



### **COMMENTS ON THE ALBANIAN CONSTITUTIONAL COURT V2-24: IS THE ITALY-ALBANIAN PROTOCOL REGARDING IRREGULAR MIGRATION CONSTITUTIONAL?**

Irregular migration in the EU is becoming a “hot” political debate. Although the EU aims to develop a common policy on migration – Chapter II TFEU – in November 2023, after more than six months of discussions, the Italian and Albanian Governments signed a protocol regarding illegal migration. According to it, two areas in Albania are given to the Italian authorities for use without compensation for five years, with the possibility of silent renewal for another five years, to host not more than 3.000 illegal migrants who do not have the right to enter and stay in Italy. This paper examines the Albanian constitutional reaction to this Protocol since Albania is not an EU-Member State. In other words, Albania offers the use – understood in this context, from a private law approach – of its territory for externalizing the screening asylum process of irregular migrants arriving in Italy. Before the Albanian parliamentary approval, thirty deputies argued the unconstitutionality of this Protocol by filing a request to the Albanian Constitutional Court. According to them, this protocol deals with human rights and Albanian territory. As a result, the President should have been involved. While they underlined that this is also a political agreement, most of the Constitutional Court disagreed. In addition, this contribution also uncovers the dissenting opinions and suggests an innovative proposal since Albania has ratified Protocol No. 16 ECHR.