REPUBLIKA E SHQIPËRISË

PARLIAMENTARY GROUP OF THE DEMOCRATIC PARTY

Tirana, 24 April 2018

To: **H. E. Mr. Guido Raimondi**
President of the European Court of Human Rights

Cc: **H. E. Mr. Anders Samuelsen**
Minister of Foreign Affairs, Denmark
Chairman of the Committee of Ministers of the Council of Europe

Mr. Thorbjørn Jagland
Secretary General of the Council of Europe

Ms. Dunja Mijatović
Commissioner for Human Rights

Honorable President,

On behalf of the Democratic Party of Albania, please allow to express the highest consideration for You and the European Court of Human Rights, recognizing at the same time its role in upholding the principles of democracy, rule of law, and human rights standards in Europe, and especially in Albania.

The Democratic Party of Albania has closely followed the communication between the Court and the Albanian Government concerning the case involving "Çale v Albania" and another 88 applications (No. 3165/08). In addition, we have also closely followed the communication between the Government of Albania and the Department for the Execution of Judgments of the Council of Europe concerning the group of cases Driza & Others v Republic of Albania and Manushaqe Puto & Others v the Republic of Albania.

In this context, we consider very important to inform you of the Government's arbitrary behavior and the established mechanism found as an effective remedy, which is in breach of the

Convention's standard and ECtHR's case-law, thus gravely threatening the principle of legal certainty and the right to property, from 2014 onward.
Also, in our opinion, it is necessary a clear and transparent explanation in relation to the sublegal acts on the treatment and compensation of the owners adopted from the Government in December 2017. The Government's approach is not only in breach of the Constitutional and Convention's standard, but also of the property law adopted by the Government and hailed as an effective remedy in resolving the property issues in Albania.

The Albanian Government's strategy has not as a proper objective the solution of the properties issues, but a new expropriation of owners indeed and length of proceedings on the enforcement of the final decision on restitution and compensation of the properties, in favor to the strategic investors who are clients cherry picked by the Government without competition and who cannot guarantee the investment value they claim to develop.

In this context, the Albanian Government's policy is not to address and finalize the judgment enforcement process on restitution and compensation of property, but to prolong the process and maltreat the owners in breach of the fundamental principles of human rights. Namely, during the 2014 to 2017 period, the Government's behavior has been as follow:

1. Since 2014, the Albanian Government has not executed the pilot judgment 'Manushaqe Puto & Others v. Albania' and further ECtHR's decisions regarding the enforcement of final judgments on restitution and compensation of property.
2. Since 2014, the Government of Albania has endeavored to eliminate the owner's right on the restitution property and compensation in kind. Initially, it transferred assets from the Property Restitution and Compensation Agency to the Ministry of Agriculture, to then feed them to the investors, who are clients of the government, for 1 Euro.
3. The Government of Albania adopted the Law On Strategic Investments giving the state the authority to intervene in the relation between a landowner and a private investor. This law gives excessive access to the government, threatening the legal certainty of the owners.
4. The adoption of two subsequent DCMs a few months from each other gives the government the authority to not return the property to the owner, but transfer it to a strategic investor, who gains it unfairly.
5. The Government of Albania adopted Law No. 133/2015 "On property treatment and the finalization of the property compensation process", which is in breach of the Constitution, ECHR, and the Court's standard regarding the enforcement of final judgments on restitution and compensation of the property. Currently, the Government failed to make the due assessment of the Albanian Constitutional Court judgment for more than two years and provide the necessary amendments of the law repealed in some provisions.

To this end, please find attached a detailed Report on the adopted legal acts and the undertaken measures by the Government during this period.

In light of the above, we have found that the actual goal of the Albanian Government has been to abuse the power of the executive branch to not compensate and restitute properties to their rightful owners. Its following behavior and policy clearly show its goal to alienate properties of landowners by any means necessary. Above all, the legal framework on the treatment of the property and the finalization of the process of the compensation is totally in breach of the standard of human rights under the Convention and Court's case-law, without any perspective in resolving the long issue on the treatment of owners and the enforcement of the final judgments on restitution and compensation of property.

We would thus like to request the honored Court in its role as the guarantor of human rights standards, to not consider the effective remedy presented by the Government of Albania through the Law No. 133/2015 "On property treatment and the finalization of the property compensation process", its bylaws, and further legal framework on the issue, and to open once and for all the path for the development of a legal framework that will meet all the requirements and the standard of the Court system obligatory for Republic of Albania.

In conclusion, expressing our highest consideration and trust on the system of values of the European Court of Human Rights, on behalf of the Democratic Party, would like to request that the facts above be noted. In our opinion, Law No. 133/2015 and the bylaws provided by the Albanian Government as an effective remedy to resolve the issue of the enforcement of final judgments on restitution and compensation of property, indeed doesn't seem to be effective and realistic, and we find that in breach of the standard of the Convention and Court's jurisprudence.

The highest considerations,

Edmond Spaho
Chair of the Democratic Party Parliamentary Group

SUMMARY REPORT OF ALBANIAN GOVERNMENT INFRINGEMENTS OF THE PROPERTY RIGHT

The Government of Albania has undertaken a series of initiatives that threaten the right to property, as reflected below:

1. **Transferring the physical compensation agricultural land fund from the PRCA to the Ministry of Agriculture, Rural Development and Water Administration.**

Through the decision No. 45, dated 29.01.2014, the Government of Albania transferred management competencies over the physical compensation agricultural land fund for a total of **18,076 hectares** (eighteen thousand seventy six) owned by former agricultural enterprises and former scientific research institutions from the Property Restitution and Compensation Agency (PRCA) to the Ministry of Agriculture, Rural Development and Water Administration. This decision was against the previous approach of 2011 where this land fund had been earmarked as a physical compensation fund for owners, which has also been noted by the Court in the pilot judgment 'Manushaqe Puto & Others v Albania'.

According to paragraph 2 of DCM No. 45/2014, the ministry currently holding management competencies over the fund will use it pursuant Law No. 8318/1998 "On leasing agricultural and forest land, levees and pastures under state ownership", as amended, and Law No. 125/2013 "On concessions and public private partnerships". Thus, the Government has changed the destination of the fund earmarked in 2011 for the purposes of property compensation to use it for concession and/or private public partnership projects. This change in destination has been undertaken without meeting the obligation the government has to compensate former owners, and at a time when it has been clearly proven that the Albanian State does not have the financial ability to provide financial compensation.

As a result, the removal of this physical compensation fund, threatened the legal expectation of former owners who have applied for physical compensation and were expected to benefit from it. As consequence, has been infringed the legal certainty and has started the implementation of a discriminatory policy against legal owners, putting in difficulties the Albanian State to meet its obligations on the process of the enforcement of the final judgment on restitution and compensation of property.

2. **The mechanism established by the Government as an '*effective remedy*' on the enforcement of the final judgments on property, through the Law No. 133/2015 "On the property treatment and the finalization of the property compensation process".**

Our political force and the President of the Republic have previously addressed concerns to the Council of Europe institutions regarding human rights standards in our country, which are impacted by Law No. 133/2015 *"On property treatment and the finalization of the property compensation process"*, and have also addressed this case to the Constitutional Court of Republic of Albania.
In our opinion, the law claimed to provide an effective remedy to resolve the property issue is not adequate and is not based on a complete and transparent analysis of the Government regarding the total number of final decisions for the restitution and compensation of property that await execution, the values map reflecting the land market price, or situations with property records and overlapping of property. In addition, there is no solution regarding the distinction between the compensation of owners according to the legalization law and the compensation according to the property law, even though this was underlined in the pilot judgment of Manushaqe Puto & Others v. Albania.

The Constitutional Court decided to partially accept the application and found that paragraphs 3 and 5, of article 6, of Law No. 133/2015 "On property treatment and the finalization of the property compensation process" were unconstitutional. On the other hand, the Constitutional Court failed to make a decision regarding the abrogation of article 6, paragraph 1, subparagraph "b" and Article 7, paragraph 2, subparagraphs "a" and "b" of the law, because of a split vote.

The Constitutional Court reached this decision after having previously requested *amicus curiae* from the Venice Commission. In its opinion of 17 October 2016, the latter noted that *'amicus curiae is based on the unofficial publication of the law and the relevant report and that the mistakes in the opinion made could be a result of the inaccurate translation'*. Referring to Law Report translation published from the Venice Commission in their webpage was found that there was an intellectual intervention in the content of the official version of the Law Report. It was also found that the Commission was sent a Report which in form has the same components of the official Law Report No. 133/2015, but with interventions in the contents starting from page 4, where approximately 40 pages have been added and the contents have been totally changed. As consequence, to the Venice Commission has been not served the official Law Report, which has to explain the scheme offered as an effective remedy from the Government, but another document produced in English, which is a fake.

Apart of that, the Venice Commission has raised doubt regarding the financial assessment of ALL 50 billion invoice and the estimation methodology, regarding the financial compensation, under the Article 11 of the Law, taking in consideration the state budget and the Albanian GDP level. The Venice Commission noted that *'The intervention is proportional if the ALL 50 billion amount and the 10 year period have been carefully determined considering the total state budget and the GDP'*. Also, the Commission raised doubt on how realistically and efficiently this scheme can be implemented.
In addition, the Venice Commission has raised doubt regarding Article 13 of the Law, in regard to the assessment being based on the revenue generated by the auction sale of state property.

On the other hand, in our opinion the methodology foreseen for the financial compensation is against the constitutional principle of *'fair compensation'*. The law does not consider the obligation under the pilot judgment Manushaqe Puto & Others v. Albania, which clearly provides that the map value should clearly reflect the market value of the land.
The defined methodology under the article 6, paragraph 1 still remains in force, through a decision, which *refused* the request to abrogate this paragraph. But 'refusal' means that the same issue may be addressed in the Constitutional Court in the future, when it will be reached the required quorum.

In light of the current situation of the Constitutional Court and the illegal pressure exerted on it by the Government, in our opinion the ECtHR is the only guarantor of the implementation of the Convention and make the fair assessment of the mechanism established by the Government of Albania claiming to resolve the issue of the enforcement of the final judgments on restitution and compensation of property in Albania.

3. Sublegal acts adopted from the Government of Albania by December 2017, which changed the property compensation mechanism established through the Law No. 133/2015.

In July 2017, the State Advocacy stated that in light of the political situation in the country and the election year, it had been impossible for the Government to make the analyze and assessment of the Constitutional Court's judgment. This is another unserious behavior of the Government, which after failing to undertake the requested measures to enforce the judgments, in continuity misleads the Court.
The Decision of the Constitutional Court was delivered in 2016, entering into force from 2 (two) years. The Government has had the responsibility to fill the legal gap created by the decision since then. The political situation and the election year did not obstacle and do not impede the implementation of the law by the Government, even more so adopting necessary act to fill legal gaps.

In addition, through the bylaws adopted in December 2017, the Government prioritizes physical compensation contrary to the Law provisions, while there is no clarity and transparency regarding the land fund made available to realize this physical compensation. These bylaws, and namely article 16/1 of DCM No. 223/2016, amended with DCM 765/2017, does nothing but contradict articles 9, 10/3, and 11/1 of Law No. 133/2015, which give priority to the financial compensation in cash and then provide for compensation with another property of any type owned by the state, shares in state capital companies, or other state assets. The Government may in no case change the binding provision of a law with a DCM. Even though the Government now realizes that it has erred in its projections, even after considerably decreasing the compensation values, it cannot change through bylaws the mechanism provided by a law reviewed by the Constitutional Court.

The Venice Commission took it for granted that the Government had a final estimation that in a 10-year period would compensate all decisions for all owners in the amount of ALL 50 billion.

Paragraph 18 of DCM No. 223/2016, as amended provides that '*subjects holding a financially valued final decision, shall benefit financial compensation from the financial compensation fund, up to 20% of the total financial compensation value, but no more than ALL 10 million, pursuant*

article 8/1/a of Law No. 133/2015, while the remainder of the final decision estimate shall be physically compensated from the land fund.' This provision oversteps the relevant legal provision.

This is a result of the fact that the Government adopted the law without a deep assessment of the situation of the properties in Albania and in lack of the exact database of the final judgment on the restitution and compensation of the property. The Government failed to consider a total number of administrative and court decisions that should have been compensated, it failed to complete property registration, it failed in developing a unique and digital map to determine the value of each property reflecting the market value. To this day, the Government is still not aware of the financial compensation invoice it owes. Even though it has been two years since the bylaws have been adopted and 5 years since June 2013, when the Committee of Ministers issued an Interim Resolution for Albania calling for a total financial invoice and the final number of final decisions, the Government has failed to accomplish that.

The Venice Commission accepted in good faith the Government's assessment, making some comments on the financial possibilities and other forms of the compensation and the period of 10 years in which the process would be completed. The Venice Commission stressed that the implementation in practice of the mechanism has importance and that it should not be only theoretical. In fact, if we consider developments to date, the Government is not being responsible within the process it has undertaken to realize, despite the fact of the infringement of the property right of the owners with a final decision, by considerably decreasing the financial value of their properties without a legal argument.

In six years, the Government has been drafting DCMs and establishing non-effective working groups, but all they have done it is the production of the new infringements to the Constitutional and Convention's standards, followed by another new financial invoice for the state's budget. The DCM provided time-periods, which are not possible to be implemented. It is clear that not a real and serious assessment has been done from the Government. Currently, the Government has completed to financial appraisal for the 1993 to 1997 period, and has come up with a total 10,763 decisions out of 26,000 such decisions, thus considering only 41% of the total and appraising them at ALL 34 billion[1].

The previous reports of the Committee of Ministers and the Report on the Law and the data made available to the Venice Commission states 40,000 decisions. Meanwhile, these do not consider final court judgments, which may have overturned the decisions of the PRCC/PRCA. The Property Treatment Agency has never reported on any coordination with the courts to divide administrative judgments from final court judgments and on the final figures that would then feed into a financial appraisal. The Government declares that of these 10,763 reviewed decisions to date, it has compensated 836 decisions, of which 493 decisions regard subjects considered to have been compensated in the framework of the law and 18 other cases regard subjects have withdrawn during the administrative process. It is thus clear that of the total 10,763 decisions, only 343 decisions of the PRCC/PRCA have been compensated at a total value of ALL 3,426,701,399, while the budget allocated by the State for two years pursuant Annex 1 of Law

[1] cm/del(2017)1294/h-46-1, paragraph 5/d

No. 133/2015 should have been ALL 6.33 billion[2]. Furthermore, the Government recognizes in its report that for 2016 the State had allocated an amount of ALL 2.1 billion of the projected 3 billion. While the Government has not disclosed the budget allocated for 2017, it has simply reported that for the 2016 - 2017 period the Property Treatment Agency has had a fund of ALL 3.5 billion, including funds from the budget and sale of public property.[3]

In its recent decision of September 2017, the Committee of Ministers, regardless of the positive political approach, made a preliminary assessment regarding the financial compensation and making financial means available from the State Budget. Despite the fact that the Government has considerably reduced the financial invoice of the final judgments applying a law which is in breach the Convention standard, **since today it only been able to compensate for 343 decisions in the amount of ALL 3.4 billion, what makes clear the continuity of this process and the possibility to reach the legal terms.** The bylaws are not just in breach of the Law they supplement, but also in breach of the Convention and Court's case-law. Government of Albania is only gaining time by wasting it, and has not a clear panorama of today and a vision for the future.

Any deadline, monetary amount, or measure provided for in the Law or bylaws is not a result of an in-depth analysis undertaken by the authorities. The fact that the Government increased the number of employees in September 2016 from 90 to 169 does not mean that any work is being done. These employments were undertaken in the context of the 2017 election campaign.

As regards the applications still not treated, the Government has, to date, not provided a reasoned decision that it was unifying procedures, while pursuant to Law No. 133/2015, it had three years to process all applications. In this case the PTA has produced further infringements of the Law and Convention.

In addition, in kind compensation fund is doubtful even though the Government reports to have completed this task at 100%.[4]The physical compensation methodology referring to articles 12, 13, 14 of the Law remains unclear and doubtful, as long as the Government has failed with in kind compensation process, even in cases when this was decided concretely by the ECtHR in the case Budini v. Albania (case 37419/06) or Hajnaj v. Albania (case 1504/07)[5]. In addition, still today there is not distinguished the financial fund used for the compensation on behalf of the application of the property law, from that used in application of the legalization law, as assessed from the ECtHR in the pilot judgment. The Law not only does not make such a distinction, but even it continues to create confusion regarding the Fund earmarked for compensation by the Government, according to articles 9, 10, 11, meanwhile that fund is mainly used for the compensation of the owners impacted from the legalization process. In such cases, the invoice is too high, when considering the approach of the Government, which prioritizes the legalization of informal constructions, including those built between 2009 and 2014. That is not all. According to the recent bylaws the Government is engaged in the compensation in kind, while during six years it has rented for 99 Euro the public property in the price of 1 Euro when it could have used this land for the compensation in kind of owners, if there truly was a will to finalize this process.

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[2] See DH-DD(2017) 807, Government Report, pg. 17

[3] Ibid, pg. 10, paragraph 2.1.1

[4] Ibid, pg. 11, paragraph 2.1.2

[5] See Karagjozi and others v. Albania, dated 8.04.2015

4. Owner expropriation and restriction of physical compensation under the Law No. 55/2015 "On strategic investment in the Republic of Albania"

The Government claims to be prioritizing physical compensation with the property of the owner or another property, while the actual priority has been given to concessions and strategic investment.[6] The law on Strategic Investments is another law that directly threatens owner interests. In the meantime, investors who show no clear investment power in their projects have the right to gain rights on land for ridiculous amounts that do not reflect market prices, whether the owners want to grant these rights or not.

This law aims at State intervention in case of disputes between the investor and private owner, by expropriating the private property in the name of public interest, while other such means are provided by the Civil Code or the Law "On Expropriation". Thus, this law established a mechanism that unjustly threatens private property guaranteed by article 41 of the Constitution and Article 1, Protocol No. 1 of the ECHR.

More concretely:
(i) Article 28/1 of the law gives the state the possibility to intervene and expropriate privately owned real estate for public interest, when that real estate is to be used by domestic or foreign investors for investment and when the Strategic Investment Committee (government body) has determined the project to be '*a strategic investment, special procedure*'. Article 5 of this law has preliminarily provided the criteria that a strategic investment will be considered in the 'public interest.' By determining a special procedure for the strategic investment and by presuming that this would grant it the status of public interest, they have created by law a mechanism for expropriating privately owned real estate. According to paragraph 3 of article 28, this expropriation in monetary value, which is executed with the State as a mediator, it will be reimbursed from the Strategic Investor. If failed to reach an agreement with the owner for the land price, the Strategic Investor under a Special Procedure, will reimburse the landowner in a price determined by the expropriation for public interest procedure, which doesn't reflect the market value. This provision is an infringement on the right to property, which is guaranteed by article 41 of the Constitution of the Republic of Albania, and by article 1 of Protocol 1 of the ECHR. State intervention in private relations between the strategic investor and the landowner is not proportional and does not respect the provisions of articles 17 and 41 of the Constitution.

The Law No. 8561, dated 22.12.1999 "On expropriation and temporary use of private property for public interest" stipulates in its article 2 that *'it is a right that the properties owned by natural and legal persons shall be respected and that the Expropriation of private properties shall be done exclusively for public interests in the case public interest prevails over the private interests of the landowner.'* According to the law, the criteria is that this 'public interest' *can't be realized or protected in any other way, but based on the reasons and according to the procedures expressly provided for in this law, as far as it is necessary for the fulfillment of the purpose on the expropriation, and in any case based on a fair compensation.*

Article 8 of Law No. 8561/1999 provides for the reasons justifying an expropriation for public interests, which are different from the expropriation cases provided in Law No. 55/2015 "On

[6] See paragraph 17/2 of DCM 223/2016, as amended article 15, Chapter III, DCM 222/2016, as amended.

Strategic Investments". It is clear that the endorser of the law has used article 5 – proposing the definition of public interest in strategic investments – in order to overstep any provisions previously made by article 8 of Law No. 8561/1999, thus establishing a new approach that in fact has nothing to do with '*public interest*' but imposes the interests of a private investor over those of a legitimate landowner. **The government cannot expropriate a private landowner in the interest of a private investor developing its own investment.**

On the other hand, this approach, oversteps also the provisions of Law No. 7764, dated 2.11.1993 "On private investments", as amended, providing in article 8/a that State Protection for a Foreign Investor shall be granted only in cases ***when the investment is being undertaken in public infrastructures in tourism, energy, or agriculture (i) based on a concession contract, (ii) in a real estate property made available by the Albanian state, and (iii) in a property which rights have been gained by the investor based on public acts and in the case of the foreseen investment is of at least 10 million Euro.*** Article 8/d of this law provides that in these cases, the State can guarantee the expropriation for public interests only when the Foreign Investor has lost a judicial litigation with third parties in accordance with the meaning of the law on expropriation, and when the expropriation is in line with the cases foreseen by article 8 of Law No. 8561/1999 "Reasons for expropriation".

With Law No. 55/2015, the legislator has allowed all cases of Strategic Investment with an Assisted or Special Procedure to be considered as being of 'public interest', regardless the definitions provided by the doctrine & principles of international law. According to this law (article 5) it is the Committee which assess whether the investment is considered as Strategic or not, based on the value of the investment as defined by law, the investment implementation timeframe, its productivity, newly created jobs, etc. This means that a Government Committee, regardless of the room provided by the law, can assess either objectively or subjectively if an investment is strategic. In such cases, Public Interest is deduced from the Strategic Investment which legitimatizes the Government intervention in expropriating or restricting the property rights for public interest in the meaning of article 41/3 of the Constitution.

Through this law, the Government Committee led by the Prime Minister, has the right to assess whether the investment is strategic or not, and based on this to determine if the conditions for public interest are met, allowing state intervention in the expropriation of the private property. Article 8 of the law on expropriation clearly defines the cases when expropriation for public interest may be applicable.

Article 28 of this Law provides more legal space for expropriation of private property. Referring to article 8 of the law "On Expropriation" and article 8/d of the law on "Foreign Investments", the cases when the State can intervene to expropriate a property, are much more limited than those provided in cases of Strategic Investments through Special Procedure: According to law No. 55/2015, the beneficiary investors are those that relate:
-Investments of more than 50 million Euro in the Energy Sector;
-Investments of more than 50 million Euro in the Transport Sector;
-Investments of more than 50 million Euro in the Tourism Sector;
-Investments of more than 50 million Euro in the Agriculture and Fishing Sector;
-Investments of more than 50 million Euro in the Technology and economic development Sector;

-Investments of more than 10 million Euro in Sectors prioritizing development and investments creating more than 600 new jobs.

These investments are thus considered Strategic with a Special Procedure based on the investment value, their priority and the number of new jobs created. This, according to the government, shall be considered a public interest and for this reason the expropriation of private property in the investment location is allowed.

Through this Law, the government has not only overstepped the reasons provided in the expropriation law, but has also defined public interest based on several assessment criteria without showing which international law principles or models are at the base of this definition. Expropriation may only be allowed for the reasons provided in article 8 of the law "On expropriation", in line with the relevant legally determined procedures, based on a fair compensation as required by the Constitution. The State can't favor an investor on the back of a legal landowner when the development project is not listed in the cases foreseen in the law "On expropriation".

The assessment requirements to consider a Strategic Investment with Special Procedure as representing a public interest, according to articles 5 and 8 of Law No. 55/2015, are the investment value, the priority of the identified economy sector, the provision of new technology, the creation of new jobs, etc.

It is true that the state decides on strategic priorities and has the obligation to protect and stimulate foreign and domestic investments in the framework of the Stabilization Association Agreement, but all these need to be assessed on a case by case basis. Whenever strategic projects and investments have been discussed - considering either their impact in the development of the country or other elements based on the definition of article 8 of the law "On expropriation" - the expropriation has been undertaken in all cased, let these projects have been financed through public funds or though domestic/foreign investment by mean of a concession/procurement procedures.

The concern regarding the case at hand is that article 8 of Law No. 55/2015 includes sectors that are not included in the law on expropriation (article 8), which creates the possibility for these investments to be favored under the umbrella of 'public interest'. For example: the agriculture projects and the establishment of various farms. Referring to the investment value of 50 million euro, the investor claims to use privately owned land parcels and with the intervention of the state the landowner is expropriated from his rights on that property as long as no agreement is in place between the investor and the
owner.

Agriculture and Fishing is not one of the sectors included in the article 8 of the Law "On expropriation". Whether the State decides to give in use State properties through concessions or other procedural forms, this is a right on its own, but in any other circumstances the State shall not intervene in the relation between a private landowner and an investor when the investment is to be undertaken on the property of the private landowner. This contractual relation should be regulated by a preliminary agreement between the parties. Any investor can not undertake an

investment of 50 million euro in Agriculture, starting from the idea that the State will intervene to expropriate the land from private owners. Article 4 of the Constitution of the Republic of Albania determines specifically that the law shall be the basis and the limits of the State activity.

On the same logic, can be argued for the **Sector with development priority**, where the requirements consist of an investment of 10 million euro and the creation of 600 new jobs. On article 8 of the law "On expropriation" is not foreseen that in such cases expropriation for public interest can be allowed. The fact that an amount of 10 million euro is being invested and 600 jobs are being created cannot be considered as being "public interest", which would prevail over the interests of the legal owner. Again, an investor cannot claim to invest 10 million euro using private property and hoping that the legal owner will be expropriated by the state at a low price, while on the investment value it is include also the value of the land required for the investment – but in the context of a private enterprise and a market economy, the price is set from the bargain between the owner and the investor, and cannot be determined by State pressure.

It is assumed that these investments are considered as such, only those at a developing/implementing stage which are set or not yet to be signed on contractual agreement between public institutions/public entities and private investors. While it is widely unclear on how in cases such as Fishing, Agriculture, or Sectors with development priority, the State can undertake to contract private investors providing them a private property to be developed, while at the same time to force by law private owners to sell properties at a price below the market. Employment, the implementation of the investments, provision of new technologies foreseen in article 5 of the law and other elements used for the selection of Strategic Investors with Special Procedure can
be achieved through other ways, without the need to expropriate legal owners.

Thus, the development of these projects and the achievement of these objectives can be done in other ways and not by expropriation of the legal owners. An investor that will invest in Agriculture or in Areas with Development Priority, in cases where it is not offered State property, shall purchase or lease land from legal owners in accordance to the wide spectrum of legal provisions stipulated in the Civil Code.

This Law and its sub legal act of December 2017 should do nothing more than create the possibility to expropriate legal owners, while restricting physical compensation of owners with their own land when this is possible. The Government claims it is prioritizing Strategic Investment in the country, while in fact the main priority has been given to the development of concessions and investments by some businesses close to
the government.

5. Owner expropriation and restriction of physical compensation under the Law No. 93/2015 "On Tourism", as amended.

The above mentioned Law on Strategic Investment has been extended to further include some changes undertaken in the framework of Law No. 95/2015 "On Tourism". Paragraphs 1 and 2 have been added to article 33 providing that the investors developing 4 and 5 star hotels are automatically granted the "Strategic Investor" status and benefit from the same facilitations as

those investors regulated by the law on Strategic Investments described above. This law adopted by the government is damaging private ownership as argued above. The State is undertaking an abusive right to intervene in the sale and purchase relations of the landowner and the private investor, who ultimately will be able to use the land for private business.

6. Restriction of property rights by suspending ownership transfer procedures for beneficiaries of agricultural land formerly owned by agricultural enterprises and registration of the ownership transfer acts in areas of relevance for the strategic investment support fund.

Recently, on March, 13 th 2018, the Government of Albania approved a Decision which establishes a land fund that were not reachable, only to pave the way for providing such fund to potential "Strategic Investors". According to the DCM and the relevant map therein included, this land fund would suspend ownership transfer procedures for beneficiaries of agricultural land formerly owned by agricultural enterprises and the registration of the ownership transfer acts in areas of relevance for the strategic investment support fund.

The decision in question freezes the property restitution and compensation procedure in tourism areas and obligates coastal municipalities to start its implementation. According to the DCM, landowners cannot be the beneficiaries of their own property unjustly seized by the communist regime government. The DCM stresses that the government is able to use this land as part of the Real Estate Fund Supporting Strategic Investments, pursuant article 31 of Law No. 55/2015 "On strategic investment in the Republic of Albania".

A few days after the DCM was adopted, the Government of Albania, made efforts to transform the true meaning of the DCM through its Minister of Justice. According to Minister of Justice Mrs. Etilda Gjonaj, the DMC in question was drafted to "secure the land for its legal owners and to secure their inalienable rights". But the writing on the paper speaks of a suspension of the physical property restitution and compensation and the use of land for other interests, and suspected clientelism.