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

THIRD SECTION

DECISION

Application no. 55595/17
Hasan ZELA
against Albania

The European Court of Human Rights (Third Section), sitting on 31 March 2026 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. 55595/17) 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 28 July 2017 by an Albanian national, Mr Hasan Zela ("the applicant"), who was born in 1978, lives in Tirana and was represented by Ms R. Zano, a lawyer practising in Tirana;

the decision to give notice of the complaints under Article 6 § 1 of the Convention concerning the applicant's right of access to the Constitutional Court and his right to a reasoned decision by the Supreme Court to the Albanian Government ("the Government"), represented by Mr O. Moçka, General State Advocate, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the applicant's right of access to the Constitutional Court and his right to a reasoned decision by the Supreme Court.

2. On 29 June 2001 the Tirana District Court ("the District Court") acknowledged as a legal fact the inherited property rights of the applicant and

other heirs of M.Z. over a plot of land measuring 830 sq. m, situated in Tirana (*vendim vërtetim fakti*).

3. On 29 March 2002 the Commission for the Restitution and Compensation of Property ("the Commission") dismissed the claim for recognition of title and restitution of the 830 sq. m plot lodged by the applicant and other heirs on the grounds that a part of the plot had already been restituted to V.J. and H.K. The Commission indicated that the request could be resubmitted once the overlap of property titles had been resolved through court proceedings.

4. In 2012 the applicant and other heirs brought proceedings in the District Court challenging the Commission's decision in favour of V.J. On 26 December 2012 the proceedings were dismissed on the grounds that the applicant and other heirs lacked legal standing.

5. On 24 October 2013 the Tirana Court of Appeal upheld that judgment.

6. On 11 July 2014 the Supreme Court dismissed an appeal on points of law lodged by the applicant and other heirs as inadmissible, in accordance with Article 472 of the Code of Civil Procedure (no valid grounds of appeal).

7. On 3 March 2015 the applicant and other heirs submitted a constitutional complaint. On 30 September 2015 the Constitutional Court, sitting in a formation of eight out of nine judges, dismissed the constitutional complaint without prejudice because the vote was tied. The reasoning was limited to stating that it had been unable to reach a majority on any of the issues raised in the case. The applicant and other heirs were informed of the possibility, under section 74 of the Constitutional Court Act, of lodging a fresh complaint at a later date.

8. On 26 July 2016 the applicant and other heirs submitted a second constitutional complaint, arguing that they had been waiting for judge A. Xh., who had been absent from the first set of constitutional proceedings, but who had meanwhile resumed judicial functions.

9. On 7 February 2017 the Constitutional Court dismissed the second complaint on the grounds that it had been submitted outside the two-year time-limit calculated from the date of the Supreme Court's decision of 11 July 2014.

10. Relying on Article 6 § 1 of the Convention, the applicant complained that his right of access to the Constitutional Court and his right to a reasoned decision by the Supreme Court had been violated.

THE COURT'S ASSESSMENT

A. Alleged violation of Article 6 § 1 as regards the right of access to the Constitutional Court during the 2017 proceedings

11. The Government submitted that the applicant's second constitutional complaint had become time-barred. The applicant had not complied with the

two-year time-limit which had started to run from the date of the Supreme Court's decision and section 30 of the Constitutional Court Act did not provide for the suspension of the time-limit in cases where a complaint is dismissed for failure to reach the required majority.

12. The applicant argued that the two-year time-limit should have been considered to have been interrupted by the submission of the first constitutional complaint and should have resumed only after the return of judge A. Xh.

13. The Court reiterates that the Convention does not guarantee a right to have a terminated case reopened. Extraordinary appeals seeking the reopening of terminated judicial proceedings do not normally involve the determination of "civil rights and obligations" or of "any criminal charge" and therefore Article 6 is deemed inapplicable to them (see *Bochan v. Ukraine (no. 2)* [GC], no. 22251/08, § 44, ECHR 2015).

14. In the present case, as regards the possibility of lodging a fresh constitutional complaint once the composition of the Constitutional Court was complete, the Court has already held that it could not accept that the mere possibility that circumstances might change, and that the applicant might receive a final determination of his or her constitutional complaint at some undefined future point in time could satisfy the requirements of legal certainty (see *Marini v. Albania*, no. 3738/02, § 121, 18 December 2007, and *Prodhim Veshje No.2 SH.A. v. Albania* [Committee], no. 34649/14, § 10, 17 October 2023). It follows that the decision of the Constitutional Court of 30 September 2015 was the final decision in the applicant's case.

15. The Court also notes that in the case at issue, the second constitutional complaint was submitted outside the two-year time-limit and that the law did not provide for the suspension of that time-limit. The Court concludes that the second constitutional complaint was an extraordinary appeal, which the applicant was not required to lodge and which, in any case, was lodged out of time.

16. This part of the application is therefore incompatible *ratione materiae* with the provisions of the Convention and must be rejected in accordance with Article 35 §§ 3 and 4.

B. Other alleged violations

17. The applicant also complained under Article 6 § 1 of the Convention that his right of access to the Constitutional Court in the 2015 proceedings and his right to have a reasoned decision by the Supreme Court had been violated.

18. The Government submitted that those complaints had been lodged outside of the six-month time-limit, arguing that the Constitutional Court's decision of 2015 had been the final decision which had violated the

applicant's right of access to a court. They further referred to the Court's conclusions in *Marini* (cited above, § 146).

19. The applicant contended that the Constitutional Court's decision of 2015 had not constituted a final decision and could not therefore have triggered the six-month time-limit for addressing the Court.

20. The Court reiterates that under Article 35 § 1 of the Convention it examines a complaint if "all domestic remedies have been exhausted" and if it has been submitted "within a period of six months from the date on which the final decision was taken". However, an applicant is not obliged to have recourse to remedies which are inadequate or ineffective (see *Akdivar and Others v. Turkey*, 16 September 1996, §§ 65-67, Reports of Judgments and Decisions 1996-IV; *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 71-73, 25 March 2014; and *Maslák v. Slovakia* (no. 2), no. 38321/17, § 113, 31 March 2022). The pursuit of remedies which do not satisfy the requirements of Article 35 § 1 will not be considered by the Court for the purposes of establishing the date of the "final decision" or calculating the starting point for the running of the six-month rule (see *Prystavska v. Ukraine* (dec.), no. 21287/02, ECHR 2002-X; *Sapeyan v. Armenia*, no. 35738/03, § 21, 13 January 2009; and *Rizi v. Albania (dec.)*, no. 49201/06, § 43, 8 November 2011).

21. The Court notes that in the applicant's case, the impugned proceedings ended on 30 September 2015. The applicant's unsuccessful attempt to lodge a second constitutional complaint on 26 July 2016 cannot bring the complaint within the six-month time-limit laid down in Article 35 § 1 of the Convention. It follows that the applicant's complaints regarding the right of access to the Constitutional Court in the 2015 proceedings and the right to have a reasoned decision by the Supreme Court were introduced out of time and must be rejected pursuant to Article 35 §§ 1 and 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 7 May 2026.

Olga Chernishova
Deputy Registrar

Úna Ní Raifeartaigh
President