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

THIRD SECTION

DECISION

Application no. 11167/09
Genc BUSHATI
against Albania
(see appended table)

The European Court of Human Rights (Third Section), sitting on 6 April 2023 as a Committee composed of:

Ioannis Ktistakis*, President*,
Darian Pavli,
Oddný Mjöll Arnardóttir*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 21 November 2008,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Genc Bushati, is an Albanian national, who was born in 1944 and lives in Shkodër, Albania.

The applicant complained under Article 1 of Protocol No. 1 about the authorities' failure to pay him timely a compensation awarded in the final instance by an administrative authority in 1993, in respect of movable property.

THE LAW

After unsuccessful friendly settlement negotiations, the Government submitted a proposal of a unilateral declaration with a view to resolving the issue raised by the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The Government acknowledged the violation and offered to pay the applicant the amount detailed in the appended table to cover any pecuniary and non-pecuniary damage as well as costs and expenses, which would be

converted into currency of the respondent State at the rate applicable on the date of payment and would be free of any taxes. The amount would be payable within three months from the date of notification of the decision taken by the Court. In the event of failure to pay that amount within the said three-month period, the Government undertook to pay simple interest on it, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment would constitute the final resolution of the case.

The applicant replied that the Government's declaration covered only the nominal amount of compensation and not the loss of profits. He submitted just satisfaction claims and did not accept the terms of the declaration.

Article 37 § 1 (c) enables the Court to strike a case out of its list if:

> "... for any other reason established by the Court, it is no longer justified to continue the examination of the application".

In certain circumstances, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

To this end, the Court has examined the declaration in the light of the principles emerging from its case-law (see *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Sp. z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.), no. 28953/03, 18 September 2007).

Having regard to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1 (c)).

Moreover, in the light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine*).

Finally, should the Government fail to comply with the terms of their unilateral declaration, the application could be restored to the list in accordance with Article 37 § 2 of the Convention (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

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

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration under Article 1 of Protocol No. 1 and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 11 May 2023.

Viktoriya Maradudina Acting Deputy Registrar	Ioannis Ktistakis President

APPENDIX

Application raising complaints under Article 1 of Protocol No. 1

Application no. Date of introduction	Applicant's name Year of birth	Date of receipt of Government's declaration	Date of receipt of applicant's comments	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses (in euros)
11167/09 21/11/2008	**Genc BUSHATI** 1944	15/07/2016	19/09/2016	4,230