



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

THIRD SECTION

CASE OF KADANA v. ALBANIA

(Application no. 50295/20)

JUDGMENT

STRASBOURG

23 June 2026

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

In the case of Kadana 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. 50295/20) 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 9 November 2020 by an Albanian national, Mr Izet Kadana (“the applicant”), who was born in 1969 and was represented by Ms A. Duraku, a lawyer practising in Tirana;

the decision to give notice to the Albanian Government (“the Government”), represented Mr O. Moçka, General State Advocate, of the complaint under Article 6 of the Convention relating to whether the Special Appeal Chamber was a “tribunal established by law” and to declare the remainder of the application inadmissible;

the parties’ observations;

Having deliberated in private on 2 June 2026,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant’s dismissal from office by the Independent Qualification Commission (“the IQC”) and the Special Appeal Chamber (“the SAC”) under the Vetting Act (see *Xhoxhaj v. Albania*, no. 15227/19, 9 February 2021).

2. The applicant served as a judge at the Pukë District Court from 1994 and as its President from 2016.

3. On 20 December 2018 the IQC dismissed the applicant from office.

4. On 1 February 2019 the applicant appealed against that decision to the SAC.

5. On 18 February 2019 the SAC notified the applicant of the composition of the SAC panel, which included judge L.D.

6. On 10 January 2020 the applicant submitted a recusal request to the SAC, under section 27 of the Vetting Act, seeking to exclude L.D. from the SAC panel on the grounds that he did not fulfil the eligibility criteria for the position of SAC judge. The applicant noted that on 24 December 1997 the High Council of Justice had taken the disciplinary measure of dismissing L.D. from office, a fact which L.D. had concealed during his interview for the position of member of the SAC. Moreover, L.D. did not have 15 years of professional experience.

7. On 17 January 2020, while the applicant's appeal was ongoing before the SAC, a criminal complaint was lodged against L.D. by the applicant in another case, Mr Cani, a prosecutor who had been confirmed in his position by the IQC and against whose confirmation the Public Commissioner had lodged an appeal which was still ongoing before the SAC (see *Besnik Cani v. Albania*, no. 37474/20, §§ 35-39, 4 October 2022).

8. On 22 January 2020 the SAC dismissed the applicant's request to exclude L.D. from the panel. The SAC found that the grounds for recusal were not related to the impartiality of L.D., but rather to his mandate and competence, which the SAC did not have jurisdiction to examine. The reasons referred to by the applicant did not call into question the objectivity and impartiality of L.D., nor had they constituted a violation of the applicant's right to a fair trial by an independent and impartial court established by law.

9. On 4 March 2020 the SAC allowed several points raised by the applicant in his grounds of appeal, but also found that he lacked financial capacity in its assessment of his assets and that his behaviour and actions had violated public trust in the justice system. Accordingly, the SAC dismissed him from office. That decision was served on the applicant on 24 July 2020.

10. On 15 July 2020 the prosecutor's office charged L.D. with falsifying documents.

11. On 24 July 2020 the SAC suspended L.D. from his office of SAC judge (see *Besnik Cani*, cited above, § 15).

12. On 1 December 2020 the Anti-Corruption and Organised Crime Court of First Instance found L.D. guilty of forging documents and sentenced him to six months' imprisonment, suspended for 12 months.

13. On 8 March 2021 the Anti-Corruption and Organised Crime Court of Appeal upheld the judgment of 1 December 2020.

14. On 26 October 2021 the Supreme Court rejected as inadmissible a cassation appeal lodged by L.D.

15. On 31 May 2022 the disciplinary commission of the SAC dismissed L.D. from his office of SAC judge (*ibid.*, §§ 17-31).

16. On 21 September 2023 the Constitutional Court dismissed the constitutional complaint lodged by L.D.

17. The applicant complained under Article 6 of the Convention that the SAC was not a "tribunal established by law", given that L.D. had been appointed to the SAC in breach of statutory eligibility criteria.

THE COURT'S ASSESSMENT

I. SCOPE OF THE CASE

18. In his observations submitted to the Court in 2025, the applicant commented on certain complaints which had been declared inadmissible by the President of the Section on 14 January 2025. He also raised new

complaints under the Convention which are not an elaboration of the original communicated complaint which concerned whether the SAC was a tribunal established by law. Those complaints were not lodged with the Court in compliance with Rule 47 of the Rules of Court and the admissibility criteria and therefore fall outside the scope of the case.

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

19. The applicant complained that the SAC bench that had dismissed him from office had not constituted a “tribunal established by law” as L.D. had been appointed to the SAC in violation of statutory eligibility criteria.

A. Admissibility

20. The Government submitted that following the final criminal conviction and dismissal of L.D. it had been open to the applicant to request a review of the final decision of the SAC under Article 494 of the Code of Civil Procedure. The applicant had failed to avail himself of that remedy and his complaint was therefore inadmissible for non-exhaustion of domestic remedies.

21. The Government further stated that the SAC had thoroughly examined the applicant’s recusal request and had dismissed it on the grounds that the reasons referred to by the applicant had not called into question L.D.’s objectivity and impartiality and the complaint was therefore manifestly ill-founded.

22. The applicant submitted that he had exhausted domestic remedies by raising the ineligibility of L.D. before the SAC.

23. The Court observes that the applicant raised his complaint about the ineligibility of L.D. in the course of vetting proceedings before the SAC (see *Besnik Cani v. Albania*, no. 37474/20, § 36 and §§ 66-73, 4 October 2022) under section 27 of the Vetting Act, which was the main provision governing the recusal of SAC judges. In his complaint the applicant clearly and sufficiently put forward his argument that, in the absence of such recusal, the SAC panel would not be considered a tribunal established by law owing to the circumstances of L.D.’s appointment. In such circumstances, the applicant was not required to initiate proceedings to review the SAC’s final judgment (see, by contrast, *Sevdari v. Albania*, no. 40662/19, § 109-112, 13 December 2022, where the applicant did not use any domestic remedy aimed at guaranteeing her right to have her vetting proceedings determined by a “tribunal established by law”). The Court therefore dismisses the Government’s non-exhaustion plea.

24. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

25. The applicant maintained his claims.

26. The Government submitted that the case had to be distinguished from the case of *Besnik Cani* (cited above) for the following reasons: L.D. had been a lawful member of the SAC panel when the applicant's appeal was examined by the SAC; the applicant's request for L.D. to be disqualified had been duly examined by a different SAC panel in accordance with the procedure set out in section 27 of the Vetting Act and rejected; the appointment of L.D. to the SAC panel had no impact on the final decision regarding the applicant; and the SAC's decision had been based on the review of an adverse decision that had already been made against the applicant.

2. *The Court's assessment*

(a) **Regarding the effect of L.D.'s earlier dismissal from office on his subsequent appointment to the SAC**

27. The general principles concerning a right to a "tribunal established by law" have been summarised in *Guðmundur Andri Ástráðsson v. Iceland* ([GC], no. 26374/18, §§ 218-34, 1 December 2020).

28. The Court has already examined a complaint concerning the appointment of L.D. to the SAC, despite his earlier dismissal from office, in *Besnik Cani* (cited above, §§ 94-116). It established in that case that there had been an arguable claim of a manifest breach of a fundamental rule of the domestic law that had adversely affected the appointment of L.D. as a SAC judge. Having regard, in particular, to the failure of the national courts to properly consider the relevant Convention questions raised by the applicant, the Court concluded in that case that there had been a violation of Article 6 § 1 of the Convention owing to the fact that L.D. had sat on the SAC bench that had examined the applicant's case.

29. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the merits of the present complaint. The Court therefore finds that there has been a violation of Article 6 § 1 of the Convention on account of the appointment of L.D. to the bench of the SAC that examined the applicant's case.

(b) **As regards the alleged failure of L.D. to fulfil the other statutory eligibility criteria**

30. Having regard to the nature and scope of the violation found under Article 6 § 1 of the Convention in respect of the applicant's right to a "tribunal established by law" (see paragraph 29 above), the Court decides that there is no need to examine this part of the complaint.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

31. The applicant asked the Court to award him pecuniary damages in the amount of 20,188,014 Albanian lek, which corresponded to his monthly salary covering the period from the date of his dismissal until the date of submission of his claims to the Court. He further claimed 100,000 euros in respect of non-pecuniary damage.

32. The Government contested those claims.

33. The Court notes that it has found a violation of the right to a “tribunal established by law” under Article 6 § 1 of the Convention without expressing any opinion on the merits of the applicant’s dismissal. The Court cannot speculate on what the outcome of the vetting proceedings against the applicant would have been had the requirements of Article 6 § 1 of the Convention been complied with and it does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim.

34. In respect of non-pecuniary damage, the Court considers that the finding of a violation of Article 6 § 1 of the Convention constitutes adequate just satisfaction for the purposes of the Convention. In a similar context, the Court has indicated that the reopening of vetting proceedings would be appropriate (see *Besnik Cani*, cited above, § 149). The IQC has concluded its mandate, and the SAC will conclude it during 2026. Article 179/b § 8 of the Constitution 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 all the requirements of Article 6.

35. The applicant did not submit any claims for costs and expenses. The Court does not therefore make any award under this head.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 6 § 1 of the Convention admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention as regards the applicant’s right to a “tribunal established by law”;
3. *Holds* that there is no need to examine the remaining part of the complaint under Article 6 § 1 of the Convention;
4. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant;
5. *Dismisses* the remainder of the applicant’s claim for just satisfaction.

KADANA v. ALBANIA JUDGMENT

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