

## THE RESTRICTION OF THE RIGHT OF OWNERSHIP UNDER THE ITALIAN AND ALBANIAN CONSTITUTION

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### **Abstract:**

As we all know the constitutions of each country protect the rights and fundamental freedoms. The right and fundamental freedoms are not just a set of rules written and published, but they are guaranteed by the coercive power of the state and international instruments. The paper aims to highlight the social function of property and to analyze opinions for and against. According to one opinion, the social function provided by the Constitution of two countries, would transform the nature of subjective right of private property. So the social function can be seen as an objective which the owner must seek, regardless of the nature of the asset to be owned. According to a different interpretation instead tends to rule out that the inclusion of the social function has led, as a result, the loss of the nature of subjective right of private property. The nature of subjective right remains and the limit of the social concern exclusively the property and not the right to property. Private property remains a subjective right but its exercise varies depending on the importance of the social good in question. Any restriction of the right of ownership must be borne in mind that regulation of private property is a fundamental condition for a market economy, for a secure society and in case of Albania is a condition of a country that aspires to European integration.

*Keywords: Article 41 of Albanian Constitution, Article 42 of Italian Constitution, social function of the right of ownership, restriction of the right*