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Meeting: 1259 meeting (7-9 June 2016) (DH)

Item reference: Action report (01/03/2016)

Communication from Albania concerning the case of Elvin Lako against Albania (Application No. 45718/12)

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Communication de l'Albanie concernant l'affaire Elvin Lako contre Albanie (Requête n° 45718/12)  
**(anglais uniquement)**

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DGI

01 MARS 2016

SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH

### ACTION REPORT

Execution of the decision of the European Court of Human Rights  
**Elvin Lako v. Albania and 7 other Applications** (45718/12, 9403/13, 11724/13, 11726/13, 38964/13, 6037/14, 17174/14, 48723/14), decision of 24.03.2015, notified and final on 16.04.2015

## I. CASE SUMMARY

The case concerns the breach of Article 6 § 1 of the Convention on account of the non-enforcement of final courts decisions given in favor of the applicants. As regards applications nos. 45718/12 (*Elvin Lako v. Albania*), 9403/13 (*Valbona Paluka v. Albania*), 11724/13 (*Spiro Taba v. Albania*), 11726/13 (*Andrea Karanxha v. Albania*), 38964/13 (*Raimonda Trupja v. Albania*) and 48723/14 (*Nazmi Luku v. Albania*), the domestic courts ordered the applicants' reinstatement in their job, in addition to the payment of salary arrears until reinstatement. As regards applications nos. 6037/14 (*Indrit Osmani v. Albania*) and 17174/14 (*Thanas Verdhi v. Albania*), the domestic courts ordered only the payment of damages to the applicants.

The case also concerns the breach of Article 1 of Protocol No. 1 to the Convention (applications nos. 11724/13 and 11726/13) and Article 13 of the Convention (applications nos. 45718/12, 11724/13, 11726/13, 6037/14 and 17174/14).

In the instant cases the Court presented the Parties with Friendly Settlement Declarations for the closure of the cases. In its decision, the Court took into consideration the friendly settlements reached between the parties, including, where appropriate, the applicants' reinstatement as ordered by the domestic courts. The Court was satisfied that the settlements were based on respect for human rights as defined in the Convention and its Protocols and found no reasons to justify a continued examination of the applications.

## II. INDIVIDUAL MEASURES

### 1. Payment of just satisfaction

- i. The Council of Ministers of the Republic of Albania, with decision no. 650, dated 22.07.2015, held "On the enforcement of the European Court of Human Rights decision dated 24.03.2015 in the case of "Elvin Lako v. Albania", application no. 45718/12, and 7 other applications", instructing the appropriate institutions to take steps for the implementation of this decision, within a time period of 3 months, from the date of issuance of the decision.

- ii. Following the issuance of CMD no.650, dated 22.07.2015, the Ministry of Finance, with spending order no. 493, dated 06.08.2015, has performed the payment of the funds near the second level bank, in the benefit of the applicants of the case. The payment has been performed for all the cases simultaneously, for the amount of 31,900 Euros, and all the costs, expenses and interests for the delay in payment, until the 7<sup>th</sup> of August 2015.
- iii. The payment of these amounts has so far been performed for the cases of “Elvin Lako v. Albania”, “Thanas Verdhi v. Albania”, “Nazmi Luku v. Albania”, “Raimonda Trupja v. Albania”, “Andrea Karanxha v. Albania”, “Spiro Taba v. Albania” and “Indrit Osmani v. Albania”. For the application “Valbona Paluka v. Albania”, no official documentation has been submitted by the applicant for the withdrawal of the amount awarded.  
We would like to clarify at this point that this amount has been deposited near the second level bank, pending submission of documentation and withdrawal by the applicant.

*The Albanian Government will provide an update to the Committee of Ministers on the matter of the withdrawal, by part of the applicant in the case of “Valbona Paluka v. Albania”, of the Just Satisfaction awarded.*

## 2. **Other individual measures**

### On the reinstatement of the applicants

#### *i. Application no. 45718/12 “Elvin Lako v. Albania”*

In this application, the Court of Appeals, with decision of 14 December 2006 as upheld by the Supreme Court’s decision of 15 February 2008, ordered the Council of Ministers to reinstate the applicant and pay the latter salary arrears, until the moment of reinstatement.

Currently Mr. Lako holds the position of General Director of the Directorate of Trademarks and Patents, a position of the same administrative level with the position before his dismissal. He has held this position since 2013.

#### *ii. Application no. 11724/13 “Spiro Taba v. Albania”*

In this application, the Court of Appeals, with decision of 3 December 2008 as upheld by the Supreme Court’s decision of 1 March 2012, ordered the General Directorate of Taxes to reinstate the applicant and pay the latter salary arrears, until the moment of reinstatement.

With decision of 30.04.2015, Mr. Taba was reinstated in his previous position of Inspector near the Regional Directorate of Taxes of Korça.

*Application no. 11726/13 “Andrea Karanxha v. Albania”*

In this application, the Court of Appeals, with decision of 27 April 2009 as upheld by the Supreme Court’s decision of 10 February 2012, ordered the General Directorate of Taxes to pay the applicant salary arrears and to include his name on the employer’s waiting list for reinstatement.

With decision of 17.04.2015, Mr. Karanxha was reinstated in his previous position of Inspector near the Regional Directorate of Taxes of Korça.

*iii. Application no. 38964/13 “Raimonda Trupja v. Albania”*

In this case, the Durres Court of Appeals, with decision of 3 December 2007 which ordered the Durres Port Authority to reinstate the applicant and pay the latter salary arrears, until the moment of reinstatement.

The position previously held by Ms. Trupja was changed and in this way the competences and criteria of the position have changed as well. Furthermore, this position is no longer vacant, a fact proven by the Public Administration Department’s database on the civil servants. To this end, Ms. Trupja was proposed to be appointed<sup>1</sup> as a Financial Specialist near the Agricultural Directorate of Durres, a position of the same administrative level as the one she held before her dismissal. However, Ms. Trupja has refused her appointment in this position, requesting that she must be reinstated in her previously held position<sup>2</sup>.

Seeing as the previously held position is no longer vacant and the new position holds the same remuneration level as the previous, the Albania Government deems the decision of the domestic court and the European Court of Human Rights, as enforced, for the purpose of the reinstatement of Ms. Trupja, despite the refusal of appointment by the latter.

*iv. Application 48723/14 “Nazmi Luku v. Albania”*

In this case, the Court of Appeals, with decision of 18 June 2008 as upheld by the Supreme Court’s decision of 9 July 2010, ordered the Ministry of Public Works to reinstate the applicant and pay the latter salary arrears, until the moment of reinstatement.

<sup>1</sup> Letter no. 5046, dated 22.10.2015, of the Public Administration Department

<sup>2</sup> Letter dated 24.10.2015, of Ms. Trupja

Regarding the reinstatement of the applicant, the Public Administration Department notified that the position previously held by Mr. Luku was changed and in this way the competences and criteria of the position have changed as well. To this end, Mr. Luku was proposed to be appointed<sup>3</sup> to the position of Responsible of the Archive/Protocol Section near the Human Resources, Services and Projects Directorate of the General Directorate of Prisons, a position of the same administrative level as the one held by Mr. Luku, before his dismissal. However, Mr. Luku has refused this appointment without any justifications.<sup>4</sup>

Seeing as the position previously held by Mr. Luku is no longer vacant as well as the fact that the remuneration level of the proposed position is the same as the last, the Albania Government deems the decision of the domestic court and the European Court of Human Rights, as enforced, for the purposes of the reinstatement of Mr. Luku, despite the refusal of appointment by the latter.

v. *Application no. 9403/13 “Valbona Paluka v. Albania”*

In this application, the Court of Appeals, with decision of 1 March 2011 as upheld by the Supreme Court’s decision of 23 June 2011, ordered the Ministry of Agriculture, Food and Consumers’ Protection to reinstate the applicant and pay the latter salary arrears, until the moment of reinstatement.

Regarding the reinstatement of Ms. Paluka, the position previously held by the applicant of General Director of Food Safety and Consumer Protection near the Ministry of Agriculture, Rural Development and Administration of Waters, was restructured, and based on the current organizational structure, provides for new and different criteria for the employment of potential candidates. To this end, the Public Administration Directorate is keeping a close cooperation with the Ministry of Agriculture for the employment of Ms. Paluka near a position of the same administrative level as the one she held before her dismissal, which provides for the same or similar criteria and education as the ones held by the applicant, without further delay<sup>5</sup>.

### **III. CONCLUSION**

The Albanian Government will keep the Committee of Ministers of the Council of Europe updated on further developments on the enforcement of the individual measures of

<sup>3</sup> Letter no. 5043, dated 22.10.2015, of the Public Administration Department

<sup>4</sup> Letter dated 26.10.2015 of Mr.Luku

<sup>5</sup> Letter no.5218, dated 29.10.2015, of the Public Administration Department

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the *Elvin Lako v. Albania and 7 other Applications* group of cases, pertaining to the reinstatement of Ms. Paluka, within the next 6 months.