EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

DECISION

Application no. 56411/15
ARGINERT SHPK TIRANË
against Albania

The European Court of Human Rights (Third Section), sitting on 13 May 2025 as a Committee composed of:

Úna Ní Raifeartaigh*, President*,
Darian Pavli,
Mateja Đurović*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 56411/15) against the Republic of Albania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 10 November 2015 by a company, Arginert SHPK Tiranë ("the applicant company"), established in 1995 and having its headquarters in Tirana, which was represented by Mr E. Zeneli, a lawyer practising in Tirana;

the decision to give notice of the complaint concerning the applicant company's access to the Constitutional Court to the Albanian Government ("the Government"), represented by their Agent, Mr O. Moçka, General State Advocate, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant company's right of access to the Constitutional Court.

2. In a civil dispute between the applicant company and the Municipality of Tirana, concerning contractual obligations, the Supreme Court adopted its decision on 27 October 2011.

3. The applicant company lodged a constitutional complaint with the Constitutional Court on 14 May 2013. It enclosed an informal copy of the contested Supreme Court's decision.

4. On 15 May 2013 the Constitutional Court sent a letter to the applicant company at the address it had indicated in its constitutional complaint. The Constitutional Court invited the applicant company to submit a certified proof that the lawyer representing it was a member of the Bar and had the right to represent clients before higher courts, a certified copy of its appeal to the Tirana Court of Appeal, a certified copy of its appeal to the Supreme Court, and a certified copy of the contested Supreme Court decision. The letter was returned with a receipt slip indicating that the addressee "had moved".

5. On 7 June 2013 the Constitutional Court made another attempt to serve its letter on the applicant company at the same address, and the letter was again returned to the Constitutional Court with a receipt slip indicating "not found".

6. A certificate of 1 October 2015 issued by the Municipality of Tirana indicates that the Dobi family, partners of the applicant company, had been residing since 1994 at the address the applicant company had indicated in its constitutional complaint.

7. In March 2015 the applicant company enquired at the Constitutional Court about its case, and was informed that it had not submitted certified copies of the required documents with its constitutional complaint. The applicant company submitted the required documents on 21 April 2015, and on 28 April 2015 the Constitutional Court registered the applicant company's case.

8. On 29 May 2015 the Constitutional Court declared the applicant company's constitutional complaint inadmissible as being lodged out the two-year time-limit, considering 28 April 2015 as the date it had been lodged.

THE COURT'S ASSESSMENT

A. The Government's request to strike out the application under Article 37 § 1 of the Convention

9. The Government submitted a unilateral declaration which did not offer a sufficient basis for finding that respect for human rights as defined in the Convention does not require the Court to continue its examination of the case (Article 37 § 1 *in fine*). The Court rejects the Government's request to strike the application out and will accordingly pursue its examination of the case (see *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, § 75, ECHR 2003-VI).

B. Alleged violation of Article 6 § 1 of the Convention

10. The applicant company complained that the application by the Constitutional Court of the rules of procedure prevented its constitutional complaint from being examined on the merits, and thus, its right of access to court had been impaired.

11. The Court reiterates that in deciding, on the basis of a particularly strict construction of a procedural rule, not to examine the merits of a case, domestic courts may undermine the very essence of an applicant's right to a court (see *Běleš and Others v. the Czech Republic*, no. 47273/99, § 51, ECHR 2002-IX, and *Pérez de Rada Cavanilles v. Spain*, 28 October 1998, § 49, *Reports of Judgments and Decisions* 1998-VIII). The rules governing the formal steps to be taken and the time-limits to be complied with in lodging an appeal are aimed at ensuring the proper administration of justice and compliance, in particular, with the principle of legal certainty. That being so, the rules in question, or the manner in which they are applied, should not prevent litigants from using an available remedy (see *Miragall Escolano and Others v. Spain*, nos. 38366/97 and 9 others, §§ 33 and 36, ECHR 2000-I). However, those concerned must expect those rules to be applied (see *Muscat v. Malta*, no. 24197/10, § 44, 17 July 2012).

12. In the present case the Constitutional Court, immediately after receiving the applicant company's constitutional complaint, sent a letter to its address provided in its complaint, asking it to submit certified copies of the necessary documents. However, two attempts to serve that letter on the applicant company at that address were unsuccessful because the name of the applicant company was not at that address. Indeed, a certificate issued by the Municipality of Tirana indicates that the applicant company's partners resided at that address. However, in its constitutional complaint the applicant company did not indicate that the letters addressed to it should be served on their partners.

13. Therefore, the Court considers that the applicant company's complaint about its lack of access to the Constitutional Court does not concern a particularly strict interpretation by the domestic courts of a procedural provision as in *Běleš*, cited above. The applicant company itself created a situation in which letters from the Constitutional Court could not have been served on it (compare *Muscat*, cited above, §§ 44 and 52; *Bogonos v. Russia* (dec.), no. 68798/01, 5 February 2004; and *Mladenić v. Croatia* (dec.), no. 48485/99, 14 June 2001).

14. Accordingly, the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 5 June 2025.

Olga Chernishova Deputy Registrar	Úna Ní Raifeartaigh President