

BGE 20241022_9577_21 vom 22. Oktober 2024

Bundesgericht (BGE), 2024-10-22, FR

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FR: BGE 20241022_9577_21 du 22 octobre 2024

IT: BGE 20241022_9577_21 del 22 ottobre 2024

Regeste

Regeste Diese Zusammenfassung existiert nur auf Französisch. SUISSE: Art. 2 et 3 CEDH. Renvoi en Albanie d'une famille de sept personnes qui se disent exposées à un risque pour leur vie représenté par les menaces qui seraient nées des travaux consacrés par le père à l'étude et à la dénonciation des crimes commis par le régime communiste. La Cour a examiné si l'évaluation des risques effectuée par les autorités suisses avant la décision de renvoi avait respecté les normes procédurales requises par les articles 2 et 3 CEDH. La Cour a tout d'abord observé que, s'agissant de la situation générale en Albanie, elle n'avait aucune raison de douter du bien-fondé de sa désignation comme pays sûr, de sorte qu'un renvoi vers ce pays n'entraînerait pas en principe une violation de l'article 3 CEDH. La Cour a ensuite estimé que les autorités suisses avaient procédé à une évaluation rigoureuse de la situation individuelle des requérants (ch. 69-84). Conclusion: non-violation des art. 2 et 3 CEDH. Inhaltsangabe des BJ (4. Quartalsbericht 2024) Recht auf Leben (Art. 2 EMRK); Verbot unmenschlicher oder erniedrigender Behandlung (Art. 3 EMRK); Recht auf wirksame Beschwerde (Art. 13 EMRK); Ausweisung von sieben albanischen Staatsbürgern. Bei den Beschwerdeführern handelt es sich um sieben albanische Staatsbürger, die sich als Familie derzeit in der Schweiz aufhalten. Sie haben in der Schweiz Asyl beantragt, weil sie angaben, aufgrund der Tätigkeiten des ersten Beschwerdeführers zur Untersuchung und Anzeige der vom kommunistischen Regime begangenen Verbrechen, in Lebensgefahr zu sein. Der Fall betrifft die Ablehnung ihrer Gesuche und ihre mögliche Ausweisung nach Albanien. Unter Berufung auf Artikel 2 und 3 EMRK rügen die Beschwerdeführer insbesondere, dass ihre Ausweisung nach Albanien gegen die ihnen durch diese Artikel der Konvention garantierten Rechte verstosse. Sie berufen sich auch auf Artikel 13 (Recht auf wirksame Beschwerde). Der Gerichtshof erinnerte daran, dass die nationalen Behörden bei einer Risikobewertung den Sachverhalt am besten beurteilen können und kam im vorliegenden Fall zu dem Schluss, dass die Annahme, Albanien sei ein sicheres Land, durch eine angemessene Prüfung der individuellen Situation der Beschwerdeführer hinreichend begründet worden war. Darüber hinaus stellte er fest, es sei nicht erforderlich, die Beschwerde unter dem Gesichtspunkt von Art. 13 EMRK zu prüfen. Keine Verletzung von Artikel 2 und 3 EMRK (einstimmig).

Regeste SUISSE: Art. 2 et 3 CEDH. Renvoi en Albanie d'une famille de sept personnes qui se disent exposées à un risque pour leur vie représenté par les menaces qui seraient nées des travaux consacrés par le père à l'étude et à la dénonciation des crimes commis par le régime communiste. La Cour a examiné si l'évaluation des risques effectuée par les autorités suisses avant la décision de renvoi avait respecté les normes procédurales requises par les articles 2 et 3 CEDH. La Cour a tout d'abord observé que, s'agissant de la situation générale en Albanie, elle n'avait aucune raison de douter du bien-fondé de sa désignation comme pays sûr, de sorte qu'un renvoi vers ce pays n'entraînerait pas en principe une violation de l'article 3 CEDH. La Cour a ensuite estimé que les autorités suisses avaient procédé à une

évaluation rigoureuse de la situation individuelle des requérants (ch. 69-84). Conclusion: non-violation des art. 2 et 3 CEDH. Synthèse de l'OFJ (4ème rapport trimestriel 2024) Droit à la vie (art. 2 CEDH) ; interdiction des traitements inhumains ou dégradants (art. 3 CEDH) ; droit à un recours effectif (art. 13 CEDH) ; expulsion de sept ressortissants albanais. Les requérants sont sept ressortissants albanais qui résident actuellement en Suisse. Ils forment une famille. Les requérants ont déposé une demande d'asile en Suisse parce qu'ils se disaient exposés à un risque pour leur vie représenté par les menaces qui seraient nées des travaux consacrés par le premier requérant à l'étude et à la dénonciation des crimes commis par le régime communiste. L'affaire concerne le rejet de leurs demandes et leur éventuelle expulsion vers l'Albanie. Invoquant les articles 2 et 3 CEDH, les requérants se plaignent notamment de ce que leur renvoi vers l'Albanie violerait les droits que leur confèrent ces articles de la Convention. Ils invoquent également l'article 13 (droit à un recours effectif). La Cour a rappelé que les autorités nationales sont les mieux placées pour apprécier les faits lorsqu'elles procèdent à une évaluation des risques et a conclu qu'en l'espèce, la présomption selon laquelle l'Albanie était un pays sûr était suffisamment étayée par une évaluation appropriée de la situation individuelle des requérants. Elle a estimé en outre qu'il n'était pas nécessaire d'examiner la requête sous l'angle de l'art. 13 CEDH. Non-violation des articles 2 and 3 CEDH (unanimité).

Regesto Questo riassunto esiste solo in francese. SUISSE: Art. 2 et 3 CEDH. Renvoi en Albanie d'une famille de sept personnes qui se disent exposées à un risque pour leur vie représenté par les menaces qui seraient nées des travaux consacrés par le père à l'étude et à la dénonciation des crimes commis par le régime communiste. La Cour a examiné si l'évaluation des risques effectuée par les autorités suisses avant la décision de renvoi avait respecté les normes procédurales requises par les articles 2 et 3 CEDH. La Cour a tout d'abord observé que, s'agissant de la situation générale en Albanie, elle n'avait aucune raison de douter du bien-fondé de sa désignation comme pays sûr, de sorte qu'un renvoi vers ce pays n'entraînerait pas en principe une violation de l'article 3 CEDH. La Cour a ensuite estimé que les autorités suisses avaient procédé à une évaluation rigoureuse de la situation individuelle des requérants (ch. 69-84). Conclusion: non-violation des art. 2 et 3 CEDH. Sintesi dell'UFG (4° rapporto trimestriale 2024) Diritto alla vita (art. 2 CEDU); divieto di trattamenti inumani o degradanti (art. 3 CEDU); diritto a un ricorso effettivo (art. 13 CEDU); espulsione di sette cittadini albanesi. I ricorrenti, sette cittadini albanesi attualmente risidenti in Svizzera, formano una famiglia. Hanno depositato una domanda d'asilo in Svizzera affermando che le loro vite erano a rischio a causa delle minacce che sarebbero conseguite allo studio e alla denuncia da parte di uno di essi dei crimini commessi dal regime comunista. La causa riguarda il rifiuto delle loro domande e la loro eventuale espulsione verso l'Albania. I ricorrenti fanno valere che il rimpatrio verso l'Albania violerebbe i diritti conferiti loro dagli articoli 2 e 3 CEDU. Si appellano anche all'articolo 13 (diritto a un ricorso effettivo). La Corte ha rammentato che le autorità nazionali, quando compiono la valutazione dei rischi, sono le più indicate per procedere all'apprezzamento dei fatti ed è giunta alla conclusione che nella fattispecie la presunzione secondo cui l'Albania è un Paese sicuro era sufficientemente fondata su una valutazione appropriata della situazione individuale dei ricorrenti. Ha inoltre ritenuto che non fosse necessario esaminare il ricorso sotto il profilo dell'articolo 13 CEDU. Non violazione degli articoli 2 e 3 CEDU.

Erwägungen

E. 22

At the end of each interview, the first and second applicants signed their respective interview records, confirming that they had been translated for them and that the content was correct. Their legal representative also signed the records.

E. 23

In an interim decision of 25 February 2020, the SEM informed the applicants' legal representative that the applicants' asylum claims, especially the documents provided, needed further examination, and that they would therefore be processed using the extended procedure under Article 26d of the LAsi (see paragraphs REF paragraph00043 \h 43 and REF paragraph00045 \h 45 below). The following day, the first applicant's legal representative informed the SEM that he was no longer acting for the applicants and that they had now been assigned to a canton. As the applicants had left the federal centre for asylum-seekers to be accommodated by the canton, on 9 March 2020 they instructed a lawyer from the legal advice office responsible for providing free assistance to people going through the extended procedure in that canton (" Service d'Aide Juridique aux Exilé/e/s ", the SAJE), under Article 102 LAsi. They maintained regular contact with that lawyer throughout 2020, checking for news from the SEM and informing him of their situation and change of address.

E. 24

On 10 March 2020 the lawyer filed the applicants' letter of authority to act with the SEM. He did not ask anyone to carry out additional research or investigation or to set a new date for the filing of evidence: he merely stated that the applicants were expecting to be informed of the outcome of the process. On 18 September 2020 he sent a single additional piece of evidence to the SEM - a letter of support from a private person residing in the Netherlands. 2. THE DECISION ON THE APPLICANTS' ASYLUM CLAIMS AND THE APPEAL PROCEEDINGS

E. 25

On 12 October 2020 the SEM issued a thirteen-page decision rejecting the applicants' asylum claims and directing their removal from Switzerland.

E. 26

It went over the factual allegations made in support of the family's asylum claim. In particular, it stated that the killing of H.B. was linked to a dispute over a private debt, whereas the first applicant had disputed that story. It then stated that in 2019 a number of articles had appeared in Dita , especially those by S.B., a politician. The first applicant had been able to obtain documents to support his cause from the Office of the President of Albania and had launched a criminal complaint against S.B., Dita and others; that complaint had not been dealt with. The decision then noted that the criminal complaint of crimes against humanity made by the applicant against E.C. in Albania had also not been dealt with, allegedly because the person who had passed the vetting procedure and been appointed as the Special prosecutor had been a judge in the communist era. In July 2019 the draft of a proposed law modifying the ICCC statute had been submitted to the Albanian Parliament by S.B. and other members. In September 2019 the campaign against the first applicant had intensified, and he and his lawyer had received threats on their phones and on social media. Complaints about those threats had subsequently been dismissed. On 31

October 2019 two armed persons had tried to break into the family flat but had been scared off by the first applicant putting on the light and had left. Shortly after that two persons had spoken to the first applicant in the street and made remarks about his jacket "missing a hole". In December 2019, while already in Switzerland, the first applicant had resigned from his position as director of the ICCC and his former deputy had taken up the post; the former deputy had not been subjected to any attacks. While in Switzerland, the first applicant gave an interview to Albanian television. The decision set out the second applicant's statements in some detail, as well as the documentary evidence submitted by the applicants in support of their claims.

E. 27

Moving on to evaluate the asylum claim, the SEM considered that if the work of the first applicant had really annoyed the authorities, they had had the means to stop that work, or even to dissolve the ICCC. It considered that the attacks perpetrated by persons holding positions within State institutions had been individual initiatives and did not emanate in any way from the Albanian State, adding that the fact that the complaints lodged by the first applicant had been dismissed did not suggest that the current authorities had intended to harm him for reasons connected with his work. It remarked that many of the first applicant's conclusions about the involvement of State officials in the attacks on him had been no more than his personal conjecture, unsupported by objective evidence. For example, in relation to the two latest episodes, those of 31 October and 20 November 2019, it remarked that "no State could guarantee total security 24/24 hours" and that "nothing suggested that if complaints were to have been lodged in this respect they would not have been appropriately dealt with". In that connection, it observed that, assuming that the first applicant really was being targeted by the authorities or by third parties, it was incomprehensible that he had not been the subject of attacks before leaving the country. It observed that after S.P.'s allegations of manipulations in the Parliament, the first applicant had received support from the President's Office in April 2019, when he had obtained a document disproving S.P.'s allegations. Furthermore, the SEM found it "surprising" that the first applicant had given a public interview on 6 December 2019 disclosing the fact that he had left the country, even if he had not named the country where he was seeking asylum, while claiming that he and his family were in danger and could be targeted even while abroad. The SEM considered that the fact that criminal complaints lodged by the first applicant about insults and threats had been dismissed did not indicate that the Albanian authorities had intended to harm or persecute him on account of his political views. The Albanian authorities were both willing and able to protect the general population from third parties. The decision referred to the first applicant's reported medical problems (insomnia, hypertension) that were not being monitored or treated and which did not prevent his return to Albania. Lastly, the decision addressed the children's situation and found that there were no obstacles to their return to Albania, either. It also observed that on 6 March 2009 the Federal Council had designated Albania as a "safe country of origin" within the meaning of Article 6a(2)(a) of the LAsi (see paragraphs REF paragraph00043 \h 43 and REF paragraph00044 \h 44 below), and that the applicants had failed to rebut the presumption that the first applicant was not being persecuted there.

E. 28

To sum up, the applicants' situation did not reach the threshold specified in Article 3 LAsi that would justify granting asylum and there were no obstacles to returning them to Albania.

The decision ended with the information that an appeal could be lodged within five working days, under Article 108 LAsi.

E. 29

On 15 October 2020 the applicants' representative lodged an appeal against that decision with the Federal Administrative Court ("the TAF") without informing the applicants of the decision in question and without having consulted them on the appeal. He did not produce any additional documents in support of the appeal. The grounds for the appeal were matters already present in the file and the SEM was not asked to take any additional investigative measures or to give an extension of time for the applicants to make additional submissions. On 3 November 2020 the applicants informed their representative of their intention to supplement the file with other documents, including in particular articles that the first applicant had written in Switzerland about other Albanian political figures who, according to him, had worked for the communist regime in the past. They forwarded a file with translations of these additional documents, which were press articles, to their legal representative on 15 December 2020. However, it is apparent from the documents submitted to the Court that their legal representative subsequently confirmed that he did not forward those documents to the TAF before it delivered its judgment.

E. 30

The TAF, as the final court in this case, dispensed with the exchange of written submissions provided for in Article 111a paragraph 1 LAsi and delivered its judgment on 29 December 2020. The judgment was forwarded the following day to the applicants' legal representative's address. The TAF rejected the applicants' appeal. It stated first of all that Albania was presumed to be a safe country in which there was no State persecution that would justify a grant of asylum and that the Albanian State was in a position to offer its nationals effective and efficient protection against persecution by third parties (non-state actors). It then examined whether the grounds for the asylum claim and the arguments put forward by the applicants were such as to rebut this presumption or to prove the contrary.

E. 31

The TAF observed first of all that the ICCC had been created and was financed by the Albanian State and not by some opposition group. In this context, it acknowledged that the first applicant's activities, that is, his research into criminal activities during the communist era, his public appearances in the press, on television and on social networks, and his role in bringing criminal proceedings against the former director of a prison had "certainly caused displeasure in some circles, in particular where he had denounced the past activities of those persons, or of their close relatives, in support of the former communist regime". However, the TAF considered that the research undertaken by the first applicant and the ICCC "did not relate to recent events, but to acts committed at the time of the former communist regime, which had ceased to exist three decades ago, and that the current government, led by the Socialist Party, had been at the helm of the country for years". After analysing various matters that the first applicant had talked about during the interviews, the TAF concluded that it could not be assumed that the problems that the first applicant had faced in 2019 were the fault of the current Albanian authorities. On that point, it observed that, on the contrary, the first applicant had submitted the ICCC's activity report for the previous year to the Albanian Parliament in February 2019 without subsequently encountering any problems.

E. 32

The TAF then concluded that the first applicant's imputation of the death threats published against him on Facebook to the police was unsubstantiated. It found it equally doubtful that the authorities had been involved in the attempted break-in at the applicants' home on the night of Halloween in 2019, finding that the facts more probably suggested that the event was akin to a burglary, as the intruders had been scared by the light and noise and had immediately run away so as not to be identified. The TAF stressed that the first applicant had never been physically attacked nor had any legal procedure been started against him, although the authorities had obviously had opportunities to do so. All in all, the TAF concluded that even if the first applicant had lived for several years in an environment of hostility and polemic, and the events immediately preceding the departure could have caused a subjective sense of fear, the circumstances were far from constituting "intolerable psychological pressure". Nor, it held, was there any reason to believe that the Albanian authorities had been involved in the threats made by an unknown person on 20 November 2019. Nothing indicated that the first applicant had revealed or disclosed any particularly sensitive information in 2019, and, in view of the time that had elapsed since the first threats had been received from third parties in 2017, there had been ample opportunity for them to attack the first applicant violently before he left the country in November 2019 if they had really wanted to do so.

E. 33

The TAF characterised the verbal attacks of 2019 on the first applicant, especially the publications in Dita, to be "particularly sharp and unpleasant". It observed nevertheless that the applicant had been defended by articles in Panorama - which was, in his own words, one of the most reputable journals of the country - and which had equally used harsh terms in relation to his opponents. In this context, the TAF observed that while Albanian political life was generally characterised by a high degree of verbal violence, including exchanges of insults and threats between the opponents, after an institutional crisis in 2019 the attitudes of the various political players had become more cooperative and conciliatory. The first applicant was a public figure and could be expected to be more tolerant of hostility towards his own activities or those of the ICCC. Attacks from people who occupied or had previously occupied a position within State institutions before or after the fall of the communist government - such as, for example, the MP S.B. and the former Albanian Defence Minister - were "individual initiatives, for which only the perpetrators were responsible". As for the activity of the police and the judiciary, the TAF considered that first applicant's high profile meant that a certain amount of caution had to be exercised with regard to his situation but found that it could be assumed that the Albanian authorities had been and remained in a position to provide him with adequate protection. It referred to the improvements in the organisation of the police and judiciary, which had also been observed by the EU. It did not find that the dismissal of the first applicant's complaints had indicated any intention to harm him or to deny him judicial protection: the rejections had been for procedural or other legitimate reasons. As to the "principal" complaint lodged by the first applicant against the MP S.P. and other persons and Dita, it had not been dismissed hastily but after a number of preliminary examinations and adjournments over a period of seven months. It also noted the support for the first applicant expressed by the highest authorities, including the President.

E. 34

Lastly, turning to the applicants' current situation, the TAF found that the tensions of 2019 had largely subsided. Given the time that had passed since those events and the change in the first applicant's status, it appeared unlikely that he was at risk of treatment in breach of Article 3. In any case, he could seek protection from the relevant authorities in Albania. The TAF found that, given the absence of additional information in this respect, there were no pertinent reasons to find valid grounds for granting asylum arising after the applicants' departure from Albania.

E. 35

The TAF then considered whether there were any other reasons that would prevent the applicants' expulsion from Switzerland, and concluded that the enforcement of the applicants' removal would be lawful under Article 3 of the Convention or under LA^{si}. 3. REVISION REQUESTS

E. 36

On 10 November 2021 the applicants sought revision of the SEM decision of 12 October 2020 and the TAF decision of 29 December 2020 (no copy of their application has been submitted to the Court).

E. 37

On 3 February 2022 a single judge of the TAF declared the application for revision ("demande de révision") inadmissible. It found, first, that in so far as the applicants relied on the evidence obtained after the TAF decision of 29 December 2020 but concerning the facts that preceded that decision, they should have made a request for re-examination ("une demande de réexamen") and not revision. In so far as the application sought revision, the TAF reiterated that that was possible only on strict conditions, notably if subsequently to the decision concerned the applicant discovered relevant facts or conclusive evidence which, through no fault of his own, he was unable to adduce in the previous proceedings, with the exception of facts or evidence subsequent to the judgment. It noted the following additional evidence submitted by the applicants in support of their application: a list of Albanian nationals who had been recently granted asylum in various countries, including Switzerland; additional information related to the threats to the first applicant made in 2019 by politicians and public figures; quotations from publications in the media and on internet platforms; extracts from international and national NGO reports concerning the human rights situation in Albania; and copies of press articles. The TAF took note of the applicants' explanations that while most of these documents preceded its decision of 29 December 2020, their legal representative had not filed them as he should have done. However, the TAF found no valid reason for the delay in filing those documents or for the lateness of the application for revision, which had been made after the statutory time-limit of 90 days from when the applicants had learnt of the relevant circumstances. The TAF then reiterated that while it was "possible to obtain a revision of a decision refusing refugee status and ordering the execution of a removal decision that was then in force, despite the late filing of new evidence, if that new evidence confirmed that there was a risk of persecution or inhuman treatment that would make the implementation of the removal order contrary to international public law", in this case that was "manifestly not the situation". The TAF found that the applicants' allegations about the first applicant's high profile and about the inability and unwillingness of the Albanian State to protect them had already been duly examined and decided, and it declared the application for revision inadmissible.

E. 38

Lastly, on 21 March 2022 the SEM considered the application of 10 November 2021 and declared the applicants' applications for re-examination of their asylum claims inadmissible. It summarised the applicant's application as follows: "In your 'multiple application/request for re-examination' of 10 November 2021, supported by your letter of 7 February 2022, you go back over the grounds put forward in support of your asylum claim of 12 October 2020 before stating that you have lodged a complaint with the ECtHR and an application for revision with the TAF. ... In this context, you state that you will continue to publish, from Switzerland, information about Albanian political figures involved in crimes committed under the Communist dictatorship." The SEM noted, in particular, the following evidence submitted by the applicants in support of their application: the file submitted to this Court and the information provided by the Swiss Government in relation to those proceedings; letters in support of the first applicant written in 2021; six press articles written by the first applicant in 2020-2021; information about the criminal proceedings in Germany concerning E.C.; and letters from lawyers involved in these proceedings, indicating in particular their understanding that the first applicant would be in danger if returned to Albania. Observing that there had been some procedural irregularities, the SEM agreed, exceptionally, to consider the application as one for "qualified review" ("une demande de reexamen qualifiée"). It noted that the time-limit for filing the application and additional information was thirty days from when an applicant had knowledge of the facts on which the application was based. It found that all the evidence filed by the applicants dated back to 2020 and early 2021, and that the application was therefore out of time.

E. 39

However, the SEM also noted, as had the TAF, that late applications could be admitted if the evidence clearly indicated a risk of persecution or inhuman treatment if the applicants were to be removed. It found no such indication in the present case. In particular, the SEM found that the first applicant's publications and the statements in his support concerned his profile and the alleged inability of the Albanian State to protect him if he were returned. Those allegations had already been considered and rejected by the SEM and the TAF. Letters written by lawyers in the context of the criminal proceedings against E.C. in Germany did not add any new or relevant information that could change the outcome of the previous decisions of the SEM and TAF. Lastly, it decided that any further appeal would have no reasonable prospect of success and would have no suspensive effect, that the first applicant should not be given legal aid and that he should bear the legal costs of the application for re-examination (500 Swiss francs (CHF)).

4. ADDITIONAL INFORMATION

E. 40

On 15 February 2021 the Court granted a request by the applicants for the application of interim measures under Rule 39 of the Rules of Court and indicated to the Government that the applicants should not be removed from Switzerland for the duration of the proceedings before the Court.

E. 41

On 18 July 2022 a prosecutor in Switzerland granted a request from the Munich Prosecutor's office for international mutual assistance in questioning the first applicant as a witness in connection with the criminal proceedings brought against E.C. in Germany. The

first applicant was questioned in Switzerland in October 2022. He testified as a former director of the ICCC.

E. 42

The first applicant continued to publicly engage in a campaign of denunciation of the former officers of the communist regime. He submitted extracts of interviews he had given to various Albanian media outlets, in particular those of October 2022. He particularly criticised the new legislation setting limits to the disclosure of former Segurimi files and named certain persons who had occupied important positions under the communist regime, calling for them to be cleansed from the State apparatus. The first applicant said that he was currently "involved in negotiations with international actors to continue pursuing efforts to hold people accountable for the atrocities committed during the Communist regime".

2. RELEVANT LEGAL FRAMEWORK AND PRACTICE 1. RELEVANT DOMESTIC LAW

E. 43

The Federal Law on Asylum of 26 June 1998 (LAsi; RS 142.31) provides as follows in the relevant provisions: Article 3: Definition of the term refugee "1. Refugees are persons who in their native country or in their country of last residence are subject to serious disadvantages or have a well-founded fear of being exposed to such disadvantages for reasons of race, religion, nationality, membership of a particular social group or due to their political opinions. 2. Serious disadvantages include a threat to life, physical integrity or freedom as well as measures that exert intolerable psychological pressure. Motives for seeking asylum specific to women must be taken into account. ... 4. Persons who claim grounds based on their conduct following their departure that are neither an expression nor a continuation of a conviction already held in their native country or country of origin are not refugees. The provisions of the Convention of Refugee Convention are reserved." Article 6a: Competent authority "1. SEM decides on granting or refusing to grant asylum as well as on removal from Switzerland. 2. The Federal Council shall identify states in addition to the EU/EFTA states in which on the basis of its findings: a. there is protection against persecution, as a safe native country or country of origin; b. there is efficient protection against refoulement as defined in Article 5 paragraph 1, as a safe third country ..." Article 7: Proof of refugee status "1. Any person who applies for asylum must prove or at least credibly demonstrate their refugee status. 2. Refugee status is credibly demonstrated if the authority regards it as proven on the balance of probabilities. 3. Cases are not credible in particular if they are unfounded in essential points or are inherently contradictory, do not correspond to the facts or are substantially based on forged or falsified evidence. ..." Article 26d: Extended procedure "If it is clear after the interview on the grounds for asylum that a decision cannot be made under the accelerated procedure, namely because further investigation is required, the asylum seeker shall be assigned to the extended procedure and be allocated to a canton under Article 27." Article 29: Interview on the grounds for asylum "1. SEM shall interview asylum seekers on their grounds for asylum; the interview shall take place in a federal centre. 1bis If necessary, it shall call in an interpreter. ... 3. Minutes shall be taken of the interview. They shall be signed by those participating in the interview." Article 40: Rejection without further investigations "1. If, as a result of the interview, it is obvious that asylum seekers are unable to prove or credibly demonstrate their refugee status and there are no grounds preventing their removal, the application shall be rejected without further investigations. 2. The decision must at least be summarily substantiated." Article

102h: Legal representation "1. Each asylum seeker shall be assigned a legal representative from the start of the preparatory phase and for the remainder of the asylum procedure, unless the asylum seeker expressly declines this. 2. The legal representative assigned shall inform the asylum seeker as quickly as possible about the asylum seeker's chances in the asylum procedure. 3. Legal representation shall last, under the accelerated and the Dublin procedure, until a legally binding decision is taken, or until a decision is taken about carrying out an extended procedure. Article 102i is reserved. 4. Legal representation shall end when the legal representative assigned informs the asylum seeker that he or she does not wish to submit an appeal because it would have no prospect of success. This shall take place as quickly as possible after notification of the decision to reject asylum." Article 102i: Tasks of the provider "1. The provider under Article 102f paragraph 2 is responsible in particular for providing, organising and implementing counselling and legal representation in federal centres. It shall ensure the quality of the counselling and legal representation. 2. The provider shall determine the persons to whom counselling and legal representation is assigned. It shall assign the persons responsible for legal representation to the asylum seekers. 3. Persons professionally involved in counselling asylum seekers are allowed to provide counselling. 4. Attorneys are allowed to provide legal representation. Persons with a university degree in law who are involved in counselling and representing asylum seekers professionally are also allowed to provide legal representation." Article 102j "1. Following allocation to a canton, asylum seekers may contact a legal advice agency or the legal representative allocated free of charge at steps of the procedure at first instance relevant to the decision, in particular if an additional interview is held on the grounds for asylum. 1bis. Following allocation to a canton, asylum seekers may contact a legal advice agency or the legal representative allocated free of charge for the advice and assistance under Article 102k paragraph 1 letter g unless this advice and assistance has already been provided in a federal centre. ..." Article 108: Time limits for appeals "... 3. An appeal against decisions to dismiss an application and against rulings in accordance with Article 23 paragraph 1 and Article 40 in conjunction with Article 6a paragraph 2 letter a must be submitted within five working days of notification of the ruling." Article 109: Time limits for decisions "... 3. In the case of appeals against decisions to dismiss an application and against rulings under Article 23 paragraph 1 and Article 40 in conjunction with Article 6a paragraph 2 letter a, it normally decides within 5 working days. 4. The time limits laid down in paragraphs 1 and 3 may be exceeded by a few days if there are valid reasons. ..." Article 111a: Procedure and decision "1. The Federal Administrative Court may dispense with an exchange of written submissions. ..." 2. RELEVANT DOMESTIC PRACTICE

E. 44

The Federal Council designated Albania as a State where there is protection from persecution, within the meaning of Article 6a of the LAsi, in Annex 2 to the Asylum Procedure Ordinance 1 of 11 August 1999 ("OA 1", RS 142.311). On the basis of the political situation in that country and the human rights situation as regards the rights guaranteed by the UN International Covenant on Civil and Political Rights of 16 December 1966, it considered Albania to be a "safe native country or country of origin" and a "safe third country". Asylum-seekers are presumed to be safe from persecution in safe native countries or countries of origin, and the principle of non-refoulement is presumed to be respected in safe third countries. An asylum-seeker may, however, rebut this presumption and prove the contrary. Where European States are concerned, affiliation to the Council of Europe and ratification of and compliance with the Convention are of particular importance

to their classification as safe countries or safe third countries. The time-limit for appealing against a decision to return an asylum-seeker to a safe country is five working days from notification of the decision. In principle, the TAF must rule within five working days on appeals against such decisions.

E. 45

Asylum-seekers are interviewed by the SEM. If the SEM considers that the interview clearly shows that refugee status is unlikely to be granted and if there are no obstacles to removal from Switzerland, the claim is rejected without further investigation (Article 40 LA_{si}, paragraph REF paragraph00043 \h 43 above). The fact that an asylum-seeker comes from a safe country of origin or from a safe third country may constitute an argument in favour of applying the accelerated procedure without additional examination rather than the extended procedure. During an extended procedure, additional investigative measures (for example a thorough examination of the documents filed or information from the Swiss embassy in the country concerned) may be initiated (Article 26d LA_{si}, paragraph REF paragraph00043 \h 43 above). 3. RELEVANT COUNTRY INFORMATION ON ALBANIA

E. 46

For the latest overview of the country of origin information about Albania by national and international organisations, see A.D. and Others v. Sweden , no. 22283/21, §§ 39-44, 7 May 2024. Erwägungen THE LAW 1. ALLEGED VIOLATION OF ARTICLES 2 AND 3 OF THE CONVENTION

E. 47

The applicants complained that their removal to Albania would be in breach of Articles 2 and 3 of the Convention, which read as follows: Article 2 "1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law." Article 3 "No one shall be subjected to torture or to inhuman or degrading treatment or punishment." 1. Admissibility

E. 48

The Government submitted that the applicants had not exhausted domestic remedies in respect of the new facts and evidence, which referred to time periods both before and after the TAF's decision of 29 December 2020. They argued that those new elements had not been provided to the Swiss authorities although they could and should have been relied on in the context of an application for review and an application for reconsideration of the asylum claim.

E. 49

The applicants replied that they had provided numerous documents and items of evidence at their interviews, but that the SEM officer had refused to put some of them in the file, saying that the documents in question should be left with their representative. They explained that their legal representative in the extended procedure had not sent any more documents to the SEM after the interviews. During the TAF process, they explained that their representative after they had been transferred to the canton had not told them that the SEM had rejected their asylum claim, nor consulted them about appealing to the TAF. They said that they had subsequently asked the same legal representative to file additional evidence, but that he had

been very slow to respond.

E. 50

The Court observes that the gist of the applicants' complaints is that they are at risk of violations of the Convention because of the first applicant's research and publications about the activities of Albanian political actors under the former communist government. It notes that the applicants put the same arguments to the TAF, which examined whether the decision to reject the asylum claim which the applicants were appealing against was compatible with the Convention in its judgment of 29 December 2020. During the interviews for his asylum claim, the first applicant also mentioned that, after arriving in Switzerland, he had resigned from his position of the director of the ICCC, that he had continued to appear in the Albanian media and that he had continued to receive threats (see paragraphs REF paragraph00013 \h 13, REF paragraph00014 \h 14 and REF paragraph00042 \h 42 above). The Swiss authorities were therefore aware that the first applicant had not ceased his political activities after arriving in Switzerland. The applicants also sought a review of the judgment of 29 December 2020 and for their asylum claim to be re-examined, but were unsuccessful (see paragraphs REF paragraph00036 \h 36- REF paragraph00039 \h 39 above). 51. The Court therefore considers that the above-mentioned complaints were raised with the domestic authorities, and it accordingly rejects the Government's objection that domestic remedies were not exhausted. Finding that the complaints were not, moreover, manifestly ill-founded or inadmissible on any other ground referred to in Article 35 of the Convention, the Court declares them admissible. 2. Merits 1. The parties' arguments 1. The applicants 52. The applicants contended that removal to Albania would put their lives at risk. They criticised the Swiss authorities for having based their decisions essentially on the presumption that Albania was a safe country and for having examined their case summarily, without a rigorous assessment of whether there was a real risk of treatment contrary to Articles 2 and 3 of the Convention. They asserted that the authorities had failed to appreciate the political situation in Albania and the highly politicised nature of their case. They alleged that there was a culture of corruption and impunity in Albania, and that the first applicant had a high profile, having denounced many of the perpetrators of crimes committed under the communist regime. In that regard, they stated that he had been the subject of attacks, defamation and threats from various influential individuals, including members of the Albanian Parliament. In their view, the death threats which the first applicant had received before their departure from Albania constituted serious evidence that their fears were well-founded, particularly since, once in Switzerland, the first applicant had continued to denounce former collaborators with the communist regime and had given evidence in the criminal proceedings brought against E.C. in Germany. 53. They considered that the first applicant's work and special status, as well as the threat to his life, had been downplayed and even misrepresented by the Swiss authorities. The fact that he had obtained a copy of a document from the office of the Albanian President in April 2019 did not attest to a support of his cause, but was the normal cooperation to be expected from a State body. In any event, Albania was a parliamentary democracy and the powers of the President as against those of the Parliament were very limited, so such support would be of limited value. 54. Turning to the argument that the first applicant had not reported the incidents of 31 October and 20 November 2019 to the police, they insisted that those events had to be seen in the context of the inaction of the police in the face of the previous complaints about death threats made by the first applicant and his lawyer in September 2019, as well as the other claims and complaints he had made, all of

which had been ignored. They stressed that the activities of the ICCG had been suppressed after the first applicant's departure, something which the Swiss authorities had also failed to duly take into consideration. 55. In so far as the authorities had questioned the reasons for the first applicant making it public that he had sought asylum on 6 December 2019, they responded by saying that the first applicant's departure had already become known in Albania by that time, and that in any event the first applicant had been careful not to disclose where he was seeking asylum. 56. Disputing the Government's assertions, they insisted that if they were returned to Albania, the Albanian State would be both unwilling and unable to protect them. They disagreed that the political crisis had been overcome after 2019, and submitted that the situation remained volatile and unstable. 57. They also considered that the Swiss authorities had failed to give due weight to the best interests of the children in their examination of the case. 58. In the applicants' opinion, the Swiss authorities had not conducted the asylum procedure with the diligence required given the risk to their lives if they were returned to Albania. In particular, the SEM had refused to accept some significant evidence during the second applicant's interview on 14 January 2020. The first applicant had attempted to file further evidence on 18 February 2020, but that too was returned to him. Most of this evidence concerned the period prior to the applicants' departure from Albania, and therefore it could have strengthened their asylum claim. It was re-submitted to the SEM and the TAF for the purposes of the revision procedure. 59. The applicants pointed out that they had learnt of the appeal to the TAF only after it had been lodged, and that although they had provided additional information and documents to their legal representative in November 2020, he had failed to pass those to the TAF. They therefore questioned whether their legal representation for the asylum proceedings had been adequate and asserted that their representative was to blame for not having sought an extension time to lodge the appeal to the TAF and for not collecting further evidence from them. 60. In relation to the latest set of events, the applicants stated, firstly, that the Munich Prosecutor's office had brought criminal proceedings against E.C. and, secondly, that a key witness in that case had been murdered, adding that the first applicant had played an important role in those proceedings. They insisted that H.B.'s death must have been linked to that investigation, as the first applicant had publicly stated. In respect of the evidence from between 2020 and 2022, in their view it constituted both reliable and strong evidence that the lives of the first applicant and his family would be at risk if they were returned to Albania. 2. The Government 61. The Government submitted that after a thorough examination of all the circumstances of the case and an analysis of the current general situation in Albania both the SEM and the TAF had come to the conclusion that neither the first applicant nor the rest of his family would be exposed to an identifiable and serious risk of treatment contrary to Articles 2 and 3 of the Convention if they were returned to Albania. The decision had been taken after an examination conducted under the extended procedure, despite the designation of Albania as a safe country of origin, and the detailed conclusions of the TAF had not been called into question in any subsequent submissions. 62. The Government asserted that the applicants' asylum claims had been rigorously reviewed by the Swiss authorities and claimed that the applicants had failed to provide sufficient evidence in support of their allegations. They said that the SEM decision was based on three principal grounds: that Albania had been designated a safe country of origin; that there was no evidence of persecution by the Albanian State; and that there was no evidence that Albania had been unable or unwilling to protect the first applicant from persecution by others. In any event, the TAF had not simply referred to the designation of

Albania as a safe country of origin; it had proceeded with a full review of the application in view of the first applicant's high profile, rather than using the procedure employed for a majority of asylum-seekers from that country. In conducting their analysis the TAF had relied on updated and reliable sources, taking into account the current situation in Albania. 63. In so far as the applicants had pointed to a number of documents that the SEM had not taken into account, the Government stressed that it was the function of the SEM to select the evidence that was relevant to the asylum claim. The examination had been rigorous and thorough, and, as the applicants had acknowledged, a large number of the documents they had provided had been taken into account. As to the alleged shortcomings of the legal representative, the Government were of the opinion that the applicants had never raised the issue of their allegedly inadequate legal representation with the domestic authorities or before the Court. Evidence of that problem could have been filed with the SEM or the TAF in the appropriate form and within the applicable time-limits. The applicants' application for revision of 10 November 2021 had also been duly examined. 64. As to their situation prior to their departure from Albania, the Government maintained that the detailed discussions of the SEM and the TAF were correct. They asserted that the suggestions that State agents had been behind the threats made on 20 November 2019 and the attempted break-in into his house were no more than conjectures. The first applicant could have sought protection against the real perpetrators of the incidents from the Albanian State, which was in a position to provide the applicants with adequate protection if necessary. As to the media attacks, the respondent State took the view that, even if they had been particularly sharp and unpleasant, the first applicant had enjoyed support in other publications. The first applicant's observations concerning corruption in the judiciary and of a culture of impunity in the upper echelons of the Albanian State were of a general nature and had no direct connection with his case. The first applicant had never been physically attacked, nor subjected to any legal pursuit in Albania. The fact that his complaints were dismissed did not in itself mean that the authorities wanted to harm the applicants or to deny them protection. The first applicant had been supported publicly by the President of Albania. They also noted the positive political developments in Albania after 2019. 65. With regard to the first applicant's activities in Switzerland, the Government pointed out that the ICCC was still active and that other prominent members of the organisation were still resident in Albania and did not appear to have been targeted after the applicant's departure. The first applicant had stepped down from his position as the director of the ICCC, and there were no reasons to believe that he would still be in danger upon return to Albania. They argued that the positions taken by the first applicant since the beginning of 2020 did not involve any new or critical information that could have endangered him, as stressed in the subsequent examinations. They asserted that the first applicant himself did not consider those points to be particularly important, as he had failed to give the relevant information to the SEM and the TAF in time. They criticised him for having been particularly vague about the other activities he had undertaken after his departure. They found it surprising that the first applicant had made a public announcement in December 2020 that he was seeking asylum abroad, despite claiming that his life was in danger; they also noted that there had been a campaign of support for him, as shown by public statements and letters. 66. As to the events of 2022 and 2023 (see paragraphs REF paragraph00040 \h 40- REF paragraph00042 \h 42 above), the Government did not find that those could alter the conclusions previously reached. The proceedings in Munich against E.C. had already been pending when the asylum claim was made, and there was nothing in the interview of October 2022 to indicate

a real risk of ill-treatment if the applicants were returned to Albania. 67. Overall, there was nothing to support the applicants' claim that they would be in greater danger if returned to Albania than they had been prior to their departure. The Government concluded that Articles 2 and 3 of the Convention presented no obstacles to the applicants' return to Albania. 3. Third party 68. The AIRE Centre observed that in circumstances such as those of the present case the Member States must establish whether there are substantial grounds for believing that an asylum-seeker, if expelled to his or her country of origin, will run a real risk of being subjected to treatment contrary to Articles 2 and 3 of the Convention. It stated that in assessing whether there is a real risk of ill-treatment, the Court must apply the criteria rigorously, and that in the present case, its assessment must focus on the foreseeable consequences of the applicant's expulsion to Albania, taking into account the general situation in that country and the individual circumstances of the person concerned. In their view, the fact that the State to which the asylum-seekers would be returned was a State party to the Convention was not decisive, since Albania faced challenges with regard to the rule of law, its judicial system and the execution of the Court's judgments and the applicants would not, were they to be removed, have any realistic prospect of obtaining protection from the Albanian judicial system. 2. The Court's assessment 1. General principles 69. The relevant general principles have been summarised in the Court's judgments of *F.G. v. Sweden* ([GC], no. 43611/11, §§ 111-27, 23 March 2016); *J.K. and Others v. Sweden* ([GC], no. 59166/12, §§ 77-105, 23 August 2016); *Khasanov and Rakhmanov v. Russia* ([GC], nos. 28492/15 and 49975/15, § 109, 29 April 2022); and, more recently, in *A.M.A. v. the Netherlands* (no. 23048/19, §§ 66-69, 24 October 2024). 70. In particular, the Court reiterates that Contracting States have the right, as a matter of well-established international law and subject to their treaty obligations, including the Convention, to control the entry, residence, removal and deportation of aliens. However, the removal or deportation of an alien by a Contracting State may give rise to an issue under Article 3 of the Convention, and hence engage the responsibility of that State under the Convention, where substantial grounds have been shown for believing that the person in question, if removed or deported, would face a real risk of being subjected to treatment contrary to Article 3 of the Convention in the destination country. In these circumstances, Article 3 of the Convention implies an obligation not to remove or deport the person in question to that country (see *F.G. v. Sweden*, cited above, § 111, and the cases cited therein). 71. The Court further reiterates that, in view of the fact that Article 3 enshrines one of the most fundamental values of democratic societies and prohibits in absolute terms torture and inhuman or degrading treatment or punishment, it is imperative that the risk assessment of the existence of a real risk that is to be carried out by the domestic authorities must necessarily be a rigorous one (see *F.G. v. Sweden*, § 113; *J.K. and Others v. Sweden*, § 77; and *Khasanov and Rakhmanov*, § 109, all cited above). The domestic authorities are obliged to take into account not only the evidence submitted by the applicant but also all other facts which are relevant in the case under examination (*Khasanov and Rakhmanov*, § 113, and *J.K. and Others v. Sweden*, § 87, both cited above). As regards the distribution of the burden of proof, the Court clarified in *J.K. and Others v. Sweden* (cited above, §§ 91-98) that it was the shared duty of an asylum-seeker and the immigration authorities to ascertain and evaluate all relevant facts in asylum proceedings. 72. The Court acknowledges the need to ease the strain of the number of asylum applications received and in particular to find a way to deal with repetitive and/or clearly abusive or manifestly ill-founded applications for asylum. However, given the absolute character of Article 3 of the Convention, such

difficulties cannot release a State from its obligations under that provision (see *A.M.A. v. the Netherlands*, cited above, § 69, with further references). In this context, it addressed the issues arising in situations of removals to a "safe country" in the case of *Ilias and Ahmed v. Hungary* ([GC], no. 47287/15, §§ 139-141, 21 November 2019, with further references). 73. If an applicant has not already been deported, the material point in time for the assessment must be that of the Court's consideration of the case. A full and *ex nunc* evaluation is required where it is necessary to take into account information that has come to light after the final decision by the domestic authorities was taken (see *Khasanov and Rakhmanov*, cited above, § 106). When carrying out the risk assessment, it is a firmly established principle that the Court may obtain relevant materials of its own motion (*ibid.*, § 116). 2. Application of these principles in the present case 74. The issue before the Court is whether the domestic authorities' risk assessment prior to the decision on the applicants' removal met the procedural standards required by Articles 2 and 3 of the Convention. The Court observes, first, that as regards the general situation in Albania, it has no reason to doubt the appropriateness of its designation as a safe country, so that a return to that country would not in principle result in a violation of Article 3 of the Convention (see *A.D. v. Sweden*, cited above, §§ 68-71). The Court then has to examine the applicants' individual circumstances. 75. The applicants sought refugee status from the domestic authorities on the basis that the first applicant had been carrying out research into the activities of the secret police during the communist era and into former members of the communist government, some of whom allegedly still held influential positions in Albanian state institutions (see paragraphs REF paragraph00006 \h 6- REF \h 14 above). The applicants asserted that those activities had put the first applicant and his family at direct risk of death and ill-treatment, and that the authorities had been unwilling or unable to protect them. 76. The Court observes that Swiss authorities have not expressed any disagreement with the applicants' assertions as to the factual circumstances. The authorities essentially found that the attacks on the first applicant were individual initiatives and did not emanate from the Albanian State; that there was no evidence that the current authorities had intended to harm him for reasons connected with his work; that the hostility experienced by the first applicant had not reached a level at which it would call for protection under Article 3; and that the Albanian State was able and willing to protect him against third party attacks. 77. The Court finds that the examination of the applicants' asylum claim conducted by the Swiss migration authorities and the TAF cannot be seen as failing the standard of "rigorous assessment". 78. First, despite the fact that Albania was designated as "safe country of origin" within the meaning of Article 6a(2)(a) LAsi (see paragraphs REF paragraph00043 \h 43 and REF paragraph00044 \h 44 above), in view of the family's profile the SEM decided in February 2020 that the decision should be taken following the extended procedure (see paragraph REF paragraph00023 \h 23 above). The SEM then rejected their claim in a detailed decision dated 12 October 2020 (paragraphs REF paragraph00025 \h 25- REF paragraph00028 \h 28 above). After assessing the risk of the applicants being subjected to treatment prohibited by the Convention if returned to Albania, the TAF confirmed the SEM's decision in a judgment of 29 December 2020 (paragraphs REF paragraph00030 \h 30- REF paragraph00035 \h 35 above). The TAF noted, first of all, the first applicant's high profile as a political figure. On the presumption that Albania was a safe country of origin, the TAF found that there was no significant state persecution there and that the country was able to offer its nationals effective and efficient protection against persecution by third parties (non-state actors). It then examined whether the applicants had provided specific and detailed evidence of

persecution to rebut the presumption that Albania was a safe country. The TAF analysed the first applicant's activities and the attacks on him and concluded that the attacks were exclusively the result of individual initiatives and that they in no way concerned the Albanian State, as the Albanian authorities were in a position to provide the applicants with adequate protection. It therefore does not appear that the procedure placed an unduly heavy burden on the applicants or that it was too restrictive given Albania's designation as a safe country of origin (compare with *M.D. and M.A. v. Belgium*, no. 58689/12, § 65, 19 January 2016). 79. Second, several detailed interviews were held with the first, second and third applicants. During the interviews they provided substantial documentary evidence to support their claim, and by the end of the interviews they were satisfied that full background information had been presented (see paragraphs REF paragraph00018 \h 18- REF paragraph00022 \h 22 above). During the interviews they were assisted by an interpreter and legal advisers, as was the also the situation on appeal, and they have never made any formal complaints about their legal representation. There is therefore no indication that these proceedings lacked effective procedural safeguards or were otherwise flawed. 80. Turning to the applicants' procedural challenges, the Court finds no evidence to support the applicants' assertion that important elements of their claim were overlooked or even misinterpreted. Even if the SEM did not accept certain further documents during the interviews and those documents were therefore not taken into account by the TAF, there is nothing to suggest that any of those documents would have led the authorities to a different conclusion. The applicants made extensive oral statements about the relevant events and have acknowledged that the additional documents could have strengthened their application but did not contain any new issues (see paragraph REF paragraph00058 \h 58 above). The Court is satisfied that the migration authorities knew about those documents and did not consider them sufficiently relevant to the asylum claim, given the other evidence provided by the applicants; it further accepts that the applicants did not ask for those documents to be filed at the end of the interviews (see paragraphs REF paragraph00020 \h 20 and REF paragraph00021 \h 21 above) or afterwards (compare and contrast with *M.D. and M.A. v. Belgium*, cited above, §§ 65-67). Lastly, all relevant documents were provided by the applicants to the SEM and the TAF during the revision and re-examination process (see paragraphs REF paragraph00037 \h 37- REF paragraph00039 \h 39 above). Even if those proceedings were of limited scope, they concluded that none of those documents indicated a risk of persecution or inhuman treatment of the applicants if they were removed. 81. Nor does the Court find, as the applicants alleged, that the Swiss authorities had failed to take into account events that had occurred after the applicants' departure from Albania in November 2019. On the contrary, it is evident from the decisions taken between 2020 and 2022 that the SEM and the TAF had taken note of the first applicant's continued media activity after his arrival in Switzerland and of other developments such as his questioning by the German authorities in the context of proceedings that had been going on since 2019 (see, a contrario, *K.I. v. France*, no. 5560/19, § 144, 15 April 2021). They concluded that none of those occurrences warranted a different conclusion as to the lack of danger to the applicants were they to return to Albania. 82. Lastly, the Court finds that the Swiss authorities relied on contemporaneous and reliable sources about the situation in Albania (see *Khasanov and Rakhmanov*, cited above, §§ 102-103). The reports they considered indicated that although Albania continued to face some challenges in the functioning of the judiciary and law enforcement, by 2020 the previous acute political crisis had been overcome and the overall situation did not suggest that the authorities would be unable to

protect the population in general or someone with the first applicant's high profile (see also *A.D. v. Sweden*, cited above, § 71). The SEM and the TAF noted a lack of reports of persecution of the first applicant's colleagues and successor, and his change of status and the public support for his cause (see paragraphs REF paragraph00033 \h 33 and REF paragraph00034 \h 34 above). The Court does not find any reasons to question the reliability of these sources or the conclusions drawn. 83. The Court reiterates that domestic authorities are best placed to assess facts when making a risk assessment (see, among other authorities, *F.G. v. Sweden*, § 118, and *Khasanov and Rakhmanov*, § 105, both cited above). It is satisfied that in the present case the presumption that Albania was a safe country was sufficiently supported by an appropriate assessment of the applicants' individual situation (see, *mutatis mutandis*, *Ilias and Ahmed*, cited above, §§ 139-41) and finds no reasons to substitute its own evaluation for that of the domestic authorities. 84. In these circumstances, it finds no violation of Articles 2 and 3 in case of the applicants' removal to Albania.

2. ALLEGED VIOLATION OF ARTICLE 13 IN CONJUNCTION WITH ARTICLES 2 AND 3 OF THE CONVENTION

85. The applicants complained that they had no effective remedies against the above violations as provided in Article 13 of the Convention, which reads as follows: Article 13 "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity." 86. Having regard to the Court's above findings under Articles 2 and 3 of the Convention, the Court considers that the applicants' complaint under Article 13 amounts to a restatement of their arguments under those Articles. Even if this complaint was declared admissible, there is no need to give a separate ruling on it.

3. RULE 39 OF THE RULES OF COURT

87. The Court reiterates that, in accordance with Article 44 § 2 of the Convention, the present judgment will not become final until (a) the parties declare that they will not request that the case be referred to the Grand Chamber; or (b) three months after the date of the judgment, if referral of the case to the Grand Chamber has not been requested; or (c) the Panel of the Grand Chamber rejects any request for a reference under Article 43 of the Convention. 88. It considers that the indication made to the Government under Rule 39 of the Rules of Court (see paragraph REF \h 40 above) should remain in force until the present judgment becomes final or until the Court takes a further decision in this connection (see operative part).

ENTSCHEIDUNG FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. Declares the application admissible;
2. Holds that there would be no violation of Articles 2 and 3 of the Convention if the applicants were returned to Albania;
3. Holds that there is no need to examine the complaint under Article 13 of the Convention;
4. Decides to continue to indicate to the Government under Rule 39 of the Rules of Court that it is desirable in the interests of the proper conduct of the proceedings not to expel the applicants until such time as the present judgment becomes final or until further notice.

Done in English, and notified in writing on 22 October 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court. Olga Chernishova Pere Pastor Vilanova Deputy Registrar President

APPENDIX List of applicants: Application no. 9577/21 No. Applicant Year of birth Nationality

1. Y 1967 Albanian
2. Z 1980 Albanian
3. A 2005 Albanian
4. B 2006 Albanian
5. C 2009 Albanian
6. D 2013 Albanian
7. E 2015 Albanian