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

THIRD SECTION

DECISION

Application no. 57935/18
Artan BROCI
against Albania

The European Court of Human Rights (Third Section), sitting on 20 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. 57935/18) 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 December 2018 by an Albanian national, Mr Artan Broci ("the applicant"), who was born in 1973, lives in Tirana and was represented by Mr A. Saccucci and Ms G. Borgna, lawyers practising in Rome;

the decision to give notice of the complaints concerning the applicant's rights to a hearing by an impartial tribunal and to respect for private life to the Albanian Government ("the Government"), represented by Mr O. Moçka, State Advocate General, and to declare inadmissible the remainder of the application;

the parties' observations;

the decision to reject the applicant's request for the recusal of Darian Pavli, the judge elected in respect of Albania, in August 2021 (former Rule 28 § 2 (d) of the Rules of Court);

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's dismissal from office by the Independent Qualification Commission (IQC) and the Special Appeal Chamber (SAC) (see *Xhoxhaj v. Albania*, no. 15227/19, 9 February 2021).

2. The applicant served as a judge in the Tirana District Court from 1996 to 2010, and thereafter as a court of appeal and Supreme Court judge. He also served as a member of the High Council of Justice (HCJ) from 2013 to 2017.

3. During a HCJ meeting in May 2014 an exchange occurred between the applicant and S.Ç., another member of the HCJ. S.Ç. criticised the HCJ's handling of judicial transfers, disciplinary processes, court chair appointments, and overall management, arguing that its actions led to inefficiencies and failures in the judicial system. The applicant responded by defending the HCJ work, highlighting its increased number of meetings and efforts to evaluate judges, while also criticising S.Ç. for his role in the HCJ, alleging inconsistencies in his statements and actions. The debate prompted interventions from the meeting chair to maintain order and focus on the agenda.

4. On 31 July 2018 the IQC dismissed the applicant from office, by a majority vote. Following his appeal to the SAC, the case was assigned to a panel of five judges composed of I.R. (presiding), A.H. (rapporteur), L.D., S.Ç. and A.S. The applicant challenged S.Ç., who had previously served as a judge at the Tirana District Court, its deputy president and president, and had been a HCJ member in the 2000s and between 2014 and 2017. He claimed that they had previously had harsh debates and different views as to how S.Ç. had managed the District Court and on issues within the HCJ. S.Ç. had allegedly voted for the applicant's opponent in a competition for the position of president of that court in October 2006. The applicant attached the minutes of the HCJ's meetings in February and May 2014, November 2015 and March 2016, and a hearing schedule from 2006.

5. A panel composed of A.H., A.S., N.M., L.D. and R.S. dismissed, by a majority vote, that recusal request as follows:

(a) The applicant presented no evidence to prove S.Ç.'s subjective partiality. As to the document of 2006 and the minutes of four HCJ meetings in 2014-16, the claim about strong debates, whereby S.Ç. had allegedly held political stances in the HCJ, was not substantiated. These acts did not show that the nature of their relationship was such as to indicate S.Ç.'s lack of impartiality in the vetting case. As to their debates within the district court or S.Ç.'s supposed choice not to support the applicant's candidacy in 2006, they did not give rise to a legitimate reason to fear that S.Ç. was not impartial either. The events had occurred over twelve years ago, which was an important consideration under international standards on judicial ethics and impartiality.

(b) Discussions or decision-making within a collegial body, such as the HCJ or any other decision-making body in the justice system, were held within the exercise of a public function, representing the State and the public interest. Decisions taken while fulfilling constitutional and legal duties could not create a personal relationship with persons for whom these decisions bring (in)direct legal effects.

6. On 18 July 2019 the SAC unanimously upheld the applicant's dismissal from office because of his failure to comply with his obligations within the assessment of assets (section 61 (3) of the Vetting Act, VA), in particular:

(a) In 2006 he had ordered (*kontratë porosie*) a beach house in Durrës from Company L for 55,140 euros (EUR), had paid the first instalment of EUR 20,000 and later received a discount of EUR 5,140 when paying the remainder in 2007 (he had social ties to one of the company's partners). However, in the vetting declaration the applicant had declared EUR 55,000 as the final price and thus misrepresented it. While he cited savings among the funding sources, the SAC's financial analysis found that, even if all the declared income sources for 2006 were deemed lawful and proven, he still would have a negative balance (i.e. unjustified expenses) for that year.

(b) The applicant declared that he had invested EUR 82,000 in treasury bonds in May 2010 and that that amount had come from the EUR 102,000 he had received in cash in April 2010 from selling the Durrës beach house to F.G. However, the applicant failed to prove that he had actually received EUR 102,000, and thus the source of that investment could not be reliably determined. In particular, in April 2010 Company L had entered into a contract for the same dwelling with F.G., who had paid EUR 82,000 to Company L in April 2010 and EUR 20,000 in December 2010. The final sale contract for the dwelling had been signed in 2016, again between F.G. and the company. The existence of two contracts for the same property, whose value (resale price) had doubled in four years (despite the applicant's social ties with F.G.), raised questions. The applicant provided no convincing explanation for those transactions.

(c) The SAC referred to the applicant's inconsistent statements regarding his payment of 45,000 United States dollars (USD) for an office space in Tirana in February 2003, in part, through a bank loan of USD 24,000 obtained in June 2003. He had declared the loan in the vetting declaration in 2017 as a source of acquiring the office space. He first alleged, in response to the IQC's questions during the investigation in February 2018, that a relative had lent him USD 24,000 (without a contract) for the purchase in February 2003, and that he had used the bank loan to repay the relative. However, this had not been declared or proven, either in the vetting declaration or in the annual declaration for 2003. The funds had been withdrawn in cash from the bank, with no evidence of their specific use. Thus, the applicant failed to prove the legal origin of the USD 24,000 paid in February 2003.

Lastly, the SAC concluded that the applicant had failed to prevent a situation of conflict of interest (i) in 2014 by not withdrawing from the hearing of a case with claims of EUR 391,260 against Company L, from which he had bought the property in Durrës and had received a discount of EUR 5,140 in 2007, and (ii) in two other cases. That had undermined public trust in the justice system (section 61 (5) of the VA).

THE COURT'S ASSESSMENT

A. Article 6 of the Convention

1. The parties' submissions

7. The Government argued that the complaint was manifestly ill-founded. In particular, debates between the applicant and S.Ç. had taken place within the framework of the differing views that the two of them, together with the other 13 HCJ members, had on issues submitted for deliberation by that collective body. Other alleged disagreements concerned the administration of the district court by S.Ç. at an even earlier period. Every claim had been analysed and found to be unsubstantiated or unfounded. S.Ç., one of five judges on the panel, neither presided nor acted as rapporteur. The panel's decision had been unanimous, assessed all points of appeal and provided adequate reasons. S.Ç. had not expressed any position, nor initiated any disciplinary proceedings against the applicant. In the vetting case, judge S.Ç. had not provided any personal assessments on the decision-making process in the applicant's case, aside from the judicial decision itself. The alleged personal conflict between S.Ç. and the applicant, within the district court and the HCJ (even though unproven), had been in a distant past.

8. The applicant alleged that SAC judge S.Ç. had lacked objective and subjective impartiality (see paragraphs 3 and 4 above). Their hostile relationship had worsened in 2014, just a few years before the vetting process. S.Ç. had openly criticised the management of the HCJ's responsibilities by the applicant and other members of that council. At the HCJ meeting in May 2014, he had accused the applicant of "lies, fraud, and slander" when the applicant asserted that S.Ç. did not meet the legal requirements to be on the HCJ. Although their mutual hostility originated during the performance of public functions, their exchanges had escalated into personal attacks. The minutes of the HCJ meetings confirmed that those interactions revealed a substantial animosity between the two. Those were not merely professional disputes, particularly when both consistently voiced strong criticisms of the other. The SAC had dismissed the recusal request with arbitrary reasoning, failing to dissipate the applicants' fears as to S.Ç.'s partiality. Only two days before rejecting it, the SAC had recused S.Ç. in another case involving a former member of the HCJ.

2. The Court's assessment

9. The relevant general principles related to the assessment of impartiality are summarised in *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], nos. 55391/13 and 2 others, §§ 145-47, 6 November 2018, and

Rustavi 2 Broadcasting Company Ltd and Others v. Georgia, no. 16812/17, §§ 331-32 and 359, 18 July 2019.

10. The applicant did not provide the recusal panel with details of, or evidence about, the nature and intensity of any alleged conflicts with S.Ç. during their work prior to 2006 in a district court. The fact that S.Ç. had cast a vote in 2006, within a collegiate decision-making body, for another candidate to the position of court president did not, by itself, create legitimate doubts about S.Ç.'s impartiality in 2019. Without additional contextual elements, that vote alone was insufficient to question his impartiality more than a decade later. As to the minutes of three HCJ hearings, the applicant did not elaborate on any specific content, and the Court does not detect any incidents, which would substantiate or corroborate the recusal request. As to the meeting in May 2014, while the discussion between the applicant and S.Ç. had included at times criticism which could be characterised as boarding on the personal, the Court notes that one such instance in the context of a collective deliberation cannot, on its own, be taken as evidence of such personal animosity that would affect, or be seen to affect, the impartiality of a judge, which must be presumed until there is proof to the contrary (see *Rustavi 2 Broadcasting Company Ltd and Others*, cited above, §§ 331 and 361, with further references). It does not appear that S.Ç. either expressed a willingness to retaliate or sought vindication through available legal avenues (ibid., §§ 359 and 361), or that thereafter their interaction, if any, was problematic.

11. Having examined the available evidence and the parties' submissions, the Court finds no reasons to disagree with the SAC's assessment in response to the applicant's challenge of S.Ç.'s personal animosity during the appeal proceedings in 2019, as regards the requirement of subjective and objective impartiality.

12. This complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

B. Article 8 of the Convention

1. The parties' submissions

13. The Government contested the applicant's arguments as manifestly ill-founded.

14. The applicant alleged that his dismissal from office was not in accordance with the law, pursued no legitimate aim and was disproportionate. In his observations he disputed the SAC's factual findings and alleged procedural shortcomings. In particular, the SAC had relied on an undisclosed financial report to uphold the IQC's conclusion that the applicant had had insufficient lawful or declared funds for the purchase in 2006. That put him at an unfair disadvantage without a clear explanation as to how the SAC had determined the negative balance. The contract in 2010 outlined the payment

terms, and the SAC acknowledged that he had not been legally required to use traceable payment methods. However, he was still dismissed for failing to prove receipt of the resale price because the contract itself did not prove actual payment. As to the office space in Tirana, the IQC had not transferred the burden of proof onto him regarding the USD 24,000 and had blindsided him by their final conclusions on that amount; the SAC had rejected the payment slips and the lender's sworn statement from 2018 as irrelevant evidence. He had not declared the relative's loan since it had been repaid within months, and the legislation in 2003 only required the disclosure of ongoing loan repayments.

2. The Court's assessment

15. The applicant's dismissal from office interfered with his right to respect for his private life and would violate Article 8 of the Convention unless it is justified as being in accordance with the law and necessary in a democratic society to achieve a legitimate aim (see *Thanza v. Albania*, no. 41047/19, § 135, 4 July 2023).

16. As to the assessment of assets, including the property in Durrës, the applicant's arguments contesting the lawfulness of the interference and lack of legitimate aim are similar to those already rejected by the Court in a similar context (see *Thanza*, cited above, §§ 141-47, with further references). It remains to be determined whether it was necessary in a democratic society and proportionate to achieve those aims.

17. First, several complaints under Article 6 of the Convention were declared inadmissible at the time of communication of the complaint. They concerned alleged procedural shortcomings connected to the factual findings and legal conclusions relating to the dwelling in Durrës and the office space in Tirana. In his observations the applicant restated the same claims as a distinct aspect under Article 8. The Court has identified no serious shortcomings in the decision-making process by which the above-mentioned factual findings were reached at national level and sees no reason to adopt a different conclusion on the admissibility of those allegations under Article 8 at this stage of the proceedings (compare *Thanza*, cited above, §§ 100 and 158).

18. Secondly, in his submissions in 2020 the applicant alluded in general terms to the "blatant disproportionality" of his dismissal but raised no specific arguments regarding the SAC's justification for his dismissal from office under section 61 (3) of the VA (see *Xhoxhaj*, cited above, §§ 412-13, and *Nikëhasani v. Albania*, no. 58997/18, §§ 126 and 128-29, 13 December 2022, as to the remaining, more general, arguments). The complaints must contain all the parameters necessary for the Court to define the issues to be examined and should not leave it to second-guess as to the scope of the factual elements or legal arguments.

19. Next, the applicant alleged that the SAC's factual findings, interpretation of domestic law and their conclusions – including those relating to the dwelling in Durrës and the office space in Tirana – were deficient. Having examined the parties' submissions, the Court finds no reason to consider those findings and conclusions arbitrary or manifestly unreasonable. Specifically, the applicant had not proven convincingly (i) the existence of sufficient lawful funds for the instalment paid in 2006 for the Durrës property, resulting in a negative balance for that year and, foremost, (ii) given the combination of factors as established by the SAC (see paragraph 6 above), the reality and propriety of his supposed sale of that property in 2010 and the related legal origin of EUR 82,000 invested in treasury bonds shortly thereafter. No due-process shortcomings have been established in relation to those findings (see paragraph 17 above). The applicant had also made inconsistent declarations relating to USD 24,000 paid in February 2003. Those reasons were both relevant and sufficient to justify his dismissal from office, in view of the significant amounts involved, the nature of irregularities found by the vetting bodies, and the applicant's position as a long-serving judge expected to meet high standards of probity in the conduct of his private financial affairs (see *Xhoxhaj*, cited above, § 407 *in fine*). Where the domestic courts have carefully examined the facts, applied the relevant human-rights standards consistently with the Convention and its case-law, and adequately balanced the individual interests against the public interest in a case, the Court would require strong reasons to substitute its view for that of the domestic courts (see *Halet v. Luxembourg* [GC], no. 21884/18, § 161, 14 February 2023). The applicant's dismissal from office was therefore proportionate to the legitimate aims in the circumstances of the case.

20. In view of the above finding, it is not necessary for the Court to delve into whether the applicant's dismissal was also justified on the basis of the SAC's findings and conclusions related to supposed conflicts of interest and judicial conduct undermining public trust in the justice system, under section 61 (5) of the VA (compare *Xhoxhaj*, §§ 410-11, and *Thanza*, § 160, both cited above).

21. Accordingly, the complaint under Article 8 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 12 June 2025.

Olga Chernishova Deputy Registrar	Úna Ní Raifeartaigh President