



Pilot judgment concerning non-enforcement of administrative decisions awarding compensation for property confiscated under the communist regime in Albania

In today's Chamber judgment in the case of [Manushaqe Puto and others v. Albania](#) (application nos. 604/07, 43628/07, 46684/07 and 34770/09), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 13 (right to an effective remedy) of the European Convention on Human Rights; and,

a violation of Article 6 § 1 (right to a fair trial) and Article 1 of Protocol no. 1 (protection of property) to the Convention.

The case concerned the complaints by 20 Albanians that, despite their inherited title to plots of land having been recognised by the authorities, final administrative decisions awarding them compensation in one of the ways provided for by law *in lieu* of restitution had never been enforced. There are currently 80 similar cases pending before the Court.

Noting that those complaints reflected a widespread problem in Albania affecting a large number of people, the Court decided to apply the pilot-judgment procedure² in this case. It held that Albania had to take general measures in order to effectively secure the right to compensation within 18 months from the date on which the judgment becomes final.

Principal facts

The applicants are 20 Albanian nationals, who are former owners or the heirs of former owners of land confiscated by the former communist regime in Albania. Their inherited property titles to plots of land measuring between approximately 600 and 5,000 square metres were recognised between 1994 and 1996 by commissions in charge of restitution and compensation of properties under the 1993 Property Act. The applicants were awarded compensation in one of the ways provided for by law *in lieu* of the restitution of their respective properties. However, those decisions have still not been enforced to the present day. While a share of the property of eight of the applicants has been restored to them, they have not received compensation in one of the ways provided for by law in respect of the remainder of their plots of land.

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

² The pilot judgment procedure was developed by the Court as a technique of identifying the structural problems underlying repetitive cases against many countries and imposing an obligation on States to address those problems. For more information see [Factsheet on Pilot judgments](#).

Complaints, procedure and composition of the Court

The applicants complained that, despite their inherited title to plots of land having been recognised by the authorities, the final administrative decisions awarding them compensation *in lieu* of restitution had never been enforced. They relied on Article 6 § 1, Article 13 of the Convention and Article 1 of Protocol no. 1 to the Convention.

The applications were lodged with the European Court of Human Rights on 16 November 2006, 4 October 2007, 9 October 2007 and 18 June 2009, respectively. The Court decided to join them given that they raised the same issue.

Judgment was given by a Chamber of seven judges, composed as follows:

Lech **Garlicki** (Poland), *President*,
David Thór **Björgvinsson** (Iceland),
Päivi **Hirvelä** (Finland),
George **Nicolaou** (Cyprus),
Ledi **Bianku** (Albania),
Zdravka **Kalaydjieva** (Bulgaria),
Nebojša **Vučinić** (Montenegro),

and also Lawrence **Early**, *Section Registrar*.

Decision of the Court

Article 13

As regards the applicants' complaint that no effective measures had been taken to secure the enforcement of the decisions awarding them compensation, the Court noted that it had examined this question in a number of similar cases. In *Ramadhi and Others v. Albania*³ it had found a violation of Article 13, concluding that the authorities had failed to take the necessary measures to provide for the means to enforce the decisions in the applicants' favour, and that the applicants had therefore been deprived of their right to an effective remedy. Since the adoption of that judgment, Albania had enacted a number of legal acts, particularly concerning the award of financial compensation.

However, the Court found that the authorities' award of financial compensation was not an effective means of enforcement due to a number of shortcomings. It noted in particular that, as was the case in the applications of *Dani* and *Muka v. Albania*, if a claimant obtained partial restitution of the property or other forms of compensation, he would not be eligible to obtain financial compensation. Furthermore, since the authorities' decisions provided for a maximum amount of financial compensation equal to the value of 200 square metres, the remainder of the decisions in the claimant's favour, as regards the plot of land exceeding 200 square metres, would remain unenforced for an unspecified period of time. There were moreover high procedural burdens for claimants to obtain financial compensation. Finally, the Court was unable to see how the authorities' decisions accounted for and calculated non-pecuniary damage.

The Court concluded that, having regard to the ineffectiveness of other forms of compensation provided for by law, such as in-kind compensation, compensation by way of State-owned shares and proceeds from the privatisation process or even State bonds, there was still no effective domestic remedy that allowed for adequate and sufficient redress on account of the prolonged non-enforcement of administrative decisions awarding compensation. There had thus been a violation of the applicants' rights under Article 13.

³ *Ramadhi and Others v. Albania* (38222/02), Chamber judgment of 13 November 2007.

Article 6 § 1 and Article 1 of Protocol no. 1

The Court had already found violations of Article 6 § 1 and Article 1 of Protocol No. 1 in other similar cases against Albania concerning delays in enforcing final administrative property decisions. It did not find that the Government had made relevant submissions which would have changed the Court's assessment as regards the applicants in today's case. Final and enforceable decisions in their favour had remained unenforced for periods between 15 and 17 years. The Court saw no reason to depart from its findings in the previous cases. There had accordingly been a violation of Article 6 § 1 and Article 1 of Protocol No. 1 in all four applications.

Article 46

The Court recalled, as it had stated in previous similar cases, that the violations it had found originated in a widespread problem affecting a large number of people. It noted with concern that it had found those violations despite having indicated in its previous judgments in 2007, 2009 and 2011 that Albania take general measures to remedy the problem.

Having regard to the fact that there were currently 80 similar cases pending before it and to the risk that the number of well-founded complaints could further increase, the Court considered it necessary to apply the pilot-judgment procedure in this case. It held that Albania had to take general measures, as a matter of urgency, in order to secure in an effective manner the right to compensation. Subject to monitoring by the Council of Europe's Committee of Ministers, Albania remained free to choose the means to achieve this aim. However, the Court noted the following:

Observing that the Albanian property legislation had been changed a number of times between 2004 and 2010, the Court considered that those frequent changes contributed to a lack of legal certainty. Albania should therefore carefully examine all legal and financial implications before introducing further modifications.

As the Albanian Government had conceded in their Action Plan to the Committee of Ministers to address the issues indicated in previous judgments concerning compensation for confiscated property, the authorities lacked accurate and reliable information as regards the overall number of administrative decisions recognising property rights and awarding compensation adopted since 1993. Therefore, the compilation of precise data would enable the authorities to calculate the overall financial implications of compensation.

Moreover, the compensation scheme and the modalities thereof should be revisited in light of the Court's findings and its case-law. The revision and update of valuation maps should be subject to transparent and explanatory criteria, taking into account the land development. The Court urged the authorities, as a matter of priority, to start making use of other alternative forms of compensation as provided for by Albanian legislation in 2004, instead of relying heavily on financial compensation. It was important to set realistic, statutory and binding time-limits in respect of every step of the compensation process. Finally, sufficient human and material resources had to be placed at the competent authorities' disposal and coordination amongst different State institutions had to be ensured.

As regards the procedure to be followed in similar cases, the Court decided to adjourn the proceedings concerning all new complaints against Albania, lodged with it after the delivery of this judgment, in which the applicants raised arguable complaints relating solely to the prolonged non-enforcement of final property decisions. That adjournment will be effective for a period of 18 months after today's judgment becomes final. The examination of similar cases lodged before the delivery of today's judgment will continue.

Just satisfaction (Article 41)

The court held that Albania was to pay:

1,000,000 euros (EUR) in respect of pecuniary and non-pecuniary damage and EUR 1,000 in respect of costs and expenses to the applicants in the case of *Manushaqe Puto v. Albania*;

EUR 280,000 in respect of pecuniary and non-pecuniary damage and EUR 1,000 in respect of costs and expenses to the applicants in the case of *Dani v. Albania*;

EUR 352,400 in respect of pecuniary and non-pecuniary damage and EUR 1,000 in respect of costs and expenses to the applicants in the case of *Ahmatas and Others v. Albania*, and

EUR 1,360,000 in respect of pecuniary and non-pecuniary damage to the applicants in the case of *Muka v. Albania*.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.