

Compensation for property seized by communists and not restored to owners

The case of [Văleanu and Others v. Romania](#) (application no. 59012/17 and 29 Others) concerned mainly restitution of property, which had been nationalised by the communist regime, under the new Law no. 165/2013. In particular it concerned prolonged non-enforcement of outstanding judgments given in the applicants' favour and the lack of an effective remedy; the annulment of the applicants' titles on account of the State's failure to correctly implement the applicable law without any compensation; and the failure of the authorities to ensure that the compensation awarded had been reasonably related to the current value of the property.

In its judgment of 8 November 2022 [the Court found a violation](#) of Article 1 of Protocol No. 1 (protection of property) to the Convention in respect of all the applications which had not been struck off its list of cases.

In today's **Chamber judgment**¹, the Court, **made awards of just satisfaction in respect of the pecuniary damage suffered by the applicants' due to their inability to have their property restored to them.**

Principal facts

The applicants are 53 Romanian nationals. Their details are set out in the judgment.

After the end of the communist dictatorship in Romania, the State enacted legislation (four Laws between 1991 and 2001) to let people whose property had been nationalised gain redress, ordinarily via restitution or compensation. In 2005, a new Central Compensation Board (today the National Commission for Property Compensation) and the National Agency for Property Restitution were established to implement the relevant law.

In its [Maria Atanasiu and Others v. Romania](#) (nos. 30767/05 and 33800/06) judgment of 2010, the Court found deficiencies in the restitution mechanism. Thus, in 2013 Romania introduced new legislation (Law no. 165/2013) to eliminate these issues. The restitution scheme under that Law was essentially examined and in principle approved a priori by the Court in [Preda and Others v. Romania](#) (nos. 9584/02 and 7 others). The specific functioning of that scheme under that Law had been the kernel of the applicants' complaints.

The applicants obtained final judgments in their favour for either title deeds to property to be issued to them, or to grant them possession of their property, or compensation decisions. None of the applicants were issued with title deeds or given possession of the property despite those final judgments. Some of the applicants asserted that they had not received adequate compensation. In some cases, a legal response to the claims was allegedly not received. In three of the cases the applicants' titles to the property were allegedly annulled. In the applications, the amounts of land at issue varied from 0.15 ha in the commune of Scărișoara (Ilt District), to 17,000 ha in Borșa (Maramureș District).

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

On 8 November 2022 [the Court found a violation](#) of Article 1 of Protocol No. 1 (protection of property) to the Convention in respect of all the applications which had not been struck off its list of cases. It referred to the prolonged non-enforcement of outstanding judgments given in the applicants' favour and the lack of an effective remedy; the annulment of the applicants' titles on account of the State's failure to correctly implement the applicable law without any compensation; and the failure of the authorities to ensure that the compensation awarded had been reasonably related to the current value of the property.

On that date, the Court deferred pronouncing on just satisfaction in respect of pecuniary damage, in order to give the parties an opportunity to reach a friendly settlement. As this did not happen, the Court subsequently proceeded to examine the parties' claims under Article 41 of the Convention.

Complaints, procedure and composition of the Court

Relying on Article 1 of Protocol No. 1 (protection of property), Articles 6 (right to a fair trial), 13 (right to an effective remedy), and 14 (prohibition of discrimination) of the Convention, and Article 1 of Protocol No. 12 (general prohibition of discrimination) the applicants complained, in particular, of their inability to recover nationalised property or obtain compensation, of non-enforcement of domestic-court judgments, of the length of the domestic proceedings and the lack of adequate effective remedies for their property claims.

The applications were lodged with the European Court of Human Rights on various dates between 7 August 2017 and 9 August 2019.

The Court gave [judgment on the merits](#) on 8 November 2022.

The current judgment on just satisfaction was given by a Chamber of seven judges, composed as follows:

Faris **Vehabović** (Bosnia and Herzegovina) *Acting President*,
Gabriele **Kucsko-Stadlmayer** (Austria),
Armen **Harutyunyan** (Armenia),
Tim **Eicke** (the United Kingdom),
Anja **Seibert-Fohr** (Germany),
Ana Maria **Guerra Martins** (Portugal),
Sebastian **Rădulețu** (Romania),

and also Simeon **Petrovski**, *Deputy Section Registrar*.

Decision of the Court

The Court firstly held that the applicants' heirs, Mircea Romulus Todea, Sorin Constantin Grigorescu, Anca Simona Banc-Oltean, Ciprian Oltean, Octavian Vasile Oltean, Zoița Mihaela Oltean, Valeria-Zorița Pastor and Gabriela Carmen Boarti had standing to continue the present proceedings in the stead, respectively, of the deceased applicants Romulus Nicolae Todea (application no. 38992/18) and Maria Grigorescu, Floarea Oltean and Lucreția Boarti (no. 25503/19).

[Just satisfaction \(Article 41\)](#)

Having already found for the applicants, the Court held that Romania was to pay the applicants the amounts set out in the judgment in respect of pecuniary damage and in respect of costs and expenses. It noted the State's discretion ("margin of appreciation") in choosing the general measures to be taken to end a violation, and held that the property valuations should be based on the latest available notarial grids, giving precedence to the current condition of the relevant property.

Wherever the relevant grids were not annually updated, the resulting amount was increased by 13% per each year, as of the year of the last update until the time of payment. It considered it essential that this valuation system, established by the national legislative framework (the notarial grids), be based on relevant data from the property market, be transparent, regularly updated (at least annually), easily accessible and relatively user-friendly. The Court based its valuations on those grids established by the relevant Chamber of Notaries for the year 2024 (when this judgment was adopted), where that valuation was available.

The Court also held that in the situation where the amounts due to the claimants have been clearly established and validated as per the domestic law by administrative decisions or judicial decisions that became final before the entry into force of Law No 165/2013, the Romanian State should pay the respective amounts as determined at national level, adjusted with inflation. In these situations, the notarial grid system mentioned in the previous paragraph is not applicable.

As regards the applicants' alleged loss of use, loss of profit or loss of benefit from their property (*lucrum cessans*), the Court rejected these claims, in line with its previous case-law concerning Romania, as it would be speculative to make an award in that connection given the variables involved.

The Court indicated that the time-limit for immediate compensation to be paid was three months. If, on the other hand, the applicants claimed restitution of the property, the time-limit for the execution in kind of the final judgments in their favour, an obligation that is set alternatively to the payment of the corresponding damages, was set at 12 months.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.