



Refusal to admit candidate to School of Magistrates on account of conviction received as a minor breached the Convention

The case of [Manjani v. Albania](#) (application no. 32283/23) concerned a refusal, in December 2020, to admit the applicant to the School of Magistrates for training as a prosecutor on account of a conviction he had received when he was a minor, for which he had been legally rehabilitated. His appeals against that decision were unsuccessful, the national courts finding that the legislation prohibited those convicted by a final decision from becoming a prosecutor.

In today's **Chamber** judgment¹ in the case, the European Court of Human Rights held, unanimously, that there had been a **violation of Article 8 (right to respect for private and family life)** of the European Convention on Human Rights.

The Court emphasised that the refusal to admit Mr Manjani to the School of Magistrates had not been related to any lack of the required professional qualifications. The only reason for the refusal had been his prior conviction for an offence committed as a minor despite his legal rehabilitation. The absolute and permanent ban on his admission and, consequently, on pursuing a career as a prosecutor at an early stage of his professional development, had had a clear and serious impact on his professional and private life.

The Court held that, in limiting themselves to the question of whether to interpret the national law in a way which would disqualify those rehabilitated after a criminal conviction for a serious offence, the national authorities had failed to undertake a thorough and individualised analysis of the circumstances relevant to the ban on Mr Manjani's admission to the School of Magistrates and, consequently, to a career as a magistrate. They had disregarded the fact that he had only been 15 at the time of the offence in question and had treated him in the same way as they would have an adult offender. Furthermore, they had failed to consider other relevant circumstances, such as the non-violent and impulsive nature of the offence.

The ban on his admission to the School of Magistrates had been disproportionate.

Principal facts

The applicant, Shiqiri Manjani, is an Albanian national who was born in 1991 and lives in Pogradec (Albania).

In 2006, aged 15, Mr Manjani was convicted of theft and sentenced to eight months' imprisonment. The district court noted that he had admitted the offence, that he posed a low risk to the public and that the consequences of the criminal offence had been minimal, given the fact that the property had been returned to its owner, his minor age and his level of education. Taking into account the need for the applicant to continue school, the court suspended the execution of the sentence for three years. According to a certificate issued in 2017 by the General Directorate of Prisons (Ministry of Justice), he was considered legally rehabilitated. He trained and worked as a lawyer in the private sector before serving, since 2019, as a judicial police officer at a prosecutor's office.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

In February 2020 Mr Manjani applied for admission to the three-year initial training programme for magistrates (prosecutor profile) at the School of Magistrates. He disclosed his conviction. Following a preliminary assessment, he was included in the list of candidates meeting the admission criteria for the programme and he passed the admission examination. As part of the admissions process, the High Prosecutorial Council (“the HPC”) carried out a background check. Mr Manjani again submitted information about his conviction in a self-declaration form. In December 2020 the HPC decided that, in view of his conviction, he did not meet the admissions criteria and should not therefore be admitted.

Mr Manjani’s appeal against the HPC’s decision was unsuccessful. In March 2022 the Supreme Court found that the national legislation had meant to prohibit those convicted by a final decision from joining the justice system, regardless of rehabilitation, if the offence had been of a serious nature. Theft was a serious criminal offence carried out intentionally. The ban aimed to guarantee the integrity of a magistrate and was linked to the nature of the offence committed rather than to the conditions and circumstances in which it had been committed. Therefore, the fact that an offence had been committed as a minor could not be considered a mitigating factor.

In March 2023 the Constitutional Court dismissed a complaint lodged by Mr Manjani, finding it unfounded. Guaranteeing the integrity of public officials constituted a legitimate aim for protecting State independence, democratic order and national security. A law could restrict a right to exercise a profession by imposing certain criteria to protect the public interest. The interpretation of the law by the courts in Mr Manjani’s case did not appear to have been arbitrary. Apart from a magistrate career, Mr Manjani had not been denied access to any other public functions or activities related to a profession which could earn him a living through lawful work.

Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private and family life), in particular, Mr Manjani complained about the decision not to admit him to the School of Magistrates for training as a prosecutor on account of a conviction he had received as a minor.

The application was lodged with the European Court of Human Rights on 21 August 2023.

Judgment was given by a Chamber of seven judges, composed as follows:

Ioannis **Ktistakis** (Greece), *President*,
Lətif **Hüseynov** (Azerbaijan),
Darian **Pavli** (Albania),
Úna **Ní Raifeartaigh** (Ireland),
Mateja **Đurović** (Serbia),
Canòlic **Mingorance Cairat** (Andorra),
Vasilka **Sancin** (Slovenia),

and also Milan **Blaško**, *Section Registrar*.

Decision of the Court

As regards admissibility, in view of the motive and consequences of the ban, Article 8 was applicable. The refusal to admit Mr Manjani to the School of Magistrates had not been related to any lack of the required professional qualifications. On the contrary, he had trained and worked as a lawyer before becoming a judicial police officer in a prosecutor’s office and he had passed the entrance examination to train as a magistrate. The only reason for the ban was his conviction 14 years earlier for an offence committed at the age of 15, for which he had been legally rehabilitated, and which had been erased from his criminal record. Given his minor age at the time, he could not be regarded as having the

capacity to fully foresee the consequences of his actions. The absolute and permanent ban on his admission and, consequently, on pursuing a career as a prosecutor at an early stage of his professional development, had had a clear and serious impact on his personal choice as to the way he wished to pursue his professional and private life, shape his social identity and develop relationships with others.

As regards the merits, the ban had amounted to an interference with Mr Manjani's right to respect for his private life. The interference had pursued the legitimate aims of protecting national security, public safety and the rights and freedoms of others. Though the ban had had a legal basis in domestic law, the Court retained doubts as to whether the relevant law met the "quality of law" requirement under Article 8. The Court further expressed concern that national laws on access to senior public sector positions were silent on the effects of rehabilitation. However, it was not necessary in the circumstances of the case to delve further into that issue, because, even assuming that the interference had been lawful, it had not been necessary in a democratic society, for the following reasons.

Prosecutors were required to meet high standards of integrity in their professional and private lives and States could therefore restrict access to that profession on those grounds. Nevertheless, an individualised assessment was required, especially when it came to offences committed as a minor.

The reasoning of the national authorities had been limited to the question of whether to interpret the national law in a way which would disqualify those rehabilitated after a criminal conviction, despite the absence of explicit provisions to that effect. By limiting their assessment in that way, the national courts had not undertaken a thorough and individualised analysis of the circumstances relevant to the ban on Mr Manjani's admission to the School of Magistrates and, consequently, to a magistrate's career. They had therefore failed to carry out a proper balancing exercise between the competing interests and to justify why the ban on his admission to that institution was proportionate and compatible with the notion of respect for private life.

The fact that Mr Manjani had been 15 at the time of the offence had been regarded as having little relevance. The same was true of the time elapsed since the offence, his conduct during that period and the seriousness of the specific offence. The national courts had disregarded the findings of the sentencing court and had not considered Mr Manjani's character at the time of his application to the Magistrate's School or whether there had been any reasons to believe that, if admitted, and given the chance to become a prosecutor, he would behave in a way that was prejudicial to the image of a prosecutor.

Where the reason for an interference with a person's private life lay in offences committed as a minor, the obligation to have regard to the best interests of the child applied. That obligation and the obligation on the juvenile justice system to pursue reintegration were enshrined in the United Nations Convention on the Rights of the Child. Those principles had also been incorporated into the Albanian Juvenile Justice Code.

In disregarding Mr Manjani's age and by treating juvenile and adult offenders on an equal footing, the Albanian authorities had failed to properly take these considerations into account. Furthermore, a number of relevant circumstances had not been sufficiently considered, including the non-violent and impulsive nature of the offence, which could be regarded as a typical act of juvenile delinquency; the length of time since the commission of the offence; his apparently law-abiding conduct in the time since his conviction during which he had trained and worked as a lawyer before becoming a judicial police officer in a prosecutor's office; and his character at the relevant time. The ban had been imposed at an early stage of the applicant's professional life and therefore had had a significant effect in terms of its duration.

The national authorities' approach to his case had therefore lacked a thorough and sufficiently individualised assessment of Mr Manjani's personal situation and the ban on his admission to the

School of Magistrates on the basis of a juvenile conviction for which he had been rehabilitated was disproportionate.

There had therefore been a violation of Article 8.

[Just satisfaction \(Article 41\)](#)

The Court held that Albania was to pay the applicant 4,500 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in English.

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Press contacts

echrp@echr.coe.int | tel.: +33 3 90 21 42 08

We are happy to receive journalists' enquiries via either email or telephone.

Claire Windsor (tel: + 33 3 88 41 24 01)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Jane Swift (tel: + 33 3 88 41 29 04)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.