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

THIRD SECTION

DECISION

Application no. 1840/23
Marius TAFA
against Albania

The European Court of Human Rights (Third Section), sitting on 28 January 2025 as a Committee composed of:

Lətif Hüseynov*, President*,

Darian Pavli,

Úna Ní Raifeartaigh*, judges*,

and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 1840/23) 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 4 January 2023 by an Albanian national, Mr Marius Tafa ("the applicant"), who was born in 1988, lives in Peqin and was represented by Ms E. Kanapari, a lawyer practising in Tirana;

the decision to give notice of the complaints concerning the applicant's right to adequate time to prepare his defence in the criminal proceedings against him to the Albanian Government ("the Government"), represented by Mr O. Moçka, General State Advocate, and to declare inadmissible the remainder of the application;

the observations submitted by the respondent Government and the observations in reply submitted by the applicant;

the comments submitted by Res Publica, which had been granted leave to intervene by the President of the Section;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns alleged unfairness of the applicant's criminal trial.

2. The trial against the applicant on charges of murder of a police officer and illegal possession of firearms before the Elbasan District Court

commenced on 2 February 2011. In these proceedings the applicant was represented by a lawyer of his choice, J.K. The trial court scheduled hearings every Wednesday at 1 p.m. However, the applicant's lawyer did not appear at several hearings.

3. When J.K. did not appear without excuse at hearings scheduled for 23 February and 23 and 30 March 2011, the trial court adjourned the hearings. When J.K. did not appear without excuse at a hearing held on 13 April 2011, the trial court appointed lawyer K.M. to represent the applicant and adjourned the hearing in order to notify lawyer K.M. However, at a next hearing held on 20 April 2011, lawyer J.K. appeared and continued to defend the applicant, and lawyer K.M. was released of his duties.

4. When J.K. again did not appear at a hearing scheduled for 27 April 2011, the trial court appointed lawyer Gj.Xh. to defend the applicant, and adjourned the hearing so that lawyer Gj.Xh. would have the time to prepare for the applicant's defence. At a next hearing held on 4 May 2011 lawyer Gj.Xh. appeared and informed the trial court that he had studied the case-file and was ready to represent the applicant.

5. At further hearings the applicant was represented either by lawyer J.K. when he appeared, and when not, by lawyer Gj.Xh.

6. At a hearing held on 1 June 2011 lawyer J.K. did not appear, and lawyer Gj.Xh. was shortly summoned and represented the applicant.

7. At a hearing held on 26 October 2011 lawyer J.K. asked for additional time to prepare his closing arguments, and the trial court adjourned the hearing. Lawyer J.K. asked for more time again on 9 November 2011, and a hearing scheduled for that day was adjourned.

8. At a hearing held on 21 December 2011 lawyer J.K. read out his closing arguments before the trial court.

9. On 11 January 2012 the trial court found the applicant guilty as charged and sentenced him to twenty-three years' imprisonment. This conviction was upheld by the Durrës Appeal Court on 11 July 2012 and by the Supreme Court on 17 March 2022. On 30 September 2022 the Constitutional Court dismissed the applicant's constitutional complaint.

THE COURT'S ASSESSMENT

10. The applicant complained under Article 6 §§ 1 and 3 (b) of the Convention that the court-appointed lawyer had not been afforded adequate time to prepare his defence for the hearing held before the Elbasan District Court on 1 June 2011, and for presenting the closing arguments on behalf of the applicant.

11. The Court notes that the lawyer chosen by the applicant repeatedly did not appear, without excuse, at hearings which were scheduled in advance, while he was aware that the hearings were scheduled to take place every Wednesday at 1 p.m. These circumstances, in the Court's view, justified the

trial court's appointment of another lawyer to the applicant. The Court has already held that the appointment of more than one defence counsel is not of itself inconsistent with the Convention and may indeed be called for in specific cases in the interests of justice (see *Croissant v. Germany*, 25 September 1992, § 27, Series A no. 237-B).

12. Lawyer Gj.Xh. was appointed for the first time on 27 April 2011, and the hearing scheduled for that day was adjourned so that he could prepare for the applicant's defence. Already at the hearing held on 4 May 2011 lawyer Gj.Xh. said that he had studied the case file and was ready to represent the applicant. Therefore, viewing the proceedings as a whole, the Court considers that lawyer Gj.Xh. had the opportunity to familiarise himself with the case file and prepare for the applicant's defence prior to the hearing held on 1 June 2011.

13. Furthermore lawyer J.K. continued to represent the applicant. He never made any objection to the applicant's representation by lawyer Gj.Xh. before the trial court, neither did the applicant.

14. As to the final hearing and closing arguments, the Court notes that these were given by the lawyer of the applicant's choice, J.K. The Court has no elements to doubt that he had sufficient time to prepare them, since the trial court had twice adjourned hearings exactly for that purpose.

15. Given the above circumstances, the Court finds that the applicant's defence rights, and, in particular, his right to have adequate time for preparation of his defence, guaranteed under Article 6 §§ 1 and 3 (b) were adequately protected in the criminal proceedings at issue.

16. It follows that this part of the application is manifestly ill-founded and must 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 27 February 2025.

Olga Chernishova Deputy Registrar	Lətif Hüseynov President