

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

SECOND SECTION

DECISION

Application no. 41984/08
Emiljano BITANJI
against Albania

The European Court of Human Rights (Second Section), sitting on 7 November 2017 as a Committee composed of:

Paul Lemmens, *President,*
Ledi Bianku,
Jon Fridrik Kjølbro, *judges,*

and Hasan Bakirci, *Deputy Section Registrar,*

Having regard to the above application lodged on 9 August 2008,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Emiljano Bitanji, is an Albanian national, who was born in 1978 and lives in Shkodër, Albania.

The Government were represented by their Agent, Ms A. Hicka of the State's Advocate Office.

On 20 April 2005 the Shkodër District Court found the applicant guilty of premeditated homicide and illegal possession of firearms and sentenced him to 15 years' imprisonment.

On 13 July 2005 the Shkodër Court of Appeal and on 13 September 2006 the Supreme Court, respectively, upheld the Shkoder District Court's judgment of 20 April 2005. On 7 March 2008 the Constitutional Court rejected the applicant's complaints as being manifestly ill-founded.

The applicant complained under Article 6 §§ 1 and 3 of the Convention about the unfairness of the proceedings in domestic law.

The applicant's complaints were communicated to the Government on 28 February 2017.

The Government submitted their observations on the admissibility and merits of the case.

The applicant failed to respond to the Registry's final warning letter of 17 July 2017, reminding him that the period allowed for the applicant to find a representative and to submit an authority form had expired on 16 June 2017 and that no extension of time-limit had been requested. His attention was drawn to Article 37 § 1 (a) of the Convention. The Registry's letter was delivered on 27 July 2017 and the postal receipt was signed by the applicant.

On 27 June 2017 the Government informed the Court that, on an unspecified date, the applicant had requested the review of the Shkodër District Court judgment of 20 April 2005.

On 7 July 2010 the Supreme Court decided to accept the application for review and remitted the case to the Shkodër District Court for retrial.

On 19 November 2010, the Shkodër District Court acquitted the applicant, on the basis of new evidence and testimonies obtained.

On 21 July 2011 the Shkodër Court of Appeal upheld the Shkodër District Court's judgment of 19 November 2010.

On 19 November 2010, the Shkodër District Prosecutor ordered the immediate release of the applicant. It appears that the applicant was released on the same day, having served 6 years, 2 months and 20 days of his sentence.

The Government also informed the Court that on an unspecified date the applicant had brought a civil action for wrongful imprisonment before the domestic courts and that the proceedings were still pending.

The Government drew the Court's attention to the fact that the applicant had failed to inform the Court about the fresh trial, his release and the pending compensation proceedings. Further, although those proceedings were still pending before the domestic courts, the Government reiterated that there existed an effective remedy in the domestic system, which the applicant was making use of.

THE LAW

Article 37 of the Convention, in its relevant part, provides as follows:

> "1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that
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> (a) the applicant does not intend to pursue his application; or
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> (b) the matter has been resolved; or
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> (c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires."

Having regard to the new information received after notice of the application had been given to the respondent Government, the Court considers that Article 37 § 1 of the Convention should be applied.

The Court also recalls that, pursuant to Rule 47 § 7 of the Rules of Court, "applicants shall keep the Court informed of any change of address and of all circumstances relevant to the application". In this respect, it is to be noted that the applicant has failed to respond to correspondence from the Court or to inform the latter of relevant developments and his change of address.

The Court considers that, in these circumstances, the applicant may be regarded as no longer wishing to pursue his application, within the meaning of Article 37 § 1 (a) of the Convention.

Furthermore, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case.

In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases.

Done in English and notified in writing on 30 November 2017.

Hasan Bakırcı
Deputy Registrar

Paul Lemmens
President