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Meeting: 1451st meeting (December 2022) (DH)

Communication from an NGO (Coalition of Bregdeti (Seashore) Association) (18/11/2022) in the case of LULI AND OTHERS v. Albania (Application No. 64480/09).

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1451^e réunion (décembre 2022) (DH)

Communication d'une ONG (Coalition of Bregdeti (Seashore) Association) (18/11/2022) dans l'affaire LULI ET AUTRES c. Albanie (requête n° 64480/09) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

DGI

18 NOV. 2022

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

**Department for the Execution of Judgments of the ECHR
Directorate General Human Rights and Rule of Law**

**Council of Europe
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18 November 2022

COMMUNICATION

**In accordance with Rule 9.2 of the Rules of the Committee of Ministers regarding
the supervision of the execution of judgments and of terms of friendly settlements**

In Luli and others v. Albania (no. 64480/09)

This submission is made by the Coalition of Bregdeti (Seashore) Association in accordance with Rule 9.2 of the Rules of the Committee of Ministers regarding the supervision of the execution of judgments and of terms of friendly settlements, with regard to the implementation measures required for the *Luli and others v. Albania* group of judgments.

Case summary

These cases concern the excessive length of proceedings before civil courts and administrative bodies (principally the former Commission on Restitution and Compensation of Properties) between 1996 and the present. The European Court criticised, in particular, the failure of the judicial system to manage properly a multiplication of proceedings before various courts on the same issue and repeated remittals of cases back to lower levels of jurisdiction (violations of Article 6 § 1). The issue of the length of criminal proceedings raised by the case of Kaciu and Kottori (33192/07) is also followed in this group. Finally, the cases of Gjonbocari and Others and Topallaj concern also the lack of an effective remedy for excessive length of proceedings.

Under Article 46 in the Luli and Others judgment (2014), the European Court noted that the excessive length of proceedings was becoming a serious deficiency in domestic legal proceedings in Albania and that general measures at national level were undoubtedly called for to execute the judgment, in particular the introduction of a domestic remedy.

Comments on individual measures

The case No.10508/2 *Gjonbocari vs. Albania* (violation of Article 6 § 1 and Article 13), is a flagrant case of the Albanian government's ongoing failure to execute the ECHR judgment – pending implementation since 2008. The submitting organisation have all the available documents proving the ownership of the Boçari family's property, as well as the documents proving that the applicant's property was nationalized in 1947 by the former

Albanian totalitarian government. The property has been illegally transferred to third parties. The peculiarity of the *Gjonbocari* case, compared to other families who own properties on the coastal areas, lies in the fact that Articles 28, 52, 53, 54, 65, 69.70. 73 75, 100 and 101 of the ECHR judgment (Anex1) has not been executed, as the case of *Gjonbocari and Others* concerned also **non-enforcement of a domestic court decision** by the former Commission on Restitution and Compensation of Properties. This property is held hostage for the benefit and interests of third parties.

The Boçari family had sued the state bodies in the District of Vlora law court on 7 January 1993 ¹ seeking to be “*recognized as the lawful owner and requesting the restitution of property*”. While this case was pending trial, the property began being privatized by third parties that have no right to it, through actions that are null and void.

However, in its last communication, the government said that the above judgment has been implemented when, as a matter of fact, it has still not been implemented. Administrative decisions regarding the execution of the Court decision are pending before the Supreme Court, but it has not been implemented. The flagrant violation of the above case has been exposed and denounced and made public through articles published in local newspapers and TV interviews.²

Comments on general measures

Regarding the latest communication submitted by the authorities (20/10/2022), the information provided by the Albanian state is inaccurate. The conclusions presented by the Albanian government are unrealistic and unrealizable and the Action Plan presented by the Albanian government and the Justice Reform cannot succeed. The fact that the State fails to implement its Constitution will lead the Albanian society to plunge deeply into corruption and institutional anarchy.

Ever since 1991, the Albanian government has been violating the right of lawful owners to enjoy their inherited property. Unlawfully expropriated families have been demanding ever since 1991 the implementation of constitutional obligations and the right to compensation for the properties that have been alienated for public utility. Due to corruption in state institutions, the properties are distributed piece by piece by violating the domestic law in force.

In this context, a World Bank Report (12 April 2021) reported that the insecurity of the title-deeds in the Vlora-Saranda tourist coastal areas is a serious obstacle to foreign investments in Albania. The property in the tourist coastal areas has become a source of corruption for state administration and an incessant source of homicides. In 2014, Prime Minister Edi Rama declared in Parliament that over 8,000 people lost their lives due to property-related conflicts, and to date, that number has exceeded 10,000 people.

¹ Document Prot. No. 86 of 23 January 2020 of the Vlora Court

²https://fb.watch/gjOF3y2_qQ/

<https://m.youtubve.com/watch?v=fd2wVn8QCJs>

<https://youtu.be/U9M5alCJruw>

<https://www.voxnews.al/lifestyle/fotot-ne-lufte-gjithe-jeten-per-drejtesi-qytetari-kap-peshkaqenin-ne-b-i16224>

<https://youtu.be/U9M5alCJruw>

The source of property-related conflicts and victims, as well as the source of corruption in the state administration and in the justice system is due to the failure by the Albanian government to respect the title-deeds. Behind every property-related victim of the illegal transferring of privately-owned properties, there is the whole family that, in order to escape revenge, try by fair or foul means to emigrate.

Ever since 2009, the Department for the Execution of Judgments of the ECHR has been informed on it by the applicant through 16 claims submitted to the Department for the Execution of Judgments of the ECHR.

As such, the Albanian people's faith in the judicial system is very low.

We appeal to you for your help to urge the Albanian government to implement the constitutional obligations, and to advise it that the compensation of the expropriated owners must be applied to the properties that have been alienated for public needs, and it should **not** be applied to the properties that have been illegally transferred to third parties through "*void ab initio*" acts.

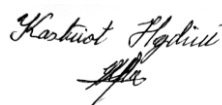
We feel that the solution to the property-related issue can be done in a short period of time and at no cost, if each and every one of the rightful owners receives his/her own property under the provisions of Article 41, 42 and 181 of the Albanian constitution. Ever since 2013, we have offered a draft that guarantees the property rights pursuant to Article 41, 42 and 118 of the Albanian Constitution, European Convention on Human Rights and the judgments of ECHR, but our suggestions have fallen on deaf ears of the political leaders.

In order to solve the property-related issue, we feel that it is imperative that the process of the restitution of the property to its rightful owners be separated from that of the compensation of lawful owners, by setting a short-term deadline for the completion of this process in compliance with Article 41 and 181 of the Albanian constitution, as well with Article 191 of the document No. 11115 of December 20, 2006 of the Parliamentary Assembly of the Council of Europe. On the contrary, any other way of solving the property-related issue will make the Albanian economy plunge deeply into the quagmire of corruption and anarchy.

We kindly ask you to use all your available means, and to take any steps you deem necessary to urge the Albanian government and political class to live up to its EU aspirations and commitments to uphold Copenhagen criteria, as well as to provide the just solution to the property-related issue, which should guarantee rule of law, eliminating double standards and respecting inherited property rights in according the articles of the Constitutions.

We look forward to hearing from you at your earliest convenience.

Sincerely,



Kastriot Hajdini
Co-Chairman
Coalition of "Bregdeti" Association

Anex 1

Articles 28, 52, 53, 54, 65, 69.70. 73 75, 100 and 101 of the ECHR JUDGMENT STRASBOURG 23 October 2007, **FINAL** 31/03/2008

2. Enforcement proceedings

28. On 14 April 2004 the Vlora District Court, upon a request by the applicants, issued an enforcement order instructing the Vlora Commission to comply with the Supreme Court's judgment of 6 March 2003.

(b) The Court's assessment

52. The Court notes that the Supreme Court's judgment of 6 March 2003 imposed on the Vlora Commission the duty to issue a decision *vis-a-vis* the applicants in compliance with formal requirements. It further observes that on 10 May 2004, the Commission requested the applicants to submit fresh documents to enable a decision to be taken. On 29 May 2006, given the applicants' position that their file was complete, the Vlora Commission referred the case to the competent national body, the Agency. On 5 April 2007, the Agency not only recognised the correctness of the applicants' position, but also stayed the proceedings until the Government had issued the appropriate plans for the properties' valuation.

53. The Court observes that the Supreme Court's judgment of 6 March 2003 has not been enforced more than four years after its delivery. Indeed, the entire matter has now been stayed pending the taking of necessary action by the Government. It considers that, even if the applicants' omission to submit the documents requested by the Commission might have contributed to the length of the non-enforcement, it cannot absolve the authorities from their obligation to execute a final and binding judgment, not least in the present case when a higher authority subsequently vindicated the applicants' position.

54. Having regard to the above, the Court considers that the facts of the case do not demonstrate any justification for the failure to enforce the judgment of 6 March 2003.

(iii) Application of the criteria to the present case

65. As to the authorities' conduct, the Court observes that three instances were involved. The domestic courts cannot be said to have been inactive. However, it has nevertheless taken over seven years to determine the applicants' title to the relevant property and that issue has still not been settled. Such situation led the Court to find above a violation of Article 6 § 1 as regards the failure to enforce the judgment of 6 March 2003 (see paragraph 55 above).

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

69. Under Article 13 of the Convention the applicants argued that they had no effective remedy in respect of the complaints under Article 6 § 1 of the Convention. Article 13 reads as follows:

"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. Admissibility

70. The Court considers that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further finds that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. The Court's assessment

73. The Court has examined above the applicants' complaint about the failure of the authorities to comply with the final decision. It notes that the applicants' complaint in this respect under Article 13 is essentially based on the same lack of procedural protection which has already been found to have given rise to a violation of Article 6 (see, *mutatis mutandis*, *British-American Tobacco Company Ltd. v. the Netherlands*, judgment of 20 November 1995, Series A no. 331, p. 29, § 91). In these circumstances, the Court considers that it is not necessary to examine this aspect of the complaint separately under Article 13.

75. As established in its case-law, the Court reiterates that the remedies available to a litigant at the domestic level for raising a complaint about the length of proceedings are “effective”, within the meaning of Article 13 of the Convention if they “[p]revent] the alleged violation or its continuation, or [p]rovide] adequate redress for any violation that [h]as] already occurred” (see *Kudla* *ibid.*, § 158). Article 13 therefore offers an alternative: a remedy is “effective” if it can be used either to expedite a decision by the courts dealing with the case, or to provide the litigant with adequate redress for delays that have already occurred (see *Kudla*, *ibid.*, § 159; *Mifsud v. France* (dec.) [GC], no. 57220/00, § 17, ECHR 2002-VIII).

100. The Court notes that the State’s outstanding obligation to enforce the judgment of 6 March 2003 is not in dispute. Accordingly, the applicants are still entitled to have their property rights over the relevant plot of land determined.

101. It therefore considers that the Government must secure, by appropriate means and speedily, the enforcement of the domestic court’s final judgment (see among other authorities *Teteriny v. Russia*, no. 11931/03, § 56, 30 June 2005; *Apostol v. Georgia*, no. 40765/02, §§ 72- 73, ECHR 2006-...)