PROTECTION OF PROPERTY

DEPARTMENT FOR THE EXECUTION OF JUDGMENTS OF THE EUROPEAN COURT OF HUMAN RIGHTS

DG1

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PROTECTION OF PROPERTY

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Article 1 of Protocol No. 1 to the European Convention on Human Rights enunciates the principle of the peaceful enjoyment of one's property and subjects its deprivation to conditions, protecting a person against unjustified interference by the State. Under the European Court's case-law, attention must be paid to maintaining a fair balance between the competing interests of the individual and of the community as a whole. The Court has also stressed that, in cases of interference by a private individual, a positive obligation arises for the State to ensure in its domestic legal system that property rights be sufficiently protected by law and that adequate remedies be provided.

The present factsheet provides examples of general and individual measures reported by States in the context of the execution of the European Court's judgments, concerning notably: protection of one's possessions such as pensions, social welfare benefits, bank deposits, intellectual property; access to justice and enforcement of property-related judicial decisions awarding damages; restitution of property in the context of nationalisations and expropriations, as well as compensation for loss of one's property; the control of use of property through: legal control of tenancies, business licences, urban planning and granting of building permits, bankruptcy, insolvency and/or enforcement proceedings, seizure and confiscation, taxation, reforestation, and hunting-related regulations.

1. PEACEFUL ENJOYMENT OF POSSESSIONS

1.1. Pensions and social welfare benefits

The Court found disproportionate the full and lifetime deprivation of pension rights, based on the provision of Article 62 §1 of the Greek Civil and Military Pensions Code, following a criminal conviction, involving total exclusion of social coverage, including health insurance, thus leading to the loss of means of subsistence of a person who has reached retirement age. After the Court's judgment, in November 2011, the applicant appealed before the Court of Auditors against the decision that deprived him of his pension. By decision No. 3263/2014 the impugned decision was annulled. On 8.6.2015 the Competent Directorate of Pensions restored the pension rights of the applicant and paid retroactively the pension he was entitled to since 1.1.2000. On a general level, this judgment entailed the change of case-law of the Court of Auditors, which declared unconstitutional the impugned provision, which was eventually repealed in 2017.	***GRC / Apostolakis (39574/07)*** ***Judgment final on 01/03/2010*** **Final Resolution CM/ResDH(2018)204**
In response to the Court's finding erroneous the Greek Audit Court's interpretation and application of domestic legislation in determining the date from which the applicants could receive retroactive payment of pension rights, the Plenary Session of the Court of Audit concluded that its previous approach was contrary to both the Constitution and the Convention. It found that, when pension rights are rejected by the administration, but granted in subsequent judicial proceedings, the starting point for the time-limit for retroactive payment should be the final administrative decision of the competent administrative authorities rejecting the claim in violation of national law. As for the applicants in *Kokkinis and Reveliotis*, and *Kostadimas and Others*, the just satisfaction in respect of pecuniary damage awarded by the Court included the additional amounts that the applicants would have received if the starting point of the retroactive period of reassessment of their pension had been that of the publication of the final decision of the administrative authorities (supervisory committee of the Public Accounting Department). In both cases a default interest *per annum* was further added by the European Court and paid by the Hellenic Government.	***GRC / Kokkinis (45769/06)*** ***Judgment final on 06/02/2009*** ***GRC / Reveliotis (48775/06)*** ***Judgment final on 04/03/2009*** **Final Resolution CM/ResDH(2012)87** ***GRC / Kostadimas and Others (45769/06)*** ***Judgment final on 26/09/2012*** **Final Resolution CM/ResDH(2013)176**
The violations found stem from a legislative intervention of 2010, retrospectively cancelling the possibility for persons accidentally contaminated through blood transfusions or by blood derivatives to obtain an annual adjustment of their compensation allowance, based on the inflation rate of the supplementary component (the "IIS"). In response, the authorities guaranteed that, as from 2012, the IIS be submitted to an annual adjustment. Furthermore, the authorities at central and regional levels paid, on the basis of budgetary allocations, to the persons accidentally contaminated (or their heirs), the arrears corresponding to the adjustment of the IIS from the date the compensation allowance was granted. In particular, the arrears to be paid by the central and regional authorities were cleared before the end of 2014 and 2018	***ITA / M.C. and Others (5376/11)*** ***Judgment final on 03/12/2013*** **Final Resolution CM/ResDH(2021)30**

respectively. As for the damages suffered by the applicants, the amounts owed by the Government under the friendly settlement concluded with the applicants were paid.

The Court criticised *inter alia* the authorities' refusal to take into account the applicant's years of employment in the former Soviet Union when calculating her entitlement to a retirement pension because she did not have Latvian citizenship. To prevent recurrence of similar violations, the Agreement between Latvia and the Russian Federation on Co-operation in the Field of Social Security was signed and entered into force on 19/01/2011. It provided that the retirement pension concerning periods of work that were acquired on the territory of one Contracting Party by 31 December 1990, is granted and paid by that Contracting Party on the territory of which the person applying for the retirement pension resides. Following the recalculation of retirement pensions based on the Agreement, the average period of work taken into account for calculating the pension increased by five years. In May 2018, there were 8,800 permanent resident non-citizens who had been granted retirement pension or recalculation of rights due to working periods accrued in the Russian Federation. Examples of recent case-law of administrative courts concerning claims for recalculation of retirement pensions *ex tunc* or pecuniary damages were submitted, showing that each individual situation is now carefully examined. The applicant received the just satisfaction awarded by the Court in respect of all damages sustained.	***LVA / Andrejeva (55707/00)*** ***Grand Chamber Judgment of 18/028/2009*** **Final Resolution CM/ResDH(2018)362**
In response to the Court's criticism of the domestic courts' refusal to grant the applicant redundancy payments, contrary to what was stated by the domestic law, the authorities paid the just satisfaction in respect of the pecuniary and non-pecuniary damaged suffered, notably the one-off compensation equal to the applicant's monthly salary at his dismissal, his salary for two months after his dismissal and payment for unused leave. The 2003 Labour Code provided that indemnities and compensation be paid to employees made redundant. Moreover, new guidance was issued in 2012 by the Supreme Court of Justice, related to the payment of redundancy compensation and the authorities provided examples of case-law illustrating that the relevant provisions of the Labour Code are properly applied in practice.	***MDA / Cazacu (40117/02)*** ***Judgment final on 23/01/2008*** **Final Resolution CM/ResDH(2019)5**
This case concerns the retroactive deprivation of a retirement pension by decision of the Pension and Disability Fund to discontinue payment of the applicant's retirement pension following the discovery of an error concerning the assessment of her pension rights and requesting reimbursement of amounts paid between 2000 and 2007, resulting in the total loss of her retirement pension, which constituted her sole source of income. In response, the just satisfaction amounts awarded by the Court for non-pecuniary and prospective pecuniary damage incurred by the applicant were paid by the authorities. In November 2009, the applicant was granted a newly calculated retirement pension, which is regularly paid. The enforcement proceedings started against the applicant in 2014 were discontinued in 2019. Following the applicant's request, of January 2020, for refund of the amount of retirement pension recovered in the enforcement proceedings, plus interest, this amount was transferred to the applicant in May 2020. With regard to general measures, the Act on Pension and Disability Insurance of 2012 regulated the collection of data regarding employment under the jurisdiction of the Fund, the overview of which is submitted to each beneficiary and to employers, self-employed persons or individual farmers twice a year. Beneficiaries may ask for rectification if needed. The Administrative Procedure Act of 2015 provided that a public authority that delivered an administrative act against which an administrative action is initiated, may annul or change that act before the final	***MKD / Romeva (40117/02)*** ***Judgment final on 12/03/2020*** **Final Resolution CM/ResDH(2209)277**

decision. The 2015 Act also introduced the principle of proportionality. Lastly, in July 2020, the Higher Administrative Court adopted a conclusion which expressly referred to the Court's findings that authorities are to respect the principle of proportionality, thus avoiding imposing an excessive burden on the individual that has acted bona fide, especially taking into consideration his/her financial situation.	
Finding unlawful the suspension of payment by the Serbian Pensions and Disability Insurance Fund (SPDIF) of pensions earned in the Autonomous Province of Kosovo and Metohija for more than a decade, the Court requested that "the respondent Government […] take all appropriate measures to ensure that the competent Serbian authorities implement the relevant laws in order to secure payment of the pensions and arrears in question." In 2013, in order to prevent recurrence of similar violations, in light notably of the large number of potential applicants, the authorities published an invitation in a number of newspapers in Serbia and in Kosovo as well as on the website of Serbian Pensions and Disability Insurance Fund (SPDIF) inviting eligible persons to apply for the resumption of payment of their pensions earned in Kosovo. Applicants whose applications for resumption of payments were rejected could lodge an appeal to the second instance administrative authority. Should this appeal be rejected, it was possible to bring administrative proceedings before the Administrative Court and, subsequently, to file a constitutional complaint before the Constitutional Court. The Constitutional Court also developed a body of ECHR compliant case-law in similar pension matters (see in this regard the *Skenderi and Others* inadmissibility decision, Application No.15090/08). The authorities indicated that 533 decisions were taken to resume payment of pensions. The applicants received the just satisfaction amounts awarded by the Court for non-pecuniary damage. As to the pecuniary damages suffered, the pensions due plus statutory interest were paid.	***SER / Grudić (31925/08)*** ***Judgment final on 23/01/2008*** **Final Resolution CM/ResDH(2019)5**
The Court criticised the excessive burden put on the applicant with a work-related disability, due to the reduction of his disability allowance to less than half following a reassessment of his employment capacity. To avoid recurrence of such violations, the amendments to the Pensions and Disability Insurance Act entered into force in 2020, providing that beneficiaries in a situation similar to the applicant's shall be entitled to file a request for annulment of the final decision and for the payment of the amount granted under prior disability insurance rights from the first day of the month following the change. Prior to the above amendment, domestic courts had modified their case-law in order to take into account the European Court's case-law. The Government paid the applicant the just satisfaction awarded by the Court for pecuniary (representing the difference in benefit amount between the 1992 Act and the 1999 Act) and non-pecuniary damage. The applicant fulfilled the conditions for retirement in 2013.	***SVN / Krajnc (38775/14)*** ***Judgment final on 31/01/2018*** **Final Resolution CM/ResDH(20120)115**
The Court criticised the discriminatory refusal of the authorities to grant an old-age pension to the applicant, a Serbian national and permanent resident of Slovenia at the time, on the grounds of non-compliance with Slovenian nationality criterion, enshrined in a 1998 Act. The facts of the case took place before the legislative framework had been amended to prevent similar violations. The Agreement on Succession Issues of 2004, signed by all former Yugoslav republics, and the Agreement between the Republic of Slovenia and the Republic of Serbia on Social Security and Administrative Arrangement on the Implementation of the Agreement between the Republic of Slovenia and the Republic of Serbia on Social Security of 2010, indicated which former republic has the obligation to grant the old-age pension. The authorities assured that a situation similar to that of the applicant could not recur, as all individuals who had paid their contributions to a special military pension fund are now entitled to pension from	***SVN / Ribać (57101/10)*** ***Judgment final on 11/10/2017*** **Final Resolution CM/ResDH(2018)420**

the State which citizenship they have or where they permanently reside, should they have several citizenships.
As regards the applicant, he was granted an old-age pension as from 2003 and also received the just satisfaction awarded by the Court for non-pecuniary and pecuniary damage (comprising the compensation for fifty-two unpaid pension instalments to which he would have been entitled without discriminatory treatment).

1.2. Bank deposits

MDA / Dolneanu (17211/03)

Judgment final on 13/02/2008

Final Resolution CM/ResDH(2018)413

The violation originated from the belated payment of a compensation to partially recover the depreciation of the applicant's deposits at the State Savings Bank. To prevent recurrence of similar situations, a new law on indexation of bank deposits was adopted on 12/12/2002 and a special state-owned Fund Guaranteeing Banking Savings was established by Law No. 575 of 26/12/ 2003. In 2015, the authorities allocated to the Savings Bank 50 million MDL (around 2, 37 million Euros) for the payment of compensation for depreciated savings. In March 2017, the Government adopted a series of amendments to the indexation and the way of payment of the savings of individuals at the Savings Bank and MDL 40 million (about EUR 1,91 million) were further allocated for the payment of depreciated savings. Moreover, regular budgetary allocations are being made for the enforcement of these obligations. Following the liquidation of the Savings Bank (2015-2016), the payment of compensation is now made through the Post of Moldova (*Poşta Moldovei*). As to the applicant, the authorities paid the just satisfaction amount awarded by the Court in compensation for the pecuniary and non-pecuniary damage incurred.

SER / Ališić and Others
SVN / Ališić and Others (60642/08)

Grand Chamber judgment of 16/07/2014

Final resolution in respect of Serbia CM/ResDH(2020)184

Final resolution in respect of Slovenia CM/ResDH(2018)111

Having found a systemic problem under Article 46 of the Convention, the Court asked the Governments of Serbia and Slovenia to make the necessary arrangements to grant the applicants and other persons in similar situations an effective possibility to recover "old" foreign-currency savings deposited in the Bosnian-Herzegovinian branches of banks with head offices in Slovenia and Serbia under the same conditions as their nationals.
In response, in July 2015, the Slovenian authorities adopted a law introducing a repayment scheme for the deposits held in Ljubljanska Banka's branches in Sarajevo and Zagreb. A similar repayment scheme was provided by the Serbian authorities, with the 2016 Ališić Implementation Act, amended in 2019, for the deposits held by citizens of the Socialist Federal Republic of Yugoslavia's (SFRY) successor States in Serbian banks. The Slovenian Act set up a user-friendly procedure to verify entitlements and the balance of unpaid savings and mandated the Succession Fund of Slovenia to do this. The filing period was open from 01/12/2015 to 31/12/2017. Entitled beneficiaries were the original "old" foreign-currency savers, their heirs and also natural persons on the basis of a valid legal transaction as well as civil legal persons who, under the Socialist Federal Republic of Yugoslavia's (SFRY) regulations on foreign currency transaction, had held unpaid "old" foreign-currency savings. In the inadmissibility decision in *Hodžić*, the Court found that the repayment scheme met the criteria set out in the *Ališić* pilot-judgment. The Act and its repayment scheme were effectively implemented. This case's closure does not prejudice ECHR conclusions in other cases, including those addressing the issue of responsibility for repayment of deposits held in the Ljubljanska Banka's Sarajevo Branch which

were transferred to restricted privatisation accounts in accordance with the legislation of Bosnia and Herzegovina.
As for the applicants, the Slovenian authorities reached friendly settlements with them, providing for the repayment of their deposits based on the terms set out in the law adopted to execute this judgment.
In Serbia, on 28/12/2016, the Ališić Implementation Act was adopted, aiming at introducing a repayment scheme for the "old" currency-savings deposited in foreign branches of Serbian banks. In the inadmissibility decision in *Muratović*, the Court found that the repayment scheme met the criteria set out in the *Ališić* pilot-judgment. In 2017, the Government adopted the Regulation on the procedure for the establishment of the right to payment of foreign-currency savings. The entitled beneficiaries were expected to lodge their application for verification with the Public Debt Administration of the Ministry of Finance by 23/02/2018. Decisions taken in this respect by an *ad hoc* committee, setup for this purpose by the Government, are subject to judicial review Act. The amount determined in the verification proceedings would be reimbursed to the depositors in the form of government bonds by February 2023. Finally, the necessary administrative arrangements to ensure the efficient functioning of the repayment scheme were put in place as well as cooperation arrangements with other SFRY successor States in view of the need to clearly establish the amounts of deposits used in the privatisation process. The Act and its repayment scheme were effectively implemented. The statistical data submitted confirm that the bulk of the applications were resolved positively, and repayment was ordered with regard to 75% of the amounts claimed.
As for the applicant, the just satisfaction for non-pecuniary damage was paid by the Serbian authorities and, in January 2020, he received full repayment of his pecuniary claim, interests included.

1.3. Intellectual property

MDA / Balan (2283/12)

Judgment final on 29/04/2008

Final Resolution CM/ResDH(2018)414

The applicant's property rights were infringed upon due to the unlawful use by the Ministry of Internal Affairs of a photograph taken by the applicant and protected by copyright for use as an identity card, and of the domestic courts' refusal to grant him appropriate compensation. To prevent recurrence of similar situations, the 1994 Law on Copyright and Related Rights was replaced by a new law in 2011, providing that a court may issue an injunction prohibiting the continuation of the infringement. The holder of copyright may request the court or other competent bodies to acknowledge his/her rights and the fact of infringement, to order the re-establishment of the situation before the infringement, cessation of actions and compensation for the pecuniary and non-pecuniary damage incurred. The State Agency on Intellectual Property, established in 2004, develops and applies policies for the protection, exercise and enforcement of copyright, receives and examines applications for the registration of copyright products and issues registration certificates on behalf of the State. The Mediation and Arbitration Body and the Appeals Board operating in the framework of the State Agency, ensure extra-judicial settlement of disputes in the field of intellectual property as well as of disputes in the field of collective management of copyright and related rights. The National Institute of Justice continuously carries out training activities for judges and judicial assistants on the Convention standards, notably on matters related to protection of intellectual property.

As regards the applicant, the use of the photograph taken by him ceased in 2000. The impugned proceedings were reopened and decided in his favour. The applicant was also paid the just satisfaction awarded for the non-pecuniary and pecuniary damage incurred.	
The Court criticised the unjustified retroactive application by the domestic courts of section 31(2) of the Turkish Patent Institute Act to the detriment of the applicant company, thereby depriving it of its trademark rights, especially since the disputed legislation was subsequently annulled by the Constitutional Court. In response, the Government recalled that the impugned piece of legislation was found unconstitutional and declared void by the Constitutional Court in 2008. Moreover, with the new Code of Industrial Property adopted in 2016, the name of a newspaper is also protected, thus preventing recurrence of similar violations. In addition, in its judgment of March 2018 (No. 2015/3068), the Constitutional Court found that the retroactive application of the impugned Patent Institute Act constituted a violation of the applicant's right to a fair trial, thus interpreting the domestic legislation in line with the case-law of the European Court. As regards the applicant company, the authorities paid the just satisfaction awarded by the Court for non-pecuniary damage incurred. The applicant did not request, within the time-limit set by the law, the reopening of the litigious civil proceedings.	***TUR / Kamoy Radyo Televizyon Yayıncılık ve Organizasyon A.Ş. (19965/06)*** ***Judgment final on 09/09/2019*** **Final Resolution CM/ResDH(2020)292**

1.4. Property and access to justice

To prevent the recurrence of interferences with property rights in breach of legal certainty as a result of the quashing, in supervisory review proceedings, of final judgments recognising property rights, the impugned supervisory review procedure was repealed by Law No. 8812 of 17/05/2001, pursuant to Article 473 of the Code of Civil Procedure. As for the applicants, the Court considered that *restitutio in integrum* was impossible, as the property is now occupied by a bona fide third party. Therefore, the applicants were awarded just satisfaction in respect of pecuniary and non-pecuniary damages suffered, which was paid.	***ALB / Vrioni and Others (2141/03)*** ***Judgment final on 06/07/2009*** **Final Resolution CM/ResDH(2011)85**
The Court criticised the unjustified suspension (based on very general legal provisions) by the Bulgarian prosecuting authorities of the privatisation of a hotel by the applicant, a Czech company, which was subsequently unable to appeal these decisions before a court. Following the facts in this case, one of the impugned provisions (Article 185§1 of the 1974 Code of Criminal), allowing prosecution authorities "to take necessary measures to prevent a criminal offence for which there is reason to believe will be committed, which may include the temporary impounding of the means which are likely to be used to commit an offence" was repealed by the 2006 Code of Criminal Procedure, which excluded the above provision. The authorities also noted that, while the Judicial System Act 2007 allows prosecutors to take all measures provided by law, if they have information that a publicly prosecutable criminal offence or other illegal act may be committed, it is not in itself a sufficient legal ground for the prosecutors to order measures similar to those criticised by the Court. Outstanding questions concerning the safeguards in this respect are examined in the context the International Bank for Commerce and Development *AD and Others v. Bulgaria* case.	***GRC / Zlínsat, SPOL. S. R.O. (57785/00)*** ***Judgment final on 15/09/2006*** **Final Resolution CM/ResDH(2019)337**

As for the applicant company, its property was returned to it and the authorities paid just satisfaction for pecuniary damage for the deterioration of the property and loss of profits.	
The Court found that the Supreme Court's judgment ordering the applicant company to pay additional legal costs allegedly incurred by another company, which had not been a party to the main proceedings, affected *inter alia* the applicant company's property rights. In response, the authorities indicated that this violation stems from the incorrect application of Article 250 of the Code of civil procedure, which allows the adoption of a supplementary judgment and *per se* does not contradict the principle of *res judicata,* as indicated by the Court itself. To prevent recurrence of similar violations, in April 2013, the Supreme Court of Justice adopted the explanatory decision No. 2 on the extraordinary revision procedure in civil cases, clarifying that the legal grounds that aim at a determination of a case in respect of new claims, at a rehearing of a case or at an appeal in disguise, are prohibited. The applicant company received the just satisfaction awarded by the Court for non-pecuniary and pecuniary (unduly paid amount) damage incurred.	***MDA / Asito (No. 2) (39818/06)*** ***Judgment final on 13/06/2012*** **Final Resolution CM/ResDH(2020)271**
The Court found that the domestic courts' request that the applicant, whose property had been expropriated, reimburse the legal representation costs of the expropriating administrative authority, thereby reducing the amount of the expropriation compensation by 40%, was incompatible with his right to peaceful enjoyment of possessions. To prevent recurrence of similar situations, in 2019, the Court of Cassation changed its case-law on reimbursement of administrative legal fees in expropriation proceedings with reference to the present judgment. Henceforth, the owners of the immovable properties should no longer be held liable for legal administrative fees in the expropriation proceedings. The applicant received the just satisfaction awarded by the Court for the legal fees he was ordered to pay by the domestic courts.	***TUR / Musa Tarhan (12055/17)*** ***Judgment final on 18/03/2019*** **Final Resolution CM/ResDH(2020)137**
In response to the European Court's criticism about the lack of compensation for the arbitrary deprivation of *bona fide* owners from their possessions - a part of the company's initial capital in the *Ukraine-Tyumen* case and a garage in the *Svitlana Ilchenko* case - the 2012 Law on Transfer, Expropriation or Seizure under Martial Law or State of Emergency as well as the 2009 Law on the Expropriation of Private Land Plots and other Immovable Property for Social Needs provided for sufficient legal safeguards to ensure compensation for expropriation of property. Moreover, compensation for unlawful actions by state officers and courts is granted by the Law on compensation of damage caused by unlawful actions of law-enforcement officers/bodies, prosecutor's offices and courts, covering also unlawful confiscation of property. The authorities have also submitted case-law examples of domestic courts' decisions demonstrating the ECHR-compliant application of these compensation mechanisms and the availability of an effective remedy. The applicants were paid the just satisfaction awarded by the Court for the pecuniary damage (*Ukraine-Tyumen* case) and pecuniary and non-pecuniary damage (*Svitlana Ilchenko* case).	***UKR / Ukraine-Tyumen (22603/02)*** ***Judgment final on 04/07/2019*** ***Just satisfaction judgment final on 04/10/2010*** ***UKR / Svitlana Ilchenko (47166/09)*** ***Judgments final on 04/10/2019*** **Final Resolution CM/ResDH(2021)183**

1.4.1. Enforcement of judicial decisions awarding damages

In order to address the problem of non-enforcement or delayed enforcement of final domestic court decisions ordering payment of certain sums in respect of general obligations of the Republika Srpska (RS), in 2009, the impugned Domestic Act 2004 was amended so that the RS general obligations would be paid in cash, together with the associated default interest, which had been accruing until full enforcement. Moreover, the 2012 Domestic Debt Act provided that the RS's internal debt-related obligations are to be settled in cash or by issuing bonds. Judgments registered with the Ministry of Finance are envisaged to be enforced within five years from 2012, in the order in which they were registered.
In terms of individual measures, all impugned domestic proceedings have been enforced and just satisfaction has been paid to the applicants

BIH / Momić and Others (1441/07)

Judgment final on 08/07/2014

BIH / Milinković (21175/13)

Judgment final on 08/07/2014

Final Resolution CM/ResDH(2017)29

1.4.2. Enforcement of judicial decisions awarding war damages

The Court found the failure of the authorities to enforce final domestic court decisions ordering the payment of certain sums for war damages due to a legal suspension of the enforcement of a whole category of final judgments due to the size of the resulting public debt. In response, the Parliament of the Federation of Bosnia and Herzegovina ("FBH") adopted amendments to its Internal Debt Law and the Government adopted a Decision on the Settlement of Final Judgments on War-related Claims in 2011. In 2017, the FBH Ministry of Finance registered 341 domestic final judgments. The authorities obtained the necessary funds and ensured that the payments were made to settle the debts in accordance with the above-mentioned mechanism and legal framework. The Republika Srpska National Assembly adopted the 2012 Act on Domestic Debt and the Government introduced the 2012 settlement plan for the payment of war damages. In 2016, the Republika Srpska Minister of Finance issued a new settlement plan. It envisaged the enforcement of final judgments ordering the payment of war damages in cash within 13 years as from 2016. The cash payment plan was made available to creditors who are not willing to accept settlement of their claims through the government bond plan. The enforcement of outstanding judgments would continue under the terms of the established legal framework.
In terms of individual measures, in six out of these nine cases, just satisfaction in respect of non-pecuniary damage was awarded and paid. All domestic judgments were enforced.

BIH / Čolić and Others (1218/07)

Judgment final on 28/06/2010

Final Resolution CM/ResDH(2018)116

2. DEPRIVATION OF PROPERTY

2.1 Restitution in the context of nationalisations and expropriations

In response to the deprivation of property rights under conditions that were not prescribed by law but only by government decrees, and to the unforeseeable and arbitrary termination of the right of use of accommodation ordered by domestic courts relying on inapplicable legal rules, the Armenian Constitutional Court conducted a constitutional analysis of several articles of the Civil Code and the Land Code and found that these legal provisions did not guarantee the constitutional protection of property rights. Furthermore, on 27/11/2006, a new Law on Expropriation for the Needs of Society and the State was adopted. It regulates the entire expropriation procedure and provides a foreseeable, accessible and precise legal framework for the protection of property rights – both the right to own property and to use of accommodation. Under this law, the deprivation of property should be based on a prevailing public interest, following a procedure prescribed by law and provision of adequate compensation. The domestic courts, applying the Law on Expropriation, have restored the violated rights of persons entitled to use of accommodation by awarding them adequate compensation. As to the applicants, the just satisfaction awarded for the pecuniary damage incurred was paid. In one out of the nine cases of this group (*Tunyan and Others*), the applicants appealed to the Court of Cassation and the case was referred to a lower court in May 2014.	***ARM / Minasyan and Semerjyan (group) (27651/05)*** ***Judgment final on 23/09/2009*** **Final Resolution CM/ResDH(2015)191**
In response to the Court's finding of a violation of the applicant's property rights due to restrictions by the administration and courts on the use of property which resulted in the impossibility of dividing and donating the applicant's property to her children, the 2006 Law on Expropriation for the Needs of Society and the State was adopted, regulating the entire expropriation procedure, in particular: the conditions for expropriation; types of property subject to it; compensation; judicial proceedings deciding on the expropriation; rights and guarantees of the owner. Besides the general safeguards stipulated by this law, the owner of the property subject to expropriation is entitled to possess, use and dispose of his/her property before it is expropriated or the rights deriving from the expropriation are registered. The just satisfaction for non-pecuniary damages incurred was paid to the applicant, who did not request reopening of the impugned proceedings due to new circumstances.	***ARM / Safaryan (576/06*** ***Judgment final on 21/04/2016*** **Final Resolution CM/ResDH(2017)133**
Following the Court's judgment criticising the non-enforcement of a domestic court decision of 1994 ordering the restitution of the applicants' house, classified as a national cultural monument, due to a moratorium imposed by Parliament for more than twelve years, the applicants introduced a *rei vindicatio* claim concerning the house and a compensation claim for the impossibility to use their property. These claims were granted in 2012 and the house was legally transferred in 2013, by order of the Mayor, while the factual entry in possession took place on 07/08/2013. To prevent the recurrence of similar violations, the 2009 Cultural Heritage Act lifted the moratorium on the restitution of property considered to be cultural monuments. It defines in detail the rights and maintenance obligations of the respective owners.	***BGR / Debelianovi (61951/00)*** ***Judgment final on 29/06/2007*** **Final Resolution CM/ResDH(2017)98**

The applicants' property rights were breached by the failure of the Supreme Court of Cassation to respect the final judgment of the Supreme Administrative Court ordering, under the 1992 Restitution of Property Law, the restitution of the applicants' real property which was nationalised and expropriated in 1966. In response, the authorities indicated that the previous case-law of the Supreme Court had been changed with the adoption of the new interpretative decision of 14/01/2013 on *res judicata* of judicial decisions related to restitution proceedings. The more recent case law of domestic courts confirmed that it was no longer possible to exercise indirect judicial review in civil proceedings over the legality of court decisions which annul, under the 1992 Restitution of Property Law, expropriation of nationalised property. The applicants received pecuniary compensation for the non-pecuniary damage incurred, the reimbursement of the costs and expenses, as well as the sum of 462,000 EUR for the pecuniary damage, which was distributed among the applicants in accordance with their shares of the inheritance.	***BGR / Chengelyan and Others (47405/07)*** ***Judgments final on 21/07/2016 and on 23/02/2008*** **Final Resolution CM/ResDH(2019)218**
The Court criticised the unreasonably high repurchase price demanded from the applicant for the re-appropriation of his expropriated land in comparison with the compensation he had received for the expropriation. In response to this situation, created by the automatic readjustment of prices in line with the annual average consumer price index, the authorities amended the contested provision by Law 4070/2012. It provided that, in order to assess the value of the property, independent experts must take into consideration elements such as the value of adjacent or similar land as well as the possible income from the use/exploitation of the land. In case of disagreement between the State and the interested party on the amount of compensation, appeals against respective decisions may be filed with civil courts which can decide the dispute without being obliged to apply the average annual consumer price index criterion. Thus, the new calculation method is in line with the criteria formulated by the Court. As regards the applicant, taking into account that there was deprivation of property, the Court awarded the applicant a financial compensation for all heads of damage which was paid. The applicant could have requested the reopening of the case before the Council of State within 90 days from the date the judgment of the Court became final but did not chose to do so.	***GRC / Kanaginis (27662/09)*** ***Judgments final on 27/01/2017 and on 08/06/2018*** **Final Resolution CM/ResDH(2019)91**
The violation in this case was due to an inaccuracy in the Land registry and the authorities' inaction in finding a solution which impeded the applicant from using or disposing of a plot of land to which he was entitled. The applicant had a title to a plot of land that had previously been absorbed into a Socialist "collective farm". In the context of a later land reform, plots of land previously handed over to collective farms were earmarked for redistribution to those in possession of a title on them, or their successors. Due to the lack of accuracy of the land register, during the redistribution the applicant was granted a plot of land that did not in fact exist. To prevent recurrence of similar situations, the National Cadastral Programme, launched in 1996 to create new digital cadastral maps, was completed by the end of 2007. Accurate digital maps are now available for the whole territory of Hungary. Also, under the 2012 Act on Geodetic and Mapping Activities, cadastral maps are subject to constant maintenance and, where necessary, to prompt adjustment, based on land surveying. As to the land allocation proceedings, under Act no. XL of 2020, as a general rule, all non-allocated plots of land became State property as of 1 January 2021. Individuals (or their successors), who had registered by 1 January 2021 as having had a title in the past to a plot of land that was later transferred to a collective farm and who have not yet received any land or compensation in return, shall be entitled to monetary compensation proportionate to the value of the title they own.	***HUN / Szkorits (58171/09)*** ***Judgment final on 16/12/2014*** **Final Resolution CM/ResDH(2021)83**

In these cases, the Court criticised notably the resort to "indirect expropriation", a practice of emergency occupation of land by local administrative authorities pursuant to Law No. 85 of 1971, without any formal expropriation procedure, subsequently becoming irrevocable on account of the transformation of the property due to public works. In response, the authorities indicated that the impugned events occurred before 2001 and that the practice of "indirect expropriation" no longer exists. The occupation of land for public interest reasons was reformed by Article 42bis of the Consolidated Text on Expropriation in 2011, which significantly changed the practice of emergency expropriations and improved safeguards for the landowners. The emergency procedure is initiated only as a means of last resort when there are exceptional public interest reasons and the decree of acquisition to be issued by the Municipal Council of the municipality concerned must determine these exhaustive and compelling reasons. Moreover, between 2015 and 2016, the Court of Cassation, the Supreme Administrative Court and the Constitutional Court assessed the application of the legislative amendment with regard to its Convention conformity and it appeared that the national courts interpret the new provisions in the light of the present judgment. The just satisfaction awarded by the Court, covering the applicants' pecuniary and non-pecuniary damage, was paid by the authorities.	***ITA / Belvedere Alberghiera S.R.L. (Group of 127 cases) (31524/96)*** ***Judgments final on 30/08/2000 and 30/01/2004*** **Interim Resolution CM/ResDH(2007)3** **Final Resolution CM/ResDH(2017)138**
The Court found that the irreversible occupation by the National Road Administration of a plot of land for works of public interest without an expropriation procedure and without granting compensation violated the applicant's property rights. In response, the authorities informed that the expropriation procedure is now regulated by Law 255/2010 and that formal expropriation proceedings would be conducted in similar situations. Moreover, under this law, if the property is only temporarily affected by public works, lease contracts concerning the affected land can be concluded between the constructor and the owner. As regards the applicant, the just satisfaction in respect of all damages was paid by the authorities.	***ROM / Vergu (8209/06)*** ***Judgment final on 22/02/2012*** **Final Resolution CM/ResDH(2017)243**
The Court criticised the authorities' failure to determine and inform the owners or their heirs, or trustees of the expropriation procedure, leading to their inability to obtain the compensation for expropriation of land which belonged to the applicant's deceased relatives. The impugned expropriation proceedings had been carried out under the former 1956 Expropriation Law which was replaced by Expropriation Law 1983. In 2001, the Expropriation Law 1983 was amended and the relevant provision on notifications and announcements concerning expropriations should prevent recurrence of similar violations. Furthermore, the 2011 amendments of the Law on Notifications clarified the procedural requirements for due notifications and announcements concerning disputes over ownership of immovable property. Finally, the Constitutional Court changed its case-law concerning notification requirements in expropriation proceedings, underlining that notifications by public announcement, if carried out without having carried out sufficient research in order to identify foreign and domestic addresses, infringe the principles of legal security and certainty. As for the applicant, the authorities have taken measures to ensure cessation of the violations in question and to redress the negative consequences he had incurred.	***TUR / Akvardar (48171/10)*** ***Judgment final on 04/02/2020*** **Final Resolution CM/ResDH(2021)180**
The violation in this case was due to the impossibility for the applicants to obtain restitution of their property title or compensation for the State's occupation of their land for public use without expropriation for more than 20 years, due to the retroactive application of the 1983 Expropriation Act, which did not provide for a compensation procedure, as claims for restitution or compensation had lapsed after 20 years of occupation. To prevent further occurrence of	***TUR / I.R.S. and Others (26338/95*** ***Judgments final on 15/12/2004 and 31/08/2005***

similar violations, the Constitutional Court declared unconstitutional the relevant provision of the Expropriation Law, on the grounds that its application violated the Rule of Law principle and the European Convention requirements. As a result, this provision became null and void. Ruling in equity, the Court awarded compensation for the material damage incurred by the applicants.

Final Resolution CM/ResDH(2007)98

2.2 Compensation for loss of property

These cases concerned the lack of an adequate mechanism allowing the State to compensate for property nationalised under the communist regime and the non-enforcement of final domestic judicial and administrative decisions awarding damages against the State or creating in-kind obligations of the State or State companies.

In response, a new compensation mechanism was established, providing for a procedure for evaluation of claims with further allocation of adequate resources from the State budget to cover payment of all compensation claims. Also, a national mechanism was set up to monitor the implementation of the compensation decisions within the imparted deadlines. These mechanisms were positively evaluated by the Venice Commission and accepted by the Albanian Constitutional Court. The European Court assessed the efficiency of the new compensation scheme and adopted, in March 2020, an inadmissibility decision in the case of *Beshiri and Others*, whereby it endorsed the scheme as an effective remedy which the applicants had to exhaust.

As to the non-enforcement of domestic judicial decisions, the Albanian Council of Ministers adopted, in 2014, a strategy and action plan for the transparent settlement of overdue obligations and respect for financial discipline to prevent occurrence of such obligations in the future. The Government prioritised the settlement of all financial obligations accrued before 2013 and achieved this goal within 2015, at the same time reinforcing the Ministry of Finance and Economy's supervisory role in the monitoring process of State obligations payments. Also, the 2012 "Directive No.2 on Procedures to Implement the State Budget" of the Ministry of Finance and Economy set out rules, procedures and deadlines to be followed by public authorities as a means of improving financial management and enhancing transparency in the use of public funds. A quarterly reporting system was introduced in 2018 and the monitoring is conducted with the aim of keeping financial risks under control.

These measures were accompanied by a thorough reform of the bailiff service, aiming to improve the effectiveness of the enforcement of final judicial decisions. After the privatisation of the bailiff service in 2008, an electronic management system of bailiffs was introduced in 2011 and a Private Bailiff's Office under the Ministry of Justice was established to improve the enforcement of final judicial decisions, including those concerning State debts. Moreover, several consecutive amendments to the Civil Procedure Code (2008-2017) introduced stricter procedural deadlines and provided for the fulfilment/execution/ of the financial obligations of state-funded institutions to their respective bank accounts, credits held with third parties and the account of the State Treasury. In addition, the 2012 Law on the Organisation of Administrative Courts also provided for sanctions against the head of debtor institutions in case of non-execution of obligations arising from a court decision.

In 2017, an amendment to the Code of Civil Procedure introduced an acceleratory and compensatory remedy for excessive length of proceedings applicable also to the enforcement of final domestic decisions (including in-kind obligations).

ALB / Manushaqe Puto and Others (604/07)

Judgment final on 31/07/2012

Interim Resolution CM/ResDH(2013)115

Final Resolution CM/ResDH(2021)183

ALB / Puto and Others (609/07)

Judgment final on 22/11/2010

Final Resolution CM/ResDH(2020)300

The impact of the adopted measures on the effectiveness of the enforcement of final judicial decisions, as well as the specific issues of effectiveness of the acceleratory and compensatory remedy for excessively long enforcement proceedings continue to be examined in the context of the *Brahimaj* group (no. 4801/13).
As for the applicants, in *Manushaqe Puto and Others*, they were paid the just satisfaction awarded by the Court for pecuniary damage covering the property value and the loss of use and non-pecuniary damage incurred. In the cases where no just satisfaction was awarded by the Court in respect of pecuniary damage, the final domestic decisions were enforced. In *Puto and Others,* the amounts awarded by the Court for pecuniary and non-pecuniary damage were paid and the domestic courts' judgments were enforced.

These cases concern the authorities' failure to build and deliver to the applicants apartments or garages due as compensation for property expropriated before 1998. To avoid similar violations in the future, legislative changes were introduced in 1998, enhancing safeguards for expropriation and providing for pecuniary compensation.
As concerns expropriations before 1998, following case law developments, the evaluation of property is made on the basis of the market price at the moment of the compensation decision. It is also possible to challenge an expropriation order if payment of compensation is not made. In addition to cash compensation, it is possible to request replacement by property of an equivalent value. To this end, former owners need to file a notarised request to the mayor. Refusals by the mayor are subject to judicial review.
In 2004-2006, some of the applicants received the flats due to them. After the delivery of the just satisfaction judgment in 2007, the rest of the applicants received either the flats due to them or monetary compensation. Some applicants were also awarded by the Court just satisfaction for the pecuniary and non-pecuniary damage incurred for the impossibility to use the flats.

BGR / Kirilova and Others (group of cases) (42908/98)

Judgment final on 14/09/2007

Final Resolution CM/ResDH(2017)407

The Court found that the Social Welfare Centre failed to protect the proprietary interests of minor applicants under a swap-agreement, notably by omitting to consider, prior to its approval, the real value of properties and the particular family circumstances and the various interests at stake, notably those of minors. In response, the authorities informed that, under the 2015 Family Act, Social Welfare Centres are no longer competent in matters concerning disposal of property owned by children. They are decided by courts in non-contentious proceedings, taking into account the best interests of the child and examining all relevant circumstances of the case. Moreover, a Centre for Special Guardianship - a specialised independent body authorised to represent the child's best interest in family-related proceedings - was set up by the Ministry of Social Policy and Youth to enable children to effectively challenge decisions regarding their proprietary rights. Its role is to ensure an independent and impartial protection of children's proprietary rights against all involved, including parents.
The applicants were paid the pecuniary damage awarded by the Court covering the difference in the value of properties which were swapped by the impugned agreement.

CRO / S.L. and J.L. (13712/11)

Judgment final on 14/09/2007

Final Resolution CM/ResDH(2017)407

The violations in these cases were due to procedural shortcomings relating to the overall assessment of the consequences of expropriation and to the calculation of compensation in the context of land expropriation proceedings. In response, a new Code of Expropriation entered into force in May 2001, establishing strict deadlines in proceedings. Regarding the requirement of an overall assessment of the consequences of an expropriation, one court is now competent to rule on the overall amount of compensation to be awarded for the value of the expropriated

GRC / Azas (group of cases) (50824/99)

Judgment final on 21/05/2003

Final Resolution CM/ResDH(2011)217

land, the award of compensation for the depreciation of land value, the recognition of the status of the owner, the landowner's benefits from a new road construction, and the amount to be awarded for legal costs and expenses. The provisional determination of the compensation falls within the jurisdiction of the one-member Court of Appeal, whilst the final determination of the compensation falls within the jurisdiction of the three-member Court of Appeals. The decision of the latter can be appealed in cassation. The case-law of the Court of Cassation in several judgments (from 2004 to date) has aligned itself with the European Court's requirements, notably as to the possibility of additional compensation in cases of delay, as well as of special compensation for the depreciation of the value of un-expropriated property resulting from the works. In its decision in *Zizitis v. Greece* (52283/08, of 04/10/2011), the Court rejected the application, considering that the Court of Cassation, by its judgment No 10-11-2004, complied with the Court's requirements identified in the *Azas* case. In its decision 2/2015, the Plenary Court of Cassation indicated that "if a contested judgment of the Court of Appeals is annulled, the case is referred back to the Court of Appeals which is bound to calculate the final compensation on the basis of the value of the expropriated property at the time of the new hearing of the case before it, namely at the time of the hearing following the annulment of the first judgment delivered by the Court of Cassation.
As for the applicants, those who submitted claims were paid just satisfaction for the pecuniary and non-pecuniary damage awarded. Some applicants were awarded compensation by domestic courts for the impossibility to build on the un-expropriated part of their land after its division.

GRC / Poulimenos and Others (41230/12)

Judgment final on 14/09/2007

Final Resolution CM/ResDH(2018)327

The Court found that the applicant company's property rights had been upset by a legislative measure, notably Law no. 1701/1987, which annulled an earlier arbitration award which had ruled in favour of the applicants and recognised the existence of a considerable debt owed by the State.
Having found Convention violations, the Court also awarded the applicants a considerable amount of just satisfaction covering the pecuniary damage sustained. The execution of this judgment focussed merely on the payment of the just satisfaction awarded. Having regard to the high amount of the just satisfaction awarded and to the economic problems in Greece, resulting in the inability to make immediate full payment, the authorities envisaged payment by way of five yearly instalments as from 1996, possibly in the form of public treasury bonds. At the 564th meeting (April-May 1996), the Deputies found that the Greek proposals were not in conformity with the Court's judgment and did not constitute a friendly settlement which could be confirmed by the Committee of Ministers. At the 581st meeting (January 1997), the Deputies drafted a resolution, which would be adopted in the event that Greek authorities did not announce that a solution in compliance with the Court's judgment had been found. This draft resolution declared that the refusal of the Government to execute the judgment of the Court demonstrates a manifest disregard for its international obligations and for the collective guarantee of human rights and that such an attitude must be examined in light of the provisions of the Statute of the Council of Europe, particularly Article 8. At the 585th meeting (March 1997), Greece informed the Committee of Ministers that payment (including default interest due) had been made on 17/01/1997.

GRC / Stran Greek Refineries and Stratis Andreadis (13427/87)

Judgment of 09/12/1994

Final Resolution DH(97)184

The Court criticised the retroactive application of a law due to the delay in the execution of a final judgment awarding compensation for expropriation leading to the application of a new tax system and creating thus a tax liability and/or an excessive burden on the applicants. In response, referring to the findings of the Court in this judgment in its decision 1429/2013, the Court of Cassation found that delayed payment by the authorities of compensation for

ITA / Di Belmonte (I) (72638/01)

Judgment final on 16/06/2010

ITA / Plalam SPA

expropriation could not result in the application of the less favourable taxation introduced by Law no. 413/91. As regards the applicants, in *Di Belmonte*, the Court awarded to the heir of the applicant 1,100,000 Euros for the pecuniary damage, plus compensation for moral damages and legal fees incurred. In *Plalam SPA* the Court awarded the applicant company just satisfaction in the amount of 1,900000 Euros for the pecuniary damage incurred.	***(16021/02)*** ***Judgment final on 18/08/2010)*** **Final Resolution CM/ResDH(2017)80**
The Court found a violation of property rights due to the inadequate compensation awarded for the expropriation of land as a result of the retroactive application of a provision reducing compensation for expropriations to less than half the market value and taxing it. In response, in 2007, the Italian Constitutional Court declared the impugned provisions of the 1992 law unconstitutional. The Act on the 2008 Budget amended the Consolidated text on expropriation, providing that compensation for expropriation of real estate must be fixed at the level of the market value of the property. If the expropriation is carried out pursuing objectives of economic, social or political reform, compensation may be diminished by 25%. The provision at issue applies to all pending proceedings, except for proceedings in which compensation for expropriation has been already accepted or finally fixed. The Court of Cassation confirmed the application of this criterion for compensation in its case-law. As for the applicants, just satisfaction was paid in respect of pecuniary and non-pecuniary damage. As regards the amount of pecuniary damages, the Court awarded "an amount corresponding to the difference between the value of the property at the time of expropriation and the amount obtained at domestic level, plus indexation and interests".	***ITA / Sarnelli (37637/05)*** ***Judgment final on 16/06/2010*** ***ITA / Matteoni (65687/01)*** ***Judgment final on 18/08/2010*** **Final Resolution CM/ResDH(2010)100**
The Court criticised the significant difference in the cadastral value of the property and the sum of compensation received by the applicants for the expropriated property, pursuant to the Supreme Council's decision allowing determination of value of properties as fixed in 1940. In response, the authorities indicated that the applicants' expropriation was carried out as part of a complex and comprehensive long-term land reform in Latvia. On 01/01/2011, the Law on expropriation of real estate for public needs entered into force, replacing the transitional legislation effective during the land reform. The new law established a transparent, precise and long-term legal basis and system for expropriation of real estate, providing, *inter alia,* for the possibilities of friendly settlements between the State and the owner and a "forced" expropriation ordered on the basis of a special law ensuring procedural safeguards, such as market-value based calculation of compensation, the owner's participation in the process of evaluation and the judicial review of the amount whenever parties disagree. The applicants were paid the just satisfaction amount awarded by the Court.	***LVA / Vistins and Perepjolkins (71243/01)*** ***Judgment final on 25/10/2012*** **Final Resolution CM/ResDH(2015)138**
The Court found a systemic problem of absence of an effective mechanism for enforcing the right to compensation for property abandoned beyond the Bug River as a result of boundary changes in the aftermath of the Second World War. To resolve this issue, in 2004, the Constitutional Court declared unconstitutional several provisions of the 2003 Law on offsetting the value of property abandoned beyond the present borders of the Polish state. Following the legislative reform of 2005, the claimant could chose the means of calculating compensation for the Bug River property, either by offsetting the indexed value of the original property against the sale price of the state property acquired through an auction procedure, or by cash payment by the Compensation Fund. Entitled claimants could lodge requests for compensation until the end of 2008 and the legal ceiling for compensation in respect of property abandoned beyond the Bug River was set at 20% of its original value. Regulations on the management of the Compensation Fund were adopted and, in April 2006, an agreement was concluded between	***POL / Broniowski (31443/96)*** ***Judgment final on 25/10/2012*** **Interim Resolution ResDH(2005)58** **Final Resolution CM/ResDH(2009)89**

the Ministry of State Treasure and the Bank of National Property on the conditions of compensation payment. As of early 2008, the data processing system for the transfer of information on individual claims from the local to the central register kept by the Ministry of State Treasure and then to the Bank of National Property paying the compensation, became fully operational. Overall, more than 19,000 claimants were able to benefit from the new compensation scheme. The possibility of gaining compensation through the auctioning of state-owned land was also improved. The stock of land devoted to auctioning was considerably increased. Claimants could also – according to provisions of the Civil Code - seek redress before domestic courts for any pecuniary and/or non-pecuniary damage suffered due to the defective operation of the domestic legislation prior to the introduction of the new compensation mechanism.
As regards the applicant, a lump sum for pecuniary and non-pecuniary damage was agreed on in a friendly settlement and was paid.

TUR / Fener Rum Patrikliği (Patriarcat Œcuménique) (14340/05)

Judgment final on 08/10/2008

Final Resolution CM/ResDH(2018)152

The applicant's property rights were violated by the annulment of its original property title and the registration of the property in the name of a foundation that had use of it, without providing compensation. In order to avoid similar violations in the future, a new Law on Foundations (No. 5767) was adopted in 2008, allowing foundations to acquire property and providing for compensation in case of loss of property as well as for a domestic remedy to achieve return of property. In addition, the possibility to file a constitutional complaint for alleged violations of the Convention was introduced in 2012.
As far as the applicant is concerned, the original title to the property was re-entered in the land register, as required by the Court's judgment. Also, just satisfaction for the non-material damage suffered was paid to the applicant.

3. CONTROL OF USE OF PROPERTY

3.1 Tenancies

In these cases, the Court criticised the applicants' inability to repossess their apartments for a prolonged period as a result of the domestic authorities' failure to provide alternative accommodation for temporary occupants of flats taken over under the 1995 Act on Temporary Takeover of Certain Property, as well as lack of a remedy to obtain eviction of the occupants and satisfactory compensation for lack of flat use. To prevent recurrence of such violations, the authorities devoted considerable financial resources (around EUR 76 million) over a 17 years' period, to provide temporary occupants with alternative accommodation, thus creating necessary conditions for the repossession of the properties concerned by their owners. As concerns compensation for damages resulting from dispossession, the Constitutional Court and Supreme Court adapted their case-law, stating that the domestic courts should initially assess whether the owners had been forced to bear an excessive burden while their property was allocated to others. The Constitutional Court indicated that the amount of compensation should be calculated in relation to the market value of the property, depending on the circumstances of each case. Also, the rates indicated in secondary legislation should not in any event prevent awarding higher compensation if the circumstances of the case so warrant. As regards the applicants, they regained possession of their properties and received just satisfaction of the pecuniary and non-pecuniary damage incurred.	***CRO / Radanović (group of cases)*** ***(9056/02)*** ***Judgment final on 21/03/2007*** **Final Resolution CM/ResDH(2018)238**
The Court found that the domestic regulation of rent control lacked a legal basis between 1 January 2002 and 31 December 2006, thus violating the housing property owners' rights, by preventing them from increasing the rent for over four years. To overcome this situation, the Act No 107/2006 on unilateral rent increases entered into force in March 2006 and introduced the principle of balance between the protection of the competing rights of flat owners and their tenants. Unilateral rent increases were allowed from 01/01/2007 and the de-regulation process ended on 31/12/ 2012. Meanwhile, in May 2011, the Civil Code was amended to considerably boost the landlords' position, but also to provide for the possibility for landlords and tenants to appeal to a court in case of disagreement on the amount of rent. The liberal elements introduced by this amendment have been maintained and further developed by the new Civil Code in force in January 2014, which allows the parties to agree on annual rent increase. If parties disagree, the landlord can propose, an annual rent increase up to the level of the rent charged at a given place. If the tenant does not agree with this increase within two months, the landlord can file a motion with a court to increase the rent. As for the applicants, the sums agreed upon within the terms of friendly settlements reached in 2015 were paid, as well as the just satisfaction for non-pecuniary and pecuniary damage.	***CZE / R & L, S.R.O. and Others*** ***(37926/05)*** ***Judgment final on 03/10/2014*** **Final Resolution CM/ResDH(2018)178**
In its pilot-judgment, the Court criticised the systemic problem of malfunctioning of national housing legislation which imposed restrictions on the rights of landlords and the absence of a procedure or mechanism for landlords to recover losses incurred for the maintenance of property. The authorities adopted a series of reforms impacting the relationships between landlords and tenants and in view of introducing a compensatory mechanism, enabling	***POL / Hutten-Czapska*** ***(35014/97)*** ***Grand Chamber Judgment on 15/02/2006***

landlords to recover losses incurred in connection with property maintenance. As to the national housing legislation, after the delivery by the Constitutional Court (CC) of the judgment of 19/04/2005, the existing rent control regulations ceased to apply as of May 2005. The CC recommendations to the Parliament of 29 June 2005 were further taken into consideration in the amendments of December 2006 to the 2001 Act on the protection of the rights of tenants, housing resources of municipalities and those to the Civil Code, which entered into force on 1 January 2007. These amendments allowed a clear definition of the expenses incurred for the maintenance of rented property and introduced a rule that they must be covered by the cost of the rent. Moreover, the reforms adopted between 2006 and 2011 included the possibility to monitor the transparency of rent increases, as well as the creation of a lease based on a fully contractual and freely determined rent ("occasional lease") and the funding of social housing so that tenants could move out of rent controlled properties. Finally, the amendments through the 2011 Act increased the effectiveness of enforcement and speeded up the implementation of judgments ordering the evacuation of premises.
As to the compensatory mechanism to recover losses incurred for the maintenance of property, the Law on Supporting thermo-modernisation and renovations, in force as of March 2009, introduced a system of compensatory refunds for renovation or thermo-modernisation, allowing, under certain conditions, a partial refund of the loan taken for renovation purposes. A further 2010 amendment to this law enabled the landlords to obtain a refund even without having taken a loan for the investment. Moreover, the amendments of 2015 to the 1995 Act on certain forms of financial aid for housing construction, launched a new programme, intended for qualified investors (social housing associations, housing cooperatives and municipal companies), to support housing construction in social rental housing, i.e. with moderate rent (apartments for rent for households with moderate income, especially for families with children).
As to the applicants, their property was vacated, and the just satisfaction amounts settled by the friendly settlements were paid.

Final Resolution CM/ResDH(2016)259

3.2 Business licences

The Court criticised the unlawful closure of the applicant's duty-free company and the withdrawing of its licence on the basis of an amendment in 2002 to the Customs Code, which was in violation of the Law on Foreign Investments. To prevent recurrence of similar violations, the 1992 Law on Foreign Investments was replaced by the Law on Investments in Entrepreneurial Activity 2004, stating that new laws altering the conditions of activity of an existing enterprise with foreign capital will not be applied for a period of ten years to such enterprises. The 2004 law provided that investment activity can be forcibly interrupted only if such a measure is taken for public benefit with the condition of prior and equivalent compensation for damages and is not discriminatory or if such a measure is due to the contractual conditions established in the public-private partnership. The amount of compensation must be equivalent to the actual amount of damage at the time of occurrence.
As for the applicant company, the just satisfaction awarded for the pecuniary damage has been paid. The just satisfaction covered the cost of the immovable property, the loss of profit for a period of ten years, the bank interest and the loss arising from inflation.

MDA / Bimer S.A. (15084/03)

Judgment final on 10/10/2007

Final Resolution CM/ResDH(2021/76

The Court criticised the disproportionate and unlawful manner in which the applicants' gambling licences were revoked/suspended, on the basis of the 2009 Prohibition of Gambling Law, notably the lack of a meaningful transitional period and the lack of any compensatory measures. To prevent recurrence of similar violations, in 2020, the Law on State Regulation of Activities relating to Gambling set out the legal, social and organisational conditions for gambling operations, introduced comprehensive regulations for the gambling market and established an exhaustive list of permitted activities. It also foresaw the creation of a governmental regulatory and monitoring body, the Commission for the Regulation of Gambling and Lotteries. Furthermore, the law determined licence application and revocation procedures, contained an exhaustive list of grounds for licence refusals or revocations as well as legal safeguards for gambling operators. Such decisions may be appealed before courts. The applicants were paid just satisfaction in respect of pecuniary damage, awarded following global assessment of the paid licence fees, direct losses and profit loss. The finding of violations constituted sufficient just satisfaction for any non-pecuniary damage sustained. The first and third applicant did not request reopening of the impugned proceedings. The second applicant's request for reopening was partly granted.	***UKR / Svit Rozvag, TOV and Others (13290/11)*** ***Judgment final on 27/09/2019*** **Final Resolution CM/ResDH(2021)182**

3.3 Urban planning and building permits

The case concerned the impossibility for the applicants, owners of a plot of land and a property development company, to gain confirmation of the validity of a building permit in proceedings before the courts. To avoid similar violations in the future and in response to the Court's consideration that the underlying problem resulted from the existence of multiple parallel and interrelated proceedings issuing contradictory decisions, Law No. 10119 on territorial planning was amended in 2011. The law established new terms and identified the bodies and their competencies on territorial planning and building permit approval, making a clear distinction between the competencies of local and central authorities. It also established a legal mechanism for disputes on territorial planning between central and local authorities and provided for a possibility to review refusals of building permits before the competent judicial bodies. As for the applicants, the authorities paid the applicants the sum awarded by the Court in respect of pecuniary and non-pecuniary damage incurred by them. Moreover, the authorities made a unilateral declaration regarding the extension of the validity of the building permit for a two-year period from the date at which the judgment became final and undertook to ensure an uninterrupted continuation of construction work during that period.	***ALB / Mullai and Others (9074/07)*** ***Judgment final on 23/06/2010*** **Final Resolution CM/ResDH(2016)80**
In this case, the violations resulted from a three-year preventive protection measure, initially applied in 2003 on a former State-owned building bought by the applicant, pending the evaluation of its cultural heritage value, as it appeared to be a rare example of early industrial architecture, and further prolongation of this measure with various failures of the competent administrative courts involved – which prevented him from selling the building. To avoid recurrence of similar situations, the Act on Protection and Preservation of Cultural Heritage, amended in April 2017, rendered impossible the prolongation of preventive measures beyond the maximum period for which they were initially imposed. Furthermore, the Ministry of Culture issued a set of instructions to all Departments for the Conservation of Cultural	***CRO / Petar Matas (40581/12)*** ***Judgment final on 04/01/2017*** **Final Resolution CM/ResDH(2018)378**

Heritage as to the execution of judicial decisions in proceedings on protective measures. The Administrative Procedure Act of 2010 provided for measures ensuring that the parties' views be taken into account and that their decisions be communicated to the parties. Also, a new organisational structure of administrative jurisdiction was established in 2012 comprising two levels of jurisdiction allowing review of first instance decisions. Moreover, the case-law of the Constitutional Court (decisions of 21/04/ 2016 and of 18/05/ 2018), provides sufficient guarantees that the Constitutional Court addresses and remedies the failures of the administrative courts similar to those found by the European Court in the *Petar Matas* case. As regards the applicant, the restrictive preventive measures are no longer in force. Following the Court's judgment, the applicant's request for peaceful settlement of the dispute preceding civil claims against the State was rejected. He did, however, not bring civil proceedings for damages against the State before domestic courts as he was entitled to.	
The violation in this case was due to the authorities' lack of action, since 1979, to complete the expropriation and pay compensation, based on an expropriation order of 1933 imposed on the applicants' land, culminating with the domestic courts and authorities' refusals in 2003 and 2005 to lift the expropriation order despite the lapse of time. To prevent recurrence of similar situations, Law 4315/2014 established the automatic revocation of expropriations after the lapse of a reasonable time defined by the law. As regards the applicants' situation, the Court considered that the *restitutio in integrum* was possible by the mere revocation of the expropriation of the land at issue. The applicant's appeal before the administrative courts contesting the authorities' refusal to revoke the expropriation of their plot of land, was accepted in 2008, thus, allowing the revocation of the expropriation.	***GRC / Fakiridou and Schina (6789/06)*** ***Judgment final on 14/02/2009*** **Final Resolution CM/ResDH(2016)190**
The Court criticised as disproportionate the restrictions imposed by the authorities on the use of the applicant company's land with a view to expropriation for the creation of a public park, over an extended period (1974 -1995), together with the subsequent inactivity of the authorities. To prevent recurrence of similar situations, in 1999, the Constitutional Court declared unconstitutional the absence of a provision for compensation in case of a renewed construction prohibition in view of an expropriation. In 2007, the Court of Cassation clarified that civil courts are competent to decide such compensation claims. In case of the authorities' inaction after the expiry of an expropriation permit, an administrative claim may be submitted to the regional authorities. Also, a remedy in case of prolongation of the prohibition to build was introduced in the "Consolidated text on expropriations" by the Presidential decree No 327 of 2001, in force as from June 2003. As to the applicant company, the just satisfaction awarded by the Court covering pecuniary and non-pecuniary damage was paid.	***ITA / Elia S.r.l. (9074/07)*** ***Judgment final on 02/11/2001*** **Final Resolution CM/ResDH(2020)264**
In both cases, the applicants' property rights were infringed upon as a result of erroneous data in the land registry. In the *Yildirir* case, the applicant, a buyer in good faith of a house built without a construction permit, was not compensated for his demolished house. In the *Gürtaş Yapı Ticaret Ve Pazarlama A.Ş.* case, the applicant company was a victim of the erroneous land registry office records concerning the size of the land he bought from private individuals, as more than half of this land was expropriated without the applicant being able to obtain compensation. Under subsequent case-law of the Council of State, compensation is awarded in case of a demolition order for houses built without a building permit but acquired in good faith. Similarly, the case-law of the Court of Cassation now holds the government liable for damages resulting from erroneous entries in the land registers, which entitles the claimants to compensation for the damages suffered. As a last resort, the authorities referred to the	***TUR / Yildirir (21482/03)*** ***Judgment final on 24/02/2010*** ***TUR / Gürtaş Yapı Ticaret Ve Pazarlama A. Ş. (40896/05)*** ***Judgment final on 07/10/2015*** **Final Resolution**

possibility, introduced in September 2012, of lodging an individual appeal with the Constitutional Court, which ruled in 2013 and 2014 in cases similar to those of the applicants, that the Government has strict liability for the maintenance of the land register, although this liability is limited to a maximum of ten years from the time when the applicant should have been aware of the error.	**CM/ResDH(2018)397**
In this case, the Court found, *inter alia*, that the property rights of the applicants, owners and residents of flats in a multi-apartment building, were violated by the municipal administration, firstly, when it concluded, contrary to the law and without the applicants' consent, an investment contract for renovation works and, secondly, when it transferred the applicants' share in the attic to the investors. In response, the authorities indicated that violations resulted from the divergent case-law of the domestic courts after the adoption in 1992 of new privatization legislation. In 2004, the Constitutional Court clarified the interpretation of the applicable law in a way which endorsed automatic entitlement of owners of privatised flats to a share in auxiliary premises. The applicants applied before the domestic courts for the review of the impugned proceedings and were awarded compensation in respect of pecuniary and non-pecuniary damage incurred.	***UKR / Seryavin and Others (4909/04)*** ***Judgment final on 10/05/2011*** **Final Resolution CM/ResDH(2017)324**

3.4 Bankruptcy, insolvency and enforcement proceedings

The case concerns the applicant lawyer's deprivation of all entitlements to a pension from the Vienna Chamber of Lawyers, despite his contributions to the pension scheme, after having lost the right to practise, following bankruptcy proceedings and a criminal conviction. In order to avoid such situations in the future, the Lawyers' Act (Rechtsanwaltsordnung) 2003 came into force in 2004, providing for a new system of old-age pensions for lawyers, specifying that being on the List of Lawyers at the time of reaching retirement age is no longer a condition for being granted an old-age pension. As regards the applicant, the amount awarded by the Court of in respect of pecuniary damage was paid in part directly to the applicant and in part to the insolvency administrator with the written consent of the applicant.	***AUT / Klein (57028/00)*** ***Judgment final on 25/12/2014*** **Final Resolution CM/ResDH(2016)281**
The case concerns the excessive burden borne by the applicants engaged in pharmaceuticals' trade due to an automatic order to return the money they received from a company which had been later subject to insolvency proceedings. The violation stemmed from the defective legislation in force at the time of the events and from the manner in which Section 646(2) of the Commerce Act regulating avoidance proceedings[1] in the framework of insolvency had been applied by the national courts. The Court found that the legislative amendments introduced in 2013 had remedied those deficiencies, notably by allowing the courts discretion in deciding whether a payment should be considered voidable, by limiting the maximum duration of the "suspect periods", and by excluding payments made within the insolvent company's "usual business activity" and for which equivalent goods or	***BGR / Boyadzhieva and Gloria International Limited EOOD (41299/09)*** ***Judgment final on 05/10/2018*** **Final Resolution CM/ResDH(2019)294**

[1] Proceedings aimed at returning to the insolvency estate payments made during the "suspect period" before the commencement of the insolvency proceedings.

services had been received. The applicants were paid the sums awarded by the Court for the pecuniary damage, covering the losses suffered, and the non-pecuniary damage incurred.

The violation of property rights in the *Ljaskaj* case concerned the applicant's claim over the sale of his property for less than one-third of its established value. In the *Mindek* case, the violation derived from the domestic court's decisions in enforcement proceedings to sell to the creditor the applicant's share in the real estate, which was his home, even after full payment of the related debt.
As noted by the Court, the Enforcement Act was amended in 2010 and 2012, resolving the underlying cause of the violation in the *Ljaskaj* case. According to the 2012 Enforcement Act, a property cannot be sold in enforcement proceedings at the first public auction for less than four-fifths and at the second auction for less than three-fifths of its value as established by the court-appointed expert. Moreover, the 2017 amendments to the Enforcement Act indicated that, immovable property may not be sold if the creditor's claim is less than 20,000 HRK. Even if the claim is higher, the court may reject the creditor's request for enforcement by sale of debtor's immovable property if it finds that such a sale would infringe the fair balance between the interests of the creditor and interests of the debtor. In response to the *Mindek* case, the above 2017 Enforcement Act introduced a principle of fair balance between the interests of the debtor and the creditor. In particular, when examining the respect of fair balance, the court shall take into account specific circumstances of each case, such as the proportionality of the claim and the value of the property sold, the existence of other goods belonging to the debtor, the justifiable interest of the creditor for the urgent settlement of the claim and the debtor's consent for the claim to be settled through sale of a given property, etc..
As regards the applicant in the *Ljaskaj* case, there was no possibility to reopen the impugned enforcement proceedings, as it is not possible under the domestic legislation. However, as the applicant's house had been sold in 2011, the Court awarded just satisfaction in respect of pecuniary damage, representing the difference between the sale price and one-third of its value established by a court-appointed expert. The applicant did not submit any claim in respect of non-pecuniary damage. The government ensured the timely payment of the awarded amount and thus ensured the applicant's redress to the extent possible for the consequences of the violation suffered.

CRO / Ljaskaj (58630/11)

Judgment final on 20/03/2017

Final Resolution CM/ResDH(2018)29

CRO / Mindek (6169/13)

Judgment final on 30/11/2016

Final Resolution CM/ResDH(2019)272

The case concerns a violation due to the judicial liquidator's choice, in bankruptcy proceedings against a construction firm, to terminate the preliminary contract of sale of an off-plan flat, to which the applicant was a party.
Measures were taken to regulate the discretionary power of the liquidator in the event of bankruptcy of a construction company. The current legislation and practice allow national courts to examine the merits of the choice of the judicial liquidator and to balance the public and private interests at stake. For example, Article 182 of the Bankruptcy Law now states that the competent court shall appoint one or more liquidators and a committee of three or five creditors to assist in the liquidation. Several considerations relating to the personality, acceptance, dismissal, substitution and liability of the liquidator are laid down in this law. The liquidator acts under the control of the judicial commissioner and the assistance of the Committee of Creditors.
Also, the new Civil Code provides for a minimum protection of interests of good faith purchasers of off-plan flats, and foresees the registration of preliminary contracts in public records, granting prevalence on all successive records relating to the property concerned. The recorded purchaser has an effective remedy against damage resulting from subsequent events. In addition, the purchaser is granted preference in the redistribution of the sale by auction. Also,

ITA / Ceni (25376/06)

Judgment final on 04/05/2014

Final Resolution CM/ResDH(2017)157

the law on bankruptcy in force (as amended in 2016) provides special protection for buyers of property intended to be the main home of the purchaser or his close relatives. Lastly, a "Solidarity Fund for buyers of real estate in off-plan state" was created by legislative decree in 2005 and was equipped to provide compensation to real estate buyers who have suffered economic losses as a result of construction companies' bankruptcies. As regards the applicant, the awarded lump sum for the damage suffered has been paid to her.	
The violation in this case was due to the domestic court's decision to sell the applicant's house at a public auction for 50% of its market value in debt enforcement proceedings arising from an initial debt of only 124 Euros he owed to the public water-supply company. To avoid the recurrence of similar situations, the amendments to the Enforcement and Securing of Civil Claims Act of February 2018 introduced an obligation for the enforcement courts to opt for less intrusive measures than the sale of the property in the course of enforcement proceedings on its own motion. Debtors are granted a possibility to propose other means of enforcement until the order for sale is issued or to request postponing the enforcement. Enforcement courts are entitled to postpone enforcement if it would put under threat the existence of the debtor or his family ex officio or upon the motion of the social work centre. As regards the applicant's situation, the Court awarded him the difference between the market value and the price at which the property was sold, plus the one-off payment of 10% interest. The Court also awarded the just satisfaction in respect of non-pecuniary damage sustained by the applicant on account of the feelings of anxiety and distress as a result of the sale of his home.	***SVN / Vaskrsić (31371/12)*** ***Judgment final on 25/07/2017*** **Final Resolution CM/ResDH(2018)261**

3.5 Seizure and confiscation

The case concerns the seizure and confiscation of alcohol in administrative-penal proceedings against two of the applicant company's business partners, sole traders. The Court considered that the tax authorities had unjustifiably deprived the applicant company of its property (the confiscated alcohol) and criticised the fact that it had not been allowed to take part in the judicial review proceedings brought by the sole traders. In 2021, the Administrative Offences and Punishments Act was amended to introduce an avenue of complaint enabling owners of forfeited goods to participate in the relevant administrative-penal proceedings and to challenge interferences with their property rights. Moreover, the reopening of administrative-penal proceedings following a European Court judgment finding a violation may be requested within a month after the party becme aware that the judgment became final.	***BGR / Microintelect OOD (34129/03)*** ***Judgment final on 04/06/2014*** **Final Resolution CM/ResDH(2021)144**
In this case, the Court criticised the domestic courts' failure to assess the value of the applicant's property they ordered to be seized to secure the enforcement of a possible confiscation order to be imposed at the outcome of criminal proceedings against the applicant, all the more, that the seized property was not alleged to be a result of crime. To prevent the recurrence of such violations, the State Attorney General's Office set up new procedures regarding requests for seizure of property in the context of criminal proceedings, which were published in the State Attorneys' Manual 2012. Following the *Džinić* judgment, the Supreme Court, acting in proceedings for issuing provisional seizure orders in the context of	***CRO / Džinić (38359/13)*** ***Judgment final on 17/08/2016*** **Final Resolution CM/ResDH(2017)336**

criminal proceedings, amended its case-law to ensure a detailed assessment of the proportionality of seizures undertaken.	
This case concerns the disproportionate confiscation of the applicant's taxi during investigations for suspicion of smuggling of migrants which was finally dropped for lack of evidence. To avoid recurrence of similar violations, in 2018, the Criminal Code was amended and the automatic confiscation of means of transport used for smuggling of migrants without any exception was abolished. At present, domestic courts enjoy the discretion to examine similar cases, taking into account all the relevant factors such as, the third party's behaviour, the relation to the offence, the absence of criminal record, whether the vehicle had been previously used to commit an offence, etc. As for the applicant, the authorities paid the applicant compensation for the actual loss sustained. The Court also awarded just satisfaction for non-pecuniary damage sustained.	***MKD/ Andonoski (16225/08)*** ***Judgment final on 17/12/2015*** **Final Resolution CM/ResDH(2019)301**
This case concerns the disproportionate interference with the applicant's property rights on account of the mandatory confiscation of his *bona fide* lorry, on the basis of a court order which has been issued earlier in criminal proceedings brought against its previous owner. The Criminal Code was amended in 2004 to take into account the proportionality of confiscation measures. In particular, the objects owned by third persons would not be confiscated unless the persons knew or ought to know that they had been used or were intended for use in the commission of an offence. Regarding the applicant, as the restitution of the lorry was not possible, the authorities paid the applicant just satisfaction awarded by the Court for the actual loss sustained in respect of pecuniary damage.	***MKD / Vasilevski (22653/08)*** ***Judgment final on 28/07/2016*** **Final Resolution CM/ResDH(2017)145**
This case concerns the disproportionate confiscation of the applicant's car by the Customs Office in misdemeanour proceedings without him being convicted for any customs offence. To prevent recurrence of similar violations, a new Misdemeanour Act was adopted in 2010. It requires confiscations to be based on a reasoned court order. Also, the authorities ensured a change of administrative practice, by issuing in February 2011, an instruction concerning the import of vehicles. According to this instruction, binding for customs authorities, any vehicle confiscated on the basis of an alleged customs offence in the framework of misdemeanour proceedings shall be kept until the latter are brought to an end. Moreover, the domestic courts operated a change of their case-law, in the light of a guiding decision of the Supreme Court of Cassation indicating that all relevant facts should be assessed in misdemeanour proceedings, including whether the aim pursued might be achieved by other means than confiscation. As regards the applicant, the impugned misdemeanour proceedings were discontinued based on the applicable prescription period. The awarded just satisfaction in respect of the pecuniary damage sustained by the applicant, including the value of the confiscated car, was paid.	***SER / Milosavljev (15112/07)*** ***Judgment final on 22/10/2012*** **Final Resolution CM/ResDH(2015)62**
This case concerns the domestic courts' failure to consider the applicants' claim to damages for a wrongful fine and the unjustified and lengthy seizure and deterioration of their lorry and a load of wheat. As to the arbitrary seizure of the applicants' property, the 2012 Code of Criminal Procedure and the Code on Administrative Offences regulated the actions of tax police and the timely return of seized property. Moreover, the 2003 Civil Code provided for the State's obligation to compensate for any damage resulting from unlawful decisions, actions or failure to act by the State and municipal authorities or their officials. In 2020, amendments to the Tax Code granted	***UKR / Plakhteyev and Plakhteyeva (20347/03)*** ***Judgment final on 12/06/2009*** **Final Resolution CM/ResDH(2021)184**

a right to compensation for damage caused by the tax authorities. According to a 2020 Supreme Court decision, the complainant taxpayer has to be awarded compensation for pecuniary and non-pecuniary damage caused by the tax authorities. As regards the failure to consider the applicants' claims against the Tax Office, the 2004 Code of Civil Procedure provided for a possibility to substitute a defendant. In 2009, the Supreme Court clarified related procedural details. Recent examples of domestic case-law authorising the replacement of initial defendants were submitted.
The Court awarded the applicants just satisfaction in respect of non-pecuniary damage sustained by them. As it follows from the judgment, the conviction of the first applicant was quashed in June 2001 and the applicants' property returned to them in August 2001.

3.6 Taxation

These cases concern the disproportionately high taxation of the upper bracket of the severance pay they were entitled to after termination of their employment in the wider Hungarian public sector[2]. In 2014, Act no. CCL of 2013 entered into force, lowering the impugned special tax rate from 98% to 75%. Moreover, in February 2014, the Constitutional Court established that the previous tax rate of 98% was in breach of international obligations and should not be applied in pending proceedings. In September 2014, the law was amended and introduced a flat-rate public charge of 40% for 2010, 15% for 2011, 20% for 2012 and 25% for 2013. The difference between the amount already paid under the 98% tax rate and the amount to be paid following application of the flat-rate public charge under the new scheme could be claimed back by lodging a request with the National Tax Authority within the limitation period fixed for the tax assessment. As to the applicants, in the vast majority of the cases, the Court held that, in the absence of the 98% tax rate, the applicants' severance pay would have been in all likelihood subject to the general personal income taxation at the rate of 16%. Having regards to this fact, the Court awarded the applicants combined pecuniary and non-pecuniary damage.	***HUN / N.K.M. (group of cases) (66529/11)*** ***Judgment final on 04/11/2013*** **Final Resolution CM/ResDH(2019)182**
The case concerns the Tax Administration's systematic delays in payment of VAT refunds and compensation for these delays. To tackle the above issues, a new Tax Code was adopted in 2010 and, in 2014, a clear VAT refund notification and reimbursement procedure as well as an electronic system of VAT administration were introduced. A further amendment of 2017 simplified the VAT refunding procedure and introduced a Unified Public Register of Applications for VAT Refunding from the State Budget, thus enhancing transparency and time-sensitivity. The Supreme Court established a coherent approach for the examination of compensation request for delays in VAT refunding. The just satisfaction awarded by the Court for the company's material loss was paid by the authorities. As submitted by authorities, there were no outstanding applications or reimbursements relating to the delays in VAT refunds as of August 2018.	***UKR / Intersplav (803/02)*** ***Judgment final on 23/05/2007*** **Final Resolution CM/ResDH(2019)321**
The violation stemmed from repeated assignment by the Customs Office of a "higher rate" custom tariff code to the goods imported by the company, so that the company had to go	***UKR / Polimerkonteyner, TOV***

[2] I.e. as civil servants *stricto sensu* or as employees of state-owned companies or institutions.

through rounds of identical court proceedings to attain reimbursement of the overpaid customs duties.
The 2012 Customs Code improved the administrative practice concerning the assignment of custom tariff codes. Article 301 of that Code regulates specific issues of compensation for erroneous or excessive amounts of customs payments and provides that the tax authorities should inform the taxpayer of the amount of overpaid customs duties within one month after its detection. The excessive payments of customs duties shall be returned from the state budget. When excessive payment occurred due to the tax authorities' errors, the returns of excessive customs payments shall be carried out with priority.

(23620/05)

Judgment final on 24/02/2017

Final Resolution CM/ResDH(2020)43

3.7 Reforestation

These cases concern the disproportionate interference with the applicants' land property rights due to an administrative decision (based on a decades' earlier ministerial decision) to reforest certain areas of their land without any fresh reassessment of the situation including the impossibility to obtain compensation.
The Council of State changed its case-law, notably by its judgment No. 2208/2011, stressing the authorities' obligation to make a fresh assessment of the situation prior to deciding upon reforestation after a long lapse of time from the old decision. In addition, the Supreme Courts' case-law between 2005-2019 reinforced the landowners' right to compensation for the damage suffered as a result of the impossibility to use their property due to pending ownership-related proceedings. Furthermore, legislation governing the procedure of land registration and that of the functioning of the national land registry was amended between 1997 and 2013 and new amendments concerning, *inter alia,* the collection and elaboration of data permitting an accurate depiction of parcels in the cadastral charts, were ongoing at the moment of these cases' closure.
As to the applicants in both cases, the Court awarded them just satisfaction covering the pecuniary damage caused by the drastic limitation of their property use.

GRC / Papastavrou and Others (46372/99)

Judgment final on 10/07/2003

GRC / Katsoulis and Others (66742/01

Judgment final on 24/02/2006

Final Resolution CM/ResDH(2016)80

3.8 Hunting

The case concerns the disproportionate obligation imposed on landowners opposed to hunting on moral grounds to make their land available to the local hunting association (ACCA), of which they became members automatically and against their will. The 1964 Act No. 64-696 ("the Verdeille Act") was amended by Act No 2000-698, making it possible for those opposed to hunting to object to it on grounds of conscience. The Government indicated that the implementation of the provisions relating to the ACCA, as amended, have raised certain problems regarding the possibility to withdraw from the ACCA for those not wishing to plead as objectors of conscience. Nonetheless, the administrative courts have now based their judgments on the principles deriving from the Court's case-law, particularly the *Chassagnou* judgment.

FRA / Chassagnou and Others (9074/07)

Grand Chamber Judgment of 29/04/1999

Final Resolution CM/ResDH(2005)26

As to the applicants' individual situation, the entry into force of the new Act allowed them to avail themselves of the right of conscientious objection and thus excluding themselves from ACCA membership.

This case concerns a violation of the applicant's property rights as he was forced to tolerate hunting on his property despite his opposition to it for ethical reasons.
The Federal Hunting Act was amended and entered into force in December 2013. The amended Act allowed property owners who belong to a hunting association and oppose hunting on their premises for ethical reasons to withdraw from the hunting association. The Act also introduced rules on liability of the landowner withdrawing from the association for damages caused by wildlife game, on the pursuit of wounded or sick game into a neighbouring hunting ground and on hunting rights of appropriation. Furthermore, the criminal provision on poaching (section 292 of the Criminal Code) was to be adjusted to ensure that persons authorised to hunt in a hunting area are not criminally liable if they enter an area that is closed for ethical reasons but is not necessarily recognisable as such.

GER / Herrmann (9300/07)

Judgment final on 26/06/2012

Final Resolution CM/ResDH(2016)188

INDEX OF CASES