

Albania versus European Court Decision on Property Conflicts



Law

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Abstract

The acquisition of immovable property, as an Institute of Civil Law but also as a key component of human life has always been in the focus of attention in different social systems and periods of development. Even with substantial historical movements, wars, settlements, migrations or immigrations, property has been treated in all legislations, notwithstanding the legal regime or form of the state establishment, at any time. The legal approach to all issues, often challenging and complex, regarding the property acquisition and maintenance, has highlighted that property issue, in addition to its legal aspect, bears also a highly complex and unanimous aspect such as the anthropological one, namely of social behaviour in relation to the concept of property acquisition from a broad perspective. Analysis of the phenomenon of ownership acquisition should be viewed in a historical focus and referring to the period from 1991 to date, it is noticed that its most objective and characteristic feature is the social behaviour in the post-communist Albania to the extra-legal modalities, if I can put it this way, of the property acquisition from a comprehensive perspective. What the Albanian legislation has foreseen in this period and which has been human approach both in relation to law and its enforcement on one hand and with the property on the other hand. Property acquisition is really in the focus but the binary link is the analysis of behaviour of the Albanian population regarding the property acquisition and its maintenance. It is worth noting that the behaviour of Albanian population to property not only has failed to pursue law but has acquired the method of its unreasonable acquisition, often arguing on the basis of customs law and other times by adaption to the phenomenon of invasion of state lands or lands of previous owners.

Academic Presentation

In the early 1990, after about 50 years of state economy, the political factor in Albania has deemed fair to re-design the concept of property and assignment of ownership rights, either be lands or other immovable properties, from the state that had centralized them for more than 45 years to the individual, both natural person or legal entity. The concept of removing from the state the public property and giving to the citizen as private property would prepare the ground for a completely different form from the one that existed to date in the so-called market economy, in its origin was quite fair. Accordingly, the first laws were formulated, which would make such a major change and that included a mixture of legal modern concepts on ownership, borrowed from abroad with elements of the Albanian tradition of family relations, clans and customs-oriented relations.

Summary Background of Land Ownership in Albania

After the country's independence in 1912, land distribution was unfair: 3% of the population owned about 27% of the land. Some owners, state and religious institutions had owned the most fertile lands. Small and medium owners possessed about 60% of agricultural land. During the communist regime the land was expropriated. Within a year, in 1945 a plot of land, which represented about 170,000 hectares and which belonged to wealthy landowners and the middle class declined from 57% to 16%, and this land difference of 41% was redistributed to those who had been first landless or those with less than 5 hectares¹. Medium and large owners had the right to hold only 5 hectares of agricultural land. This redistribution became legitimized, because along with possession of property, families were given documentation referred to as land patent (certificate of ownership).

Therefore, in 1976 all national lands were nationalized. In 1980, 76% of the agricultural land was collectivized by the cooperatives, 21% from the agricultural farms and only 3% was under private ownership. In 1989 all lands were state-

¹ However, although the right of ownership was transferred in this way, other rights regarding the land ownership such as the sales or rental were unknown, which undoubtedly led to the barrier to the land market development. The year 1946 followed with the land collectiveness, which means that all assets/land type properties had to be used for the production cooperatives and agricultural state farms, with a view of achieving agricultural self-sufficiency.

owned, making Albania one of the most collectivized countries in Europe. By the end of '80s, the national economy was in crisis due to a number of distorted economic policies but the strict land control was a key component.

Legislative Framework for Land Administration

On **19.7.1991** it was adopted the law no.7501 "On Land", which authorized the land allotment and assignment to the collective farms, and more specifically to the family members of those farms in urban areas or agricultural cooperatives in villages, in equal shares. According to this law: "...*omissis*...*Family members of the agricultural cooperative or farmers of towns, after land allotment, are entitled to be separated and to become separate entities, taking under ownership the agricultural land belonging from the full set of the entity they take part in. The surface and place where the land will be assigned are determined by the land commission*". Law no.7501 also provided that "...*omissis*...*When assigning lands under ownership and use of legal entities and natural persons, they shall not be recognized the previous ownership, neither the size nor its borders prior to the collectiveness*" **thus expressly denying the ownership and previous owners of the agricultural land**". The law establishes that land will be distributed to the families that have lived in the cooperative but does not furnish any information or data about what will happen to the properties to be replaced to the families affected by the agrarian reform. The decisions on land allotment and "land patents" were granted by the selected commissions, issuing the document of "LAA-land acquisition act"². **The new owners acquired the land free of charge (!)**. This is a key point in the history of land ownership in Albania because another agrarian reform took place after 1945, which distributed land through the implementation of the principle of equality and without taking into account the interests of former owners who were expropriated. Therefore, to determine the land ownership and rights of its use, the law "On Land" does not recognize land ownership, sizes and borders defined prior to the collectiveness, realized under the previous regime³. Because the law of 1991 prohibited the purchase or sales of land privately owned initially by the state, the situation changed in 1993⁴ upon the approval of Law no. 7715 (land rent), which allowed the rental of agricultural land and in 1995, upon the approval of Law no. 7983⁵ (land sales), which allowed the land sales.

Law no.7698 dated 15.04.1993 "On Property Restitution and Compensation"

Another crucial law regarding the ownership is Law no. 7698 of 1993 "On Property Restitution and Compensation", which aimed at the restitution of properties to the former owners, who had title-owned properties prior to the agrarian reform. The issue was not easy to be resolved as the allotment made by Law 7501, as stated above, had taken into account neither the previous owners (before the reform), nor their borders. In these circumstances, the purpose of law in question applied two approaches: on one hand the land restitution to those owners whose land had randomly not become subject to distribution under Law 7501, and compensation for those other owners to whom the land was distributed under Law 7501. The state would compensate the latter for property loss through the financial compensation and/or state bonds and/or by equivalent land⁶. In some villages, the families rejected the results of the division by Law 7501 and allotted the land on the basis of the concept of ownership as per the boundaries before

² Land commissions distributed around 420 plots of land of the agricultural cooperatives to about 383,600 families that lived and worked in rural areas.

³ According to various sources, in 1991 the Parliament and the Stability Agreement justified the exemption of former owners and denial of their right to ownership, with arguments such as the surface of agricultural land per capital was too small- 0.22 hectares per person (probably the smallest one in Europe) in relation to the majority of population that lived in rural areas (64%);b-population had tripled in comparison to the years of Agrarian Reform; c-there have been major changes and a geographical movement between different regions; d-as well as the transformations in the local infrastructure and geography have caused serious problems for property identification.

⁴ Law.7715 on 2.6.1993 "On some modifications and adds to the Law n.7501, date 19.7.1991 "On Land".

⁵ Law n.7983 on 14.08.1995 "For buying and sailing the plot of land".

⁶ The law on property restitution and compensation and other land-related laws, with social welfare, instilled not only a sense of ownership among many groups and individuals, but also social divisions at the level of income.

agrarian reform⁷. This trend was observed particularly in coastal areas. This process was associated with many problems and is not yet completed. The principle of restitution and compensation to former owners, whose property was confiscated in the communist period, was added to the Albanian legislation in 1993. At the time when this law was adopted by parliament, agricultural land distribution programs and privatization of buildings were underway. Thus, a new problem emerged that laws must solve the conflict between the new owners (who acquired their land under the privatization legislation of 1991) and former owners. The initial laws on restitution and compensation provided for the award of financial compensation or alternative land and non-restitution of current property. This included all agricultural land, already subject to distribution according to Law 7501.

Key points of Laws 7501-7698

The law on property restitution and compensation and other land-related laws with the social welfare caused disproportionality of ownership between many areas and individuals of the same regional grouping. This process is associated with problems and has still not been completed. The program of compensation and restitution to former owners, whose properties were expropriated during the communist regime, was consolidated by law 2 years after the implementation and operation of the program on distribution of agricultural lands and privatization. This time span gave rise to the initial conflicts between the new owners (those that acquired rights under the legislation on privatization after 1991) and former owners, conflicts that over time brought out major technical and legal issues⁸.

Field consequences

After the subdivision of arable land all over the country, the design of local landscapes suffers major changes. Notwithstanding the legal obstacles of land ownership, physical division is currently a key issue surrounding us. This is one of the most disputable laws in the Albanian legal and institutional history⁹. Hence, regarding the landscape design, the highly specific and special allotment of agricultural land is evident. The initial division was made as per the borders of administrative local units. Each village is unique regarding the way how it has implemented or not the land reform process, namely, it is very important to make broad generalizations¹⁰. Before 1990, when people lived near the town centre or villages, agricultural land was used only for the main purpose of cultivation. After the enforcement of Law no. 7501, arable land after allotment was used for the construction of houses and buildings of facilities (trade, bar etc), converting its legal destination from an agricultural land to construction land, which is also a ground for various assessments in the economic market of both typologies.

Unlawful consequences

The situation was complicated by the informal land subdivision. Owners who acquired land by virtue of law 7501 later sold a portion of that land to new owners, in many cases without legal documents. As it often occurs, a parcel is

⁷ There is an opinion that the sale of the plot of land should have been resolved in a different way, that way that the problem was managed by the population in the North of Albania. The Albanian highlanders never took into consideration the law 7501 "On Land", so for these land owners there have not been conflicts and still there are not problems with the land sharing, since they subdivided the land by return at the former land borders, before 1946.

⁸ All agricultural lands, based on the distribution under Law 7501, possessed before 1946 by former owners, were calculated and recognized only formally, with the addition to be given to the agricultural land or financial compensation.

⁹ This is a very long discussion pending a solution and still remaining open. As regards the study, it is extremely important to highlight the consequences and problems of the landscape design that followed after the implementation of law 7501.

¹⁰ This process, regarding the subdivision of the plot of lands is particularly referred to the Himara Sea Coastal. In this zones, in compliance of the Law, the process of land sharing under the Law 7501 was done by taking into consideration the former land owners. The inhabitants, by agreement between them, decided at this point, to share the lands "by village". In concrete this process took place in Palasa and Himara. But this phenomenon created problems for those inhabitants who populated this areas during the communism based on a job contract of the agricultural cooperatives and farms. The point is that the plot of land distributed to them under the Law 7501 belonged to the former owners who had it before 1946, and this created a lot of judicial conflicts before the Courts. On the other hand there even native inhabitants who didn't have land inherited but earned that under the Law 7501. Even they, do have a lot of judicial conflicts before the Courts, with the owners registered into the maps before 1946-s.

further divided to more than two owners and both have built houses mostly illegally. Here is a double problem, initially for clarification of land ownership (who owns it legally and who not) and secondly, the illegal construction. In various occasions, according to ALUIZNI¹¹ data, neither the household peasant, nor land farmer has legal documents.

Ownership and Land Restitution

Laws on land restitution and compensation under ownership before 1946 were proven unsatisfactory because the affected families that alleged restitution had to be offered other options such as an alternative award of land or financial compensation. Meanwhile, the supporters of land restitution procedure also started to focus their attention on tourist areas as potential fields wherefrom the award of alternative land could be made possible. Finally, the process of compensation was not applied and allegations of former owners remained unfulfilled. Laws on restitution and compensation should be interpreted in the context of the constitutional provisions on the right to private law¹². Actually, the Constitution of the Republic of Albania includes sounder and powerful legal provisions. These initial legislative amendments paved the way for more comprehensive and important changes such as articles referring to properties in the Civil Code of the Republic of Albania in 1994, article 149 thereof. In this case, ownership is defined as "*the right to enjoy and freely possess things within the limits set by law*". Property subjects may be natural persons and legal entities, as well as public entities. The difficulty for division of concepts under the Civil Code of the Republic of Albania is clear, based on the onsite property situation.

Brief explanation on the legislative framework for the legalization of informal buildings

Informal market

After 1990, Albania suffered tremendous changes after it implemented the rapid model of transition to a market economy, which meant radical changes. The population began to move and be freely settled in other areas of the country, especially those that were either close to the sea or in larger urban centres, where they could find jobs and other services. This flow of population was not foreseen and could not be managed with the previous laws and regulations governing the territory before the transition. However, we can admit that it could not be managed because of lack of knowledge of modern policies for urban and land management, where protection of private property and inheritance right are essential for democracy and economic development, while public interest protection is the basis for civic development.

Currently, the informal settlers occupy public and/or private land, or have bought land from a lawful owner but in some cases they are occupied by unlawful settlers. In all cases, they have illegally constructed, which means their premises are not adapted to a specific plan.

Without wishing to focus on the informality and illegal constructions which not only represent a special and broad topic of study but already although not expressly cited in the Civil Code, can be considered as (illegal) legal forms of property acquisition, I would rather provide a presentation through some judicial case laws and consequences that non-observance and lack of knowledge of laws in the field of immovable property acquisition has caused in Albania during the last 25 years. The Court of Strasbourg has currently accepted 530 complaints for open judicial processes. Only in 2010 there were rendered 26 decisions in favour of the owners, which unfortunately are not considered as

¹¹ Based on the data of Aluiznit (Agjencia e Legalizimit, Urbanizimit dhe Integritit të Zonave/Ndertimeve Informale- Agency for Legalization, Urbanization and Integration of the Zones/Informal Building) on January 2014, it is proved that there are 50.000 illegal buildings whose owners have already finished the legalization process with the Albanian State and are on hold to be equipped with the Certificates of Property.

¹² The law on ownership along the coastal strip is objected by the Government and proves to be a critical obstacle to development. Pending issues of restitution and compensation are particularly problematic along the coast and in Durrës-Kavajë region, and have hindered the completion of the process of immovable property initial registration.

challenges against them. While Strasbourg has ordered the property issue should be resolved, the Albanian Government should respect human rights and fundamental freedoms under the European Convention.

JUDICIAL CASE LAWS

MANUSHAQE PUTO (AND OTHERS)¹³ VERSUS ALBANIA¹⁴

Year 1995 - On 27 July, the Property Restitution and Compensation Commission of Vlore district recognized the title of inherited property with parcels of 5.000 m². Therefore, it decided on the compensation of heirs with one of the forms provided by law.

Years 1995, 1996, 2002 – Compensation is not made in due time. Therefore, the applicants sent various letters to the commission on their case but they received no reply.

Year 2007- The Property Restitution and Compensation Commission already transformed into an Agency for Property Restitution and Compensation, informs the applicants that this agency is in the process of determining the maps of property value and allocation of relevant funds.

Year 2008- On 5 October the Director of Property Restitution and Compensation Agency, ex officio, namely under *proprio motu* initiative, decides to verify the lawfulness of the decision of Property Restitution and Compensation Agency of 1995.

Laws on Ownership in Albania

- 1.The first law for ownership recognition after the communist dictatorship, is law 7698 dated 15 April 1993 “On Property Restitution and Compensation“.
- 2.In 2004 this law was repealed by another law which is currently referred to as "Property Law", which failing to restore the initial property, aimed at the compensation by six forms provided for by this law, property of the same type/public property located in the tourist areas/any other type of property/ shares in state enterprises/value of state property during the privatization process/sum of money corresponding to the value attributed to the property at the time of the decision.
- 3.This law recognized, at a later time, the right to former owners, to receive default interest rates covering the period from recognition of the right of ownership to award financial compensation, calculated at the average annual interest rate set by the Bank Albania.
- 4.Currently, the Agency is the only competent body to decide on applications for land restitution and compensation.
- 5.From 2004 to 2010 the law on ownership has been amended at least 7 times, which has repeatedly led to extension of deadlines.

The report of Constitutional Court of the Republic of Albania in relation to the Property Law

The latter, by virtue of two decisions no. 27 dated May 26, 2010 and no. 43 dated October 6, 2011, repealed as inadmissible some of the provisions of the "Property Law". The court specifically states that "decisions of the Property Restitution and Compensation Agency should not impose on individuals legal expectations equal to those derived by

¹³ European Court of Human Rights: CASE OF MANUSHAQE PUTO AND OTHERS vs. ALBANIA (Applications nos. 604/07, 43628/07, 46684/07 and 34770/09) JUDGMENT This judgment was revised in accordance with Rule 80 of the Rules of Court in a judgment of 4 November 2014 STRASBOURG 31 July 2012 FINAL 17/12/2012. This judgment has become final under Article 44 § 2 of the Convention.

¹⁴ The case originated in four applications (nos. 604/07, 43628/07, 34770/09) against the Republic of Albania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by twenty Albanian nationals. The applicants alleged that there had been a breach of Articles 6 § 1 and 13 of the Convention and of Article 1 of Protocol No. 1 to the Convention as a result of the non-enforcement of final administrative decisions awarding them compensation in lieu of the restitution of their properties.

the decision of a regular court that recognizes the rights of ownership of an individual ". In this way, the decisions of PRCA that were not administrative within the meaning of this concept, which means they were not compatible with any court decision or had not previously passed before a court, were directly subject to judicial review. To put it more clearly, those decisions which had taken final form by the court, could not be subject to review or re-evaluation by the director of the PRCA, which does not have the powers of a judicial or quasi-judicial body.

Bylaws approved by the Albanian government regarding the property law (as amended)

1. *DCM* on the award of financial compensation;
2. *DCM of 2009* by which a former owner was entitled to financial compensation, provided that he had not benefitted: a-any previous compensation; b-property partial restitution; c-the right to initial refusal; d-enforcement of the law on land allotment under Law 7501.
3. *DCM* on property assessment values. It served the award of land price referred per square meter all over the country.
4. *DCM* on the compensation in kind of former owners based on the IKCF financial compensation.
5. *Adoption of the law on Special Compensation Funds* dated February 25, 2010, including two categories: a-former owners, whose rights for compensation are recognized by property law of 2004 and b-former owners, whose rights for compensation were recognized by "Law on Legalization".
6. *Action plan approved by K.M. dated 29 April 2011* thereby adopting transitory compensation schemes and the final compensation scheme. This plan did not include time limits regarding the implementation.

The situation is introduced as follows:

The ownership legislation is fragmented and must be consolidated and simplified. The process of registration of real estate all over the country had not yet been completed. There is still no unified national property map. PRCA does not have a unified database of decisions. The legalization process has not finished yet and the identification of properties that will be part of the compensation fund has not been completed.

The applicant Manushaqe Puto referred to the Court of Strasbourg, alleging as follows:

1. The administrative final decisions in their favour remain unenforced and that she did not receive financial compensation. PRCA Director was not competent to examine *proprio motu* the decision of 1995 of PRCA, Vlore, whereby was recognized the property title and the right to compensation.
2. Decision of the Court of Strasbourg regarding their issue, having exhausted all domestic legal remedies for the examination and determination of their case.
3. Based on the final PRCA decisions, they were entitled to their properties within the meaning of article 1 of the Protocol to the European Convention for Human Rights. The non-enforcement of these final decisions had given rise to a violation of article 1 of the Protocol no. 1 to the Convention.

Reasoning of the Court of Strasbourg

Pursuant to article 1 of the Convention, this Court argues violations of this provision because the state itself has not protected human rights within its own legal system, namely, it directly recognizes the state obligation. The argument of the Albanian government regarding the lack of funds is already rejected by G.J.S by other previous decisions.

The Court of Strasbourg argues that: "interference with the peaceful enjoyment of properties and inaction should strike a fair balance between the requirements of general community interest and the requirements for the protection of fundamental human rights". In particular, there should exist a reasonable relation of proportionality between the remedies used and the purpose sought to be realized under the measures applied by the state, including measures depriving a person from his properties. However, in each case involving the alleged violation of this article, the Court

should find if due to the State action or omission, the relevant person had to bear a redundant and non-proportional burden”.

The Court of Strasbourg finds that the respondent state should take general priority measures, with a view of securing effectively the right to compensation, while it strikes fair balances between various interests in question. As consented by the Albanian Government in its action plan, the authorities lacked accurate and credible information regarding the total number of administrative decisions that recognized ownership rights and award of compensation, which had been adopted since 1993.

VRIONI¹⁵ VERSUS ALBANIA¹⁶

-At this point, it is worth stressing that due to a serious error of the financial unit at the Municipality of Tirana, which, without further based on facts, recognized the right to compensation to VRIONI family for half a villa and the land underneath, after tens of judicial processes, the Albanian state is punished by the Court of Strasbourg in the amount of 450,000 Euro plus taxes under the law and default interest rates.

-In summary, before war the father of applicants VRIONI received a bank loan from Banca di Napoli and for that purpose of that loan placed as collateral over half of land and villa on the land under his ownership.

Vrioni was persecuted by the communist state but notwithstanding that, half of the villa and land placed as collateral for the Bank of Naples (which was already called by the Bank of Albanian state with rights and obligations) were seized to him on account of the state not due to political matters, but as it commonly occurred in that period, but after Vrioni debited them, he was proven to be in default.

Year 1957 – The state sold that portion of villa on which the mortgage was placed, precisely to recover the financial amount to Mr. K.G, who bought it in *bona fide* and by rules.

Year 1992 – After the dictatorship, the financial unit at the Municipality of Tiranë, based on the act for rehabilitation of victims of communist repression, gave to the plaintiffs (VRIONI) the part of villa and half of land, which was already under the ownership of K.G and entitles them for registration with the cadastre office.

-K.G. initiated legal procedures at the competent Courts in Tiranë to challenge this decision because the land and villa were directly bought from him directly by the Albanian state and that the latter had not seized to Vrioni family the villa and land as a consequence of the communist repression. However, as a result of the failure on their part, to pay the loan they had received from the Bank of Naples, was taken from him as mortgage placed over property.

-The First Instance Court dismissed the application of K.G., while the Court of Appeals rejected it by bringing to merits the first instance court decision and declares invalid the decision of the financial unit, arguing them as incompetent authorities. It invited the property restitution commission to decide about this matter.

Year 1995 – On 7 July, the High Court rejected the Appeals Court Decision as the order for the award of ownership dates back to 1992, while the Commission for Property Restitution and Compensation was established in 1993. As a result, it upheld the order for recognition of property title.

¹⁵ Fourth Section: CASE OF VRIONI AND OTHERS v. ALBANIA, (Application no. 2141/03). JUDGMENT STRASBOURG 24 March 2009. This judgment has become final under Article 44 § 2 of the Convention.

¹⁶ The case originated in an application (no. 2141/03) against the Republic of Albania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by five Albanian nationals, Mrs Valeria Vrioni (Benusi), Mr Julian Benusi, Mrs Cecili Benusi, Mrs Hartina Benusi and Mrs Klara Benusi ("the applicants"), on 21 December 2002.

-Although the High Court, based on a bill of indictment filed by its President for a recourse in the interest of law and review of the Decision of the same Court dated 7.7.1995, remanded the case once again for trial to the First Instance Court, already in the focus of the act of Property Restitution and Compensation Agency, the latter (first instance court) did not accept the application of K.G. and upheld the property title acquired by Vrion family, based on the High Court Decision dated 7.7.1995 and because the Property Restitution and Compensation Commission in 1996 had also decided on the property restitution to Vrion family.

-The party K.G also challenged the decision of the Property Restitution and Compensation Agency because the property was not taken from the communist regime but from the Albanian state as a result of the insolvency to pay the loan and debt.

-The case was remanded to the Constitutional Court of the Republic of Albania, which on its part, dismissed the decision of the Property Restitution and Compensation Agency as it was a non-judicial institution and without competences to examine such a case.

The case was firstly shaped at the Court of Strasbourg, namely this Court argues that when a decision of the Albanian Court is final and in this case it refers to the Decision taken by the High Court for the case in question, in the case of February 1998, it is no longer necessary for such a case to be reviewed, being motivated as ambiguity of the first decision or to be subject to retrial because this would lead to the failure to observe the principle of legal certainty.

By recognizing the right of K.G, who had purchased the property in *bona fide*, the Court of Strasbourg upheld the first decision taken against Vrion family, recognizing them the right to property and a compensation of 450,000 Euro.

Reflection and Conclusions

Abuse of legal framework in the land use and issues of ownership over land had caused some consequences on site, giving rise to ownership conflicts. Reportedly, the issues of legislation packages regarding the property titles etc over property rights, though formulated at the same time, are applied at different times and forms and often in conflict with them.

Nowadays, in Albania the phenomenon of property and its acquisition is a legal concept that at times appears unknown and at other times is misinterpreted. Apparently, from the not too remote year 1992 to date, the legal institute of immovable property acquisition has suffered radical change. It is believed that the root cause lies in the social behaviour of all stakeholders in the process, private parties and state. This occurs because on one hand the population upon change of systems is oriented to property acquisition restoring the time lost during dictatorship, without taking into account the provisions of law.

However, on the other hand, even the post-communist legal framework, under a scarceness of legal norms regulating the property, was not ready to face frenetic changes imposed by the population demand/behaviour. As a result, the decision-making in this area has been skin-deep and shallow. There were a number of incoming consequences. On one hand, there are a variety of laws which make it hard for the practitioners of law to be guided as in open sea and on the other hand, there is a social trend which in its road to regulate the ownership recognition, has given rise to main injustice cases, especially with the class of previous owners¹⁷.

The state has been forced to accept these reforms due to social phenomenon. A question is posed if the state had to shake or not in front of social behaviour, and if it had been able to prevent such a phenomenon before the situation changed to its current status.

¹⁷ http://www.unhabitat.org.pl/files/300/vienna_declaration.pdf (accessed 10 Jul. 2010).

It is worth stressing that case laws highlighted and elaborated as above, though in a summary form, aim to shift the focus to a single fact: whichever is the judicial form, both the sense of guilt or not, during the last 25 years the issue of property and its compensation in Albania has caused serious and multidimensional social issues¹⁸: class inequality, injustice, violation of fundamental human rights being shortcomings that directly affect the category of concerned parties, but above all a social injustice burdening and continuing to burden the taxes of every Albanian citizen paid to the state, as it is the source of these injustices with its action or omission.

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