The ECHR and Albania

facts & figures

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

The ECHR and Albania

facts & figures

Council of Europe

Accession: 13 July 1995

European Convention on Human Rights

Signed: 13 July 1995
Ratified: 2 October 1996

ECHR judges

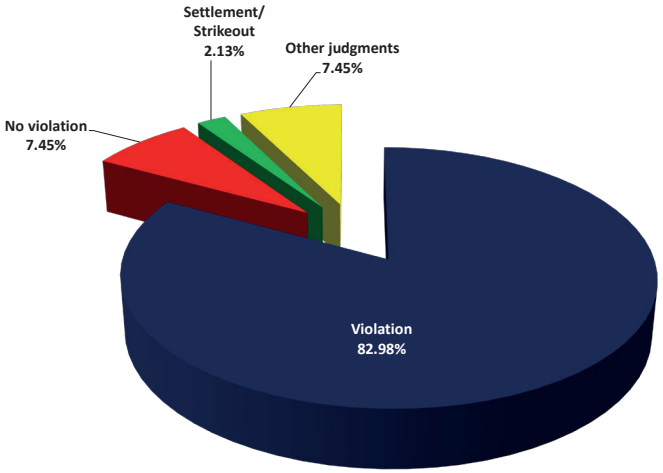
Darian Pavli (since 2019)
Ledi Bianku (2008-2019)
Kristaq Traja (1998-2008)

ECHR and Albania at 1 January 2023

1st judgment: Qufaj Co. sh.p.k. v. Albania (18 November 2004)
Total number of judgments: 86
Judgments finding a violation: 71
Judgments finding no violation: 6
Friendly settlements/strikeout: 2
Other judgments: 7
Applications pending: 386
Applications finished: 1,304

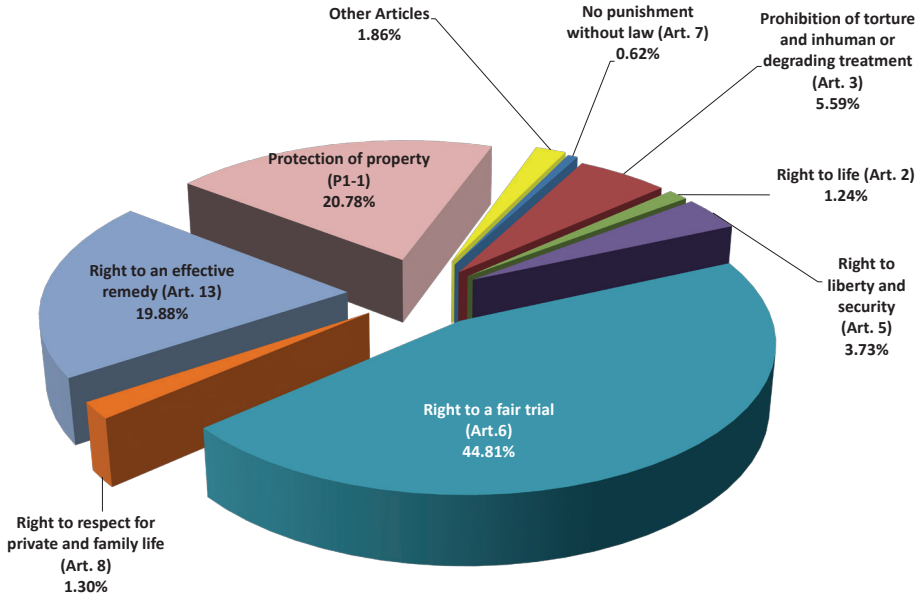
Types of judgments

In more than 80% of the judgments delivered concerning Albania the Court has given judgment against the State, finding at least one violation of the Convention.



Subject-matter of judgments finding a violation

Almost half the findings of a violation concerned Article 6 (right to a fair hearing), relating mainly to the unfairness of the proceedings and failure to enforce final judicial decisions.



Impact of the Court's judgments

The Committee of Ministers, the Council of Europe's executive organ, supervises compliance with the Court's judgments and adoption of the remedial measures required in order to prevent similar violations of the Convention in the future.

The Court's judgments have led to various reforms and improvements in Albania, relating in particular to:

Strengthening the fairness of judicial proceedings

In the criminal sphere, the rights of accused persons have been strengthened, with particular reference to access to a lawyer from the time of arrest or placement in detention and the right to defend oneself in the first-instance and appeal courts.

Improvement of conditions of detention

Improvements have been made to the Law on healthcare in detention, particularly with regard to medical treatment for prisoners and detainees. Rules have also been introduced on the treatment of prisoners with mental health problems.

Introduction of acceleratory and compensatory remedies for length of proceedings

Reforms have been carried out in order to speed up judicial proceedings and also to allow compensation to be awarded for excessive length of proceedings.

Improved protection of property

A compensation mechanism has been established for properties nationalised during the Soviet era. Funds have been earmarked in the State budget to cover payment of all the compensation claims.

Improved enforcement of judicial decisions

The bailiffs' service has been reformed in order to ensure effective implementation of judicial rulings.

Selected cases

Case of Qufaj Co. sh.p.k.
(18 November 2004)

In 1996 the applicant company was awarded compensation in a dispute with the municipality of Tirana concerning the refusal to grant a building permit. It sought enforcement of the final judgment in its favour, without success. After reiterating that it was not open to a State authority to cite lack of funds as an excuse for not honouring a judgment debt, the Court held that the applicant company had not had the benefit of a fair hearing.

Violation of Article 6 (right to a fair trial)

Case of Balliu
(16 June 2005)

In February 2000 Taulant Balliu was found guilty, among other offences, of being one of the instigators of the "Kateshi Gang" and was sentenced to life imprisonment. The Court noted that the applicant had been represented by a court-appointed lawyer and that both the applicant and his lawyer had had an opportunity to put questions to the witnesses for the prosecution.

No violation of Article 6 (right to a fair trial)

Case of Bajrami
(12 December 2006)

Agim Bajrami complained of his inability to secure enforcement of a court decision awarding him custody of his daughter, whom his ex-wife had taken to Greece following their divorce. After reitera-ting that the Convention required States to take all necessary measures to secure the reunion of parents with their children in accordance with a final judgment of a domestic court, the Court found a violation of the right to respect for family life.

Violation of Article 8 (right to respect for private and family life)

Case of Dybeku
(18 December 2007)

Ilir Dybeku, who suffered from chronic schizophrenia, was sentenced to life imprisonment in May 2003 and was placed in detention like an ordinary prisoner. The Court found that the entirely inappropriate conditions of detention to which the applicant had been subjected had had a detrimental effect on his health and amounted to inhuman and degrading treatment. It also considered that Albania should take the necessary measures as a matter of urgency in order to secure appropriate conditions of detention, and in particular adequate medical treatment, for prisoners like the applicant who needed special care owing to their state of health.

Violation of Article 3 (prohibition of inhuman or degrading treatment)

Case of Xheraj
(29 July 2008)

Arben Xheraj was acquitted of murder in 1998. He complained that the fact that the prosecutor had been given leave to appeal out of time had resulted in the proceedings against him being reopened and the acquittal decision being quashed. In his view, that amounted to his being tried twice for the same offence. The Court considered that the present case had involved the continuation of the previous proceedings rather than an attempted second trial. It further held that the fact of granting the prosecutor leave to appeal out of time had breached the principle of legal certainty.

Violation of Article 6 (right to a fair trial)

No violation of Article 4 of Protocol No. 7 (right not to be tried or punished twice)

Case of Manushaqe Puto and Others
(31 July 2012)

The applicants were 20 Albanian nationals, who were former owners or the heirs of former owners of land confiscated by the former communist regime in Albania. They complained of their inability to secure the enforcement of final administrative decisions awarding them compensation in lieu of the restitution of the land. After noting the existence of a widespread problem in Albania affecting a large number of people, the Court applied the pilot-judgment procedure and held that Albania should take general measures as a matter of urgency in order to effectively secure the right to compensation of the persons concerned.

Violation of Article 13 (right to an effective remedy)

Violation of Article 6 (right to a fair hearing)

Violation of Article 1 of Protocol No. 1 (protection of property)

Case of Ceka
(23 October 2012)

The case concerned the death of the son of Gjyste Ceka in July 2004 while he was in police custody having been arrested on suspicion of theft.

The Albanian Government acknowledged that there had been a violation of Article 2 (right to life) and Article 3 (prohibition of torture and inhuman or degrading treatment) of the Convention in the present case, and proposed an amount of 10,000 euros in compensation. The Court considered that amount to be fair. It found that it was no longer justified to continue the examination of the case and decided to strike it out of its list of cases.

Strikeout

Case of Haxhia and Mulosmani
(8 October 2013)

The cases concerned the criminal proceedings against two high-ranking police officers following the assassination in 1998 of Azem Hadjari, an opposition member of Parliament, and his bodyguard. At the time of the events Ismet Haxhia was the head of traffic police and Jaho Mulosmani was the head of public order in Bajram Curri, a city in north-eastern Albania. The applicants complained of the unfairness of the proceedings brought against them, which resulted in sentences of 20 years' imprisonment and life imprisonment respectively. The Court found that, taken as a whole, the proceedings did not disclose any elements of unfairness.

No violation of Article 6 (right to a fair trial)

Case of Sharxhi and Others
(11 January 2018)

The 18 applicants owned flats in a residential building in the coastal town of Vlora in southern Albania. They complained about the seizure, expropriation and demolition of their properties within a period of one month in 2013, despite an administrative court order instructing the authorities to refrain from taking any action that could breach their property rights.

Violation of Article 6 (right to a fair trial)

Violation of Article 8 (right to respect for private and family life)

Violation of Article 1 of Protocol No. 1 (protection of property) taken alone and in conjunction with Article 13 (right to an effective remedy)

Case of Tërshana
(4 August 2020)

In 2009 Dhurata Tërshana was walking along a street in Tirana with some colleagues when someone threw acid at her, causing 25% burns to her face and upper body. The Court found that the State could not be held responsible for the acid attack because it had not known of any risk to the applicant or of the behaviour of her former husband, whom she suspected of having carried out the attack.

However, the Court noted that the investigation into the attack, which bore all the hallmarks of gender-based violence and should therefore have prompted the authorities to react with special diligence, had not even been able to identify the substance thrown over the applicant. Moreover, the applicant had been given no information on the progress of the investigation, despite her repeated enquiries.

No violation of Article 2 (right to life) as regards the substantive aspect

Violation of Article 2 (right to life) as regards the procedural aspect

Case of Xhoxhaj
(9 February 2021)

The case concerned a Constitutional Court judge who had been dismissed from office following the outcome of proceedings commenced in relation to her, as part of an exceptional process for the reevaluation of suitability for office of all judges and prosecutors in the country, otherwise known as the vetting process.

The Court held that the proceedings leading to the applicant's dismissal had been fair. Moreover, it considered that the dismissal had been proportionate and that the statutory lifetime ban imposed on the applicant on rejoining the justice system on the grounds of serious ethical violations had been consistent with ensuring the integrity of judicial office and public trust in the justice system.

No violation of Article 6 (right to a fair trial)

Selected measures to execute judgments

General measures

Case of Qufaj Co. sh.p.k.
(18 November 2004)

Inability of the applicant company to secure enforcement of a final judgment in its favour.

Funds earmarked in the budget for the enforcement of judicial decisions awarding compensation, and reform of the bailiffs' service to ensure the effective enforcement of judicial rulings.

Case of Bajrami
(12 December 2006)

Lack of a specific remedy by which to prevent or punish the abduction of a child taken outside the territory of the respondent State, resulting in non-enforcement of the decision awarding custody.

Improved legal safeguards for children in cases of abduction by one of the parents. Following the Court's judgment Albania ratified the Hague Convention on the Civil Aspects of International Child Abduction.

Case of Driza
(13 November 2007)

Inability of the applicant to secure enforcement of a judicial decision awarding him compensation.

Repeal of provisions allowing final court decisions to be set aside (implementation in progress).

Individual measures

Case of Dybeku
(18 December 2007)

The applicant, who suffered from chronic schizophrenia and had been sentenced to life imprisonment, was transferred to a penal institution that provides the appropriate medical treatment.

Case of Xheraj
(29 July 2008)

Quashing of an acquittal decision following an appeal by the prosecutor lodged out of time.

The applicant's conviction was suspended and the criminal proceedings were reopened. The applicant was acquitted in the fresh proceedings and the conviction was deleted from the criminal records.

Case of Laska and Lika
(20 April 2010)

Criminal proceedings found to be unfair owing to various procedural shortcomings, and in particular the lack of access to a lawyer.

The proceedings in question were reopened.

European Court of Human Rights
Public Relations Unit
F-67075 Strasbourg cedex

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