



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

FOURTH SECTION

**CASE OF BAJRAMI v. ALBANIA**

*(Application no. 35853/04)*

JUDGMENT  
(Revision)

STRASBOURG

18 December 2007

**FINAL**

*18/03/2008*



**In the case of Bajrami v. Albania (request for revision of the judgment of 12 December 2006),**

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

Sir Nicolas BRATZA, *President*,

Mr J. CASADEVALL,

Mr G. BONELLO,

Mr K. TRAJA,

Mr L. GARLICKI,

Ms L. MIJOVIĆ,

Mr J. ŠIKUTA, *judges*,

and Mr T.L. EARLY, *Section Registrar*,

Having deliberated in private on 27 November 2007,

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

## PROCEDURE

1. The case originated in an application (no. 35853/04) 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 ethnic Albanian from Kosovo, Mr Agim Bajrami (“the applicant”), on 27 September 2004.

2. In a judgment delivered on 12 December 2006, the Court held that there had been a violation of Article 8 of the Convention on account of the authorities’ failure to provide any framework affording the applicant the practical and effective protection that was required by the State’s positive obligation enshrined in Article 8 and that there was no need to examine separately the complaint under Article 6 § 1 of the Convention. The Court also decided to award the applicant 15,000 euros (EUR) for non-pecuniary damage and EUR 10,000 for costs and expenses and dismissed the remainder of the claims for just satisfaction.

3. On 28 June 2007 the Government informed the Court that they had learned that the applicant had died on 10 November 2006. They accordingly requested revision of the judgment within the meaning of Rule 80 § 1 of the Rules of Court.

4. On September 2007 the Court accepted the request for revision (Rule 80 § 1 of the Rules of Court) and decided to give the applicant’s representative three weeks in which to submit observations on the Government’s revision request. Those observations were received on 22 October 2007.

## THE LAW

### THE REQUEST FOR REVISION

5. The Government requested revision of the judgment of 12 December 2006, on the ground that they had been unable to execute it because the applicant had died before the judgment had been adopted. According to the Government, the applicant's heirs should therefore receive the sums awarded to the deceased.

6. The applicant's representative stated that the applicant's father had expressed his wish to take part in the execution of the Court's judgment and that he had no observations to make on the request for revision. He made no reference to the applicant's minor daughter whose custody was the main subject of the proceedings before the domestic courts and of the Court's judgment.

7. The Court considers that the judgment of 12 December 2006 should be revised pursuant to Rule 80 § 1 of the Rules of Court, which provides:

“A party may, in the event of the discovery of a fact which might by its nature have a decisive influence and which, when a judgment was delivered, was unknown to the Court and could not reasonably have been known to that party, request the Court ... to revise that judgment.

...”

8. In view of the circumstances, the Court considers that the award made to the deceased applicant should be paid to his heir or heirs as identified in his will or, if he died intestate, in accordance with the provisions of the domestic law governing succession. Article 41 of the Court's judgment of 12 December 2006 should be revised accordingly.

### FOR THESE REASONS, THE COURT UNANIMOUSLY

1. Decides to revise its judgment of 12 December 2006 as regards the application of Article 41 of the Convention;

accordingly,

2. Holds

(a) that the respondent State is to pay to the heir or heirs of the applicant, to be identified according to his will or, if he died intestate, according to the domestic law on succession, within three months from the date on which the revised judgment becomes final in accordance with Article 44 § 2 of the

Convention, the following amounts, to be converted into the national currency of the respondent State at the rate applicable on the date of settlement, plus any tax that may be chargeable:

(i) EUR 15,000 (fifteen thousand euros) in respect of non-pecuniary damage;

(ii) EUR 10,000 (ten thousand euros) 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 amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 18 December 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY  
Registrar

Nicolas BRATZA  
President