and normative acts of central and local bodies with the Constitution or international agreements. A ratified international agreement has to become a part of domestic judicial system after the publishing in the *Fletorja Zyrtare* (Official Gazette) and has superiority above domestic laws, which are not in conformity with it. The Constitutional Court reviews the compatibility of international agreements with the Constitution before their ratification. Also, according to the Constitution, the Constitutional Court has the authority to review the constitutionality of those international agreements that have been ratified before the entering into force of the Constitution. Such a constitutional review must be initiated only by the Council of Ministers.

*4. Is this competence exclusive? If not, which are the competent courts in this area? How about the other acts and decisions?*

**Answer:** Yes, this is an exclusive competence of the Constitutional Court.

*5. Is the review carried out by the Constitutional Court a prior or subsequent review?*

**Answer:** The Constitutional Court exercises both, *a prior* and *a posterior* review. It exercises *a prior* review when it reviews the compatibility of international agreements with the Constitution before their ratification, as well as the constitutionality of cases put forward for referendum.

It exercises *a posterior* review when it reviews the compatibility of laws, normative acts of central and local bodies with the Constitution and international agreements, as well as in all the other cases when it reviews an act which has taken its juridical form and falls under its jurisdiction.

*6. Is the review carried out by the Constitutional Court an abstract or a concrete review?*

**Answer:** The Constitutional Court exercises both abstract and concrete review. In cases when it reviews the compatibility of laws and normative acts with the Constitution or the international agreements, which are initiated by the President of the Republic, Prime minister, 1/5 of the Deputies or the Head of the High State Control, it exercises the *abstract* review of the juridical norm. It exercises the *concrete* review of the juridical norm in cases when the ordinary court (during the examination of a concrete case) suspends its further examination reasoning that the law to be applied in this case is not in conformity with the Constitution.

## **§ 2. Referral to the Constitutional Court**

### **a. Types of referral**

*7. How can the Constitutional Court be accessed (action for annulment, preliminary question, constitutional appeal, etc.)? How many cases there have been for each type of referral?*

**Answer:** The individuals' applications relating to the infringement of their constitutional rights of a fair court trial, as well as the appeals against an act of the Council of Ministers regarding the dismissal of the head of commune or mayor are presented to the Constitutional Court in the form of *constitutional appeal*. Before the Constitutional Court are to be brought the *decision* of the respective bodies, such as: the decision of the ordinary court that has suspended the judgment of the case and has request the abrogation of the law on unconstitutional grounds, or the decision of the Assembly for the dismissal of the President of the Republic, of the members of the Constitutional Court and the Supreme Court.

To the Constitutional Court there may be presented for review even the notification of the proceeding body, which has detained or captured the judge of the Constitutional Court or the Supreme Court during the commission of a crime. This notification puts the Constitutional Court under the obligation to give a decision within the period of 24 hours about its consent for the detention or release of the constitutional judge.

The respective bodies can refer an appeal to the Constitutional Court. The application should be presented in a written form, in the Albanian language and in so many copies as the number of parties in the procedure before the Constitutional Court. The application must include the generalities of parties, the subject case, the content and propounding of reasons together with all the necessary documents relating to the case. It may be signed by the applicant or his representative according the law.

During 2001, before the Constitutional Court there have been presented 68 constitutional appeals, 2 ordinary courts' decisions that have suspended the case asking for the abrogation of the law, as well as 26 applications.

### **b. Actions for annulment**

*8. Does direct recourse exist to the Constitutional Court against statutes? And against other regulations and acts?*

**Answer:** Yes, the statute may be directly appealed to the Constitutional Court by the subjects provided in the Constitution, with the exception of individuals who may be referred to this Court only for the infringement of their constitutional rights of a fair court trial, after having exhausted all the other legal means for their protection.

This rule is valid for almost all other legal norms.

*9. Who can bring such actions and within what time limit?*

**Answer:** The procedures of the constitutional review referring the challenging of the law to the Constitutional Court may be initiated by the President of the Republic, Prime Minister, 1/5 of the deputies and the Head of the High State Control. The other subjects, such as the Ombudsman, bodies of local government, religious organizations, political parties and other organizations enjoy this right only for cases relating to their legal interests.

The applications for reviewing the compatibility of laws or other normative acts with the Constitution or international agreements may be presented before the Constitutional Court within 3 years since their coming into force.

*10. Can the Constitutional Court suspend statutes or other regulations and acts?*

**Answer:** Yes, the Constitutional Court can order the suspension of the effects of the law or a normative act *ex officio* or on the parties' application, when it considers that the implementation of a certain law or act may brought such consequences that affects the individuals', social or state interests. This suspension continuous until the final decision of the Constitutional Court enters into force. In the final decision the Constitutional Court has to express even about the continuation or not of the measure.

### **c. Preliminary issues – plea of unconstitutionality**

*Who can refer cases to the Constitutional Court?*

*11. Which courts can refer cases to the Constitutional Court? If any court can put a preliminary question, does that mean that a broad or a restrictive interpretation is given to the notion of 'court'?*

**Answer:** Each court of the ordinary system, which has been considered as such by the Constitution, has the attribute to refer cases before the Constitutional Court. In the restrictive interpretation the word 'court' would imply a lonely judge, whereas in the broad interpretation it would imply a trial body.

*12. Are the courts obliged to put the question?*

**Answer:** No, they are not obliged. They can refer cases for preliminary review, only if they consider that a law introduces certain problems relating to its constitutionality.

*13. Is it possible to oppose, by a procedure of objection, opposition or recourse, the submission of all or part of a case to the Constitutional Court by a decision of referral? If so, who can initiate this procedure and how does it proceed? What are the consequences?*

**Answer:** The Constitution provides that the court itself has to appraise the necessity of the preliminary review of the concrete norm by the Constitutional Court, and for this reason the court takes a decision, which, for the purpose of resolving the case without delays, could not be appealed in higher instances by the parties involved. Also, is to be underlined that the Constitutional Court decides on the constitutionality of the concrete norm and not on the merits of the case, thus the parties' interests are not infringed if the case has been completely or partly referred to the Constitutional Court.

*14. What is the procedure for referral to the Constitutional Court? What is the role of the parties in drawing up the preliminary question? Can the preliminary question be raised ex officio? In that case, are the discussions on the question re-opened?*

**Answer:** The review of the case may be initiated by an ordinary court decision. During the examination of the concrete case, when the court appraises that the law (or some parts of it)

which has to be applied is incompatible with the Constitution, it suspends the case and, through a decision, puts into motion the Constitutional Court for the constitutional review of the norm in question. This control process begins *ex-officio* or on the parties' request. Parties involved in the judgment before the ordinary court can participate as interested subjects in the process carried out before the Constitutional Court and propound their assertions. The Constitutional Court can never review the case on its merits.

*15. Do the courts that put the question rule on the constitutionality or unconstitutionality of the regulation at issue?*

**Answer:** The ordinary courts are obliged to apply the Constitutional Court decision. Such an obligation derives from the constitutional provisions that give to the Constitutional Court decision a compulsory character for all bodies.

### *Screening*

*16. Is there a screening procedure, which allows the Constitutional Court to limit the number of cases or to speed the hearing of those cases (nonsuits, quick reply, demurrer, evident unfoundedness, identity or similarity of questions which the Constitutional Court has already answered? What is the proportion of case screen in this way?*

**Answer:** Constitutional Court may decide the nonexamine of the case in a hearing process, when it comes to the conclusion that the applying subject has not been legitimized, or when the case in question does not fall under the authorities of the Constitutional Court. During 2000, the number of cases that are not been examined in a hearing process has been 66 from the total number of applications (96) brought before the Constitutional Court. If two or more applications with the same subject case are referred to the Constitutional Court, it may join these cases and examine them together.

### *Scope of referral*

*17. What is the import of the considerations of unconstitutionality given by the court that puts the question (court a quo)? Must the Constitutional Court take these considerations into account or can it ignore them? Can it rise, ex officio or at the request of the parties, the arguments of unconstitutionality not envisaged by the court a quo or is it restricted by the decision of referral? Can the Constitutional Court review regulations not intended by the preliminary question yet linked thereto?*

**Answer:** The court *a quo* that puts into motion the Constitutional Court is obliged to propound the arguments on which, the decision to initiate a preliminary review, has been based. As such, the Constitutional Court ought to take these decisions into consideration, i.e. it has to examine their foundedness one by one.

Practically, the Constitutional Court may come to the conclusion that a law may be unconstitutional for reasons that differs from those introduced to the court decision. But, the Constitutional Court cannot go beyond the subject case, thus to extend the area of control. It should review only that act or its provisions that have been requested form the court *a quo*.

18. *Are all aspects, both in law and in fact, of the action pending before the court a quo referred to the Constitutional Court?*

**Answer:** No, before the Constitutional Court there are referred only those aspects relating to constitutionality of an reviewed act, not those relating to the merits of the case.

*Relevance of the question*

19. *Can the Constitutional Court dismiss the question on the grounds that it is not useful to the settlement of the action brought before the court a quo?*

**Answer:** No, in any case it must be expressed on the constitutionality of the act in question.

*Interpretation of the question*

20. *Can the Constitutional Court reformulate the question in order to make it clearer and to define the constitutional debate better? If so, what use is made of this option?*

**Answer:** Yes, as a rule, the rapporteur of the question can reformulate it without changing the essence of the application. It makes some clarification of the question and guaranties the performance of a normal constitutional debate.

*Interpretation of the reviewed regulation*

21. *Must the Constitutional Court adhere to the interpretation of the reviewed regulation given by the court a quo?*

**Answer:** If the Constitutional Court appraises that the interpretation of a certain regulation by a court *a quo* does not introduce constitutional problems, it can be adhered to it, otherwise the Constitutional Court has the right to make a new interpretation of the regulation that should be in conformity with the constitutional provisions. Such an interpretation is final and obliged to be implemented.

*Jus superveniens*

22. *Which is the impact of a legislative amendment to the challenged regulation subsequent to the decision of referral?*

**Answer:** If the amendment abrogates or change the regulation or parts of it, which have been requested to be reviewed by the Constitutional Court and the court asks for the dismissal of the judgment, then the Constitutional Court decides to dismiss the question.

## *Parties*

23. *Can the parties before the court a quo or third parties (individuals, institutions, other courts etc.) participate (voluntarily or compulsory) in the procedure before the Constitutional Court? If so, in what way? How are they informed of the procedure before the Constitutional Court? Can one intervene before the Constitutional Court on the mere grounds of being a party before a court deciding on merits in an action similar to the one that led the court a quo to put the preliminary question?*

**Answer:** Yes, the parties can participate in the procedure before the Constitutional Court as interested subjects propounding their assertions. Besides these, it can participate even the body that has presented the draft – law, the body that has approved it, when the Constitutional Court considers their presence as necessary for the clarification of the question.

The court that has put into motion the Constitutional Court is not summoned, but it can participate if it considers this as necessary.

The participation of other persons involved in analogue cases has not been allowed, because it would lead to anomalies during the judicial review carried out before the Constitutional Court.

24. *Is there a counsel for the defence? If so, in what form? Is there a counsel for the prosecution with the Constitutional Court?*

**Answer:** No, there does not exist the counsel for the defence before the Constitutional Court. The parties, if they appreciate it would be reasonable, may be represented by an advocate in order to run the constitutional debate better. The same thing can be said even for the prosecution during the examination of criminal cases.

## *Points of law in the constitutional proceedings*

25. *Does the withdrawal of the suit before the court a quo or the death of a party before the same court subsequent to the decision of referral have an impact on the progress of the constitutional action?*

**Answer:** No, it does not have any impact, because the Constitutional Court decides on the constitutionality of an act, which may be applicable as well as for other analogue cases.

## **d. The constitutional appeal**

### *Object of the constitutional appeal*

26. *What is the object of the constitutional appeal? Against which act can such an appeal be lodged? Once a constitutional appeal has been referred to it, can the Constitutional Court examine the fact of the case?*

**Answer:** The object of constitutional appeal is a) infringement of the constitutional right of a fair court trial, which is submitted by individuals; b) appeal of the direct elected body of the local government unit, when the Council of Ministers have taken against it the measure of dismissal or dissolution, and c) appeal of the electoral subject or the independent candidate for election in the Assembly as well as for referendum.



As per the item a), the appeal has to be refer against the court decisions or administrative acts that are the result of an unfair court trial; in item b), the appeal has to be refer against the normative act of the Council of Ministers; in item c), the appeal has to be refer against the decision of the CEC (Central Electoral Commission).

The Constitutional Court cannot examine the case on its merits, when it investigates the fairness of a court trial. Whereas, in the case of examination of the appeal presented by the local government body, the Constitutional Court examines the case on its merits, i.e. the circumstances that brought about the dismissal of the elected body. During the examination of the electoral appeals, the Constitutional Court examines the case on its merits for assessing the validity of elections or referendum.

### *Allowability of the appeal*

27. *Who can refer cases to the Constitutional Court? How?*

**Answer:** Every citizen, who pretends that an unfair court trial has been carried out against him, after having exhausted all the other means of appeal, may refer the case before the Constitutional Court; the direct elected body of the local government; electoral subjects and independent candidates for deputies.

28. *Is appeal to the Constitutional Court only possible once all other avenues of appeal have been tried?*

**Answer:** In the case of individuals' appeals regarding a fair court trial, this is a fundamental condition. For the other acts it is not such a condition, but they may be directly challenged to the Constitutional Court.

### *Screening*

29. *Is there a screening procedure, which allows the Constitutional Court to limit the number of cases or to speed up the hearing of those cases (selection of cases, nonsuit, quick reply, demurrer, evident unfoundedness, etc.)? What is the proportion of cases screened in this way?*

**Answer:** Yes, there does exist such a procedure that aims at evidencing the legitimacy of the applicant and the authority of the Constitutional Court to examine the concrete case. If the Constitutional Court reaches the conclusion that one of these lacks, it decides the nonexamine of the case in a hearing process.

The Constitutional Court may decide to join the cases, when they have the same subject case. During 2000, there have been taken 68 decisions (from the total number of 96) on constitutional appeals. 19 decisions have been taken during a hearing process, whereas 49 decisions have been for the nonexamine of cases in a hearing process.

## *Parties*

30. *Does the plaintiff participate in the procedure before the Constitutional Court? If so, in what form? Can or must certain public authorities intervene in the proceeding?*

**Answer:** The applicant participates in the procedure before the Constitutional Court, personally or represented by his/her advocate.

The other parties can participate as interested subjects (the body that has issued the act, or persons that have some interests in the case in question) personally or represented by the advocates or the person authorized by the head of the state bodies.

In some cases, Constitutional Court can consider as necessary the summon of some state bodies, such as the representative of the President, the Assembly, the Council of Ministers, the Attorney General.

31. *Is there a counsel for the defence? If so, in what form? Is there a counsel for the prosecution with the Constitutional Court?*

**Answer:** The participation of the advocate is not compulsory.

When necessary, the prosecutor may be summoned by the Constitutional Court, but the obligation for his participation has been not explicitly foreseen by the Constitution or the law.

## **2. Settlement of conflicts between courts**

32. *Is it the task of the Constitutional Court to circumscribe the respective jurisdictions of the other courts? If so, how does it proceed?*

**Answer:** No, the Constitutional Court does not have the authority to circumscribe the respective jurisdictions of the courts of ordinary system. Such cases have been resolved by the Constitution and the administration of justices' law, and they are to be resolved within the ordinary judicial system.

## **II. The relation between the Constitutional Court and other courts**

### ***A. The organic link***

33. *What are the organic links between the Constitutional Court and the other national courts (conditions of admission, appointment procedure, etc.)?*

**Answer.** No, there does not exist any organic link between the Constitutional Court and the other courts, because the Constitutional Court is not part of the ordinary judicial system. Also, the Constitutional Court or its members do not participate in any of the forums that appoint, dismiss or transfer the judges.

## ***B. The procedural link***

34. *Are there procedural links between the Constitutional Court and the court referring the case to it or against which the appeal was lodged (for example, a judge – to – judge meeting in order to clarify or refine the question)? If so, what use is made of this option?*

**Answer:** There does not exist such a legal requirement or a created practice. The only possibility for clarifying the circumstances of the case is the compilation of the application by the court and the court hearing carried out for this purpose.

## ***C. The functional link***

### ***§ 1. The review and its effects***

35. *Do the rulings of the Constitutional Court always constitute a binding precedent for other courts?*

**Answer:** Yes, the Constitutional Court decisions constitute a compulsory precedent for the other courts of the judicial system. During their practice, these courts cannot give to the cases solution that are not in conformity with the Constitutional Court decisions.

36. *What are the review methods of the Constitutional Court (annulment, dismissal, declaration of constitutionality, declaration of unconstitutionality, interpretative decisions, interpretation reserves, annulment of a judicial decision, establishment of deficiencies, establishment of limited validity, etc.)? If necessary, distinguish for the different types of referral (action for annulment, prejudicial question, constitutional appeal).*

**Answer:** According to article 132 of the Constitutional Court of the Republic of Albania, the Constitutional Court has only the authority to abrogate the reviewed acts, normative acts or court decisions. After the abrogation of such acts, the case is sent to the legislative or judicial body, and it has to act in conformity with the Constitutional Court decision.

In cases of preliminary review, the chambers of Constitutional Court decide to pass the case in a hearing process, when the application falls under the authority of the Constitutional Court and it has been submitted by the legitimized subject. On the contrary they decide not to pass the case for judgment. According to the Constitution, in special cases provided by it, the Constitutional Court gives the consent to send the Supreme Courts' judge to the court for a criminal proceeding; declares the dismissal of the Supreme Courts' judge; declares the dismissal of the President of the Republic when he seriously infringes the Constitution, when he commits a serious crime or verifies the fact of his inability to exercise his duty as the head of the state.

37. *What are the legal effects of the rulings of the Constitutional Court (ex nunc, ex tunc, erga omnes, inter partes etj.), individually, on the original action and on all actions before common law courts, on other regulations, administrative acts – statutory or individual – or judicial decisions, etc. (for example, is there a re-examination procedure)? Can the Constitutional Court limit or sustain the effects in time?*

**Answer:** The decision of the Constitutional Court, which abrogates a law or normative act as incompatible with the Constitution, normally, produce its effects *ex-nunc*. The Constitutional

Court decision has *ex-tunc* effects only to a criminal punishment even during the time of its execution if it is directly related to the appliance of the abrogated law or normative act; to cases that have been examined by the court until decisions have not been final and to the abrogated law or act, which effects are unexhausted.

The Constitutional Court decisions have *ex tunc* effects even to those ordinary courts decisions that are abrogated on unconstitutional grounds.

In abstract control, the Constitutional Court decisions take *erga omnes* effects, whereas in concrete judgments, they take *inter partes* effects.

The effects in time of the Constitutional Court decisions have been explicitly settled by the law and cannot be assessed by it.

*38. Is the authority of the rulings of the Constitutional Court always respected? Does it sometimes meet with opposition from institutions or courts? Do the other courts sometimes experience difficulties in implementing the rulings of the Constitutional Court?*

**Answer:** According to the Constitution, the Constitutional Court decisions are final, cannot be appealed, are obligatory to be implemented. In some cases, when the decision of the Constitutional Court has not been implemented since its delivering, have been eliminated with the passing of time.

## **§ 2. Interpretation by the Constitutional Court**

### **a. The case law of other courts accepted by the Constitutional Court in the exercise of its own jurisdiction**

*39. Does the Constitutional Court consider itself bound by the interpretations of the challenged act given by the Supreme Court or other courts (theory of living law, for example)? Can the Constitutional Court, however, give another interpretation?*

**Answer:** The ordinary courts during the legal process make the interpretation of the legal norms. This interpretation produces its effects only for the concrete case under examination.

This interpretation is not binding for the Constitutional Court. When it considers that the interpretation of a challenged act is not in conformity with the Constitution, it makes to the legal norm an interpretation that differs from that of other courts.

### **b. The effects of the interpretation of the Constitutional Court and the acceptance of the case law of the Constitutional Court by the other courts during the exercise of their own jurisdiction**

*40. Is the interpretation of the constitutional rules and the legislative rules given by the Constitutional Court binding on the other courts? What happens in case of non – adherence to the interpretation of the Constitutional Court?*

**Answer:** According to article 124 paragraph 1 of the Albanian Constitution, the Constitutional Court makes the final interpretation of the Constitution. In this context, the interpretation of the constitutional norms has superiority to any other interpretation delivered by other bodies, and it has binding force for the ordinary courts, which are obliged to implement the interpretation of the Constitutional Court.

41. *Can the Constitutional Court declare that a rule is constitutional only in the exact interpretation given by it? Can this interpretation deviate from that of "living law"? If so, what use is made of this option?*

**Answer:** The interpretation of the law is not an object of review of the Constitutional Court, but when it has been requested to abrogate a law as incompatible with the Constitution, the Constitutional Court makes the interpretation of the law and of the constitutional norm, and basing on this, it reaches the conclusion if there does exist or not an incompatibility between the law and the constitutional norm.

42. *What are the effects for the other courts of a purely interpretative decision?*

**Answer:** A merely interpretative decision produces a general effect *erga omnes*, and is binding to other courts during the exercise of other authorities.

### **III. The interference of the European Courts**

#### ***A. The Constitutional Court and the other courts vis-à-vis the European Convention on the Human Rights and the case law of the European Court of Human Rights***

43. *Is the Constitutional Court bound by the case law of the European Court of Human Rights? If this case law is not binding, does it influence the course of action of the Constitutional Court?*

**Answer:** The Albanian Constitutional Court is not bound by the case law of the European Court of Human Rights. The Constitutional Court may refer to it. It influences the course of action undertaken by the Constitutional Court only in a general meaning.

44. *Can the court base its decision on a provision of the European Convention and, in doing so, possibly deviate from the action of the Constitutional Court?*

**Answer:** The Constitutional Court may base its decision on a provision of the European Convention on the Human Rights. This does not bring about a deviation from the action of the Constitutional Court, because, according to Article 122/1 of the Constitution, each ratified international agreement is a part of the domestic legal system after having been published in *Fletorja Zyrtare* (the Official Gazette) of the Republic of Albania.

45. *Must a lawsuit have been brought before the Constitutional Court before an appeal can be made to the European Court of Human Rights (after having tried all internal avenues of appeal)?*

**Answer:** According to Article 131/f, individuals' application relating to the infringement of their constitutional rights of a fair court trial, are to be reviewed by the Constitutional Court after all internal avenues for the protection of these rights have been tried. Thus, individuals' applications should be brought before the Constitutional Court, and only after this they can be referred to the European Court of the Human Rights.

***B. The Constitutional Court and the other courts vis-à-vis the case law of the Court of Justice of the European Communities***

*46. Is the Constitutional Court bound by the case law of the Court of Justice of the European Communities? If this case law is not binding, does it influence the course of action of the Constitutional Court?*

*47. Has the Constitutional Court already referred, or could it refer, cases to the Court of Justice of the European Communities? What is the role of the Constitutional Court and the other courts in case of non – application of national regulations that are incompatible with Community law?*

*48. Do national courts have a choice between referring cases to the Constitutional Court and to the Court of Justice of the European Communities?*

***Answers for questions 46 – 48.*** Albania is not a member of the European Union and there are no relations between the Constitutional Court or other Albanian courts and the case law of the European Court.