



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

## THIRD SECTION

### **CASE OF OSMANI v. ALBANIA**

*(Application no. 7780/20)*

JUDGMENT

STRASBOURG

23 June 2026

*This judgment is final but it may be subject to editorial revision.*



**In the case of Osmani v. Albania,**

The European Court of Human Rights (Third Section), sitting as a Committee composed of:

Úna Ní Raifeartaigh, *President*,

Darian Pavli,

Mateja Đurović, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the application (no. 7780/20) against the Republic of Albania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 31 January 2020 by an Albanian national, Mr Gentjan Osmani (“the applicant”), who was born in 1979 and lives in Tirana, and was represented by Mr A. Saccucci and Ms G. Borgna, lawyers practising in Rome;

the decision to give notice of the complaint concerning the applicant’s dismissal to the Albanian Government (“the Government”), represented by Mr O. Moçka, General State Advocate, and to declare the remainder of the application inadmissible;

the parties’ observations;

Having deliberated in private on 19 May 2026,

Delivers the following judgment, which was adopted on that date:

**SUBJECT MATTER OF THE CASE**

1. The case concerns the applicant’s transitional vetting proceedings, held by the Independent Qualification Commission (“the IQC”) and the Special Appeal Chamber (“the SAC”; see, for a description of the vetting process, *Xhoxhaj v. Albania*, no. 15227/19, 9 February 2021).

2. The applicant worked as a prosecutor since 2003, most recently attached to the Tirana Court of First Instance for Serious Crimes. As a public official, the applicant was required to provide a declaration of assets each year starting in 2004. In 2009 he married Ms N., who was a judge. In 2017 the applicant was added to a priority list of persons to be vetted as a candidate to the High Prosecutorial Council.

3. The applicant’s vetting declaration listed a 96 sq. m flat in Tirana, a 2003 VW Golf car, a 2007 Mercedes car (which belonged to another individual and was being used temporarily) and savings in the amount of approximately 20,000 euros (EUR) and 400,000 Albanian lek (ALL). The flat, which served as the family’s place of residence, had been purchased in January 2017 for EUR 82,000, a major part of which had originated from the sale, in December 2016, of a smaller flat, bought by the couple in 2009. The applicant was also a co-owner, along with his parents and brother, of a 106 sq. m flat in Tirana, acquired in 1998 and paid for over the period from 1998 to 2003.

4. On 2 August 2018 the IQC confirmed the applicant in office on the basis of the evaluation of his assets, his professional competence and an integrity background check.

5. Following an appeal by the Public Commissioner, on 31 July 2019 the SAC, after holding a public hearing, reversed the IQC's decision and dismissed the applicant from office on the basis of the evaluation of his assets, pursuant to section 61(3) of the Vetting Act.

6. The SAC dismissed several grounds of the Public Commissioner's appeal. It was satisfied that in 2009 the couple had received a loan of EUR 20,000 from a relative, which they had used, along with other lawful sources, for buying their previous flat in 2009. In his declaration of assets for 2009, the applicant had indicated cash savings in the amount of ALL 1,400,000 and the use of those funds for purchasing the flat. The SAC stated that the amount of the cash savings had been declared inaccurately, as if that amount had been available at the end of the relevant year; in fact, there had been no need to declare in those terms an amount that had already been used. However, it accepted that the cash savings had been a lawful source of funds for purchasing the flat.

7. As regards the applicant's financial situation in 2011 and 2013, the SAC agreed with the Public Commissioner, finding that the applicant had lacked lawful sources for the total amount of ALL 1,760,497 (comprising ALL 586,542 in 2011 and ALL 1,173,955 in 2013) for meeting the family's expenditures. These included the reimbursement of the above-mentioned loan (by instalments of EUR 7,000 in 2011 and EUR 8,000 in 2013), and cash savings declared in the amount of ALL 500,000 for 2011 and ALL 1,450,000 for 2013. The applicant claimed that the amounts declared as the family's cash savings for the respective year had actually been used for the reimbursement of the loan and that he had erroneously omitted to indicate that fact in the annual declarations. He explained that he had seen the annual declarations as similar to a balance sheet, where he had declared, on the one hand, his assets, including the cash savings, and, on the other hand, expenses, including the instalments for the reimbursement of the loan, so that both sides would match at the end of the year. It had therefore been obvious, in the applicant's view, that the cash savings had been used to cover the family's expenses and that they had ceased to exist at the end of the relevant year. The SAC rejected the applicant's explanations for the following reasons. The relevant legislation required the declaration of any immovable and movable property, income and liabilities, as well as an account of any changes in the asset declarations in a prescribed form, allowing no discretion on the part of a declarant. Since he had failed to reflect the use of the cash savings in the asset declarations, his explanations were unsupported by documents; they also conflicted with the way he had filled out his 2009 declaration, in which he had indicated the use of cash savings.

8. In proceedings concerning the vetting of the applicant's wife (a judge at the Tirana District Court and seconded at the time as Legal Adviser to the High Judicial Council), the IQC found in its decision of 11 February 2021 that, like the applicant, she had lacked lawful financial sources to justify the family's expenditures and cash savings in 2011 and 2013. The IQC confirmed her in office nonetheless. It reasoned that her assets had been accurately declared and created with lawful sources; there was no evidence of hidden assets or false declarations; overall, she had achieved a credible level of assets in the assessment and could not be considered to have undermined public trust; and there were no issues regarding the other two vetting criteria, namely integrity and professional competence. The IQC considered, therefore, that applying the same disciplinary measure of dismissal, as had been done in respect of her spouse, would be neither proportionate nor objective. Following the Public Commissioner's appeal, the SAC held a public hearing. At the conclusion of the hearing, however, the Public Commissioner invited the SAC to uphold the IQC decision. In its judgment of 27 May 2022, the SAC found that in 2011 and 2013 Ms Osmani had lacked lawful financial sources (in a total amount of ALL 1,693,286, comprising ALL 566,902 in 2011 and ALL 1,126,384 in 2013) to justify the family's expenditures, including the repayment of the 2009 loan and the family's cash savings, the use of which had not been indicated in the annual declarations. The SAC held that the couple's annual and vetting declarations were mutually consistent and that the issue of the financial shortfall, which had resulted from the family's financial situation and had spanned several years, was the same for both of them and had served as the reason for the applicant's dismissal. The couple had acquired one immovable property. No false declaration, concealment of assets or conflict of interest had been found on the part of Ms Osmani. Each person subjected to vetting had to be assessed independently, and the SAC's decision in the applicant's case did not constitute *res judicata* for Ms Osmani. The aim of the evaluation of assets in the vetting procedure served to, *inter alia*, identify those individuals who had benefitted from assets acquired through unlawful sources and had thereby undermined public trust in the justice system. Referring to "the principles of proportionality and objectivity", the SAC upheld the IQC's decision. In a concurring opinion, two judges stated that their decision to uphold the IQC's decision had been based exclusively on procedural grounds, notably the Public Commissioner's withdrawing his opposition to the IQC decision and requesting that it be upheld, and not on the examination of the case as such.

## THE COURT’S ASSESSMENT

### ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

9. The applicant was dismissed from his position as career prosecutor, thereby losing his function within the justice system and his remuneration with immediate effect. This undoubtedly had serious consequences for his “inner circle”, that is, his well-being and that of his family members, and affected his private life to a very significant degree. Article 8 is therefore applicable (see *Nikëhasani v. Albania*, no. 58997/18, § 86, 13 December 2022, with further references).

10. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

11. The Court finds that there has been an interference with the applicant’s right to respect for his private life, which was in accordance with the law and in the interests of national security, public safety and the protection of the rights and freedoms of others (see *Xhoxhaj v. Albania*, no. 15227/19, §§ 377-78, 384-88 and 391-93, February 2021).

12. It remains to be examined whether the interference was “necessary in a democratic society”, notably if it answered a “pressing social need” and, in particular, if it was proportionate to the legitimate aims pursued and if the reasons adduced by the national authorities to justify it were “relevant and sufficient”. The relevant general principles have been summarised in *Xhoxhaj* (cited above, §§ 402-03) and *Sevdari v. Albania* (no. 40662/19, §§ 83-86, 13 December 2022).

13. The Court has already held that the reform of the Albanian justice system entailing the extraordinary vetting of all serving judges and prosecutors responded to a “pressing social need” (see *Xhoxhaj*, cited above, § 404).

14. The applicant’s dismissal was based solely on the evaluation of his assets. The assessment in respect of the other two vetting criteria, namely integrity and professional competence, was positive (see paragraph 5 above).

15. After 14 years of working as a prosecutor, the applicant, together with his wife, acquired a flat measuring 92 sq. m, which served as the family’s place of residence and was their major asset. The family used two cars and had moderate savings. The SAC accepted that the 2009 loan had been reimbursed and that all the applicant’s assets had been declared and created through lawful sources (see paragraph 6 above).

16. The only issue for the entire assessment period concerned two years, that is, 2011 and 2013, in relation to which the SAC found that the applicant had a negative balance (see paragraph 7 above). Notably, the SAC’s conclusions were, firstly, to consider the ALL 1,950,000 savings declared in those years unspent – because of the applicant’s failure to state otherwise in

the annual declarations – and, secondly, to find a shortfall of ALL 1,760,497 over those years. The SAC did not cite any further evidence for the finding that the amounts in savings in 2011 and 2013 had not, in fact, been put towards the payment of the debt instalment, relying, instead, on a rather formalistic reading of the prior asset declarations as the sole basis for its conclusion.

17. As a result, the shortfall identified was not due to any unjustified assets or expenses, but merely due to the way the cash savings had been reflected in the annual asset declarations, which the applicant argued had been the result of an honest misunderstanding of the relevant formalities. A comparison with the applicant's 2009 declaration does not disclose, in that respect, any clear indications of bad faith on his part.

18. Lastly, the Court considers it equally significant that the same financial situation for the household as a whole led to a different outcome in the vetting of the applicant's wife, who was confirmed in office. No convincing explanation was provided by the national authorities for such difference in treatment, given the very significant impact on their respective careers.

19. In view of the foregoing, the Court considers, on the basis of an overall assessment of the particular circumstances of the case, that the applicant's dismissal was disproportionate to the legitimate aims pursued by the vetting process (compare *Sevdari*, cited above, § 96).

20. There has accordingly been a violation of Article 8 of the Convention.

## APPLICATION OF ARTICLES 41 AND 46 OF THE CONVENTION

21. The applicant claimed 50,000 euros (EUR) in respect of non-pecuniary damage. He claimed a further EUR 10,400 in respect of legal costs and expenses incurred before the Court.

22. The Government contested the claims.

23. The Court awards the applicant EUR 6,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

24. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 5,000 covering costs for the proceedings before the Court, plus any tax that may be chargeable to the applicant.

25. The applicant also submitted, by reference to Article 46 § 1 of the Convention, that the respondent State should be ordered to secure his reinstatement as prosecutor or, alternatively, to reopen the domestic proceedings.

26. The Government disagreed.

27. The Court has found a breach of Article 8 because the applicant's dismissal was not shown to be proportionate to the legitimate aims pursued. In a similar context, the Court has indicated that the reopening of vetting

proceedings would be appropriate (see *Sevdari*, cited above, §§ 144-45, and Resolution CM/ResDH(2024)212). The IQC has concluded its mandate, and the SAC will conclude it during 2026. Article 179/b § 8 of the Constitution of Albania regulates the handling of pending or unresolved proceedings after the termination of those mandates. Should the applicant so request, it would be appropriate to reopen the proceedings and to re-examine the case in line with the requirements of Article 8 as set out in this judgment.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the applicant's dismissal admissible;
2. *Holds* that there has been a violation of Article 8 of the Convention;
3. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
    - (i) EUR 6,000 (six thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
    - (ii) EUR 5,000 (five thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
  - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 23 June 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova  
Deputy Registrar

Úna Ní Raifeartaigh  
President