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

THIRD SECTION

DECISION

Application no. 55672/22
Radovan ÇELA
against Albania

The European Court of Human Rights (Third Section), sitting on 20 January 2026 as a Chamber composed of:
Ioannis Ktistakis*, President*,
Lətif Hüseynov,
Darian Pavli,
Úna Ní Raifeartaigh,
Mateja Đurović,
Canòlic Mingorance Cairat,
Vasilka Sancin*, judges*,
and Milan Blaško, *Section Registrar,*
Having regard to the above application lodged on 29 November 2022,
Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,
Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Radovan Çela, is an Albanian national who was born in 1981 and lives in Tirana. He was represented before the Court by Mr I. Shehu, a lawyer practising in Tirana.
2. The Albanian Government ("the Government") were represented by their Agent, Mr O. Moçka, General State Advocate.

The circumstances of the case

3. The facts of the case, as submitted by the parties, may be summarised as follows.
4. The applicant is a lawyer in Albania.

5. An investigation in respect of several individuals, including the applicant, was initiated in Belgium, on suspicion that they had committed the criminal offences of conspiracy to commit money laundering, forgery of documents and the use of forged documents. In the context of that investigation, on 30 March 2020 the Brussels Court of First Instance requested that the Albanian authorities examine the applicant's mobile phone data and email correspondence, conduct a search of his home and office, and seize any documents or items relevant to the investigation, including mobile phones and computers. It also requested that the authorities "carry out a digital inspection of the relevant locations, with technical and legal copies made and certified for their accuracy". The Belgian authorities requested copies of all emails sent and received from the applicant's email address since 1 May 2018 and a record of all incoming and outgoing calls and messages from the applicant's mobile phones between 1 May 2018 and 30 March 2020.

6. At the material time the applicant was also representing the interests of some other suspects in related criminal proceedings in Albania. In those proceedings the applicant was neither a suspect nor an accused person.

7. On 27 April 2020 the Albanian Ministry of Justice accepted the request and forwarded it to the Special Prosecution Office against Corruption and Organised Crime ("the Special Prosecution Office").

8. On 5 May 2020 the Special Prosecution Office submitted the request to the Special Court of First Instance against Corruption and Organised Crime, and on 18 May 2020 and 22 November 2021, after obtaining further documents from the Belgian authorities, the first-instance court, relying on Article 506 of the Code of Criminal Procedure, allowed the request in the course of a hearing held in the presence of the prosecution only.

9. The applicant's home and office were searched on 8 February 2022 by the judicial police and an investigator of the National Bureau of Investigation. In the applicant's office, his computer and mobile phone were searched and the police seized his computer and copied various documents concerning his clients. No items were seized from the applicant's home, and no documents were copied or downloaded there.

10. The record of the search of the applicant's office and home stated that he had made no objections or complaints as to the lawfulness of the search. The applicant signed the record.

11. On 7 June 2022 the applicant lodged a constitutional complaint against the decisions of 18 May 2020 and 22 November 2021, and against the search of his home and office. He alleged, *inter alia*, that the contested decisions did not contain adequate reasons, and that the search of his home and office, and the examination of the content of his mobile phone and emails, had violated the special protection afforded to lawyers, as provided for in Article 52 of the Code of Criminal Procedure. He also alleged that the search had breached the inviolability of his home, which, as a private place, enjoyed special protection under the Convention and the Constitution. Moreover,

procedural safeguards had been available to him, as a lawyer, as provided for in the Bar Act, Article 52 of the Code of Criminal Procedure, and Article 8 of the Convention. The interference with his rights had not been in accordance with the law. The applicant further complained that he had not been able to appeal against the contested decisions and the conditions in which the search of his home and office had been carried out. He also challenged the constitutionality of Article 506 of the Code of Criminal Procedure.

12. The applicant's constitutional complaint was declared inadmissible on 14 July 2022 for non-exhaustion of prior remedies. The Constitutional Court found that the constitutional proceedings concerned, in substance, the criminal proceedings in Belgium, that the first-instance court had allowed the Belgian authorities' request, with reference to Articles 506 and 507 of the Code of Criminal Procedure, and that the Albanian authorities had merely acted upon that request. The applicable law was therefore Belgian law, which fell outside Albania's jurisdiction. The Constitutional Court held that the applicant's complaints had to be assessed from his position as a victim of the alleged violations in the context of the execution of the letter of request in Albania. The Constitutional Court concluded that, as regards the searches carried out in Albania, the applicant had had at his disposal the remedies provided for in the Code of Criminal Procedure. The contested decision of the first-instance court could not therefore be considered final within the meaning of Article 131§ 1 (f) of the Constitution.

13. On 7 February 2024 a separate investigation was instituted in Albania in respect of the applicant on suspicion of having committed the criminal offences of exerting illicit influence on persons exercising public functions on five separate occasions, and of bribing judges and prosecutors on two separate occasions. Those proceedings are still ongoing.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

A. Constitution

14. The relevant parts of the Constitution read as follows:

Article 17

"1. Restrictions of the rights and freedoms provided for in this Constitution may be imposed only by law in the public interest or for the protection of the rights of others. A restriction shall be proportionate to the situation that has dictated it.

2. Such restrictions may not infringe the essence of the rights and freedoms and in no case should exceed the restrictions provided for in the European Convention on Human Rights."

Article 36

"The freedom and secrecy of correspondence or any other means of communication shall be guaranteed."

Article 37

"1. The inviolability of a residence shall be guaranteed.

2. Searches of a residence, as well as of equivalent premises, may be carried out only in the cases and manner provided for by law.

3. No one may be subjected to a personal search outside the context of criminal proceedings, with the exception of cases of entry into, or exit from, the territory of the State, or in order to avoid a danger that threatens public security."

Article 43

"Everyone has the right to an appeal against a judicial decision to a higher court, save as otherwise provided by law with regard to minor criminal offences, and civil and administrative matters of minor importance or value, under the conditions set out in Article 17 of the Constitution."

Article 131

"1. The Constitutional Court shall decide on:

...

(f) the final examination of complaints by individuals against acts of the public authorities or judicial decisions impairing the fundamental rights and freedoms guaranteed by the Constitution, after all effective legal means for the protection of those rights have been exhausted, unless otherwise provided by the Constitution."

B. Code of Criminal Procedure

15. The relevant provisions of the Code of Criminal Procedure (Law no. 7905 of 21 March 1995, as amended) read as follows:

Article 52
Guarantees for the defence lawyer
(Amended by Law no. 35/2017, section 38)

"1. Inspections and searches of a lawyer's office shall be allowed only:

(a) where he or she or other individuals who regularly perform their duties in the same office are defendants [*të pandehur*], and only for the purpose of establishing the criminal offence attributed to them;

(b) to discover traces or material evidence of a criminal offence or to search for items or persons specifically defined;

(c) in cases where the lawyer is caught *in flagrante delicto* or is pursued while attempting to flee, pursuant to paragraph 1 of Article 298 of this Code.

2. Prior to carrying out an inspection, search or seizure operation in a lawyer's office, the executing authority shall notify the Executive Board of the Bar Association so that

one of its members may be present. Except for cases of *in flagrante delicto*, the executing authority shall postpone the inspection, search or seizure until the designated member arrives, but for no longer than two hours from the time the Bar Association was informed. In all cases, a copy of the search record shall be sent to the Executive Board of the Bar Association.

3. Inspections, searches and seizure operations in lawyers' offices, pursuant to sub-paragraphs (a) and (b) of the first paragraph of this Article, shall be carried out by the judge in person, whereas, during preliminary investigations, they shall be carried out by the prosecutor, pursuant to an authorisation granted by the court.

4. The interception of conversations or communications between lawyers and their assistants, or between lawyers and their clients, shall not be allowed.

5. Any form of monitoring of correspondence between the defendant and his or her defence lawyer shall be prohibited.

6. Evidence obtained from inspections, searches, seizures or the interception of conversations or communications carried out in breach of the above-mentioned provisions shall be inadmissible."

SECTION II
SEARCHES
Article 202
Conditions for conducting searches
(Amended by Law no. 35/2017, section 105)

"1. Where there are reasonable grounds to suspect that an individual is concealing material evidence or items related to a criminal offence on his or her person, the court shall issue a warrant for a body search. If such items are believed to be located in a specific place, a warrant for a search of that location or residence shall be issued.

2. The court issuing the search warrant may either carry out the search directly or authorise judicial police officers named in the search warrant to conduct the search.

3. In cases involving individuals caught *in flagrante delicto* or pursued while attempting to flee, where it is not possible to obtain a search warrant, judicial police officers shall conduct a search of the person or premises, in accordance with the rules provided for in Article 298."

Article 202/a
Decision authorising the search
(Added by Law no. 35/2017, section 106)

"1. The decision authorising the search shall specify the nature of the search, the identity and personal details of the individual being searched, the premises or residence being searched, the items or evidence sought, the justification for the search, and the authority designated to conduct it.

2. Where there are well-founded reasons to believe that data, information, computer programmes or traces thereof are stored within a computer or telecommunications system protected by security measures, the court shall issue a search order, prescribing appropriate technical measures in order to safeguard the integrity of the original data and to prevent any modification. The decision shall determine the nature of the information sought and the method of obtaining it.

3. The court shall give a reasoned decision in closed session, within 24 hours of the prosecutor's request being submitted. If the search request is refused, a direct complaint may be lodged with the appellate court within 24 hours. The appellate court shall decide within 48 hours of receiving the relevant documents.

4. The search shall be carried out within 72 hours from the time the decision authorising it is given."

Article 205
Search of premises
(Amended by Law no. 35/2017, section 109)

"1. The defendant, if present, and the person in possession of the premises shall be handed a copy of the search order and be made aware of the right to request the presence of a person of trust who is available and appropriate for the purposes of Article 108 of this Code, or his or her defence lawyer.

2. If the defendant requests the presence of his or her defence lawyer while the search is conducted, the executing authority shall postpone the search until the defence lawyer is present, although not by more than two hours from the moment the defence lawyer is informed of the search. During this period, the executing authority may restrict the movement of the person concerned or other persons present at the premises being searched.

..."

Article 206
Designated period for conducting house searches

"1. The search of a house or any enclosed areas adjacent to it may not begin before 7 a.m. or after 8 p.m. In urgent cases, the executing authority may order in writing that the search be conducted outside those periods."

Article 207
Seizure of items during searches
(Amended by Law no. 35/2017, section 110)

"1. Items found during a search shall be seized, provided that they are specified in the decision authorising the search.

2. Other items found during the search and not specified in the search order but which are related to the same criminal offence may be seized in accordance with the provisions regulating seizure operations.

3. If, during the course of a search, items are found which are unrelated to the criminal offence in respect of which the search order was issued, but which are related to another criminal offence subject to public prosecution, the items found may be seized.

4. Where items are seized in the circumstances set out in paragraphs 2 and 3 of this Article, the criteria laid down in Article 301 of this Code shall apply."

Article 212
Appeal against the seizure order

"1. The defendant, the person from whom items have been seized, and anyone with a claim to those items, may lodge a complaint with the court, which shall give a reasoned decision within ten days.

2. An appeal may be lodged against the court's decision within five days. The appellate court shall give a reasoned decision within ten days of receiving the relevant documents.

3. The appeal shall not suspend enforcement of the decision."

Article 301
Validation of the seizure order
(Amended by Law no. 35/2017, section 163)

"1. In the event of the seizure of items under Article 300 [governing urgent inspections *in situ*], the judicial police shall indicate the relevant justifications in the search record and give a copy to the person from whom the items were seized. The record shall be sent without delay and, in any event, no later than within 48 hours, to the prosecutor with responsibility for the location where the seizure was carried out.

2. Within 48 hours, the prosecutor shall validate the seizure by a reasoned decision, if the relevant conditions are met, or order the return of the seized items. A copy of the decision shall be served immediately, but no later than within 72 hours, on the defendant, defence lawyer and the person whose items were seized. An appeal against that decision may be lodged with the court, within ten days, by the defendant and his or her defence lawyer, by the person whose items were seized, or by any party entitled to their return. The lodging of an appeal shall not suspend the enforcement of the seizure order."

Article 407
Cases and means of appeal

"1. Instances in which court judgments or orders may be appealed, as well as the means of appeal, shall be determined by law.

2. Appeals against court orders, except when otherwise provided by law, may only be lodged with an appeal against the judgment.

...

4. The right to appeal shall be exercised only by a party expressly authorised by law to do so. When the [relevant] law makes no distinction between the parties, the right may be exercised by each of them. ..."

CHAPTER II
INTERNATIONAL LETTERS OF REQUEST
SECTION I
LETTERS OF REQUEST FROM ABROAD
Article 505
Powers of the Ministry of Justice

"1. The Ministry of Justice shall authorise the execution [*vendos që t'i jepet rrugë*] of letters of request issued by a foreign authority relating to communications, notifications and the collection of evidence, unless it determines that the requested measures would compromise the sovereignty, the security or important interests of the State.

2. The Ministry shall not execute the letter of request where it is evident that the requested measures are expressly prohibited by law or are contrary to the fundamental principles of the Albanian legal order. The Ministry shall not execute the letter of request where there are well-founded reasons to believe that considerations of race,

religion, sex, nationality, language, political beliefs or social status may adversely affect the process, and the defendant has not freely consented to the letter of request.

3. In cases where a letter of request concerns the summoning of a witness, expert or defendant to appear before a foreign judicial authority, the Ministry of Justice shall refrain from executing the request if the requesting State fails to provide appropriate assurances regarding the inviolability of the summoned individual.

4. The Ministry shall reserve the right not to execute the letter of request if the requesting State fails to provide appropriate assurances of reciprocity."

Article 506
Judicial proceedings
(Amended by Law no. 99/2014)

"1. A foreign letter of request may not be executed until a favourable decision has been given by the competent court for the location where the execution shall take place.

2. Upon obtaining the relevant documents from the Ministry of Justice, the district prosecutor shall file a request with the court within five days.

3. The court shall give a decision on the execution of the letter of request within ten days of receiving the request.

4. The execution of the letter of request shall not be accepted:

(a) where the Ministry of Justice refuses to execute [*nuk i jep rrugë*] the letter of request in accordance with the provisions of international instruments to which the Republic of Albania is a party, or any applicable reservations or legal declarations [made by it].

(b) where the act giving rise to the request by the foreign authority is not regarded as a criminal offence under Albanian law."

Article 507
Execution of letters of request
(Amended by Law no. 35/2017, section 281)

"1. On accepting a request for the execution of a letter of request, the court shall carry out the requested measure or, where permitted by law, delegate its execution to the prosecutor.

2. The provisions of this Code shall govern the execution of the requested measures, except in cases where specific procedures requested by the foreign judicial authority must be followed, provided that they are not contrary to the principles of the Albanian legal order."

C. Law No. 8510 of 15 July 1999 on Non-contractual Liability of Institutions of State Administration

16. Sections 1 and 3 of Law no. 8510 (as amended by Law no. 10005 of 23 October 2008) provide that the State is liable for non-contractual pecuniary and non-pecuniary damage caused to natural or legal persons, whether domestic or foreign. State institutions have an obligation to provide compensation, *inter alia* when, through the exercise of their public functions,

their lawful acts or omissions cause damage to the lawful interests of private natural or legal persons.

17. Law no. 8510 defines the State administration as comprising: (a) the Prime Minister's Office; (b) ministries; (c) subordinate institutions under the Prime Minister or ministers; (d) direct service delivery units; (e) autonomous agencies; and (f) the administrative prefectures.

D. Practice of domestic courts

1. The Supreme Court

18. In its Unifying Judgment no. 61002-00692-00-2021 of 23 December 2021 the Supreme Court held as follows:

> "38. According to these provisions, any interested person—who is not necessarily the person under investigation ... but may be any person in possession of the item or with a right to claim it – may file an appeal against the seizure measure. From the literal interpretation of this provision, namely Article 212 of the Code of Criminal Procedure Code, the Panel considers it important to note that ... the judicial or prosecutor's decision to seize the items must have been executed. ... Therefore, a challenge against the seizure is not possible if the [measure] has not been executed."

19. In its judgment no. 00-2023-762 of 28 March 2023, the Supreme Court held as follows:

> "26. The law expressly provides for a right of appeal for the prosecutor against a court decision not to authorise a search, which means that, in the case of a decision allowing a search, the law indirectly precludes the right to appeal for the other parties. The appellate court's conclusion that such a decision cannot be challenged is therefore correct and in accordance with the law.
>
> 27. As to a decision ordering a search, the law does not provide for the right of appeal for the party in respect of whom the search is ordered, or the right to be informed that such a decision has been made. Any complaints against the decision ordering a search may be raised by the interested party during the *ex post facto* review of the seizure ..."

20. In its judgment no. 60001-00512-00-2024 of 17 December 2024, the Supreme Court held that all factual issues should be examined by the lower courts. The Special Court of First Instance against Corruption and Organised Crime, in its judgment no. 159 of 16 April 2004 – cited in the Supreme Court's judgment on an appeal under Article 212 of the Code of Criminal Procedure – shows that Special Court of First Instance against Corruption and Organised Crime referred to Article 8 of the Convention in its assessment of the validity of the search order.

2. The Constitutional Court

21. In its decision no. 265 of 12 December 2023, concerning the availability of an appeal against a decision ordering a search of an individual's home and person, the Constitutional Court held that no such appeal was allowed under the Code of Criminal Procedure.

The relevant part of that decision reads as follows:

"19. [The Constitutional Court] finds that the Special Court of Appeal and the Supreme Court, interpreting Articles 202 et seq., 407 and 420 of the Code of Criminal Procedure, concluded that the law did not provide for a right of appeal against a decision authorising a search, and that therefore no appeal lay against such a decision.

According to the Supreme Court, on the basis of Article 207 § 4 of the Code of Criminal Procedure, where a search results in the seizure of material evidence, the seizure order may be appealed against and the interested party may raise procedural objections relating to the search in the appeal against the seizure order.

...

20. The [Constitutional Court] stresses that the Code of Criminal Procedure explicitly provides for the right of appeal against a decision refusing a search request within 24 hours of that decision, whereas there is no right of appeal against a decision allowing the search.

In that context, the interpretation by the ordinary courts is reasonable: where the law does not expressly provide for a right of appeal or specify the time-limits or parties entitled to exercise it, the decision may not be appealed against.

This means that the restriction on the applicant's right to appeal to a higher court is a matter of legal interpretation which, according to consistent constitutional case-law, falls within the jurisdiction of the ordinary courts (see Constitutional Court decisions no. 38 of 12 July 2023, no. 6 of 16 February 2021, no. 9 of 26 March 2018 and no. 7 of 7 February 2017).

21. Furthermore, the [Constitutional Court] notes that, as stated by the Supreme Court, where material evidence is seized during a search of a person or premises, any objections to the search may be raised by the interested party in an appeal to a higher court against the seizure order. Continuing that analysis, it is apparent that, in cases where no items are seized during the search as material evidence, and where the fundamental rights and freedoms of the interested party have been violated, the individual concerned may lodge a constitutional claim with the Constitutional Court by means of an individual constitutional complaint. Following the 2016 constitutional reform, which expanded the jurisdiction of the [Constitutional] Court to cover all fundamental rights and freedoms, the individual constitutional complaint constitutes an effective remedy available to the individual under Article 13 of the European Convention on Human Rights ..., ensuring both access to the court and the possibility of a substantive appeal."

22. In its decision no. 21 of 22 April 2025, the Constitutional Court held as follows:

"28. Regarding interim search orders, the [Constitutional] Court notes that the Code of Criminal Procedure does not provide for a right to appeal against such orders, but only for the right to appeal against decisions on the seizure of material evidence during searches (Articles 202–212, 407 and 420 of the Code of Criminal Procedure). The [Constitutional] Court considers that the legislature should assess whether the criminal procedural legislation needs to be supplemented in order to offer individuals effective legal remedies to challenge, before the ordinary courts, measures involving a search of premises or a personal search, even where the search is not accompanied by the seizure of items, provided that the search itself has the potential to infringe fundamental rights and freedoms. However, referring to the current legal provisions, the [Constitutional] Court points out that where material evidence is seized during a search, constitutional

complaints against the search procedure may be raised by the individual in an appeal against the seizure order to a higher court. After exhausting these legal remedies, the individual may lodge an individual constitutional complaint. If no items are seized during the search as material evidence, and if the individual's fundamental rights and freedoms have been violated, the individual may directly lodge an individual constitutional complaint against the search procedure with the [Constitutional] Court."

23. In its decision no. 42 of 1 July 2025, the Constitutional Court held as follows:

"22. As far as this criterion of legitimacy is concerned, with regard to the applicant's complaints of a breach of the inviolability of the home owing to the alleged search of the office, the [Constitutional] Court also takes into account its well-established position on the constitutional review of complaints alleging violations of substantive rights resulting from personal searches or searches of premises. According to that position, and on the basis of current legal provisions, where material evidence is seized during a search, constitutional complaints against the search procedure may be raised by the individual in the appeal against the seizure order to a higher court. After exhausting these legal remedies, the individual may lodge an individual constitutional complaint.

Furthermore, since the criterion of exhaustion of legal remedies also requires that all complaints raised with the Constitutional Court must have been previously brought before the ordinary courts, at least in substance (see Constitutional Court decisions no. 14 of 21 June 2022 and no. 12 of 9 March 2021), the [Constitutional] Court also proceeds to review the applicant's complaints in that regard.

...

74. Lastly, the [Constitutional] Court notes that the Code of Criminal Procedure does not provide for the possibility of appealing against an order for the search of a place of residence, irrespective of whether it was authorised by a court decision or carried out on the initiative of the [prosecution]. However, the [Constitutional] Court has previously stated that, in accordance with the current legal provisions, where material evidence is seized during a search, constitutional complaints against the search procedure may be raised by the individual concerned in an appeal to a higher court against the seizure order and, after exhausting those legal remedies, he or she may lodge an individual constitutional complaint (see paragraph 22 of the decision). However, if no items are seized as material evidence [during] the search, and the individual's fundamental rights and freedoms have been violated, he or she may lodge an individual constitutional complaint against the search procedure directly with the [Constitutional] Court (see decision no. 21 of 22 April 2025 of the Constitutional Court)."

COMPLAINTS

24. The applicant complained under Article 8 of the Convention about the search of his home and office, and the seizure of items of evidence during the search of his office.

25. He further complained under Article 13 of the Convention that he had no remedy for his complaints under Article 8.

THE LAW

26. The applicant complained that the decision authorising the search of his home and office, including his correspondence, the manner in which the search of his home and office had been carried out, and the seizure of items of evidence, had infringed his rights under Article 8 of the Convention. He further complained that he had no effective remedies at his disposal for his complaints, contrary to Article 13. Articles 8 and 13 of the Convention, in so far as relevant, read as follows:

Article 8

"1. Everyone has the right to respect for his ... home and correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 13

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. Exhaustion of domestic remedies

1. The parties' submissions

(a) The Government

27. The Government accepted that the search of the applicant's home and office had not been carried out pursuant to an ordinary search warrant, but further to a decision issued in respect of a letter of request from the Belgian authorities. Irrespective of that, however, the search had been carried out on the basis of a court decision and it had to comply with the requirements of the Code of Criminal Procedure.

28. The Government submitted that, prior to lodging a constitutional complaint, the applicant had had several remedies at his disposal which he had failed to use.

29. The Government pointed out that, under Article 507 § 2 of the Code of Criminal Procedure, all measures approved by the Albanian courts and implemented in response to letters of request from foreign authorities had to comply with the provisions of the Code of Criminal Procedure. The Government explained that the procedural requirements relating to searches were regulated under Articles 202 to 207 of the Code of Criminal Procedure (see paragraph 15 above). Further procedural safeguards regarding searches

of a lawyer's office were set out in Article 52 of the Code of Criminal Procedure.

30. In the Government's view, that meant that, where a search carried out pursuant to a letter of request was not in compliance with the procedural provisions of the Code of Criminal Procedure, an appeal to the courts against the search itself was possible. The Government maintained that an appeal against a first-instance judgment constituted, in general, an ordinary remedy to be pursued for exhaustion purposes. Thus, any claims related to the legality of a search can be raised as part of an ordinary appeal against the final judgment on the merits, as provided for in Article 407 of the Code of Criminal Procedure.

31. Where items were seized during the search, an interim appeal could furthermore be lodged against the seizure under Article 212 § 1 of the Code of Criminal Procedure.

32. Further to this, under Article 151 § 4 of the Code of Criminal Procedure, it was possible to challenge the admissibility of evidence collected during a search and ask that it be excluded at any stage of the proceedings.

33. As to a claim for compensation for damage against the State under Law no. 8510, the Government argued that such a claim could be lodged in situations where "the administration acts or fails to act in breach of the law, thereby infringing the rights or interests of individuals or businesses". However, the administrative authorities' liability had even been acknowledged in cases where their actions or omissions were found to be lawful in formal terms, but where they resulted in harm to the legitimate interests of private individuals.

(b) The applicant

34. The applicant argued that the search of his home and office had not been authorised by the domestic courts, but had been carried out on the sole basis of a letter of request from abroad, which could not be appealed against.

35. He submitted that, in accordance with the established practice of the Supreme Court and the Constitutional Court, an appeal under the Code of Criminal Procedure was possible only where it was expressly provided for by law. The Code of Criminal Procedure did not provide for a right of appeal against decisions authorising searches carried out for the purpose of obtaining evidence. The applicant contended that the decision on the basis of which the search of his home and office had been carried out was not a search order, but instead a decision given pursuant to the letter of request from the Belgian authorities. He pointed out that that decision had been issued under Articles 506 and 507 of the Code of Criminal Procedure, which governed proceedings relating to letters of request from abroad. Moreover, those provisions did not provide for a right of appeal against decisions accepting such letters.

36. The applicant further argued that the remedy under Article 151 of the Code of Criminal Procedure could be used in respect of allegedly inadmissible evidence in the context of criminal proceedings in Albania. However, that was not so in the present case given that, at that time, no criminal proceedings had been pending against him in Albania and the searches at issue had not been carried out in connection with any criminal proceedings in Albania.

37. As regards a claim for compensation for damage against the State under Law no. 8510, the applicant argued that that Law provided only for the liability of State administrative institutions, namely the Prime Minister's Office, ministries, subordinate institutions under the Prime Minister or ministers, direct service delivery units, autonomous agencies and prefectures.

38. Damage allegedly suffered as a result of decisions and judgments given by the domestic courts could not therefore be the subject of a claim under that Law.

2. The Court's assessment

(a) General principles

39. The Court reiterates that the obligation to exhaust domestic remedies requires an applicant to make normal use of remedies which are available and sufficient in respect of his or her Convention grievances. The existence of the remedies in question must be sufficiently certain not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness (see *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, § 71, 25 March 2014, and *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, § 139, 27 November 2023). To be effective, a remedy must be capable of directly redressing the impugned state of affairs and must offer reasonable prospects of success (see *Communauté genevoise d'action syndicale (CGAS)*, § 139, cited above, with further references).

40. However, there is no obligation to have recourse to remedies which are inadequate or ineffective (see *Vučković and Others*, cited above, § 73, and *Communauté genevoise d'action syndicale (CGAS)*, cited above, § 141). The issue of determining whether a domestic procedure constitutes an effective remedy within the meaning of Article 35 § 1 of the Convention which an applicant must exhaust depends on a number of factors, notably the applicant's complaint, the scope of the obligations of the State under that particular Convention provision, the available remedies in the respondent State and the specific circumstances of the case (see, among other authorities, *Lopes de Sousa Fernandes v. Portugal* [GC], no. 56080/13, § 134, 19 December 2017, and *Ražnatović v. Montenegro*, no. 14742/18, § 27, 2 September 2021). This means that an applicant is not required to lodge applications with bodies or institutions which have no power or competence

to offer effective redress for the complaint at issue under the Convention (see *mutatis mutandis*, *Mukhametov and Others v. Russia*, nos. 53404/18 and 3 others, § 27, 14 December 2021).

41. The Court has nevertheless frequently underlined the need to apply the exhaustion rule with some degree of flexibility and without excessive formalism. It has further agreed that the rule on exhaustion of domestic remedies is not capable of being applied automatically; in reviewing whether it has been observed it is essential to have regard to the particular circumstances of each individual case (see *Communauté genevoise d'action syndicale (CGAS)*, cited above, § 140, with further references).

42. As regards the burden of proof, it is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy advanced by them was an effective one, available in theory and in practice at the relevant time. Once this burden has been satisfied, it falls to the applicant to establish that the remedy was in fact exhausted or was for some reason inadequate and ineffective in the particular circumstances of the case, or that there existed special circumstances exempting him or her from this requirement (see, among many other authorities, *Vučković and Others*, § 77, and *Communauté genevoise d'action syndicale (CGAS)*, § 143, both cited above).

(b) Application of those principles to the present case

43. The applicant complained that the decision ordering the search of his home and office had covered his correspondence with clients, including all his mobile phone calls and messages, and all his emails. He further complained that the search of his office had been carried out in breach of Article 52 of the Code of Criminal Procedure.

44. The Court must therefore assess whether the applicant had a remedy in respect of those specific complaints.

45. The Court observes in this connection that, in accordance with its established case-law, the effective remedy required by Article 13 of the Convention is one where the domestic authority examining the case has to consider the substance of the Convention complaint. In cases involving Article 8 of the Convention, this means that the authority has to carry out a balancing exercise and examine whether the interference with the applicants' rights answered a pressing social need and was proportionate to the legitimate aims pursued, that is, whether it amounted to a justifiable limitation of their rights (see *Voynov v. Russia*, no. 39747/10, § 42, 3 July 2018, and *C.G. and Others v. Bulgaria*, no. 1365/07, § 62, 24 April 2008, with further references).

46. The Court also reiterates that once the search has been carried out or the person concerned has become otherwise aware of the existence of the warrant, there must exist a procedure whereby he or she can challenge the legal and factual grounds for the warrant and obtain redress in the event that the search was unlawfully ordered or executed (see *Reznik v. Ukraine*,

no. 31175/14, § 81, 23 January 2025, referring to *Iliya Stefanov v. Bulgaria*, no. 65755/01, § 59, 22 May 2008, and *Avanesyan v. Russia*, no. 41152/06, § 29, 18 September 2014).

47. The Constitutional Court declared the applicant's constitutional complaint inadmissible for non-exhaustion of remedies under the Code of Criminal Procedure, without specifying which exact remedies had not been attempted (contrast *Zubal' v. Slovakia*, no. 44065/06, § 33, 9 November 2010). However, that could not have prevented the applicant from using any prior remedies that may have been available (compare *Haščák v. Slovakia* (dec.), nos. 13284/22 and 12127/23, § 53, 24 September 2024).

(i) As to the possibility of lodging a claim for compensation for damage against the State

48. The Court will first assess whether a claim for compensation for damage under Law no. 8510 could be seen as an effective remedy in relation to the applicant's grievances. It notes that the Law itself defines the institutions of State administration to which it refers (see paragraph 17 above). This does not cover decisions or judgments of the domestic courts, as rightly pointed out by the applicant. In any event, it is not apparent that in the applicant's case the civil or administrative courts would be able to review the reasons underlying the decision ordering a search or assess the lawfulness or justification of the police officers' conduct in the course of a search operation carried out in the context of ongoing criminal proceedings in Belgium (compare *Reznik*, cited above, § 88).

49. The Court therefore notes that, in the present case, it is highly unlikely that an action for compensation under Law no. 8510 would have had any prospect of success. In addition, the Government did not submit any examples of relevant domestic case-law in support of their allegations.

50. The situation might have been different had the Constitutional Court found a violation of the applicant's rights under Article 8 of the Convention. In those circumstances it might have been open to the applicant to seek compensation in respect of damage on the basis of such a finding of the Constitutional Court, in accordance with the provisions of the Civil Code.

51. In view of the above, the Court considers that the Government have failed to show, with reference to demonstrably established and consistent case-law in cases similar to that of the applicant, that a claim for compensation for damage against the State under Law no. 8510 offered at least some prospect of success, not only in theory but also in practice (compare *Kilyen v. Romania*, no. 44817/04, § 27, 25 February 2014).

(ii) As to the possibility of challenging evidence collected during searches

52. The Court notes that at the time the contested searches were carried out no criminal proceedings were pending against the applicant in Albania,

and that the searches were carried out pursuant to a letter of request from the Belgian authorities for the purposes of the criminal investigation in respect of the applicant in Belgium. Furthermore, the applicant did not make a complaint about the use of the evidence collected. The remedies under Article 151 § 4 of the Code of Criminal Procedure referred to by the Government, aimed at challenging the evidence collected during the search, are therefore not relevant in the circumstances of the present case. The same rationale applies with regard to the Government's argument that the legality of the search could have been challenged as part of an appeal against a final judgment on the merits of the case (see paragraph 30 above). In any event, it is doubtful that such challenges or appeals would have been capable of providing adequate redress for the applicant's complaints under Article 8 of the Convention since they tend to focus on the admissibility of any evidence collected during a search, and not necessarily on the legality or Convention compliance of the search as such (compare *P.G. and J.H. v. the United Kingdom*, no. 44787/98, § 86, ECHR 2001-IX; *Goranova-Karaeneva v. Bulgaria*, no. 12739/05, § 59, 8 March 2011; *İrfan Güzel v. Turkey*, no. 35285/08, §§ 106-07, 7 February 2017; and *Särgava v. Estonia*, no. 698/19, § 70, 16 November 2021).

(iii) As to the possibility of lodging an interim appeal against a search

53. The Court notes that the applicant's complaint about the search of his correspondence with clients relates to the decision ordering the search.

54. The case-law of the Supreme Court and the Constitutional Court clearly shows that no special appeal is possible against a decision ordering the search, as such, of persons and premises with the aim of obtaining evidence (see paragraph 19 above).

55. On the other hand, in the event that any items were seized during a search, the remedy that would have been available to the applicant is the one under Article 212 of the Code of Criminal Procedure, which provides that any interested person may lodge an appeal in such situation.

(α) Search of the applicant's home

56. The Court notes that Article 212 of the Code of Criminal Procedure provides for a right of appeal only where items have been seized during a search. An appeal cannot therefore be lodged against search orders or searches during which no items were seized, as was the case with the search of the applicant's home. No other provision of the Code of Criminal Procedure provides for the possibility of lodging an appeal against a search order or the search of premises where no items were seized. Indeed, the Constitutional Court and the Supreme Court have both expressly acknowledged that no right of appeal was provided for in such a situation.

57. It is apparent from the practice of the domestic courts that the only remedy which could have addressed the complaints concerning the search of the applicant's home would have been a constitutional complaint (see paragraphs 21-23 above). However, in the applicant's case the Constitutional Court did not engage in the assessment of the merits of his complaints. Given the circumstances of the present case, it cannot therefore be argued that the constitutional complaint lodged by the applicant was an effective remedy for his complaints under Article 8 of the Convention.

58. In view of the above considerations, the Government's objection as to the non-exhaustion of domestic remedies – specifically with regard to the complaint concerning the search of the applicant's home – must be dismissed.

59. This conclusion, however, does not call into question the effectiveness of the remedy as such or the obligation to lodge a constitutional complaint in order to exhaust domestic remedies concerning complaints about the searches of applicants' homes (compare *Kaić and Others v. Croatia*, no. 22014/04, § 43, 17 July 2008).

(β) Search of the applicant's office

60. The Court notes that, according to the Constitutional Court's and Supreme Court's established practice, once items are seized during a search, an interested party may lodge an appeal with a higher court in which any issues may be raised concerning the lawfulness of the search order, how the search was carried out and how the items were seized. Such proceedings may, ultimately, also lead to a constitutional complaint being lodged and are therefore capable of addressing complaints concerning the justification for the search order, the lawfulness of the actions of the police officers (including with regard to lawyer-client privilege), and the seizure of material evidence (contrast *Reznik*, § 87, cited above).

61. The fact that the search at issue was based on a court decision given pursuant to a letter of request from the Belgian authorities does not mean that the search did not have to comply with the provisions of the Code of Criminal Procedure, as provided for in Article 507 § 2 of that Code. The applicant's arguments to the contrary are based on an overly formalistic interpretation of the situation at issue. The search was authorised by a national court, and it was carried out by the judicial police. There is therefore nothing to suggest that the applicant could not have made use of the remedy under Article 212 of the Code of Criminal Procedure. In that connection, the Court reiterates that the existence of mere doubts as to the prospects of success of a particular remedy which is not obviously futile is not a valid reason for failing to exhaust that avenue of redress (see *Communauté genevoise d'action syndicale (CGAS)*, cited above, § 142, with further references).

62. It follows that the applicant had an effective domestic remedy at his disposal in respect of the search of his office.

63. After pursuing that remedy, the applicant could have lodged, as the case might have been, a fresh constitutional complaint, which is an effective remedy that could have addressed his grievances under Article 8 of the Convention (see paragraphs 21-23 above; compare also *Zubaľ*, § 33, and *Haščák*, § 55, both cited above).

64. It follows that the complaint under Article 8 of the Convention, in so far as it concerns the search of the applicant's office, must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

65. The applicant's complaint under Article 13, in so far as it concerns the search of the applicant's office, is therefore manifestly ill-founded given that the applicant had an effective remedy at his disposal in that regard and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

B. Complaints about the search of the applicant's home

66. The Court notes that the applicant's complaints and arguments mainly concern the search of his office (see paragraph 43 above). As regards the search of his home, the applicant made only very general complaints, alleging that the search had violated his right to respect for his home. However, he did not raise any specific complaints or put forward any arguments in support of his general allegations.

67. It follows that the applicant's complaints under Article 8 of the Convention, in so far as they concern the search of his home, are unsubstantiated. Accordingly, this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

68. As to the Article 13 complaint, the Court notes that it is inextricably linked to the one examined above and must therefore likewise be declared inadmissible (see *Ljubičić v. Croatia* (dec.), no. 17338/05, 10 May 2007).

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 12 February 2026.

Milan Blaško
Registrar

Ioannis Ktistakis
President