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

THIRD SECTION

CASE OF BELERI v. ALBANIA

(Application no. 28070/23)

JUDGMENT

Art 5 § 3 • Reasonableness of pre-trial detention • Applicant's pre-trial detention for 9 months and 21 days in criminal proceedings against him on charges of election fraud • No violation in respect of initial placement in pre-trial detention which was based on relevant and sufficient reasons • Violation for applicant's continued detention, at least from his indictment, not based on sufficient grounds • Domestic courts' failure to conduct a genuine and comprehensive assessment of specific, relevant facts in examining applicant's request to replace detention with non-custodial security measure

Prepared by the Registry. Does not bind the Court.

STRASBOURG

10 November 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Beleri v. Albania,

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

Peeter Roosma*, President*,
Lətif Hüseynov,
Darian Pavli,
Úna Ní Raifeartaigh,
Mateja Đurović,
Canòlic Mingorance Cairat,
Vasilka Sancin*, judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 28070/23) 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") by an Albanian and Greek national, Mr Dhionisios Alfred Beleri ("the applicant"), on 2 August 2023;

the decision to give notice to the Albanian Government ("the Government") of the complaint concerning the grounds for the applicant's pre-trial detention and to declare the remainder of the application inadmissible;

the decision of the Greek Government not to avail themselves of their right to intervene in the proceedings (Article 36 § 1 of the Convention);

the parties' observations;

Having deliberated in private on 13 October 2026,

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

INTRODUCTION

1. The case concerns complaints under Article 5 § 3 of the Convention, regarding the grounds for the applicant's pre-trial detention. His detention was ordered in the context of the criminal proceedings against him on charges of election fraud.

THE FACTS

2. The applicant was born in 1972 and lives in Tirana. He was represented by Mr N. Alivizatos, a lawyer practising in Athens.

3. The Government were represented by their Agent, Mr O. Moçka, General State Advocate.

4. The facts of the case may be summarised as follows.

I. BACKGROUND INFORMATION

5. The applicant is originally from Himara, a town located on the south-west coast of Albania. He identifies as a member of the Greek-speaking minority. In October 2003 a criminal investigation was opened in respect of the applicant and other members of the Union of Himariotes on charges of incitement to national hatred (*thirrja për urrejtje nacionale*) and denigration of the Republic and its symbols (*poshtërimi i Republikës dhe i simboleve të saj*) under Articles 266 and 268 of the Criminal Code. The applicant, who was aware of those criminal proceedings and had appointed a lawyer to represent him, was declared a fugitive. On 18 July 2006 the Vlora District Court found the applicant guilty of the charges and sentenced him *in absentia* to three years' imprisonment. That judgment was upheld by the Vlora Court of Appeal on 26 December 2006, and by the Supreme Court on 4 February 2009 (see also *Beleri and Others v. Albania* (dec.), no. 39468/09, §§ 19-24 and 35-37, 10 May 2016). However, the sentence was not executed because the applicant remained at large until its enforcement became time barred.

6. In 2019 criminal proceedings were instituted against the applicant and other persons, on charges of acts of terrorism under Article 50 of the 1977 Criminal Code (Law no. 5591 of 15 June 1977, as amended by Law no. 6300 of 27 March 1981), liable to a minimum of 10 years' imprisonment; and of [membership] of an armed criminal group under Article 234 (b) of the Criminal Code, liable to imprisonment between five and fifteen years (see paragraph 51 below).

7. On 6 December 2021 the Special Court of First Instance for Corruption and Organised Crime (hereinafter referred to as "the Special Court of First Instance") discontinued the proceedings on the ground that they had become time-barred.

8. In spring 2023 the local elections for mayor of the municipality of Himara were held in which the applicant stood as a candidate. He was elected to that position on 25 May 2023.

II. CRIMINAL PROCEEDINGS AGAINST THE APPLICANT ON CHARGES OF ELECTION FRAUD

9. On 8 May 2023 an individual, A.R., approached the prosecutor's office and reported that the applicant and his staff had offered him money to buy votes for the applicant in the mayoral election of the municipality of Himara, including the township and its surrounding villages.

10. On the same date the Vlora Prosecutor's Office registered the criminal proceedings against the applicant on charges of election fraud (*korrupsioni aktiv në zgjedhje*), under Articles 328 and 25 of the Criminal Code, with the Vlora District Court. The applicant was suspected, together with other individuals belonging to the political group "Together We Win", of buying

votes by giving certain sums of money and promising various favours to potential voters in exchange for giving their vote to the applicant in the local elections.

11. On the basis of A.R.'s statement to the prosecution, the Vlora prosecutor's office authorised the use of covert photographic and video surveillance in public places of the applicant, five other individuals and a company. On 12 May 2023 that decision was confirmed by the Vlora District Court. On the same date the applicant was arrested and his mobile phone was seized by the prosecution, as well as the mobile phones of two other individuals, A.R. and P.K., and the prosecution interviewed 13 people. Further to that, the inspection of a vehicle belonging to P.K. was carried out, and material evidence was seized from A.R.

12. On 13 May 2023 the case was transferred to the Special Court of First Instance and the criminal proceedings against the applicant continued before that court.

13. Between 18 May and 17 July 2023 several expert reports were submitted on the forensic examination of the mobile phones and computers belonging to the individuals subject to surveillance measures, as well as a report by an expert in fingerprint analysis.

14. Between 22 June and 3 July 2023 the prosecution interviewed five more individuals.

15. On 10 July the Vlora Court of Appeal confirmed the decisions authorising covert surveillance measures.

16. On the basis of evidence collected through covert surveillance and evidence given by A.R., it was established that the applicant had promised A.R. 300 euros (EUR) in exchange for buying votes for him, and EUR 50 to each person who promised to vote for the applicant. A.R. had compiled a list of 13 people to be bribed and P.K., acting on behalf of the applicant, had given A.R. the money for them. When questioned, several of the people from the list confirmed that they had been approached by A.R. who had offered money in exchange for voting for the applicant.

17. On 19 July 2023 the applicant and P.K. were indicted on charges of election fraud in the Special Court of First Instance.

18. On 14 September 2023 the case was committed for trial, and hearings were held on 12, 17 and 24 October, 7 and 22 November, 5, 19 and 29 December 2023, 10 and 25 January, 1, 13 and 28 February and 5 March 2024. At the last hearing a first-instance judgment was adopted, finding the applicant guilty as charged and sentencing him to two years' imprisonment.

19. On 22 April 2024 the applicant lodged an appeal against the first-instance judgment.

20. On 8 May 2024 the appeal was registered with the Special Court of Appeal for Corruption and Organised Crime (hereinafter referred to as "the Special Court of Appeal"). Hearings before that court were held on 27 May

and 7, 14 and 25 June 2024. At the last hearing a judgment was adopted, upholding the first-instance judgment.

21. On 2 July 2024 the applicant lodged a cassation appeal with the Supreme Court.

22. On 11 October 2024 the cassation proceedings were registered with the Supreme Court and on 26 March 2026 the Supreme Court upheld the lower courts' judgments.

III. DECISIONS ORDERING THE APPLICANT'S PRE-TRIAL DETENTION

23. The applicant was arrested on 12 May 2023 at 9.45 a.m.

24. On 13 May 2023 the Vlora District Court, at the request of the prosecution, ordered the applicant's pre-trial detention. Relying on the Convention principles and the Court's case-law, the Vlora District Court analysed in detail the evidence collected and found that it indicated that there was a reasonable suspicion that the applicant had committed the criminal offence at issue. It further established that there was a risk of reoffending, given the seriousness of the acts of which the applicant was suspected. The decision also referred to the applicant's previous conviction for incitement to national hatred and denigration of the Republic and its symbols (see paragraph 5 above), and concluded that no other measure would be appropriate in the circumstances.

25. On 17 May 2023 the applicant lodged an appeal against the decision ordering his detention. He challenged at length the evidence against him, and argued that the prosecution had not demonstrated that there was a reasonable suspicion that he had committed any crime, and that the evidence against him had been obtained unlawfully. He also argued that neither the Vlora prosecutors nor the Vlora District Court had jurisdiction over his case.

26. On 22 May 2023 the Special Court of First Instance upheld the Vlora District Court's decision. It analysed in detail the evidence against the applicant and concluded that the prosecution had demonstrated that there was a reasonable suspicion that the applicant had committed the criminal offence at issue. It also held that the applicant's character, given his previous criminal conviction, justified the fear that he might reoffend. It also held that "owing to the nature of the criminal offence of which he [was] suspected, the severity of the potential sentence and the conduct of the person under investigation, there exist[ed] a real risk of flight, which would make the normal progress of the investigation impossible. In addition, owing to the position of the person under investigation, there exist[ed] a risk of interference with the collection or verification of evidence". It further held that "the criminal offence suspected to have been committed by the persons under investigation present[ed] a high degree of 'social danger'", taking into account the severity of the sentence provided (imprisonment); the protected values, namely the

freedom of vote – a fundamental human right; the suspicion that the offence had been committed in cooperation with others, increasing its 'social dangerousness'; the applicant's prior conviction; and the conduct of the individuals under investigation. Given all those circumstances, the Special Court of First Instance considered that detention was the most appropriate security measure against the applicant.

27. On 23 May 2023 the applicant lodged an appeal against the Special Court of First Instance's decision. He again challenged the evidence against him, in particular the reliability of witness A.R. The applicant repeated his arguments from his previous appeal. In his additional submissions of 30 May 2023, he stated that on 25 May 2023 he had been elected mayor of the municipality of Himara and that his detention was no longer the most appropriate measure against him.

28. On 1 June 2023 the Special Court of Appeal dismissed the applicant's appeal and upheld the decision ordering his detention. It also analysed in detail the evidence and held that it showed that there was a reasonable suspicion that the applicant had committed the criminal offence in question, and that in his capacity as mayor-elect the applicant had significant authority which could be used to obstruct the collection of evidence. The court noted, in particular, that the authorities had not been able to retrieve a number of video-recordings from cameras in local establishments where meetings had taken place, which suggested that there had been an effort to conceal evidence.

It added that the applicant had been convicted in 2006 of "incitement to national hatred" and "denigration of the Republic or its symbols" and sentenced to three years in prison (see *Beleri and Others*, cited above, § 24, see also paragraph 5 above). However, he had not turned himself in to serve that sentence and, as a consequence, it had become time-barred. In the court's view, that showed that the applicant had the propensity and means to evade justice. The court added that, having regard to the factual circumstances of the case and the applicant's character, there existed a reasonable suspicion, supported by evidence, that the applicant could also reoffend. As regards the applicant's argument that he had been legally rehabilitated, the court considered it unfounded, noting that rehabilitation applied to persons who had effectively served their sentence and not to those who had evaded justice, resulting in the sentence becoming time-barred. Furthermore, the fact that the offence had been committed through abuse of his public position as a mayoral candidate and in collaboration with others constituted aggravating circumstances in the applicant's case. In the court's view, the conduct of a candidate for the office of mayor was expected to be exemplary in terms of compliance with the law and public morals. The fact that he had allegedly attained that status through criminal activity gave rise to concerns regarding public confidence and security.

29. The applicant then lodged a further appeal with the Supreme Court, reiterating his previous arguments and contending that neither the first-instance nor the appeal court had provided concrete circumstances justifying his pre-trial detention.

The applicant argued that the Special Court of Appeal had introduced two more grounds for his pre-trial detention, namely the risk of tampering with evidence and the risk of fleeing, which had not been mentioned in the first-instance decision.

As to the risk of tampering with evidence, the applicant stressed that the only witness against him was A.R., as the evidence given by other witnesses was in his favour, and that there was no risk of him influencing A.R. or otherwise tampering with the evidence. Furthermore, as to the argument concerning the problems with retrieving footage from security cameras in local establishments, the applicant submitted that those problems could not be attributed to him as an adverse factor giving rise to suspicion, since he was not the owner of those establishments, but merely a customer. Moreover, he maintained that that argument had been raised for the first time by the prosecution before the Special Court of Appeal. That court had accepted the argument notwithstanding the fact that the prosecutor had not appealed against the District Court's decision and had therefore not been allowed to introduce new evidence or rely on new factual circumstances at the appeal stage.

As to the risk of fleeing, the applicant pointed out that his previous conviction to which the Special Court of Appeal had referred had occurred 16 years previously, and that the fact that the sentence had not been enforced could not have been attributable to him. The enforcement of that sentence had become time-barred in 2014, and therefore he should have been considered as rehabilitated. He submitted that another set of criminal proceedings had been instituted against him in 2019, and that he had not evaded the trial even though he had faced a more severe sentence than in the case at issue. The applicant argued that he had been elected as mayor of the municipality of Himara, that he had a business and family life in Himara, and that he had not shown any intention to flee.

As to the risk of reoffending, the applicant argued that the courts had not indicated any concrete circumstance which might support their conclusions in that regard. They had relied solely on his prior conviction that had already expired and had been expunged from his record, despite the fact that the sentence had not been enforced, which was the authorities' fault.

30. On 25 July 2023 the Supreme Court dismissed the applicant's appeal. It confirmed the lower courts' finding that the evidence collected sufficed to show that there was a reasonable suspicion that the applicant had committed the criminal offence at issue.

As to the applicant's argument that the Special Court of Appeal had introduced two more grounds for his detention, the Supreme Court held that

the Special Court of First Instance had already identified all three grounds for the applicant's detention, and, irrespective of that, the appeal court was not limited in its justification of the applicant's detention. Furthermore, the statutory grounds for detention were not cumulative, and it was sufficient for the courts to establish the existence of any of those grounds in order to justify the imposition of the security measure of pre-trial detention.

It further held that the lower courts had established that in 2006 the applicant had been convicted of the criminal offences of incitement to national hatred and denigration of the Republic and its symbols, and that he had evaded the enforcement of a sentence of three years' imprisonment imposed on him.

As to the criminal proceedings instituted against the applicant in 2019, the Supreme Court noted that they had ended in dismissal of the charges, and that therefore the fact that the applicant had attended that trial could not be compared to the proceedings in 2006 in which he had been convicted and evaded the sentence.

The Supreme Court held that the fact that the applicant had been convicted of serious offences and that he had escaped the execution of the sentence for those offences indicated not only the risk of absconding, but also the risk of reoffending.

As to the risk of tampering with evidence, the Supreme Court held as follows:

> "The Special Court of Appeal rightly found that, in the present case, the risk of tampering with or compromising the evidence is also well-founded.
>
> The statements of the individuals interviewed by the prosecution, as well as those of the police collaborator himself, were taken by the prosecution. However, they will only constitute evidence once they have been given before the court (there being no indication that the proceedings will follow the summary trial procedure).
>
> Given the position of the person under investigation, [the applicant], he may be able to intimidate future witnesses or contribute to the destruction or alteration of evidence.
>
> Furthermore, according to the available information, the suspected criminal activity may have broader dimensions, potentially involving the Administrative Unit of Horë-Vranisht and the villages within that unit."

The Supreme Court also noted the serious danger to the functioning of society posed by the offence of which the applicant was suspected, noting that it was solely punishable by a term of imprisonment of between one and five years, and that such offences constituted a systemic problem at each election in Albania. The seriousness of the criminal offence at issue undermined public trust in elections.

Given all the above circumstances, the Supreme Court confirmed that pre-trial detention was a necessary measure in respect of the applicant.

31. On 28 September 2023 the applicant lodged a constitutional complaint, arguing that the restriction of his personal liberty was not in accordance with the procedure prescribed by law and was not proportionate

to the situation at hand. In addition he stated that his arrest and detention had violated his right to respect for his family life, his right to freedom of expression and his right to be elected. As regards the decisions on his pre-trial detention, he reiterated his previous arguments, maintaining that the lower courts had not provided sufficient and adequately reasoned grounds for ordering his pre-trial detention.

32. On 21 March 2024 the Constitutional Court, by a majority, dismissed the applicant's constitutional complaint. It found that the lower courts had correctly assessed that there was a reasonable suspicion that the applicant had committed the criminal offence at issue and provided sufficient reasons justifying the grounds for the applicant's detention.

IV. THE APPLICANT'S REQUESTS FOR RELEASE

A. Request of 15 June 2023

33. On 15 June 2023 the applicant submitted a request for his detention to be replaced by a more lenient security measure. He argued that the measure of pre-trial detention no longer corresponded to the "security needs" and the seriousness of the criminal offence he was suspected of committing.

He further argued that there was no risk of him absconding because he had been elected as mayor of the municipality of Himara and had "chosen a life which would closely bind him to living in Himara". He submitted that he had a commercial activity in Himara where he lived with his spouse, who was employed there, and a minor daughter who attended school in Himara, where his adult son also lived.

He further contended that there was no risk of him evading the investigation, because the penalty he faced was "only up to five years' imprisonment" which he did not consider significant, and the court could replace the security measure of pre-trial detention with his release on bail. He pointed out that in 2019 an investigation had been opened in respect of him on more serious charges, liable to a more serious sentence, and that he had not evaded those proceedings, in which the charges against him had been dismissed in 2021.

He also contended that he had no prior convictions, and submitted "criminal status certificates" dated 16 March and 7 June 2023 to that effect. In his view, that indicated that there was no risk of him reoffending.

He disputed the prosecution's claim that, because of his character, he had presented a risk of committing criminal offences related to his office as being abstract and unsupported by any concrete evidence, given that he was not suspected of any criminal offence connected to his official position, and that the criminal conviction to which the prosecution had referred concerned an event that had occurred 20 years previously.

Additionally, the applicant contended that there was no longer the opportunity for him to tamper with the evidence. Firstly, more than one month had passed since the criminal proceedings against him had been initiated and during that time he had remained in pre-trial detention, accordingly any such risk was no longer real or current. Secondly, the witnesses questioned by the prosecution had given statements favourable to the applicant, and there was no reason to believe that he would seek to influence or pressure them. Thirdly, the criminal proceedings had stemmed from a situation of an arrest *in flagrante delicto*, meaning that the relevant evidence had been secured before his arrest. Lastly, the applicant argued that, in seeking the continuation of his pre-trial detention, the prosecution was required to provide convincing reasons identifying the specific items of evidence that remained susceptible to interference and explain why those items of evidence had not already been secured.

34. On 20 June 2023 the Special Court of First Instance dismissed the applicant's request. It held that the purpose of pre-trial detention was to "prevent further activity of the person under investigation or the defendant, as well as to prevent his or her avoidance of criminal proceedings, any attempts he or she [might] make to obtain or influence the authenticity of evidence, and to guarantee the repayment of obligations arising from the criminal offence".

The first-instance court held that, for pre-trial detention to be replaced by a less restrictive security measure, at least one of the following conditions had to be satisfied: (i) there was no longer the need to keep the person concerned in pre-trial detention; (ii) the measure imposed no longer corresponded to the seriousness of the offence; or (iii) the measure no longer corresponded to the sentence likely to be imposed.

As regards the first criterion, the first-instance court observed that, by its decision of 22 May 2023 (see paragraph 26 above), it had assessed the conditions and statutory criteria for ordering pre-trial detention against the applicant, and had found them satisfied. That decision was upheld by the Special Court of Appeal on 1 June 2023. The first-instance court further noted that, in support of the present request, the applicant had not relied on any new circumstances, differing from those already examined in the above-mentioned decisions, capable of justifying altering the security measure imposed.

As regards the second criterion, which concerned situations where the gravity of the criminal offence had changed because of a new legal classification of the offence attributed to the accused or the discovery of evidence establishing new facts and circumstances, the court considered that the applicant's case did not fall within that category.

Lastly, regarding the third criterion, namely where the security measure no longer corresponded to the sentence that might be imposed at the conclusion of the proceedings, the court found that that condition was

likewise not met. It noted that the applicant remained under suspicion of the same criminal offence as at the time when the measure had been ordered. Furthermore, the measure had been imposed on 22 May 2023 and less than a month had elapsed since that decision had been taken.

35. On 27 June 2023 the applicant lodged an appeal against that decision, arguing that in his request of 15 June 2023, he had provided new grounds and arguments. As regards the view of the Special Court of First Instance that his arguments concerning the criminal proceedings in which he had not evaded justice (see paragraphs 26, 27, 30 and 31 above) were not relevant because those proceedings had been discontinued owing to the expiry of the statutory limitation period, the applicant submitted that he had relied on that decision to demonstrate that, even though he had been under investigation for more than two years, he had appeared whenever summoned by the prosecution and therefore posed no risk of absconding.

As regards the submissions of the decision validating his term of office as mayor of Himara, the applicant contended that that evidence had intended to show that he wished to assume and exercise the term of office conferred upon him and not to leave Albania or evade the investigation.

The applicant further argued that the finding that he presented a risk of committing offences of the same or a more serious nature had not been based on objective circumstances but rather on assumptions and preconceived views, given that the criminal record certificates provided by him showed that he had no criminal convictions. He further maintained that the court's reasoning lacked clarity and failed to adequately address the arguments in his favour. In particular, he contended that the court had not explained the reasons for rejecting his request for pre-trial detention to be replaced by release on bail, nor had it identified the specific items of evidence that were susceptible to be interfered with by him. He also argued that the prosecution had failed to explain why, even though 38 days had elapsed since his arrest and 43 days since the criminal proceedings had been initiated, those items of evidence had not yet been secured.

36. On 14 July 2023 the appeal court upheld the first-instance decision. It held that the only new arguments, and therefore the only new evidence, submitted by the applicant concerned the fact that his minor daughter attended high school, that his family owned a company in Himara, that his spouse worked there, that the charges held against him under Article 50 of the 1977 Criminal Code (see paragraph 6 above) had been dismissed because of the statute of limitations, and that the Court of First Instance of General Jurisdiction in Vlora had confirmed his term of office as mayor of Himara.

The appeal court considered that each of those facts had already been assessed by the first-instance and appeal courts in the proceedings in which the applicant's pre-trial detention had been ordered. Their decisions had become *res judicata*, and therefore there was no possibility to re-assess once again the necessity and appropriateness of pre-trial detention against the

applicant, or the grounds on which it had been imposed, namely the risk of fleeing, reoffending and tampering with evidence.

The appeal court held that had it agreed to re-assess those elements, it would have encroached upon the jurisdiction of the Supreme Court before which the applicant's appeal on points of law had been pending against the appeal court's decision of 1 June 2023 (see paragraphs 28 and 29 above).

The appeal court nevertheless made the following assessment of the applicant's arguments.

It dismissed as irrelevant the applicant's assertion that he had no criminal record, and found irrelevant the other facts the applicant had submitted (see above in this paragraph) for the assessment of the danger to the functioning of society posed by the applicant's conduct and character, and his risk of reoffending or tampering with evidence.

The appeal court further held that the applicant's assertion that he had not evaded justice in another set of criminal proceedings against him, in which the prosecution had become time-barred, had no bearing on the assessment of justification of his pre-trial detention in the case at issue.

37. The applicant did not lodge a cassation appeal with the Supreme Court nor a constitutional complaint in those proceedings.

B. Request of 31 July 2023

38. On 31 July 2023 the applicant lodged a further request for his pre-trial detention to be replaced with a more lenient security measure, reiterating the same arguments raised in his previous request, in particular pointing out that as the newly elected mayor of the municipality of Himara, he had no reason to interfere with the proceedings.

39. On 21 August 2023 the Special Court of First Instance dismissed the request. It noted that, whereas at the time of the initial detention order the evidentiary threshold was one of reasonable suspicion, the investigation had since been completed and the applicant had been formally charged with the offence of "active electoral corruption committed in cooperation with others". The court considered the offence as posing a significant danger to the functioning of society, having regard to the applicable custodial sentence and the aggravating circumstance of the offence being committed in cooperation with others.

The court further observed that the case had been referred for trial and that no change in the factual circumstances had occurred which could justify replacing the measure of detention with a less restrictive alternative. It held that the statutory grounds for imposing pre-trial detention operated independently and that the existence of any one such ground was sufficient to justify its continuation.

Although accepting that, for legal purposes, the applicant was to be regarded as having no previous convictions on account of his rehabilitation,

the court considered that fact immaterial. In its view, there remained a real risk of flight and a risk that the applicant could interfere with the collection or authenticity of evidence. The court also found that, given the applicant's profile and the circumstances of the case, there was a risk of reoffending.

The court rejected the argument that the risk of interference with evidence had ceased following the completion of the investigation. It emphasised that the proceedings had entered the preliminary hearing stage and that evidence would continue to be examined both during that phase and, if applicable, during the trial on the merits.

Having considered all the evidence and submissions, the court concluded that no circumstances had arisen capable of reducing the need for the applicant's pre-trial detention or rendering it disproportionate to the seriousness of the offence and the potential penalty. It therefore found no basis for revoking the applicant's pre-trial detention or replacing it with a more lenient alternative.

40. On 29 August 2023 the applicant lodged an appeal, arguing that the first-instance court had merely reproduced the relevant statutory provisions without providing an adequate assessment of how those provisions applied to the specific facts of his case. He submitted that a measure involving deprivation of liberty must be subject to effective judicial scrutiny, particularly in the light of the presumption of innocence and the principle that a suspect may, as a rule, be investigated while at liberty, subject to appropriate precautionary measures.

The applicant further contended that the first-instance court's conclusion that the filing of the indictment and referral of the case for trial justified the continuation of pre-trial detention was unsupported by any concrete factual basis. In his view, the mere advancement of the proceedings could not, by itself, demonstrate the existence of a genuine risk of absconding or interference with evidence.

As regards the risk of reoffending, the applicant argued that the first-instance court had effectively accepted his submissions on that issue. Accordingly, that ground could not properly form part of the appeal proceedings or be reconsidered by the appellate court.

With respect to the alleged risk of absconding, the applicant maintained that the court had failed to identify any specific evidence capable of substantiating such a finding. He argued that his conduct throughout the proceedings had demonstrated that he had no intention of fleeing.

As regards the risk of interference with evidence, the applicant submitted that the court had likewise failed to identify any material supporting that conclusion. He further noted that his co-accused had been at liberty for approximately three months. In those circumstances, he argued that, even if such a risk had previously existed, the prosecution's conduct showed that it no longer considered it to be a genuine concern, particularly since no evidence remained vulnerable to interference.

41. On 18 September 2023 the Special Court of Appeal dismissed the applicant's appeal and upheld the decision of the Special Court of First Instance. The appeal court held that the material contained in the case file disclosed no indication that the conditions and criteria justifying the applicant's pre-trial detention had ceased to exist or had changed.

It observed that the arguments relied upon by the applicant had already been examined and addressed in a decision of 22 May 2023 of the first-instance court, which had subsequently been upheld by a decision of 1 June 2023 of the Special Court of Appeal and confirmed by the Supreme Court on 25 July 2023.

The appeal court emphasised that proceedings concerning a request for the replacement of a security measure were not intended to revisit or reassess matters that had already been determined with final effect by the courts. Such issues had already been adjudicated and therefore fell within the scope of *res judicata*. The appeal court's role was limited to examining whether the applicant had presented any new facts or evidence capable of justifying the replacement of the existing measure. As no such new circumstances had been demonstrated, the court found no basis for modifying the measure of pre-trial detention.

42. On 30 October 2023 the applicant lodged a cassation appeal with the Supreme Court. He argued that the risk of interference with evidence had ceased once the investigation had been completed and the indictment filed. In support of that contention, he noted that the preventive measure imposed on the co-accused, P.K., had been replaced by an obligation to appear before the authorities, which, in his view, demonstrated that the prosecution no longer considered there to be a genuine risk of interference with evidence. He further maintained that the domestic courts had failed to identify any specific items of evidence that remained susceptible to such interference.

As regards the risk of absconding, the applicant contended that less restrictive preventive measures were available and sufficient to secure his attendance throughout the proceedings. He emphasised that he had consistently expressed his intention to remain in Albania and to exercise the public office to which he had been elected.

Lastly, the applicant argued that the reasoning of the lower courts was internally inconsistent. While they had acknowledged that he was legally rehabilitated and therefore not regarded as having a previous conviction, given that more than 20 years had elapsed since the commission of the earlier offence, the lower courts had nonetheless relied on his past conduct as a factor supporting the continuation of detention.

43. On 21 November 2023 the Supreme Court dismissed the applicant's appeal. It held that the need for preventive measures was dynamic and that new circumstances that materially affected the underlying security concerns could have justified the revocation, replacement or modification of a measure imposed. However, the existence of new circumstances alone was

insufficient; such circumstances had to be capable of altering the security needs to an extent warranting a change of measure.

Applying those principles, the Supreme Court found that in the applicant's case no such new circumstances existed. It rejected the applicant's argument that the completion of the investigation and the communication of the charges had removed the risk of interference with evidence. On the contrary, it considered that the decision to indict the applicant reflected a deterioration rather than an improvement in his procedural position, as the prosecution had proceeded with formal charges.

The Supreme Court further observed that, when ordering detention, the domestic courts had identified all three grounds provided for in Article 228 § 3 of the Code of Criminal Procedure, namely the risks of reoffending, absconding and interfering with evidence. Consequently, even if one of those grounds had weakened, the continued existence of the others would remain relevant to the assessment of the necessity of detention.

As regards the applicant's reliance on the fact that the co-defendant, P.K., had been released subject to an obligation to appear before the authorities, the Supreme Court held that the two defendants were not in a comparable position. The assessment of security needs was individual and had to be carried out separately in respect of each defendant.

The Supreme Court also noted that the applicant had largely repeated his previous arguments that had already been assessed in the proceedings in which his pre-trial detention had been ordered. A request for the replacement of a security measure under Article 260 of the Code of Criminal Procedure was not intended to permit reconsideration of issues already adjudicated, but rather to assess whether genuinely new circumstances justified altering the measure. The applicant's allegations concerning the credibility of a witness, the legality of intercepted communications and alleged unequal treatment in comparison with other cases had previously been addressed by the courts.

With regard to the applicant's rehabilitation, the Supreme Court reaffirmed its earlier position that rehabilitation removed the penal consequences of a conviction but did not prevent a court from taking a defendant's prior criminal and judicial history into account when assessing his character and past conduct. It emphasised that the applicant had previously been convicted of the offences of incitement to national hatred and insulting the Republic and its symbols, and had avoided serving the sentence imposed. Although his criminal record certificate indicated that he had been rehabilitated, that did not preclude consideration of those facts when evaluating the risks relevant to detention.

The Supreme Court further held that the risk of interference with evidence, as identified in the final decision imposing the security measure, remained present. The applicant's attempts to draw parallels with the procedural situation of the co-defendant did not undermine that conclusion.

As regards the request to replace detention with bail under Article 236 of the Code of Criminal Procedure, the Supreme Court found that the statutory requirements were not satisfied. It noted that bail was available only where detention had been imposed solely on the basis of a risk of absconding. In the applicant's case, detention had been justified not only by the risk of flight, but also by the risks of reoffending and interfering with evidence. Accordingly, the legal conditions for substituting detention with bail were absent.

In conclusion, the Supreme Court endorsed the findings of the Special Court of Appeal and held that the applicant had failed to demonstrate any new circumstances capable of reducing the security needs underlying his detention or rendering the measure disproportionate to the seriousness of the alleged offence or the potential sentence.

44. The applicant did not lodge a constitutional complaint in those proceedings.

C. Request of 26 December 2023

45. On 23 December 2023 the applicant lodged a fresh request that his pre-trial detention be replaced with a more lenient security measure. As to the risk of tampering with evidence, he argued that, since the prosecution had completed its investigation and the evidentiary material had already been secured and examined, there was no realistic possibility that he could influence, alter or compromise the evidence.

As to the risk of reoffending, he submitted that his criminal record confirmed that he had been rehabilitated and that there was no evidence demonstrating a risk that he would commit further offences, whether of a similar or a more serious nature.

As to the risk of absconding, the applicant emphasised his unwavering intention to remain in Albania and to perform the public office to which he had been elected. In support of that submission, he pointed out that he had repeatedly sought leave from the prison authorities in order to complete the formalities necessary to assume office. He further submitted that the imposition of bail would have provided an adequate guarantee of his appearance before the judicial authorities.

The applicant also submitted that the gravity of the offence and the potential sentence did not justify the continuation of his detention. He noted that the offence with which he was charged carried a maximum penalty of five years' imprisonment and that, by that stage, he had already spent more than seven months in pre-trial detention, a period broadly corresponding to the statutory minimum sentence applicable to the offence.

46. On 28 December 2023 the Special Court of First Instance dismissed the applicant's request. It reiterated the conditions under which pre-trial

detention could have been replaced with a more lenient measure (see paragraph 34 above).

Applying those criteria, the court found that the completion of the preliminary investigation and the referral of the case for trial did not, in themselves, reduce the security needs that had justified the applicant's detention. Accordingly, those developments did not constitute grounds for replacing the measure of pre-trial detention.

The court further referred to the Supreme Court's established case-law, according to which a final decision imposing a security measure acquired the force of *res judicata*. Consequently, such a measure could not be revoked or replaced on the basis of arguments previously examined and determined with final effect by the courts, in the absence of any material change in the factual or legal circumstances.

In the case at issue, the court observed that the circumstances relied upon by the applicant had already been raised in earlier applications and had been fully considered by the domestic courts, including at several levels of jurisdiction. As no new facts or legal developments capable of affecting the assessment of the security needs had been demonstrated, the court found no basis for replacing the applicant's pre-trial detention with a more lenient measure.

47. On 10 January 2024 the applicant lodged an appeal against that decision. He reiterated the same arguments that he had raised before the first-instance court and argued at length that that court had not properly examined his arguments and had not adequately reasoned its decision.

48. On 26 January 2024 the Special Court of Appeal dismissed the applicant's appeal. The appeal court set out the applicable general principles and reiterated, in substance, the same reasoning as the first-instance court. It found that there existed a risk of absconding, having regard to the applicant's previous conduct in evading the enforcement of a criminal sentence. In that connection, it referred to the 2006 judgment by which the applicant had been sentenced to three years' imprisonment, a sentence which he had never served.

Furthermore, as witnesses were still being heard by the trial court, the applicant's release could still have allowed him to influence individuals with knowledge of the circumstances of the case.

The court also held that the applicant had failed to demonstrate any change in the circumstances that had originally justified the imposition of his pre-trial detention. As the grounds justifying detention continued to exist and no attenuating circumstances had been shown, there was no basis for revoking the measure or replacing it with a less restrictive alternative.

49. The applicant did not lodge a cassation appeal with the Supreme Court or a constitutional complaint in those proceedings.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LAW

A. Constitution

50. The relevant parts of Articles 27 and 28 of the Constitution read as follows:

Article 27

"1. No one may be deprived of their liberty, except in cases and in accordance with the procedures provided by law.

2. The freedom of a person may not be limited, except in the following cases:

...

c) when there is reasonable suspicion that they have committed a criminal offence or to prevent them from committing a criminal offence or ... escaping following its commission;

..."

Article 28

"...

3. A person in pre-trial detention has the right to appeal against the decision of the judge. They have the right to be tried within a reasonable period of time or to be released on bail, under the law.

..."

B. Criminal Code

51. The relevant part of the Criminal Code reads:

Article 234/b
Armed gangs

"Establishing, organizing, leading, and financing of armed gangs shall be punished by imprisonment for ten to fifteen years.

Participation in armed gangs shall be punished by imprisonment for five to ten years."

C. The Code of Criminal Procedure

52. The relevant parts of the Code of Criminal Procedure, as in force at the relevant time, read as follows:

Article 228
Requirements for ordering personal security measures

"1. No person shall be subjected to a personal secuity measure unless there is a reasonable suspicion against that person of having committed a criminal offence, as established by evidence.

...

3. A personal security measure may be imposed [only where one or more of the following grounds exist]:

(a) there are substantial reasons to believe that the acquisition or authenticity of evidence is at risk, as demonstrated by factual circumstances which shall be expressly set out in the reasoning of the decision;

(b) the defendant has absconded or there is a substantial risk he or she might do so;

(c) when, by reason of the particular circumstances or the defendant's personality, there is a risk that he or she may commit a serious criminal offence, or similar to the one for which he or she is being prosecuted."

Article 229
Criteria for the imposition of personal security measures

"1. In determining whether to impose a personal security measure, the court shall assess the suitability of the measure having regard to the needs arising in the particular case.

2. Any personal security measure shall be proportionate to the gravity of the facts and to the penalty prescribed for the offence at stake. The court shall also take into account any continuous or repeated criminal conduct and any mitigating or aggravating circumstances provided for in the Criminal Code.

..."

Article 230
Special criteria for ordering pre-trial detention

"1. Pre-trial detention shall be ordered only where all other personal security measures are inadequate, having regard to the particular dangerousness (*rrezikshmërisë së veçantë*) of the offence and the defendant.

..."

Article 232
Categories of coercive measures

"1. The following coercive measures may be imposed:

(a) a prohibition on leaving the territory of the State;

(b) an obligation to report to the judicial police;

(c) a prohibition on residing in, or an obligation to reside in, a specified place;

(d) bail;

(e) house arrest;

(f) pre-trial detention;

(g) temporary placement in a psychiatric hospital."

Article 240
Preventive security measures

"1. The following preventive security measures may be imposed:

(a) suspension from exercising a public duty or service;

(b) temporary prohibition on exercising certain professional or business activities."

Article 246
Enforcement of security measures

(...)

"6. Every two months from the execution of the detention order, the prosecutor shall submit a written report to the court that imposed the measure, informing it of the investigative actions carried out and the continuing grounds necessitating the security measure. The report shall include information concerning the status of the proceedings, the questioning of the defendant and other persons, and a description of the evidence and information obtained, and shall be accompanied by copies of the documents contained in the case file. Where the prosecutor fails to provide such information within the prescribed time-limit, the court shall review the necessity of the security measure either upon the defendant's application or *ex officio*. After hearing the parties, the court shall decide whether the security measure is to be maintained, replaced or revoked ..."

II. PRACTICE OF THE SUPREME COURT

53. In its unifying decision no. 7/2011 of 14 October 2011, the Supreme Court held that a measure of pre-trial detention could be considered unwarranted "only if the accused presents to the court positive proof indicating that the [relevant] risk is not present, or that it is not present to the degree and seriousness that would render a measure of pre-trial detention applicable".

54. In its unifying decision no. 80/2026 of 4 May 2026, the Supreme Court amended its unifying decision no. 7/2011, and, in so far as relevant, held as follows:

"[i] In the light of Articles 228, 229 and 230 of the Code of Criminal Procedure, read together with Article 5 § 3 [of the Convention], the burden of justification of the need for the imposition *and continuation* of a pre-trial detention measure rests on the prosecution, whereas the court is required to assess and reason the need for such measure *at every stage of the proceedings*. The prosecution has the burden of presenting and reasoning in a specific manner the facts and circumstances in support of such a measure, including the concrete risks and the inadequacy of less restrictive measures. In their decision-making, courts cannot limit themselves to assessing whether the accused has provided 'positive proof' or not. The accused only carries the burden of presenting factual circumstances related to their personal, family, health or other circumstances, when such factors are relied upon in favour of less restrictive measures.

...

[ii] The ruling adopted in decision no. 7/2011 of the Supreme Court, according to which, where the preventive measure of 'pre-trial detention' is sought or imposed, the court is under no obligation to conduct a genuine examination of alternative measures and it is sufficient merely to provide reasons as to the appropriateness of the measure selected in the circumstances of the case, is not compatible with Articles 228-230 or Article 245 § 1 (ç) of the Code of Criminal Procedure, nor with Article 5 § 3 of the [Convention]. Pursuant to Articles 228-230 and 245 § 1 (ç) of the Code of Criminal Procedure, the courts are required to undertake a genuine examination of other measures involving a lesser restriction of personal liberty and to provide genuine reasons as to why such measures would be insufficient in the particular case. Such reasoning must be explicit, individualised and based on the specific facts and circumstances of the case, clearly demonstrating the existence of a concrete risk within the meaning of Article 228 § 3 of the Code of Criminal Procedure, as well as the necessity, appropriateness and proportionality of the restriction of liberty, in accordance with constitutional and Convention standards.

...

[iii] The imposition of the preventive measure of pre-trial detention is exceptional in nature and may be ordered only where other measures are unsuitable, having regard to the conditions and criteria laid down in Articles 228 and 229 of the Code of Criminal Procedure. When seeking and imposing a pre-trial detention order, the prosecutor and, subsequently, the courts are under a duty to provide individualised reasons, based on the specific facts and circumstances of the case, supporting the need for such a measure in the light of the dangerousness of the offence and of the offender in the particular case. That assessment must be based on the specific circumstances of the facts, the manner in which the offence was committed, and information relating to the person on whom the security measure is imposed, including his or her character, conduct, personal and family circumstances, as well as any other factors relevant to the assessment of the real procedural risk or risk to society which he or she presents in the case at hand. Where the particular dangerousness of the offence and of the offender is established, within the meaning of Article 230 § 1 of the Code of Criminal Procedure, the preventive measure of pre-trial detention may be justified as the most appropriate measure for securing the needs of the proceedings. The particular dangerousness of the offence and of the offender cannot be inferred solely or primarily from the nature of the offence or the applicable sentencing range; rather, it must result from a combined assessment of the particular dangerousness of the criminal act, the manner in which it was committed, the consequences arising therefrom, the character of the accused, his or her conduct, and other relevant circumstances which are interconnected and pertinent to the specific case."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

55. The applicant complained that the domestic courts had not provided sufficient and adequate reasons for his pre-trial detention and that they had not considered alternative security measures, contrary to Article 5 § 3 of the Convention, which reads as follows:

> "Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

A. Admissibility

56. The Government argued that the applicant had not properly exhausted all available domestic remedies because, in respect of all his requests for his pre-trial detention to be replaced by a more lenient security measure, he had not lodged constitutional complaints. In addition, in respect of the requests lodged on 15 June and 26 December 2023 the applicant had not lodged cassation appeals with the Supreme Court.

57. The Court reiterates that its usual practice – where a case has been communicated to the respondent Government – is not to declare the application inadmissible for failure to exhaust domestic remedies unless the matter has been raised by the Government in their observations (see *Varyan v. Armenia*, no. 48998/14, § 75, 4 June 2024). Under Rule 55 of the Rules of Court, any plea of inadmissibility must be raised by the respondent Contracting Party, in so far as the nature of the objection and the circumstances so allow, in its written or oral observations on the admissibility of the application. Any omission by the Government to do so may lead the Court to conclude that they are estopped from raising those objections at a later stage in the proceedings (see *Khlaifia and Others* v. Italy [GC], no. 16483/12, §§ 51-54, 15 December 2016).

58. The Court notes that the Government raised the non-exhaustion objection for the first time on 4 June 2026, in reply to the Court's request for further documents. The Government explained that the applicant had not informed the Court of those proceedings, and that therefore the Government could not have submitted their non-exhaustion objection earlier.

59. The Court notes that in his application, the applicant mentioned his requests of 15 June and 31 July 2023, and submitted them, together with the domestic courts' decisions in respect of them. In their observations on the admissibility and merits of 24 October 2025, the Government did not raise any non-exhaustion objection. While the applicant did not include extensive arguments about his subsequent requests for release or for a more lenient security measure in his original application, filed on 2 August 2023, that cannot be said for his reply to the Government's observations, submitted on 5 November 2025, in which he expressly mentioned those requests and complained about the domestic courts' decisions dismissing them.

60. In their reply of 12 January 2026 to the applicant's submissions and his claim for just satisfaction, the Government stated as follows:

> "In any event, the measure of pre-trial detention was reassessed at regular intervals, providing the applicant with the opportunity to exercise his legal remedy to challenge its lawfulness. This mechanism ensures that pre-trial detention does not become an arbitrary measure."

61. The Court notes that the applicant's pre-trial detention was not reassessed at regular intervals on the initiative of the domestic courts or the prosecution. It was only reassessed on the basis of the applicant's requests for release or for a more lenient measure. The Government could only therefore be referring to those requests, which indicates that they were aware of them. And yet, the Government did not argue non-exhaustion even in their reply to the applicant's observations.

62. Moreover, when the Government submitted their reply to the applicant's observations, the proceedings on all three requests had been completed, and the time-limit for lodging constitutional complaints in respect of any of those three requests had already expired. Had the proceedings concerning those requests still been pending, or had the time-limit for lodging constitutional complaints not yet expired, the Government could not have known whether the applicant would subsequently lodge constitutional complaints in each of those proceedings.

63. The Court also stresses that, specifically in examining the complaints under Article 5 § 3 of the Convention, the Court regards them as referring to a continuous situation and cannot, therefore, disregard the facts following the initial decision ordering the applicant's pre-trial detention (compare *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, § 66, 5 July 2016).

64. Given the above circumstances, the Government must have been aware of the proceedings concerning the applicant's requests of 15 June, 31 July and 26 December 2023 when they received the applicant's submissions with his claim of just satisfaction of 5 November 2025, at the latest. The Government were obliged to submit their non-exhaustion objection in respect of all those proceedings in their reply to the applicant's submissions. However, they only raised the non-exhaustion objection in their reply to the Court's request for further documents.

65. The Court discerns no exceptional circumstances which might have exempted the Government from their obligation to raise the objection in a timely manner (see *Khlaifia and Others*, cited above, §§ 52 and 53). It follows that the Government are estopped from raising this objection.

66. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' arguments

(a) The applicant

67. The applicant reiterated his arguments presented before the domestic courts and submitted that the latter had not provided adequate reasons for his pre-trial detention, had not addressed his submissions and had not made a

proper analysis of the specific circumstances of the case. In the applicant's view, the grounds for his pre-trial detention relied on by the domestic courts had not been related to his specific situation, and the domestic courts had not provided sufficient justification for any of those grounds.

68. The applicant further contended that the domestic courts had not seriously considered imposing a more lenient security measure.

(b) The Government

69. The Government referred extensively to the reasons provided by the domestic courts, and argued that they had properly established that in the applicant's case the grounds for ordering his pre-trial detention had been manyfold, namely the risk of reoffending, the risk of tampering with evidence, the risk of absconding, and the seriousness of and danger posed to the functioning of society by the offence at issue. In the Government's view, the domestic courts at all levels of jurisdiction had provided relevant and sufficient reasons for the applicant's initial and continued pre-trial detention, and also why that measure could not have been replaced with a more lenient one. The Government contended that the domestic courts, in doing so, had complied with all requirements of Article 5 § 3 of the Convention.

2. The Court's assessment

(a) General principles

70. The general principles concerning the length of and justification for pre-trial detention are set out in *Buzadji* (cited above, §§ 84-91) and *Merabishvili v. Georgia* ([GC], no. 72508/13, §§ 222-25, 28 November 2017).

71. Article 5 § 3 of the Convention provides persons arrested or detained on suspicion of having committed a criminal offence with a guarantee against any arbitrary or unjustified deprivation of liberty (see, for example, *Aquilina v. Malta* [GC], no. 25642/94, § 47, ECHR 1999-III).

72. The period of detention to be taken into consideration under Article 5 § 3 of the Convention starts when a person is arrested or remanded in custody and ends when he or she is released and/or the charge is determined, even if only by a court of first instance (see *Selahattin Demirtaş v. Turkey (no. 2)* [GC], no. 14305/17, § 290, 22 December 2020; *Buzadji*, cited above, § 85; and *Radonjić and Romić v. Serbia*, no. 43674/16, § 61, 4 April 2023).

73. According to the Court's settled case-law, the presumption under Article 5 is in favour of release. As established in *Neumeister v. Austria* (27 June 1968, §§ 4 and 5, Series A no. 8), the second limb of Article 5 § 3 does not give judicial authorities a choice between either bringing an accused to trial within a reasonable time or granting him or her provisional release pending trial. Until conviction, he or she must be presumed innocent, and the purpose of the provision under consideration is essentially to require his or

her provisional release once his or her continuing detention ceases to be reasonable (see *Bykov v. Russia* [GC], no. 4378/02, § 61, 10 March 2009, and *Buzadji*, cited above, § 89).

74. The persistence of a reasonable suspicion that the detainee has committed an offence is a condition *sine qua non* for the validity of his or her continued detention. But when the national judicial authorities first examine, "promptly" after the arrest, whether to place the arrestee in pre-trial detention, that suspicion no longer suffices, and the authorities must also give other relevant and sufficient grounds to justify the detention. Those other grounds may be a risk of flight, a risk of pressure being brought to bear on witnesses or of evidence being tampered with, a risk of collusion, a risk of reoffending, or a risk of public disorder and the related need to protect the detainee. Those risks must be duly substantiated, and the authorities' reasoning on those points cannot be abstract, general or stereotyped (see, among other authorities, *Merabishvili*, cited above, § 222, relying on *Letellier v. France*, 26 June 1991, § 51, Series A no. 207; *Clooth v. Belgium*, 12 December 1991, § 44, Series A no. 225; *Smirnova v. Russia*, nos. 46133/99 and 48183/99, § 63, ECHR 2003-IX (extracts); and *Giorgi Nikolaishvili v. Georgia*, no. 37048/04, §§ 73 and 76, 13 January 2009).

75. Continued detention can be justified in a given case only if there are specific indications of a genuine requirement of public interest which, notwithstanding the presumption of innocence, outweighs the rule of respect for individual liberty laid down in Article 5 of the Convention. It primarily falls to the national judicial authorities to ensure that, in a given case, the pre-trial detention of an accused person does not exceed a reasonable time. Accordingly, they must, with respect for the principle of the presumption of innocence, examine all the facts militating for or against the existence of the above-mentioned requirement of public interest or justifying a departure from the rule in Article 5, and must set them out in their decisions on applications for release. It is essentially on the basis of the reasons given in these decisions and of the well-documented facts stated by the applicant in his or her appeals that the Court is called upon to decide whether or not there has been a violation of Article 5 § 3 (see *Kudła v. Poland* [GC], no. 30210/96, § 110, ECHR 2000-XI, and *Buzadji*, cited above, § 91).

(b) Application of those principles to the present case

(i) Period to be taken into consideration

76. Turning to the present case, the Court notes that the applicant's pre-trial detention, for the purposes of Article 5 § 3 of the Convention, began on 12 May 2023 when he was arrested and ended with his conviction on 5 March 2024. It accordingly lasted 9 months and 21 days.

(ii) Grounds relied on by domestic authorities for the applicant's pre-trial detention

77. The Court notes that the reasonable suspicion on which the domestic courts based their decisions followed from the extensive evidence obtained during the investigation, including intercepted communications and witness statements (see paragraph 16 above). In view of the findings of the domestic courts, which are based on reasonable and convincing grounds, the Court accepts that throughout the period of the applicant's pre-trial detention a reasonable suspicion existed that he had committed the offence at issue. That being the case, the Court will examine whether the other grounds cited by the judicial authorities continued to justify the applicant's detention.

78. As to the grounds for the applicant's pre-trial detention, the domestic courts relied principally on the following grounds: (1) the risk of absconding; (2) the risk of obstructing the course of justice by exerting pressure on witnesses and co-accused; (3) the risk of reoffending; and (4) the serious nature of the offence with which he had been charged and the severity of the penalty which could be imposed on him if found guilty.

79. As regards the risk of flight, the Court has held that it cannot be gauged solely on the basis of the severity of the possible sentence; it must be assessed with reference to a number of other factors, such as the accused's character, morals, assets, links with the State in which he or she is being prosecuted and international contacts (see *W. v. Switzerland*, 26 January 1993, § 33 Series A no. 254-A; see also the above-cited cases of *Smirnova*, § 60; *Radonjić and Romić*, § 65; and *Buzadji*, § 90). Moreover, the last sentence of Article 5 § 3 of the Convention shows that when the only remaining reason for detention is the fear that the accused will flee and thus avoid appearing for trial, he or she must be released pending trial if it is possible to obtain guarantees that will ensure that appearance (see *Merabishvili*, cited above, § 223, with further references).

80. As regards the risk of pressure being brought to bear on witnesses, the Court has held that it cannot be based only on the likelihood of a severe penalty, but must be linked to specific facts (ibid., § 224, with further references).

81. As regards the risk of reoffending, the Court has held that, if convincingly established, it may lead the judicial authorities to place and leave a suspect in detention in order to prevent any attempts to commit further offences. It is however necessary, among other conditions, that the danger be a plausible one and the measure appropriate, in the light of the circumstances of the case and in particular the past history and the character of the person concerned (see *Clooth*, cited above, § 40; *A.J.P. v. France*, no. 17020/05, § 71, 29 October 2009; and *Dervishi v. Croatia*, no. 67341/10, § 137, 25 September 2012). In addition, if the domestic authorities rely on the previous criminal prosecutions against the applicant, they must assess the relevant risk, including whether the previous facts and charges were comparable, either in nature or in the degree of seriousness, to the charges in

the pending proceedings (see *Popkov v. Russia*, no. 32327/06, § 60, 15 May 2008, and *Shteyn (Stein) v. Russia*, no. 23691/06, § 115, 18 June 2009). The existence of such risks must be substantiated by reference to concrete facts (see *Perica Oreb v. Croatia*, no. 20824/09, § 112, 31 October 2013) and a mere reference to previous convictions could not suffice (see *Richet v. France*, no. 34947/97, § 64, 13 February 2001).

(iii) The applicant's initial placement in pre-trial detention

82. The Court notes at the outset the sensitive nature of the charge against the applicant, namely election fraud, and the high risk to the functioning of society caused by such an offence. In its decision of 13 May 2023, the Vlora District Court ordered the applicant's pre-trial detention, and that decision was upheld by the Special Court of First Instance, the Special Court of Appeal and the Supreme Court.

83. The domestic courts' decision to place the applicant in pre-trial detention was based on relevant grounds, namely the risks of absconding, influencing witnesses and reoffending. The question is whether they were also sufficient (compare *Merabishvili*, cited above, § 226).

84. As regards the risk of flight and the risk of reoffending, the domestic courts relied on the fact that the applicant had previously been convicted and sentenced to three years' imprisonment, and, though aware of the criminal proceedings against him, had remained at large and evaded justice long enough for the enforcement of the prison sentence imposed on him to become time-barred.

85. As regards the risk of influencing witnesses, the domestic courts relied on the fact that the applicant had held certain power and influence in his community, and that some camera footage which might have contained relevant evidence had been tampered with.

86. Given that the criminal investigation in respect of the applicant was at its initial stage, and the reasons advanced by the domestic courts, the Court accepts that initially the fear that the applicant might tamper with evidence was justified.

87. Taking the situation as a whole, and also considering the sensitive nature of the charge and the applicant's detention being at a very early stage in the investigation, the Court accepts that, initially, the domestic courts provided relevant and sufficient grounds for ordering the applicant's pre-trial detention.

88. The Court therefore finds that there has been no breach of Article 5 § 3 in relation to the applicant's initial placement in pre-trial detention.

(iv) The continued justification for the applicant's pre-trial detention

89. As regards the applicant's continued detention, the Court notes that in Albania a detention order does not indicate the period for which detention is

ordered. There is an obligation for the prosecution to inform the competent court every two months of the investigative actions carried out and the continuing grounds necessitating the security measure. If the prosecution fails to do so, the court reassesses the need for a security measure on its own motion or at the request of the defendant. The detained person my seek his or her release at any time (see Article 246 of the Code of Criminal Procedure, cited in paragraph 52 above).

90. In the present case the applicant did so on three occasions, on 15 June, 31 July and 26 December 2023 (see paragraphs 33, 38 and 45 above).

91. As to the risk of reoffending, the applicant argued that he had been rehabilitated, and therefore he had no criminal record which might have justified the fear that he might reoffend. In addition, he stated that in 2019 criminal proceedings had been instituted against him on more serious charges with a risk of a heavier sentence than those in the case at issue, and that he had not evaded those proceedings, which, in his view, had demonstrated that he was not likely to evade justice.

92. As to the risk of fleeing, the applicant submitted that, in the meantime, he had been elected mayor of the municipality of Himara, and intended to exercise that function. In addition to that, he had strong ties in Himara, since his family lived there. He also had a business there where his wife was employed and his children were attending schools in Himara.

93. As to the risk of tampering with evidence, the applicant firstly argued that all the witnesses, save for A.R., had given statements in his favour and that therefore he had no reason to influence them. After the indictment had been brought against him on 19 July 2023, the applicant argued that all the evidence had already been collected. As to tampering with camera footage, the applicant submitted that his only connection with the establishment in which the camera was installed was that he had been frequenting it.

94. The Court notes, first, that under Article 230 § 1 of the Criminal Procedure Code, pre-trial detention can be imposed where all other alternative measures are considered inadequate, "having regard to the particular dangerousness of the offence and of the defendant" (see paragraph 52 above). Furthermore, in denying the current applicant's requests for reconsideration of the initial measure of detention, the national courts placed significant emphasis on the "particular dangerousness" of the suspected offence as a key justification for the extended detention. The Court reiterates, in this regard, its established position that the gravity of the offence or the consequences thereof cannot constitute standalone grounds justifying detention (see *Hysa v. Albania*, no. 52048/16, § 74, 21 February 2023, and *Ilijkov v. Bulgaria*, no. 33977/96, § 81, 26 July 2001). Excessive reliance on the abstract gravity of the suspected offence, without sufficient consideration of less restrictive security measures and any changing circumstances over time, stands at odds with the Convention principles safeguarding the rights to personal liberty and the presumption of innocence (see also Unifying

Decision no. 80/2026 of the national Supreme Court, paragraph 54 above, *in fine*).

95. Secondly, the domestic courts held that the decisions ordering the applicant's initial detention were to be treated as *res judicata*. As a result, it was not possible to reconsider the same arguments that had been put forward by the applicant in the initial proceedings when deciding on his subsequent requests for release or a more lenient measure. The only function of the courts in respect of those requests was to see whether the applicant had submitted any new evidence or arguments and to assess that new evidence.

96. In the Court's view, all the arguments raised by the applicant in his requests for release or a more lenient security measure had a bearing on the continued justification for his pre-trial detention, and none of them was entirely devoid of merit. Even if some of them were identical to those the applicant had raised in his appeals against the initial decision ordering his detention, they all required a fresh examination, since by their very nature reasons which at first justify the imposition of pre-trial detention can change over time (see *Merabishvili*, cited above, § 232, with further references).

97. The position of the domestic courts that the applicant's arguments had already been assessed in the proceedings concerning the initial decision ordering his pre-trial detention, and that the decisions adopted in those proceedings had become *res judicata*, runs contrary to the above principle. The position of the domestic courts effectively shifted the burden of proof onto the applicant which was tantamount to overturning the rule of Article 5 of the Convention, a provision which makes detention an exceptional departure from the right to liberty and one that is only permissible in exhaustively enumerated and strictly defined cases (compare *Ilijkov*, cited above, § 85).

98. The Court further notes, in this connection, the evolution of domestic jurisprudence that has taken place after the facts of the present case. In particular, in its Unifying Decision no. 80/2026, the Supreme Court of Albania revised its previous position, adopted in Unifying Decision no. 7/2011 (which was in effect at the time of the adjudication of the present case), by concluding that, in imposing or extending pre-trial detention, the national courts can no longer limit themselves to assessing whether the defendant has provided "positive proof" against the measure, but that they are required to assess the adequacy of the measure at every stage of the proceedings, with the relevant burden resting on the prosecution (see paragraph 54 above).

99. Thirdly, the Court notes that the domestic courts, including the Supreme Court, through extensive reasoning, addressed the new circumstances and arguments raised by the applicant, and dismissed them as insufficient. They continued to place decisive weight on the applicant's prior conviction and the fact that he had evaded justice in those proceedings. However, those proceedings took place between 2003 and 2009, more than a

decade before the proceedings at issue. The domestic courts did not assess this passage of time. They dismissed the applicant's submission that in 2019 more serious charges had been brought against him and that he had answered all summons in those proceedings, on the sole ground that the 2019 proceedings had been discontinued as time barred. However, the domestic courts did not consider the fact that the applicant could not have known the outcome of those proceedings in advance, and did not address the applicant's behaviour during those proceedings.

100. Furthermore, the domestic courts did not properly address the applicant's submissions concerning his ties with Himara, simply dismissing them as insufficient.

101. As to the risk of tampering with evidence, the domestic courts did not take into account the progress of the investigation and the fact that the indictment had been brought. They also did not point to any specific items or forms of evidence that had yet to be secured or remained liable to tampering by the applicant. In the long term the requirements of the investigation do not suffice, on their own, to justify the continued detention of a suspect: in the normal course of events the risks alleged diminish with the passing of time as the inquiries are completed, statements taken and verifications carried out (compare *Clooth*, cited above, § 43).

102. It is not for the Court to supplement these omissions (compare *Merabishvili*, cited above, § 233). The national judicial authorities must examine all the facts arguing for or against the existence of a genuine requirement of public interest justifying, with due regard to the principle of the presumption of innocence, a departure from the rule of respect for individual liberty, and must set them out in their decisions dismissing the applications for release (see *Labita v. Italy* [GC], no. 26772/95, § 152, ECHR 2000-IV).

103. In view of the above, the Court considers that the applicant's requests to have the security measure imposed on him replaced with a non-custodial security measure were examined by the national courts without a genuine and comprehensive assessment of the specific, relevant facts related to the applicant's continued deprivation of liberty. This was exacerbated by a reliance on the doctrine that the initial decisions ordering pre-trial detention constituted *res judicata*, and an excessive emphasis on the dangerousness of the suspected offence. With the passing of time, the domestic courts' reasoning did not evolve to reflect the developing situation and to verify whether the grounds for the applicant's pre-trial detention remained valid at the later stages of the proceedings. At no point in the proceedings did the domestic authorities genuinely consider whether the length of the applicant's detention had exceeded a "reasonable time" or whether there was any room for applying alternative non-custodial measures to ensure his appearance at trial.

104. The Court concludes that, from at least 19 July 2023 onwards, when the indictment was brought against the applicant, his pre-trial detention ceased to be based on sufficient grounds, in breach of Article 5 § 3 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

105. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

106. The applicant claimed 240,000 Albanian lek (approximately 2,600 euros (EUR)) per month in respect of pecuniary damage on account of the loss of income for the period in which he had been prevented from exercising the office of mayor of Himara. He further claimed EUR 50,000 in respect of non-pecuniary damage.

107. The Government deemed those claims unfounded and excessive.

108. The Court notes that the applicant's claim for pecuniary damage relates to the complaint about his pre-trial detention, in respect of which a violation of Article 5 § 3 has been found. It reiterates that there must be a clear causal connection between the damage claimed by the applicant and the violation of the Convention. The Court does not discern any causal link between the authorities' failure to adduce relevant and sufficient reasons for the applicant's continued detention and the loss of income he alleged. It therefore rejects this claim (compare *Dzelili v. Germany*, no. 65745/01, §§ 107-12, 10 November 2005; *Bykov*, cited above, § 110; and *Selahattin Demirtaş*, cited above, §§ 445 and 448, as regards the claim for loss of income on account of pre-trial detention). However, it awards the applicant EUR 450 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

109. The applicant also claimed EUR 21,700 for the costs and expenses incurred before the domestic courts and the Court.

110. The Government contested these claims.

111. An applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. Having regard to the documents in its possession and to its case-law (see *Vegotex International S.A. v. Belgium* [GC], no. 49812/09, §§ 167-68, 3 November 2022, and *Beeler v. Switzerland* [GC], no. 78630/12, § 128, 11 October 2022), the Court

awards EUR 5,000 in respect of costs and expenses under all heads, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been no violation of Article 5 § 3 of the Convention with respect to the applicant's initial placement in pre-trial detention;

3. *Holds* that there has been a violation of Article 5 § 3 of the Convention in that, from at least 19 July 2023 onwards, the applicant's pre-trial detention ceased to be based on sufficient grounds;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 450 (four hundred and fifty 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;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 10 November 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Peeter Roosma
President