



Apparent structural issue in Albania with regard to registering property

The case [Ramaj v. Albania](#) (application no. 17758/06) concerned a 6,700 sq. m plot of land in the Uji i Ftohtë area, which had been seized by the communist regime. A 2004 judgment restoring title of the land to Mr Ramaj has never been enforced, while the authorities have repeatedly refused his requests to register his ownership.

In today's **Chamber judgment**¹ in the case the European Court of Human Rights held, unanimously, that there had been **no violation of Article 1 of Protocol No. 1 (protection of property)** to the European Convention on Human Rights as concerned the part of the plot of land which had been occupied by illegal buildings. Those particular parts of the land had in effect been expropriated and Mr Ramaj could have applied for compensation, which he had apparently not done.

However, it held, unanimously, that there had been a **violation of Article 1 of Protocol No. 1** to the Convention as concerned the remaining part of the plot of land.

The Court found in particular that the authorities' manner of dealing with Mr Ramaj's situation had lacked clarity and transparency. Interference by the executive with property titles, faulty land-registry maps, a lack of clear procedures in cases of overlapping titles, and discrepancies in the domestic legal practice over compliance with court-ordered registration had all contributed to leaving Mr Ramaj in a state of uncertainty over his property for more than 26 years.

The issues that had led to the non-enforcement of the final judgment in Mr Ramaj's favour apparently went beyond this specific case and were part of a challenging context of complex historical events. The Court advised the national authorities to establish efficient and transparent procedures and a functional immovable property registration system in order to ensure respect for property owners' rights.

Principal facts

The applicant, Bashkim Ramaj was an Albanian national who was born in 1942. He lived in Tirana. Mr Ramaj is now deceased, and his son has continued the application in his place.

During the communist period a 6,700 sq. m plot of land belonging to Mr Ramaj's father in Uji i Ftohtë in the Vlora district was seized by the regime to set up a collective farm.

In 1991 use of the plot was returned to his father, and title was restored in 1996. That decision was however annulled in 2000 on the grounds that his father did not have rights to the property.

In 2003 Mr Ramaj joined a civil action to contest the annulment-of-title decision. Ultimately, in April 2004 the Vlora Court of Appeal found in his favour and Mr Ramaj's title to the plot of land was confirmed. The decision was not appealed against and became final. The court-of-appeal judgment has never been enforced.

Mr Ramaj's repeated requests to register his title to the plot of land have all been refused. Following his father's death, Mr Ramaj had tried to register the plot in his name, as the heir, in 1998. Since the

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.

2004 judgment in his favour, he had also submitted numerous requests together with relevant documents and maps of his property to the registration authorities, in vain.

Initially the refusals had been based on the Prime Minister ordering a review of all title deeds and property registrations in the Uji i Ftohtë area. Subsequently, the land-registry authorities informed Mr Ramaj that he could not be issued with an ownership certificate because of competing claims or registration of titles to the same plot of land, as well as unauthorised buildings which had in the meantime been erected on it.

Most recently the Albanian legislature has chosen to prioritise the *de facto* claims of persons seeking to legalise unauthorised construction over the interests of the owners of agricultural land, such as Mr Ramaj. In the context of this legalisation process, title to the parts of Mr Ramaj's land occupied by unauthorised buildings has been or will be transferred to those who had erected them.

Complaints, procedure and composition of the Court

Relying on Article 6 § 1 (right to a fair trial), Article 13 (right to an effective remedy) and Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights, Mr Ramaj complained in particular of the non-enforcement of the Court of Appeal's decision restoring his title to the plot of land. He alleged that he had never been in real and effective possession of the land because of the refusal to register his title.

The application was lodged with the European Court of Human Rights on 23 April 2006.

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

Ioannis **Ktistakis** (Greece), *President*,
Lətif **Hüseynov** (Azerbaijan),
Darian **Pavli** (Albania),
Oddný Mjöll **Arnardóttir** (Iceland),
Diana **Kovatcheva** (Bulgaria),
Úna Ní **Raifeartaigh** (Ireland),
Mateja **Đurović** (Serbia),

and also Milan **Blaško**, *Section Registrar*.

Decision of the Court

Article 1 of Protocol No. 1 (protection of property)

Firstly, the Court considered that Mr Ramaj had had a property claim which constituted a possession within the meaning of Article 1 of Protocol No. 1. Although he had never actually been registered as the owner of the plot of land in question, under Albanian law lack of registration did not affect the validity of the title to the land as such. The registration authorities had never, moreover, disputed the validity of Mr Ramaj's title to the land, rather they had found that registration had not been possible.

Next the Court rejected the Government's argument that Mr Ramaj had not used all the legal avenues available at national level for his complaint. It found that they had not shown that the legal remedies they had referred to had been adequate or effective. For over two decades – even after the application had been brought to the Court – the registration authorities had given different and at times conflicting reasons for not registering his property. It was not therefore satisfied that any fresh proceedings would have guaranteed registration. In point of fact, Mr Ramaj had been prevented from bringing adequate legal action, as he had only been given basic details about the

overlapping titles, conflicting registrations and unauthorised construction on the land in June 2015, some 17 years after his original registration request.

The Court went on to find that there had been an interference with Mr Ramaj's rights over the plot of land. That interference could be divided into two categories: the authorities' persistent refusal of his registration requests, while allowing registration of competing claims by third parties to the same plot of land; and, the transfer or future transfer of ownership of those parts of his property that had been illegally occupied by third parties.

Those parts of Mr Ramaj's property occupied by unauthorised buildings had therefore in effect been expropriated and he was entitled to seek compensation. He had not indicated that he had applied for such compensation under the relevant legal regime, and the Court concluded that there had been no violation of Article 1 of Protocol No. 1 in respect of those particular parts of the land.

However, as concerned the part of the land that was not occupied by unauthorised buildings, the Court considered that the main responsibility for Mr Ramaj's situation lay with the national authorities, who had been under an obligation to implement the 2004 final and binding judgment recognising his right to title of the land.

Indeed, the issues that had led to the non-enforcement of that final judgment had apparently been structural, going beyond this specific case. Interference by the executive with property titles, faulty land-registry maps, the lack of clear procedures in cases of overlapping titles, and the discrepancies in the domestic legal practice over compliance with court-ordered registration had all contributed to the failure to register Mr Ramaj's property for more than 26 years, leaving him in a state of uncertainty.

The Court reiterated that individuals should not be forced to bear the burden of mistakes made by public authorities by being required to initiate long and costly proceedings. Recent national case-law suggested that such issues continued to be a persistent problem in Albania.

The Court concluded that the authorities' failure to comply with the 2004 final and binding court decision had imposed a disproportionate and excessive burden on Mr Ramaj. The authorities had failed to strike a fair balance between the demands of the public interest, on the one hand, and Mr Ramaj's right to peaceful enjoyment of his possessions, on the other. There had accordingly been a violation of Article 1 of Protocol No. 1 to the Convention concerning the part of the land that was not occupied by unauthorised buildings.

Other articles

The Court considered that it had already determined the main legal issue in the case, and that there was no need to examine Mr Ramaj's complaints under Articles 6 § 1 and 13 separately.

Just satisfaction (Article 41)

The Court held that Albania was to pay the applicant 4,000 euros (EUR) in respect of non-pecuniary damage and EUR 10,000 in respect of costs and expenses. It reserved the question of pecuniary damage, holding that it was not yet ready for decision.

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.