
Driza and Manushaqe Puto and others group

Cases concerning property nationalised during the communist regime in Albania: summary of the measures taken and still needed to remedy the violations found by the European Court of Human Rights for the individual applicants.

Memorandum prepared by the Department for the Execution of Judgments of the European Court of Human Rights.

The opinions expressed in this document are not binding on either the Committee of Ministers or the European Court.

INTRODUCTION

The Committee of Ministers is currently supervising the execution of this group of cases, which concern restitution and/or compensation for property nationalised under the communist regime in Albania. The progress in taking the general measures needed to execute the judgments, including the establishment of an effective compensation mechanism, are closely followed by the Committee of Ministers at its Human Rights meetings, particularly in light of the pilot judgment *Manushaqe Puto and others*.

This document does not address those general measures but summarises the status of execution of the individual measures needed to remedy the violations found for each of the applicants, and indicates where further steps are needed.

It should be kept in mind that as these cases principally concern violations of the right to property (Article 1 Protocol 1), the judgments often include specific indications on the steps to be taken to remedy an applicant's situation. For example, that a particular property should be returned to an applicant; that a national decision recognising an applicant's entitlement to a property should be enforced; that an applicant should receive financial compensation for the property that was nationalised and/or for the difficulties they faced at the national level in trying to determine their property ownership rights. In general, once these indications have been respected no further individual measures are necessary.

For a list of all the cases examined in this group and details of the sums awarded to the applicants, see annex.

A. Cases where no further individual measures are needed

In the cases listed below, the European Court awarded the applicants just satisfaction for pecuniary and non-pecuniary damages, to compensate them for loss of their nationalised property. This just satisfaction has been paid and the Committee of Ministers has concluded that no further individual measures are necessary.

- *Beshiri and others,*
- *Bushati and others,*
- *Hamzaraj (No. 1),*
- *Nuri,*
- *Vrioni and others.*
- *Ramadhi.*

In the case of *Caush Driza*, the European Court noted that the applicant was entitled to an award of compensation in-kind following a judgment of the Court of Appeal in his favour¹, and that the authorities were required to take the necessary steps to secure the enforcement of that judgment. The judgment was enforced by a decision of 31/07/2012 from the Agency for restitution and compensation of properties awarding the applicant title to a property. A final property certificate was delivered to the applicant. No other individual measures appear necessary.

B. Cases where the European Court has reserved its decision

The Article 41 judgment is still awaited from the Court in the cases of *Delvina* and *Eltari*.

C. Cases where the individual measures still need to be taken

Driza

This judgment relates to 2 plots of land. The European Court indicated that the first plot should be returned to the applicant, but if this were not possible, an award of just satisfaction should be paid (at a level set by the Court in the judgment). It also awarded just satisfaction in respect of the same plot for the difficulties encountered by the applicant when trying to determine his claim at the national level, and to compensate him for the loss of the second plot².

Follow up given to the judgment

The authorities have confirmed that the just satisfaction awarded by the European Court has been paid, and no further measures are needed in this respect. However, the authorities also opted to try to return the first plot of land to the applicant. This plot of land has now been registered in the applicant's name but a final property certificate still needs to be delivered to him,³ and the Committee has strongly urged the authorities to issue this final property certificate⁴.

Since then, the applicant's representative has complained about the authorities' modification to the official title map for the plot of land in question, on which three unlawful constructions now appear. She claims that these constructions would prevent the land from being returned to the applicant. She also indicates that the final property certificate has still not been issued⁵.

Assessment: the authorities' comments on the letter from the applicant's representative are awaited. However if it is confirmed that there are three illegal buildings on the plot and that the restitution of this plot of land is not possible, then the authorities must pay the applicant just satisfaction awarded by the Court (280,000 euros plus interest).

¹ see §101 of the judgment and *Cooperativa Agricola Slobozia-Hanesei v. Moldova*, no. [39745/02](#), § 32, 3 April 2007

² see item 7 of the operational part of the *Driza* judgment

³ communication from Albania DH-DD (2011)663E

⁴ see notes in the Order of business and CM decision at the 1164th CMDH meeting.

⁵ letter of 25/03/2013 (DH-DD(2013)445)(transmitted to the authorities on 04/04/2013)

Gjonbocari

In the case of *Gjonbocari*, the European Court indicated that the respondent state must execute a Supreme Court judgment from 2003. That judgment ordered the Vlora Land Commission to take a decision on the applicant's ownership rights over the plot of land in question. The Court also found the proceedings concerning the determination of the applicant's ownership rights to be excessively lengthy. It noted that the matter was still pending when it delivered its judgment in 2008 and awarded each of the applicants 7,000 euros in respect of non-pecuniary damage⁶.

Follow up given to the judgment

The authorities have stated that the judgment of the Supreme Court was executed by Decisions, no. 58 and 59 taken by the Vlora Land Commission in 2007 (which are not referred to in the European Court's judgment). In those decisions, the Agency decided not to recognise the applicant's claim to the property, as his claim was not fully documented⁷.

However, following the European Court's judgment, in 2009 the Vlora Land Commission gave another administrative decision, apparently in response to the decision of the Supreme Court. This decision (No.45 of 2009), returned a part of the plot to the applicant and awarded him just satisfaction in respect of the remaining part of the plot. The enforcement of this decision has been suspended.

All three administrative decisions have been challenged before the domestic courts by both the applicants and the State Advocate, and these proceedings have been pending before the Court of Vlora since August 2011.

The applicant claims that the European Court's judgment has not yet been executed because the property has not been returned to him and indicates that he has submitted a second application to the European Court in this regard⁸. The Albanian Ombudsman has also provided information in Albanian confirming the applicant's claims⁹.

The Committee has requested information on measures taken to accelerate the proceedings still pending before the Court of Vlora and strongly urged the authorities to take the individual measures still outstanding¹⁰.

Assessment: The authorities have stated that the Supreme Court decision was executed through several administrative decisions. However, there is no clear decision from the Vlora Land Commission determining the applicant's ownership rights over the plot of land in question – as required by the Supreme Court's judgment. Information is therefore awaited on the measures taken to accelerate the proceedings concerning the determination of the ownership rights of the applicant.

Manushaqe Puto and others

The Court awarded the applicants pecuniary and non-pecuniary damage to compensate them for the loss of their nationalised properties. The authorities have not confirmed to the Department for the Execution of Judgments that these sums have been paid. The applicants claim that the just satisfaction has not yet been paid¹¹.

Assessment: The deadline for payment expired on 17/03/2013. The authorities must confirm to the Department for the Execution of Judgments that the sums awarded by the European Court have been paid, without delay.

⁶ see §§100-102 of the judgment

⁷ See their communication of 09/04/2013 (DH-DD(2013)443), and previous action plans

⁸ In his letter of 26/11/2012 (DH-DD(2013)444) (transmitted to the authorities on 29/11/2012)

⁹ E-mail to Department for the Execution of Judgments of 19/10/2012

¹⁰ see item 7 of the Decision adopted at the 1072nd CMDH meeting and decision from the 1164th CMDH meeting

¹¹ in his letter of 14/04/2013 (DH-DD(2013)442) (transmitted to the authorities on 24/04/2013)

Annex: Details of the just satisfaction awarded in the Driza and Manushaqe Puto and others group of cases.

| Application Number | English Case Title | Pecuniary damage (Euros) | Non-pecuniary damage (Euros) | Costs and expenses (Euros) | combined pecuniary and non-pecuniary damages (Euros) | Total (Euros) | Date of Payment |
|--------------------|----------------------------------|--------------------------|------------------------------|----------------------------|--|---------------|-----------------|
| 10508/02 | GJONBOCARI and others v. Albania | | 49000 | | | 49000 | 02/11/2009 |
| 33771/02 | DRIZA v. Albania | | | | 830000 | 830000 | 17/07/2009 |
| 38222/02 | RAMADHI and Others v. Albania | | | 1676 | 184000 | 185676 | 21/10/2009 |
| 7352/03 | BESHIRI and others v. Albania | | | 6000 | 120000 | 126000 | 05/06/2007 |
| 6397/04 | BUSHATI and others v. Albania | | 11500 | | | 11500 | 12/09/2012 |
| 12306/04 | NURI v. Albania | 71500 | 5000 | | | 76500 | 14/12/2009 |
| 35720/04 | VRIONI v. Albania | | | | 1900000 | 1900000 | 09/08/2011 |
| 45264/04 | HAMZARAJ v. Albania (no. 1) | 12500 | 5000 | | | 17500 | 19/11/2009 |
| 604/07+ | MANUSHAQE PUTO | | | 1000 | 1000000 | 2995400 | |
| | DANI | | | 1000 | 280000 | | |
| | AHMATAS AND OTHERS | | | 1000 | 352000 | | |
| | MUKA | | | 1000 | 1360000 | | |