



H/Exec(2015)11 – 30 April 2015

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## **Manushaqe Puto against Albania and Driza and Others against Albania (and 13 similar cases) group<sup>1</sup>**

Individual measures for the execution of the judgments of the European Court

Information document prepared by the Department for the Execution of Judgments of the  
European Court of Human Rights

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*The opinions expressed in this document are binding on neither the Committee of Ministers nor the  
European Court.*

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<sup>1</sup> This document is an update to the document H/Exec(2013)2, dated 26 April 2013. It 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.

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## Introduction

1. The Committee of Ministers is currently supervising the execution of this group of cases, which concerns 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, is closely followed by the Committee of Ministers at its Human Rights meetings, particularly in light of the pilot judgment *Manushaqe Puto* and others.
2. 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.
3. 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.
4. For a list of all the cases examined in this group and details of the sums awarded to the applicants, see [Annex I](#).

### I. Cases where no further individual measures are needed

5. 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)* ;
  - *Nun* ;
  - *Vrioni and others* ;
  - *Ramadhi*.
6. 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 favour, and that the authorities were required to take the necessary steps to secure the enforcement of that judgment<sup>2</sup>. The judgment was enforced by a decision of 31/07/2012 from the Agency for restitution and compensation of properties and a final property certificate was delivered to the applicant. No other individual measures appear necessary.

### II. Cases where the individual measures still need to be taken

#### 1) *Driza*

7. 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 was 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

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<sup>2</sup> See *Caush Driza v. Albania*, No. 10810/05, judgment of 15 March 2011, § 101.

national level, and to compensate him for the loss of the second plot<sup>3</sup>.

A. Follow up given to the judgment

8. 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. The Committee has strongly urged the authorities to issue this final property certificate<sup>4</sup>.
9. 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 issued.
10. In response<sup>5</sup>, the authorities state that the certification of ownership can only be issued after completion of the registration of the relevant cadastral area, which is ongoing. However, the applicant can enjoy his property rights and has possession of the plot. In respect of the three constructions, the authorities confirm that these were built without permission in an area partly covering the applicant's property. The authorities assert nonetheless that this has no impact on the applicant's property rights.

**Assessment:**

1. *The information provided by the authorities appears contradictory. On the one hand, they indicate that the applicant can enjoy his property rights; on the other they confirm that there are illegal constructions on his property. The authorities do not reply directly to the applicant's claim that they have modified the official title map but rather indicate that registration of the cadastral area is ongoing, without giving an indication on when this process will be completed.*
2. *As previously underlined, confirmation of the issue of the certification of ownership to the applicant is needed to fully execute the individual measures in this case. Information from the authorities on the issuing of this certificate has been awaited for some time. However, as it now appears to be confirmed that there are constructions on the applicant's property, it is difficult to see how the authorities could return the whole plot without infringing the rights of third parties.*
3. *Accordingly, the authorities should confirm urgently whether it is now possible to restore the entire plot to the applicant (including issuance of the certificate of ownership), and if so, indicate when this will be done. In this respect, it should be recalled that failing restitution of the property, the respondent state is obliged by the European Court to pay the applicant just satisfaction awarded in its relevant judgment (280,000 euros plus interest).*

## **2) Gjonbocari**

11. 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 damage<sup>6</sup>.

<sup>3</sup> See *Driza v. Albania*, No. 33771/02, judgment of 13 November 2007, item 7 of the operational part of the judgment.

<sup>4</sup> See notes in the Order of business and CM decision at the 1164<sup>th</sup> CMDH meeting.

<sup>5</sup> See DH-DD92013)627, letter from the authorities of 31 May 2013.

<sup>6</sup> See *Gjonbocari v. Albania*, No. 10508/02, judgment of 23 October 2007, §§100-102.

B. Follow up given to the judgment

12. 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 documented<sup>7</sup>.
13. 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.
14. 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.
15. 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 regard<sup>8</sup>. The Albanian Ombudsman has also provided information in Albanian confirming the applicant's claims<sup>9</sup>.
16. 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 outstanding<sup>10</sup>.

**Assessment:**

4. *The authorities have stated that the Supreme Court decision was executed through several administrative decisions. However, despite the time that has passed, 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 urgently awaited on the measures taken to accelerate the proceedings concerning the determination of the ownership rights of the applicant.*

**3) Manushaqe Puto and others**

17. The Court awarded the applicants pecuniary and non-pecuniary damage to compensate them for the loss of their nationalised properties.

C. Follow up given to the judgment

18. On 26 March 2014, the Minister of Finance received authorisation to pay the relevant sums to 3 of the 4 applicants<sup>11</sup>. However, no confirmation has been provided that this payment was made, neither to those 3 applicants, nor the 4<sup>th</sup> applicant<sup>12</sup>.

<sup>7</sup> See their communication of 09/04/2013 (DH-DD92013)443) and previous action plans.

<sup>8</sup> In his letter of 26/11/2012 (DH-DD92013)444 (transmitted to the authorities on 29/11/2012).

<sup>9</sup> Email to the Department for the Execution of Judgments of 19/10/2012.

<sup>10</sup> See item 7 of the Decision adopted at the 1072<sup>nd</sup> CMDH meeting and decision from the 1164<sup>th</sup> CMDH meeting.

<sup>11</sup> The authorisation appears to be for payment to Manushaqe Puto, Dani and Ahmatas. The 4<sup>th</sup> applicant – Muka – is not mentioned.

<sup>12</sup> By a decision of the Albanian Council of Ministers No. 180 dated 26 March 2014 "For payment of the remainder value of the obligation for the execution of the European Court of Human Rights decision of 31.07.2012 for the applications No. 604.0 No. 43628/07 and No. 46684/07 Manushaqe Puto and others v. Albania"<sup>12</sup>

Assessment:

5. *The deadline for payment expired on 17 March 2013. The authorities must confirm to the Department for the Execution of Judgments that the sums awarded by the European Court have been paid, including the default interest.*

**4) Delvina**

19. The Court awarded the applicant pecuniary and non-pecuniary damage to compensate him for the loss of the nationalised property.

D. Follow up given to the judgment

20. On 26 March 2014, the Minister of Finance also received authorisation to pay the relevant sums to the applicant<sup>13</sup>. No confirmation has been provided that payment has been made. However, the applicant confirmed receipt of the payment, but indicated that the default interest has not yet been paid<sup>14</sup>.

Assessment:

6. *The deadline for payment expired on 7 January 2014. Confirmation of payment of the just satisfaction, including the default interest, is awaited.*

**5) Eltari**

21. The Court awarded the applicant pecuniary and non-pecuniary damage to compensate him for the loss of his nationalised property.

Assessment:

7. *The deadline for payment expired on 10 December 2014. Confirmation of payment of the just satisfaction is awaited.*

**6) Karagjozi and others**

22. The Court awarded the applicants pecuniary and non-pecuniary damage to compensate them for the loss of their nationalised property. The authorities have not yet provided confirmation that these sums have been paid.

Assessment:

8. *The deadline for payment expired on 8 July 2014. Confirmation of payment of the just satisfaction, including the default interest, if applicable, is awaited.*

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<sup>13</sup> Idem

<sup>14</sup> In a letter of 3 September 2014 DH-DD(2014)1509

Annex I

**Details of the just satisfaction awarded in the cases of Gjonbocari, Driza, Ramadhi, Beshiri and others, Bushati and others, Nuri, Vrioni and others, Hamzaraj (No. 1), Manushaqe Puto and others, Delvina, Eltari, Caush Driza, Karagjozi and others.**

Application Number	English Case Title	Material Payment Amount (Euros)	Moral Payment Amount (Euros)	Legal Payment Amount (Euros)	Moral + Material Payment Amount (Euros)	TOTAL (Euros)	Date of Payment
10508/02	GJONBOCARI and others v. Albania		49,000			49,000	02/11/2009
33771/02	DRIZA v. Albania				830,000	830,000	17/07/2009
38222/02	RAMADHI and Others v. Albania			1,676	184,000	185,676	21/10/2009
7352/03	BESHIRI and others v. Albania			6,000	120,000	126,000	05/06/2007
6397/04	BUSHATI and others v. Albania		11,500			11,500	12/09/2012
12306/04	NURI v. Albania	71,500	5,000			76,500	14/12/2009
35720/04	VRIONI v. Albania				1,900,000	1,900,000	09/08/2011
45264/04	HAMZARAJ v. Albania (No. 1)	12,500	5,000			17,500	19/11/2009
604/07+	MANUSHAQE PUTO			4,075	1,000,000	1,004,075	
	DANI			2,940	280,000	282,940	
	AHMATAS AND OTHERS			5,035	352,400	357,435	
	MUKA (revision) <sup>15</sup>				680,000	680,000	
10810/05	CAUSH DRIZA					02/04/2013	
49106/06	DELVINA	2,022,400		3,500		2,025,900	
16530/06	ELTARI	44,000	3,000			47,000	
25408/06+	KARAGJOZI			1,650	1,092,600	1,094,250	
	BUDINI						
	KOCO			1,450	750,500	751,950	
	HAJNAJ						
	SHEHU			1,550	205,000	206,550	
	DVORANI AND DUME			1,650	54,800	56,450	
	SALLABANDA AND HOXHA			400	3,589,600	3,590,000	
	GOGA AND OTHERS			1,100	1,120,000	1,121,100	
	TARTARI				521,000	521,000	
OKAJ			1,200	820,500	821,700		

<sup>15</sup> By the judgment of 4 November 2014.

