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

THIRD SECTION

DECISION

Application no. 34288/19
Tom NDRECA
against Albania

The European Court of Human Rights (Third Section), sitting on 16 September 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. 34288/19) 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 19 June 2019 by an Albanian national, Mr Tom Ndreca ("the applicant"), who was born in 1956, 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 complaint concerning the applicant's right 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 decision of August 2021 rejecting the applicant's objection to the participation of Mr Darian Pavli, the judge elected in respect of Albania, in the consideration of the present case (former Rule 28 § 2 of the Rules of Court),

the parties' observations;

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) under the Vetting Act (VA) (see *Xhoxhaj v. Albania*, no. 15227/19, 9 February 2021).

2. The applicant was a prosecutor between 1991 and 1994, and a judge at the Tirana Court of Appeal between 1994 and 2013 and at the Supreme Court between 2013 and 2018.

3. On 17 July 2018 the IQC dismissed the applicant from office. Considering an accounting report submitted by him on his assets, income and liquidity for the period 1980-2016, the IQC accepted that he had a positive balance prior to 2003 but noted that certain amounts claimed by the applicant as liquidity (savings) had not been in the annual declarations as required by Law no. 9049 of 2003 and therefore were not considered in the financial analysis. He had negative balances for 2004-08 and a shortfall of 4,359 Albanian leks (ALL) for 2009 (approximately 50 euros (EUR) at the time). There was a lack of lawful financial resources "to justify the assets" (*mungesë e burimeve të ligjshme financiare për të justifikuar pasuritë*) within the meaning of section 33 (5)(b) of the VA, for ALL 1,393,336 (approximately EUR 11,000 as per the Bank of Albania's annual average exchange rate) for 2004-09. The IQC also referred to other irregularities, including a false statement related to a garage in Tirana, and "inappropriate contact with a person involved in organised crime" within the meaning of the VA.

4. On 22 November 2018 the SAC upheld the IQC's decision in substance and served it on the applicant on 21 December 2018. The SAC concluded as follows.

(a) In 2003 the applicant had become the owner of a flat in Tirana (commissioned in 1997 and paid in part with his family's savings) and had purchased separately the above-mentioned garage for ALL 468,000 (approximately EUR 4,700 according to the applicant or EUR 3,360 as per the Bank of Albania's average annual exchange rate in 2003). He declared the garage in his 2017 vetting declaration and stated that he had not paid that amount. Allegedly, the construction company had provided the garage as compensation for defects in the flat. The applicant referred to a plan of the flat showing its structural defects and the company's statement to the IQC in 2018. He also made ambiguous, contradictory, or otherwise questionable declarations concerning the flat, including a claim that a payment of ALL 2,868,000 before 2003 covered both the flat and the garage. However, this arrangement and the parties' intentions had not been properly documented. This raised concerns about his compliance with the legislation governing asset declarations and conflicts of interest. Contemporaneous documentary evidence – namely, a 2003 purchase contract for the garage – authenticated that the price had been paid. It also emerged that part of the funds for the garage were not properly accounted for and that it had not appeared – allegedly due to an oversight – in the applicant's annual declarations until 2017, even though ownership had been recorded in the

public real estate register since 2003. Therefore, the applicant made a "false statement" in the meaning of section 33 (5)(ç) of the VA concerning non-payment of the price for the garage.

(b) The specific household comprised four members, including two adult children, and had maintained a standard of living above the minimum subsistence level, noting, *inter alia*, efforts to improve living standards through asset acquisition (a coastal property in Golem). Although an exact figure for essential living expenses could not be determined, the official average monthly consumption data for a four-person household was applied.

(c) The applicant's accounting report relied heavily on his own statements, particularly as to the amount of savings allegedly accumulated before 2003. They had not been declared in his initial asset declaration, as required. When considered alongside the above assessment of the living expenses, his claims were found to lack credibility and were dismissed. The SAC also considered data from the household's bank accounts at the end of each year, alongside declared cash savings. Per SAC's financial assessment, the applicant was unable to justify ALL 1,978,953 for 2004-09. Since he had not been given the opportunity to contest that higher number, ALL 1,393,336, that is the same number as determined by the IQC, was accepted as the basis to assess the justification of assets. That was the total of negative balances accumulated between 2004 and 2009. Specifically, in 2009 he acquired the property in Golem for EUR 31,000. He claimed that the funds originated from salary savings over the years but failed to convincingly justify at least ALL 1,393,336. This constituted a lack of justification of lawful sources "for this property" and a ground for dismissal from office for an insufficient declaration within the meaning of sections 33 (5)(b) and 61 (3) of the VA respectively.

The SAC also referred to other issues in the asset assessment and "inappropriate contact" within the meaning of the VA as his wife had bought a car in 2012 from her brother, who had been under investigation.

5. Before the Court, the applicant complained under Article 8 of the Convention that his dismissal from office was unlawful and alleged, in general terms, that it was based on minor irregularities.

THE COURT'S ASSESSMENT

A. Scope of the case

6. In his observations in 2024 the applicant mentioned, for the first time, new claims, including those related to the SAC's financial assessment in 2018. They are not an elaboration of any original complaint, including the present one based on the gravity of the irregularities used as grounds for his dismissal from office and on which the parties were invited to comment. They have not been referred to the Court in compliance with Rule 47 of the Rules

of Court and admissibility criteria and fall outside the scope of the case as it stands (see *Kulák v. Slovakia*, no. 57748/21, § 52, 3 April 2025).

B. Article 8 of the Convention

1. The parties' submissions

7. The Government restated the SAC's findings and argued that the complaint was manifestly ill-founded.

8. The applicant argued that the VA did not define "insufficient disclosure" under section 61 (3) and serious omissions warranting dismissal from office. The vetting bodies had broad and unchecked discretion in interpreting that concept, which led to inconsistent and unpredictable application of the law. His failure to justify a modest amount of savings and the flat purchased with them fell outside the scope of "insufficient disclosure". Applying that concept – and imposing dismissal – based on minor issues relating to the declaration of the garage were arbitrary. The garage had been disclosed in the vetting declaration, with the only issue being the method of payment.

9. The applicant also argued that his dismissal from office pursued no legitimate aim, was based on minor irregularities and was disproportionate. Nothing indicated that he acted in bad faith or deliberately violated the law. The absence of intentional misconduct should have weighed heavily in his favour. The SAC upheld the IQC's finding that the shortfall for 2009 was EUR 50, and further ruled that he lacked ALL 1,393,336 of the funds to buy the flat the same year (see paragraph 3 above). That finding was based on a financial assessment which was not disclosed to him, worsened his position and hampered both his full understanding of the case against him and his ability to respond effectively. That sum amounted to just 1/30 of his overall lawful income for 1980-2016. By comparison, under Law no. 9049/2003, in the case of annual declarations, assets were considered illegally acquired and reported for prosecution only when the unjustified discrepancy exceeded ALL 2,000,000. The SAC arbitrarily concluded that the garage purchase price had been paid. That low-value asset had been declared in the vetting declaration. It had not been concluded that any funds used for its purchase had been unlawful.

2. The Court's assessment

10. 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 and 137, 4 July 2023).

11. As regards the assessment of assets (including the dwelling in Golem and the garage in Tirana), the applicant's arguments contesting the lawfulness of the interference and lack of legitimate aim, in so far as they have not already been declared inadmissible at the communication stage, are analogous to those rejected by the Court in a similar context (see *Thanza*, cited above, §§ 141-47, with further references). The Court finds no reason to hold otherwise. It remains to be determined whether the interference was necessary in a democratic society and proportionate to achieve the legitimate aims.

12. First, in his application form the applicant challenged certain alleged procedural shortcomings connected to the factual findings and legal conclusions relating to the dwelling in Golem and the garage, referring to Article 6 of the Convention. These complaints were declared inadmissible as manifestly ill-founded at the time of communication of this application. In his observations in 2024 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 findings were reached at national level and sees no reason to adopt a different conclusion on the admissibility of those allegations under Article 8 (compare *Thanza*, cited above, § 158).

13. Second, the applicant challenged as arbitrary the SAC's interpretation of domestic law relating to the dwelling in Golem and the garage in Tirana. As presented and substantiated, these allegations do not cross the threshold of arbitrariness or manifest unreasonableness (see *Yüksel Yalçınkaya v. Türkiye* [GC], no. 15669/20, § 304 *in fine*, 26 September 2023).

14. Thus, the Court will only review the original allegation of disproportionality based on the facts as they were established and assessed by the SAC, and based on the applicant's observations, elaborating on the insignificant nature of the irregularities within the asset assessment.

15. The applicant declared that he had used savings accumulated from the household's salaries in 2004-09 to purchase the property in Golem for EUR 31,000 in 2009. The SAC held that he failed to account for a significant portion of the funds used for that purchase, approximately EUR 11,000, and that this fell within the scope of the ground for dismissal under section 61(3) of the VA. In the Court's view, this amount was not only substantial in the context of the transaction but also not objectively negligible, given the level of salaries for Albanian civil servants at the relevant time. Furthermore, the applicant has not demonstrated that his household's negative balance between 2004 and 2009 constituted a small percentage of the combined family income for that period, considering the salaries of the members of his household, as his spouse and adult children were also employed in the public sector (compare *Sevdari v. Albania*, no. 40662/19, § 93, 13 December 2022). It is also noted that at least part of the alleged savings accumulated before 2004

had been spent for the purchase of another property, and that amount – or any remaining portion – was not declared for the year 2003 or thereafter.

16. The SAC also rejected as false the applicant's claim that he had not paid for the garage acquired in 2003, that is when he became subject to the requirements of Law no. 9049. A false statement made within the scope of a vetting subject's obligation to truthfully declare both an asset and its source was considered a distinct type of irregularity in the vetting process (see *Thanza*, cited above, §§ 68-71) and could affect the traceability and integrity of transactions. The applicant's statement was assessed in the light of a combination of factors. The garage registered in the public real estate register since 2003 had not been reflected, without any valid explanation, in his annual declarations until the vetting process in 2017. The SAC found that he provided inconsistent and otherwise unconvincing explanations regarding the financing of both the flat and the garage. He denied payment despite contemporaneous documentary evidence to the contrary. This misrepresentation undermined the credibility of the declaration. Thus, although the falsehood concerned a monetary value that might be regarded as not substantial, this did not undermine the gravity of the SAC's conclusion as to the failures related to this asset (compare *Sevdari*, cited above, § 85).

17. 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). Noting the findings in paragraphs 6 and 12-14 above, the nature of the above-mentioned irregularities and the applicant's position as a long-serving judge expected to meet high standards of integrity and probity in the conduct of his private financial affairs (see *Xhoxhaj*, cited above, § 407 *in fine*), the reasons provided by him are insufficient for the Court to depart from the SAC's conclusions and, more generally, to undermine the outcome of the vetting case (see, by contrast, *Sevdari*, cited above, §§ 93 and 96). The applicant's remaining, more generic, arguments are analogous to those rejected in *Nikëhasani v. Albania*, no. 58997/18, §§ 126 and 128-29, 13 December 2022. Therefore, the Court does not find that his dismissal from office was disproportionate.

18. In view of the above finding, it is not necessary for the Court to delve into the SAC's findings and conclusions related to other elements of the asset assessment or the alleged inappropriate contact (compare *Thanza*, cited above, § 160).

19. 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 9 October 2025.

Olga Chernishova
Deputy Registrar

Úna Ní Raifeartaigh
President