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Contact: Ireneusz Kondak
Tel: 03.90.21.59.86

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Meeting: 1531st meeting (June 2025) (DH)

Item reference: Action Plan (11/03/2025)

Communication from Albania concerning the case of Zela v. Albania (Application No. 33164/11)

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Réunion : 1531^e réunion (juin 2025) (DH)

Référence du point : Plan d'action (11/03/2025)

Communication de l'Albanie concernant l'affaire Zela c. Albanie (requête n° 33164/11) (*anglais uniquement*)

ACTION PLAN*Execution of the judgment of the European Court of Human Rights**Application no.33164/11**“Zela v. Albania”**Judgment of 11.06.2024, Final on 11.09.2024***A. Case description**

The applicant, Skënder Zela, is an Albanian national who was born in 1953 and lives in Tirana. The case concerns the demolition in 2002 of a three-story building the applicant had constructed along the Lana riverbank in Tirana. The authorities ordered the demolition on the grounds that the building was an illegal construction that breached urban-planning rules for the area. He initiated legal proceedings seeking compensation, but his claims were ultimately unsuccessful in 2010.

Relying on Article 6 § 1 (right to a fair trial within a reasonable time) of the European Convention on Human Rights, the applicant complained about the length of the compensation proceedings. He also relied on Article 1 of Protocol No. 1 (protection of property), arguing that the demolition of his building was unlawful and that he had received no compensation.

In relation to the alleged violation of Article 6 § 1 (right to a fair trial within a reasonable time), the Court ruled that, given the complexity of the case, the overall duration of compensation proceedings—lasting more than eight years at four levels of jurisdiction, with decisions on six separate occasions—did not exceed what could be considered reasonable. Therefore, there was no violation of Article 6 § 1 of the Convention.

Regarding the claims for violation of Article 1 of Protocol 1, the Court first considered that the applicant had a “possession” within the meaning of Article 1 of Protocol No. 1 to the Convention, even though domestic courts later ruled his ownership title invalid. Furthermore, the Court found that the demolition of his property and the revocation of his ownership title amounted to deprivation within the meaning of Article 1 of Protocol No. 1.

As to the justification for the interference with the applicant’s right to property, the Court first noted that the applicant’s building was demolished because it was deemed illegal by the administrative authorities, and it can be considered that the interference was based in law, and it served a legitimate public interest in urban planning. However, the Court found that the applicant had acted in good faith and was led to believe that his ownership of the building was legitimate. He relied on official permits and resided in the building for years without facing any opposition. In this regard, emphasizing the particular importance of the principle of good governance, the Court considered that the burden for creating the circumstances that led to the demolition of the applicant’s building should have been distributed between the domestic authorities and the applicant should have been awarded some compensation for its demolition.

Given the above considerations, the Court concluded that the interference with the applicant’s property rights in the circumstances of the present case failed to strike a fair

balance between the public interest and the applicant's rights under Article 1 of Protocol No. 1 to the Convention.

The applicant also claimed that the demolition of his building violated his right to respect for his home under Article 8 of the Convention. However, the Court found no need to examine this claim separately, as it was closely related to the complaint under Article 1 of Protocol No. 1 to the Convention. Additionally, regarding his complaint under Article 13 on the right to an effective remedy, the Court dismissed it, reasoning that the applicant had access to legal remedies, even though his attempts to challenge the demolition were ultimately unsuccessful.

B. Individual measures

1. Payment of the just satisfaction

The European Court of Human Rights awarded the applicant EUR 50,000 (fifty thousand euros) for pecuniary damage, EUR 3,000 (three thousand euros) for non-pecuniary damage, and EUR 5,000 (five thousand euros) for costs and expenses, plus any applicable taxes.

The State Advocate Office has sent to the Council of Ministers for approval the draft-Decision "For the execution of the judgment of the European Court of Human Rights "Zela v. Albania", application no.33164/11".

The Government will inform the Committee of Ministers for the payment of just satisfaction as soon as more information is available.

2) *Other individual measures*

The Court did not indicate any specific individual measures to address the violations in question. Given the nature of the applicants' complaints and of the violation found, the Government is of the opinion that after the payment of just satisfaction, no further individual measures are necessary to remedy the violation of Article 1 of Protocol No. 1 to the Convention.

However, the State Advocate Office has prepared a summary of the judgment and has distributed to the Supreme Court, Constitutional Court and other domestic judicial and administrative authorities, in order to prevent similar violations in the future.

C. General measures

In the case of Zela v. Albania, the European Court of Human Rights found that the State had failed to strike a fair balance between the public interest and applicant's property rights by putting a disproportionate burden on applicant who was made to bear all consequences for creating situation leading to building's demolition despite shared responsibility for it.

The Court emphasized the particular importance of the principle of good governance, noting that while authorities have the right to correct mistakes, even those caused by their own negligence, they must do so without disproportionately harming individuals who acted in good faith based on official decisions. Any error by the State should not be rectified at the expense of individuals. When revoking ownership that was mistakenly granted, authorities must act promptly and may also be required to provide adequate compensation or other appropriate remedies to the rightful owners.

In this regard, the Government emphasizes that the legal framework governing expropriation of private property and the inspection and protection of territory from illegal constructions is comprehensive and well-defined. Law No. 9780/2007, “On Inspection and Protection of the Territory from Illegal Constructions”, establishes the competencies of the National Inspectorate for the Protection of the Territory and its supervisory role over local inspectorates to prevent potential abuses by these subordinate structures.

The activities of both the national and local inspectorates are periodically monitored by the Internal Audit of the responsible Ministry and the Supreme State Audit. Additionally, administrative acts issued by these inspectorates can be challenged in domestic courts. If domestic courts find that the inspectorates have engaged in illegal actions, they may award just satisfaction to the affected parties.

Under criminal law, there is also the possibility to initiate criminal proceedings against state officials for abuse of power, in accordance with Articles 320 and 320/a of the Criminal Code.

To raise awareness of the Court's findings, the State Advocate Office has undertaken the following measures for the judgment's publication and dissemination.

1. Publication and Dissemination

The judgment “*Zela v. Albania*” has been translated and published in the Official Gazette no.120 dated 15.7.2024¹.

In addition, the State's Advocate Office has prepared a summary of the main findings of the Court in the judgment “*Zela v. Albania*” and has disseminated the translated judgment and the summary of the findings to the Supreme Court, Constitutional Court, High Council of Justice and School of Magistrates.

The State Advocate Office has also disseminated the judgment and the summary of the main findings to the Ministry of Local Governance (for dissemination among relevant local government units), Agency for Expropriation, National Inspectorate for the protection of the territory.

Other awareness raising and training measures.

¹ <https://www.qbz.gov.al/eli/vendim/2024/06/11/33164-11/055d5916-9023-48c7-8020-70fd8f3b684e;q=zela%20kunder%20shqiperise>

The National Inspectorate regularly organizes training sessions to enhance the professional capacities of its staff, focusing on risk assessment methodologies and inspection techniques. Additionally, it has issued guidance documents outlining procedures for inspection, examination, and the imposition of administrative measures, including appeal proceedings. To strengthen responsiveness against potential abuses, specific measures have been implemented, such as the establishment of working groups for anti-corruption action plans.

Furthermore, in collaboration with the Council of Europe Office in Tirana, the State Advocate Office has organized specialized training programs for state officials from law enforcement authorities and construction and urban planning inspectorates on property rights and the execution of court decisions. These training sessions were conducted within the framework of the European Union/Council of Europe project, "Improving the Protection of the Right to Property and Facilitating Execution of ECtHR Judgments in Albania," with the aim of providing Albanian public institutions with a comprehensive understanding of ECtHR standards, practices, and case law on property-related issues.

As part of the planned activities for 2025 under this project, a training needs assessment will be conducted, focusing on key institutions involved in the implementation of property rights legislation. Additionally, consultation and coordination meetings will be held with stakeholders to review progress in the adoption, revision, and implementation of the legal and regulatory framework in the field of property rights. Furthermore, training sessions on ECtHR case law and property rights will be organized for the School of Magistrates to enhance legal expertise and alignment with international standards.

D. Conclusion

Having regard to the above considerations, the Government is of the opinion that no further individual and general measures are necessary to be undertaken by the Albanian authorities to remedy the violation of Article 1 of Protocol No. 1 to the Convention in the present case.

The Government will update the Committee of Ministers on the payment of just satisfaction, as soon as more information will be available.