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

THIRD SECTION

DECISION

Application no. 12756/22
Agron LAMAJ
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. 12756/22) 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 24 February 2022 by an Albanian national, Mr Agron Lamaj ("the applicant"), who was born in 1954 and lives in Tirana;

the decision to give notice of the complaints concerning the alleged lack of impartiality of the Supreme Court and the lack of access to the Constitutional Court under Article 6 § 1 of the Convention 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 a fine imposed on the applicant, a lawyer, for abuse of the right to petition the Supreme Court. The applicant primarily complained, under Article 6 § 1 of the Convention, that the Supreme Court's bench that heard his appeal against the fine was not impartial and that the Constitutional Court had violated his right of access to court.

FACTS AND PROCEDURE

A. Background

2. In November 2020 the applicant represented a client who was involved in two parallel proceedings which were pending before different courts and related, accordingly, to an inheritance matter and the ownership of an asset.

3. The dispute over the client's inheritance rights was pending before the Supreme Court since 2015.

4. Meanwhile, in 2019 the client had lodged an action to have his ownership right over a plot of land recognized. That action was pending before the District Court of Pogradec.

B. Supreme Court

5. On 20 November 2020 the applicant submitted to the Supreme Court a request on behalf of his client that, until resolution of the inheritance dispute which was pending before that court, the examination of the ownership dispute which was pending before the District Court of Pogradec be stayed.

1. Interlocutory decision to fine the applicant

6. On 8 January 2021 the Supreme Court, sitting in a bench composed of judges E.P., S. S., and I. P., gave an interlocutory decision rejecting the request. It found that the request was abusive as it should have been well known to the applicant that the Supreme Court had no power to stay proceedings that were ongoing before a district court.

7. In addition to rejecting the request, the court imposed on the applicant a fine of 50,000 Albanian lek (approximately 400 euro at the time).

8. The above decision was based on Article 34/1 § 1 of the Code of Civil Procedure ("CCP"), the relevant part of which provides:

> "The court, at any stage of the trial, when it finds that the parties or their representatives knowingly make abusive or repeated and malicious lawsuits, complaints, requests or claims, or when they intentionally seek to delay the trial, or when it is found that the parties or their representatives have concealed or distorted, in bad faith or with serious fault, important facts and circumstances related to the case, orders, by a decision made at the end of the trial, unless otherwise provided in this Code, the fine of the responsible party in the amount of 50,000 to 100,000 [Albanian] lek."

9. The court also stated that any appeals against the fine imposed would be heard by the Supreme Court itself.

2. Review

10. On 24 February 2021 the applicant appealed arguing that the inheritance proceedings before the Supreme Court had taken too long, which had forced the parties to start parallel proceedings to safeguard their interest.

He added that all he had tried to do was to bring this situation to the court's attention without any intention to abuse his right of petition.

11. On 30 April 2021 the Supreme Court, sitting in a bench of three judges including E. P. and I. P., who had also been part of the bench of 8 January 2021 (see paragraph 6 above), rejected the applicant's appeal against the fine. It found that lawyers were required to help the court in dealing with cases, not overburden it with requests submitted in bad faith. It added that the applicant had submitted no arguments warranting an amendment of the interlocutory decision imposing a fine on him.

C. Constitutional Court

12. On 16 July 2021 the applicant lodged a constitutional appeal arguing that Article 34/1 of the CCP had been wrongly applied. He added that the Supreme Court' bench of 30 April 2021 had not been impartial under Article 6 § 1 of the Convention as it included two judges who on 8 January 2021 had already ruled on the fine (see paragraphs 6 and 11 above).

13. By a decision of 25 October 2021, served to the applicant on 16 November 2021, the Constitutional Court rejected the constitutional appeal on the grounds that his client's dispute was still pending before the ordinary courts and thus remedies had not been exhausted. The court stated that the fine did not have a sufficient degree of autonomy from the main proceedings to warrant constitutional review. It added that the applicant and his client may lodge a constitutional appeal once the proceedings on the merits had ended.

14. Three out of seven judges appended a dissent stating that the proceedings regarding the applicant's fine were final and the court should have examined his complaints. They relied on a precedent of 8 April 2021 in which the court had declared a similar complaint admissible.

THE COURT'S ASSESSMENT

15. The Government submitted, in so far as relevant, that the complaints were incompatible *ratione materiae* with Article 6 § 1 of the Convention.

16. The applicant did not respond to that line of argument, but complained under Article 6 § 1 of the Convention that the Supreme Court's bench of 30 April 2021 was not impartial and that the Constitutional Court's refusal to review his complaints amounted to a denial of his right of access to court.

17. The Court notes that the applicant did not allege before domestic courts or the Court that the criminal limb of Article 6 § 1 was applicable to the facts at hand. It therefore remains to be determined whether Article 6 § 1 was applicable under its civil limb.

1. Applicable principles

18. The principles concerning the applicability of the civil limb of Article 6 § 1 of the Convention have been recently summarized in *Aktay v. Turkey* ((dec.), nos. 56064/16, 58000/16 and 15087/17, §§ 31-35, 9 September 2024).

19. In particular, the Court reiterates that rules enabling a court to react to disorderly conduct in proceedings before it are a common feature of legal systems of the Contracting States. Such rules derive from the indispensable power of a court to ensure the proper and orderly functioning of its own proceedings (see, *mutatis mutandis*, *Gestur Jónsson and Ragnar Halldór Hall v. Iceland* [GC], nos. 68273/14 and 68271/14, §§ 81 and 89, 22 December 2020). Both the former Commission and the Court have examined the applicability of the civil limb of Article 6 in the context of fines imposed on the parties to legal proceedings for abuse of process or contempt of court, and found that such fines aim to ensure the proper administration of justice and therefore have the characteristics of procedural sanctions that do not involve the determination of civil rights or obligations (see *Aktay*, cited above § 35, with further references). The Court reached the same conclusion in *Andreiescu v. Romania* ((dec.), no. 10656/05, §§ 6, 11 and 38, 9 April 2013), which concerned the imposition of a fine on a lawyer for non-compliance with procedural obligations in the court proceedings in which she was representing her clients.

2. The Court's assessment

20. The Court must examine whether the decisions of the Supreme Court and Constitutional Court involved the determination of the applicant's "civil rights" within the meaning of Article 6 § 1 of the Convention. In this context, the Court stresses that it is not its role to ascertain whether the domestic courts correctly interpreted and applied the Article 34/1 of the CCP and the other relevant domestic provisions in the impugned proceedings.

21. In response to this question, the Government submitted detailed arguments as to why they considered Article 6 § 1 not to apply in this case. The applicant, on the other side, did not put forward any argument regarding the applicability of the civil limb of Article 6 § 1. He did not explain which, if any, of his "civil" rights or obligations were determined in the procedure that had led to the fine (compare with *Aktay*, cited above, §§ 41-44, where the Court examined the impact of a fine on the lawyer's practice).

22. The Court does not ignore that the interlocutory decision of 8 January 2021 imposed a pecuniary obligation on the applicant. However, merely showing that a dispute is "pecuniary" in nature is not in itself sufficient to attract the applicability of Article 6 § 1 under its "civil" head (see *Aktay*, cited above, § 45, with further references). The Court has previously found that such fines aim to ensure the proper administration of justice and therefore have the characteristics of procedural sanctions that do

not involve the determination of civil rights or obligations (see paragraph 19 above). In these circumstances, the Court considers that the disputed fine, the amount of which is not argued to be excessive, is not in itself sufficient to bring the civil limb of Article 6 § 1 of the Convention into play.

23. It follows that the complaints are incompatible *ratione materiae* with Article 6 §1 of the Convention within the meaning of Article 35 § 3 (a) and must as such be rejected in accordance with Article 35 § 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