

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

THIRD SECTION

CASE OF PAPAKOSTANDINI v. ALBANIA

(Application no. 7568/08)

JUDGMENT

STRASBOURG

18 July 2024

This judgment is final but it may be subject to editorial revision.



In the case of Papakostandini v. Albania,

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

Peeter Roosma*, President*,

Andreas Zünd,

Oddný Mjöll Arnardóttir*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 27 June 2024,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application against Albania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 18 January 2008.

2. The Albanian Government ("the Government") were given notice of the application.

THE FACTS

3. The applicant's details and information relevant to the application are set out in the appended table.

4. The applicant complained of the excessive length of civil proceedings.

I. OWNERSHIP AND LEASE OF THE RELEVANT PLOT

5. On 17 October 1995 the Durrës Commission on Restitution and Compensation of Properties ("the Commission") recognised the applicant's and his family members' inherited title to a plot of land, measuring 10,000 sq. m and situated inside an area that was managed by the Durrës Army Holiday Home, a public company under the responsibility of the Ministry of Defence. The Commission also ordered the restitution of the plot to the applicant and his family.

6. On 12 December 1995 the applicant registered his title with the Office for the Registration of Immovable Property ("ORIP"); however, the Army Holiday Home continued administering the plot, having leased it to a third party on 24 April 1999.

7. The Durrës District Court admitted the applicant's request to amend the Commission's decision of 1995. On 14 June 2000 it recognised the applicant's and other co-owners' inherited title to an additional plot of land measuring 6,000 sq. m and ordered its restitution.

II. PROCEEDINGS CONCERNING COMPENSATION FOR THE LEASE OF THE PLOT

8. On 18 August 2000 the applicant with the co-owners of the land plot initiated proceedings against the Army Holiday Home and the Ministry of Defence claiming the amounts that the third party had paid to the defendants under the lease agreement.

9. On 6 February and 27 June 2001, the first instance and appellate courts, respectively, ruled in favour of the plaintiffs. Those judgments were quashed on 20 March 2002 by the Supreme Court which returned the case for retrial to the first instance court. The Supreme Court ruled that the lower courts should have invited the lessee to the proceedings.

10. On 30 September 2002 the Durrës District Court approved the applicant's request for an interim measure and froze 187,485 US dollars (USD) belonging to the Army Holiday Home. It further decided to stay the proceedings until domestic court's ruling in a parallel set of proceedings in which the applicant's title to the plot was being challenged (see paragraph 18 below).

11. The interim measure was lifted on 30 January 2003 when the Durrës Court of Appeal also upheld the decision to suspend the proceedings. The proceedings resumed on 25 May 2008. Several hearings were then postponed because summons could not be served on the applicant's family members, co-plaintiffs in the proceedings.

12. On 15 April 2009 the court suspended the proceedings to allow the applicant's family members to obtain an inheritance deed in respect of a deceased family member, a co-plaintiff.

13. While the decision to resume the proceedings was issued on 9 September 2009, the hearing on that date was adjourned because the judge was absent. Two following hearings were re-scheduled for the same reason.

14. On 16 March 2010 the Army Holiday Home asked to suspend the proceedings as it was undergoing an internal reorganisation and it was not clear which entity would succeed it. The court accepted the request and suspended the proceedings.

15. The proceedings resumed on 2 November 2012.

16. On 23 January 2013 the court noted that the applicant had failed, without a good reason, to appear before it, and discontinued the proceedings in his respect.

17. Between 23 January and 30 October 2013, the court relied on the same grounds to discontinue the proceedings in respect of the remaining plaintiffs.

III. PROCEEDINGS CONCERNING ANNULMENT OF THE APPLICANT'S TITLE

18. On 22 October 2001 the Army Holiday Home sued the applicant before the Durrës District Court, seeking the quashing of the Commission's decision of 1995.

19. The Durrës District Court stayed the proceedings on 7 October 2002 as it considered that the plaintiff had initiated similar and interconnected proceedings before the Tirana District Court. That decision was upheld on appeal on12 December 2002 by the Durrës Court of Appeal.

20. On 11 March 2004 the Supreme Court found that there was no reason to stay the proceedings and sent the case for examination back to the District Court.

21. The Durrës District Court, on 17 July 2006, quashed the Commission's decision of 1995 in part. It decided that the applicant should be compensated in one of the ways provided for by law, in respect of 10,000 sq. m, *in lieu* of the property restitution.

22. On 21 January 2008 the Court of Appeal amended that decision and ruled that the applicant should be compensated in one of the ways provided for by law, in respect of the entire land plot of 16,000 sq. m, *in lieu* of the property restitution.

23. On 24 October 2012 the Supreme Court quashed those decisions and dismissed the claim against the applicant as ill-founded. It found that the Commission's decision of 1995 was lawful and valid.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

24. The applicant complained that the length of the two sets of the civil proceedings had been incompatible with the "reasonable time" requirement. He relied on Article 6 § 1 of the Convention.

A. Applicable principles

25. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

26. In the leading cases of *Luli and Others v. Albania* (nos. 64480/09 and 5 others, 1 April 2014) and *Mishgjoni v. Albania* (no. 18381/05,

7 December 2010), the Court already found a violation in respect of issues similar to those in the present case.

B. The Court's assessment

1. Proceedings on the applicant's claim for compensation

27. The proceedings started on 18 August 2000 (see paragraph 8 above) and ended on 23 January 2013 (see paragraph 16 above). They therefore lasted slightly over twelve years and five months before three levels of jurisdiction with the case having been examined in four rounds of the proceedings.

28. The main matter before domestic courts was not particularly complex and only called for determining the applicant's entitlement to the amounts that the defendants had collected for leasing the land plot to a third party.

29. An initial delay occurred as a result of the fact that the first decision of the trial and appellate court did not stand on appeal before the Supreme Court (see paragraph 9 above). Although it is not for the Court to analyse the quality of the decision-making of the domestic courts, the remittal of cases for re-examination is usually ordered as a result of errors committed by lower courts, the repetition of such orders within one set of proceedings discloses a serious deficiency in the judicial system. Moreover, this deficiency is imputable to the authorities and not the applicant (see *Vlad and Others v. Romania*, nos. 40756/06 and 2 others, § 133, 26 November 2013, with further references).

30. A significant delay of almost six years occurred as a result of the first suspension of the proceedings on the ground that the applicant's title was challenged in parallel proceedings (see paragraph 10 above and *Gjonbocari and Others v. Albania*, no. 10508/02, §§66-67, 23 October 2007 as regards the domestic authorities' failure to manage properly the multiplication of proceedings on the same issue). Another delay of one year and a half resulted from the second suspension of the proceedings to allow the defendant to carry out an internal reorganisation (see paragraphs 14 and 15 above).

31. None of these delays are attributable to the applicant and, contrary to the Government's contention, that conclusion is not altered by the fact that the proceedings were ultimately discontinued because the applicant had failed to appear before the court. Neither did the Government submit any other explanation for the delays.

2. Proceedings related to the challenge of the applicant's title

32. The relevant proceedings started on 22 October 2001 (see paragraph 18 above) and ended on 24 October 2012 (see paragraph 23 above). They therefore lasted eleven years before three levels of jurisdiction.

33. The Court notes that the trial and appeal courts' decisions did not stand before the Supreme Court (see paragraph 20 and 29 above). Following the Supreme Court's decision to remit the case, it took the District Court another twenty months to decide the case (see paragraph 21 above). Eighteen months later the appeal court issued its second decision and four years and seven months later the Supreme Court handed its final judgment on the matter (see paragraph 22 and 23 above).

34. The applicant did not contribute to any of those delays. The case was also not complex, and the Government did not argue otherwise.

3. Conclusion

35. Having examined all the material submitted to it, the Court has not found any fact or argument capable of justifying the overall length of the two sets of the proceedings described above. Having regard to its case-law on the subject, the Court considers that in the instant case the length of those proceedings was excessive and failed to meet the "reasonable time" requirement.

36. The complaint is therefore admissible and discloses a breach of Article 6 § 1 of the Convention.

II. REMAINING COMPLAINTS

37. The applicant also complained of a violation of Article 1 of Protocol No. 1 to the Convention in connection to the authorities lease of his property to third parties. Moreover, under Article 13 of the Convention he complained that he had not had an effective remedy for his complaints under the Convention.

38. Having regard to the facts of the case, the parties' submissions, and its findings above, the Court considers that it has examined the main legal question raised in the present case. It thus finds that there is no need to give a separate ruling on these complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

39. Regard being had to the documents in its possession and to its case-law (see, in particular, *Luli* and *Mishgjoni*, both cited above), the Court considers it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 6 § 1 of the Convention concerning the excessive length of the two sets of the civil proceedings admissible

and *holds* that there is no need to examine separately the applicant's complaints under Article 13 of the Convention and Article 1 of Protocol No. 1;

2. *Holds* that there has been a breach of Article 6 § 1 of the Convention concerning the excessive length of the two sets of the civil proceedings;

3. *Holds*

(a) that the respondent State is to pay the applicant, within three months, the amount indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 18 July 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Peeter Roosma
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention
(excessive length of civil proceedings)

Application no. Date of introduction	Applicant's name Year of birth	Start of proceedings	End of proceedings	Total length	Amount awarded for non-pecuniary damage and costs and expenses per applicant (in euros)[1]
7568/08 18/01/2008	**Minella PAPAKOSTANDINI**	18/08/2000	23/01/2013	11 years and 10 months before four levels of jurisdiction	4,700
		22/10/2001	24/10/2012	11 years before three levels of jurisdiction	

[1] Plus any tax that may be chargeable to the applicant.