



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

THIRD SECTION

DECISION

Application no. 14510/25
Sheje ALMADHI and Fatmir ALMADHI
against Albania

The European Court of Human Rights (Third Section), sitting on 8 September 2026 as a Committee composed of:

Diana Kovatcheva, *President*,

Darian Pavli,

Vasilka Sancin, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the application (no. 14510/25) 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 6 May 2025 by two Albanian nationals, Ms Sheje Almadhi and Mr Fatmir Almadhi (“the applicants”), who were born in 1969 and 1967 respectively and live in Tirana, and were represented by Mr D. Matlija, a lawyer practising in Tirana;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The present case concerns the applicants’ complaints that the investigation against the administrators of the Tirana University Hospital Centre (*Qendra Spitalore Universitare Tiranë*; “the hospital”), where their son had undergone surgery and died, had been ineffective, and that they had had no access to the Constitutional Court as regards that investigation.

2. On 23 October 2009 the hospital signed a one-year collaboration agreement with the association Irish Friends of Albania.

3. On 8 November 2012 the applicants’ minor son, D., underwent a surgical procedure. The intervention was carried out by two Irish doctors, G.F. and K.C., who had been contracted by the hospital for this purpose. During the surgery, complications arose resulting in the death of D. The hospital’s medical record of 12 November 2012 and a forensic expert report

of 3 June 2013 stated that the cause of death had been malignant hyperthermia. Malignant hyperthermia is a rare reaction triggered by general anaesthesia, which leads to excessive production of body heat, ultimately causing organ damage.

A. Criminal proceedings against the Irish doctors

4. In criminal proceedings against the two Irish doctors, on 3 April 2015 the Tirana District Court found one of them, the anaesthetist, K.C., guilty of negligent medical treatment and imposed on him a fine of 600,000 Albanian leks (ALL). The surgeon, G.F., was acquitted on the grounds of a forensic medical report, written evidence and witness testimony. The court found that the surgery performed by G.F had been carried out in accordance with procedure and that the complication had been caused by the anaesthesia, and not from the surgical intervention.

5. On 17 February 2016 the Court of Appeal upheld the District Court's judgment, and it thus became final.

B. Criminal proceedings against the administrators of the hospital

6. On 21 July 2015 the prosecutor's office registered a criminal complaint submitted by the applicants against the hospital administrators for abuse of office resulting in the death of their son. On 16 November 2015 the prosecutor decided not to initiate criminal proceedings. The applicants lodged an appeal against that decision.

7. On 25 April 2016 the Tirana District Court set aside the prosecutor's decision and ordered a further investigation. On 21 July 2017 the prosecutor again decided to discontinue the criminal proceedings, noting that even though the applicants had alleged that the hospital administrators had allowed the Irish doctors to operate without being licensed and without the documentation required under Albanian law, the evidence showed that the activity of the Irish doctors had been carried out within the framework of the cooperation agreement existing between the parties. Moreover, that issue had already been investigated and adjudicated in the 2012 criminal proceedings against the doctors, during which no irregularities concerning the agreement had been established. The applicants lodged an appeal against that decision.

8. On 9 November 2017 the Tirana District Court upheld the prosecutor's decision. The court found the applicants' allegation that the hospital administrators had allowed the Irish doctors to perform the surgical intervention without holding a licence or any other credentials required under Albanian law unfounded, noting that the doctors' activity had been regulated by the cooperation agreement. It also found that the offence of which the hospital administrators had been accused had become time-barred, as more

than five years had passed since the allegedly criminal conduct. The applicants appealed against that decision.

9. On 31 January 2018 the Tirana Court of Appeal upheld that decision. It reasoned, *inter alia*, that the investigation had not revealed any causal link between the conduct of the hospital administrators and the death of D. Moreover, the doctor who had been held responsible had already been convicted by a final judgment in criminal proceedings and the prosecutor had carried out a full, comprehensive and objective investigation. The applicants lodged a cassation appeal against that decision.

10. On 23 March 2021 Law no. 44/2021 amending the Code of Civil Procedure was introduced, which provided for service of the Supreme Court's judgments via electronic mail. That law entered into force on 29 May 2021.

11. On 24 April 2023 the Supreme Court dismissed the applicants' cassation appeal. The judgment of the Supreme court was published on its website on 12 July 2023. It was not served on the applicants or their lawyer. The applicants' lawyer learned of it on 13 June 2024, after enquiring via an email to the Supreme Court.

12. On 19 September 2024 the applicants lodged a constitutional complaint.

13. On 27 November 2024 the Constitutional Court declared the applicants' complaint inadmissible as being lodged outside of the statutory four-month time-limit, which had started to run from the date the contested Supreme Court's judgment had been published on its website. The Constitutional Court also held that neither the applicants nor their lawyer had provided their email addresses to the Supreme Court so it could not have served its judgment on them via email. The Constitutional Court's decision was served on the applicants on 6 January 2025, and they lodged their application before the Court on 6 May 2025.

C. Administrative proceedings against the hospital

14. On 20 April 2015 the applicants and D.'s sisters brought a civil lawsuit against the hospital, seeking compensation for pecuniary and non-pecuniary damage in connection with D.'s death.

15. On 18 July 2016 the Tirana Administrative Court of First Instance accepted the applicants' claim in part, ordering the hospital to pay each of the parents of D. ALL 9,393,963, and his sisters each ALL 5,422,920 in compensation for the pecuniary and non-pecuniary damage they had suffered. In calculating these amounts, the court took into account the expert report of 9 May 2019.

16. The Administrative Court held that it had been established that the death of D. had resulted from malignant hyperthermia which had occurred during the surgery carried out by the Irish doctors, who had been operating under a cooperation agreement that had expired more than two years prior to

the intervention. It also held that the hospital had not secured the medication dantrolene, which was the standard drug for treatment of malignant hyperthermia.

17. On 2 August 2016 the applicants lodged an appeal, contesting the amount of compensation awarded. On 4 July 2019 the Administrative Court of Appeal upheld the first-instance judgment. It held that the amount of compensation awarded had been determined on the basis of the expert report of 9 May 2016, which had been ordered by the Administrative Court of First Instance, and had also taken into account the psychologist's assessment of the emotional pain suffered by the applicants and D.'s sisters.

18. The judgment thus became final and has been enforced.

19. The applicants and the hospital both lodged cassation appeals with the Supreme Court, where the case was registered on 15 October 2019. The Supreme Court has not yet adopted a decision.

20. In their cassation appeal the applicants reiterated the arguments previously raised in their appeal. They challenged the amount of compensation awarded by the lower courts, arguing that the damage suffered had not been properly assessed and that the courts had failed to provide adequate reasons for their decisions, contrary to the requirements of a fair trial.

THE COURT'S ASSESSMENT

A. Article 2 of the Convention

21. Relying on Articles 2 and 6 § 1 of the Convention, the applicants complained that no effective investigation had been carried out into the criminal responsibility of the hospital administration. The Court, being master of the characterisation to be given in law to the facts of the case, will examine this complaint under the procedural aspect of Article 2 of the Convention (compare *Aftanache v. Romania*, no. 999/19, § 45, 26 May 2020).

1. *Exhaustion of domestic remedies*

22. The Court notes at the outset that the applicants' constitutional complaint was declared inadmissible as being lodged out of time. The Court has previously found a violation of applicants' right of access to the Constitutional Court in circumstances where that court had counted the four-month time-limit from the date when the contested judgments of the Supreme Court had been published on its website and not from the date the applicants in those cases had learned about the judgments (see *Supergrav Albania Shpk v. Albania*, no. 20702/18, §§ 17-31, 9 May 2023).

23. As to the finding of the Constitutional Court that neither the applicants nor their lawyers had submitted their email addresses to the Supreme Court, the Court notes that the applicants' appeal to the Supreme Court had been

submitted before the end of May 2021, when service of the Supreme Court’s judgments via email was introduced in domestic law.

24. The applicants learned of the Supreme Court’s judgment on 13 June 2024 and lodged their constitutional complaint on 19 September 2024, that is, within the four-month time-limit.

25. In these circumstances it cannot be said that the applicants did not properly exhaust domestic remedies.

2. *The applicants’ victim status*

26. The applicants complain under Article 2 specifically that the criminal investigation against the administrators of the hospital had been ineffective.

27. Given the circumstances of the case, there is no doubt that the death of the applicants’ son was not inflicted intentionally. The respondent State’s duty under Article 2 of the Convention to ensure the effective implementation of the domestic laws that protect the right to life could in principle be discharged through civil liability and redress, in so far as these proceedings enable responsibility to be established and an appropriate redress to be obtained (see *Lopes de Sousa Fernandes v. Portugal* [GC], no. 56080/13, § 215, 19 December 2017, and *Kekelashvili v. Georgia* (dec.), no. 35861/11, § 45, 17 November 2011).

28. The Albanian legal system provides, in principle, two avenues of recourse for victims alleging unlawful acts attributable to the State or its agents – namely a civil procedure and a request that a prosecutor open a criminal investigation. The Court has already held that, in such circumstances, the aims of fact-finding and accountability may be met by or shared between several authorities, as long as the various procedures provide for the necessary safeguards in an accessible and effective manner (see *Kekelashvili*, cited above, § 46). It follows that the Albanian legal system offers litigants remedies that, in theory, meet the requirements of the procedural obligations under Article 2.

29. In the present case, the applicants made use of both procedures mentioned above. The question is therefore whether, under the specific circumstances of the case and given the fundamental importance of the right to life guaranteed under Article 2 of the Convention and the particular weight the Court has attached to the procedural requirement under that provision, the legal system as a whole dealt adequately with the case at hand (see *Lopes de Sousa Fernandes*, cited above, § 225).

30. In the criminal proceedings against the two doctors, the circumstances of the applicants’ son’s death were established, and one of the doctors was found criminally liable for negligent conduct. The criminal courts examined the applicants’ claims on the merits and subjected their son’s medical treatment to detailed scrutiny, establishing the causal link between the treatment administered and the death of the applicant’s son (see paragraph 4 above).

31. As regards the criminal proceedings initiated against the hospital administrators in respect of which the applicants have complained, the Court notes that the authorities conducted an investigation and found that no criminal liability could be attached to the hospital administrators (see paragraph 8 above).

32. Further to this, in the administrative proceedings, the domestic courts found that the hospital bore certain liability for the death of the applicants' son (see paragraph 16 above).

33. In the Court's view, taking account of the criminal and administrative proceedings as a whole, the obligation of the State under the procedural limb of Article 2 was satisfied.

34. As to the question of monetary compensation, in awarding damages, the domestic court relied on two expert reports, relevant to the calculation of the non-pecuniary and pecuniary damage suffered by the applicants.

35. Each applicant was awarded the equivalent of 91,000 euros as compensation for non-pecuniary and pecuniary damage (see paragraph 15 above). The Court notes that these amounts are not unreasonable (compare *Kekelashvili*, cited above, § 53, and *Căldărari v. the Republic of Moldova*, no. 55294/17, § 110, 2 July 2026).

36. Lastly, even though the administrative proceedings are still pending before the Supreme Court (see paragraph 19 above), the applicants have been paid the full amount awarded in damages. Were the Supreme Court to quash the judgment previously delivered in the applicants' favour or to reverse it, the applicants would be able to lodge a fresh application with the Court.

37. The foregoing considerations are sufficient for the Court to find that the civil remedy and the criminal conviction of the Irish doctor were sufficient and effective in addressing all aspects of the applicant's complaint under Article 2 of the Convention (see, *mutatis mutandis*, *Kekelashvili*, cited above, § 54).

38. The Court therefore finds that the applicants have lost their victim status. Accordingly, the complaints under Article 2 of the Convention are incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected, in accordance with Article 35 § 4.

B. Article 6 § 1 of the Convention

39. Relying on Article 6 § 1 of the Convention, the applicants complained that their right of access to the Constitutional Court had been violated because of the manner in which that court had calculated the time-limit for lodging a constitutional complaint.

40. The Court notes that in the proceedings in question, namely the criminal investigation against the hospital administrators, the applicants did not bring a civil claim and that therefore those proceedings did not concern

any of the applicants' civil rights or obligations. They also did not concern a criminal charge against the applicants. The Court reiterates that the Convention does not confer any right to have third parties prosecuted or sentenced for a criminal offence and such right cannot be asserted independently. In the present case, the criminal prosecution of the hospital administrators had no bearing on the applicants' right to claim compensation in separate administrative proceedings.

41. The Court therefore finds that the complaint under Article 6 § 1 of the Convention is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected, in accordance with Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 1 October 2026.

Olga Chernishova
Deputy Registrar

Diana Kovatcheva
President