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La CEDU sulla violazione dell’art. 1 del Protocollo n. 1 alla Convenzione
(CEDU, sez. III, sent. 6 maggio 2025, ric. n. 13959/20)

La Corte EDU si pronuncia in merito alla presunta violazione dell’art. 1 del Protocollo n. 1 alla Convenzione europea dei diritti dell’uomo, invocata da una comunità religiosa, riconosciuta quale ente di diritto pubblico. Nel 2019, tale comunità si era vista rigettare dalla Corte di Cassazione greca la richiesta di essere giudizialmente riconosciuta come unica proprietaria di un appezzamento di terreno, poiché lo Stato greco aveva qualificato il bene come “proprietà nemica”, ritenendolo soggetto alle disposizioni della legislazione postbellica sui beni appartenuti a cittadini italiani e tedeschi. La comunità ricorrente sosteneva, invece, di aver acquisito legittimamente la proprietà del terreno nel 1934, a seguito del versamento dell’indennizzo per l’espropriazione previsto dalla legge, e di aver esercitato per decenni i diritti dominicali sul bene, senza interferenze statali sino al 1975 circa. A detta della ricorrente, la sentenza della Corte di Cassazione del 2019 aveva determinato un'ingerenza arbitraria e non prevedibile nel suo diritto al pacifico godimento del bene.

Dal canto loro, i Giudici di Strasburgo, nel valutare la fondatezza della doglianza, rilevano che la proprietà del lotto risultava effettivamente già trasferita alla comunità nel 1934 e che la successiva qualificazione del bene come "nemico", sulla base della legge degli anni ’50, non era né coerente con il principio di legalità, né prevedibile da parte dell’ente di diritto pubblico. Per tale motivo, ha dichiarato la violazione dell’art. 1 del Protocollo, senza ritenere necessario verificare se fosse stato raggiunto un giusto equilibrio tra l’interesse generale e la tutela dei diritti della comunità ricorrente.

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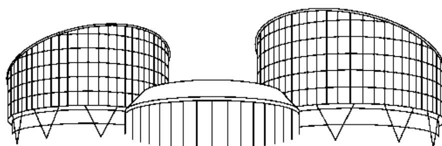

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF XXX v. GREECE

(Application no. 13959/20)

JUDGMENT
STRASBOURG

6 May 2025

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

In the case of XXX v. Greece,

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

Peeter Roosma, *President*,
Lətif Hüseynov,
Darian Pavli,
Oddný Mjöll Arnardóttir,
Úna Ní Raifeartaigh,
Mateja Đurović, *judges*,
Georgios Theodosis, *ad hoc judge*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 13959/20) against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Greek legal entity, the XXX ("the applicant community"), on 28 February 2020;

the decision to give notice to the Greek Government ("the Government") of the complaints under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention and to declare the remainder of the application inadmissible;

the decision to ask additional questions to the parties on 14 June 2023;

the withdrawal from the case of Mr Ioannis Ktistakis, the judge elected in respect of Greece (Rule 28 of the Rules of Court), and the ensuing decision of the Vice-President of the Section to appoint Mr Georgios Theodosis to sit as an *ad hoc* judge in the case (Article 26 § 4 of the Convention and Rule 29 § 1 of the Rules of Court),

the parties' observations;

Having deliberated in private on 1 April 2025,

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

INTRODUCTION

1. The application concerns the dismissal in 2019 of the applicant's demand to be judicially recognised as the sole owner of a plot of land on the grounds that it fell within the provisions of law concerning "enemy property" after the end of World War II – although the ownership of the plot had been transferred to the applicant community in 1934.

THE FACTS

2. The applicant community is a public-law entity ("Omissis"), with its seat in "Omissis". It was founded by royal decree in "Omissis", in accordance with Law no. 2456/1920, which regulated the organisation of Jewish communities in Greece. It was represented by "Omissis", a lawyer practising in "Omissis".

3. The Government were represented by their Agent, Ms N. Marioli, president of the State Legal Council, and Ms Marioli's delegates, Mr K. Georghiades and Ms A. Dimitrakopoulou – respectively, legal counsellor and senior advisor at the State Legal Council.

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

I. BACKGROUND TO THE CASE

5. In 1917, a fire devastated the city centre of "Omissis", where a substantial part of its XXX had been residing for centuries. On 26 December 1920, an area measuring approximately 165,000 square metres, situated in the centre of "Omissis", was expropriated for the benefit of the applicant community. The aim of the measure was to house the Jewish citizens of "Omissis", whose property had been destroyed by the fire three years earlier. Plot no. 26 (whose surface measured approximately 7,400 square metres) was included in the expropriated area. It belonged to "Omissis", an Italian citizen of Jewish origin, who was a member of the applicant community. Owing to the fact that there was a long-lasting dispute (which had still not been resolved) between "Omissis" and a neighbour regarding the ownership of plot no. 26, the applicant community paid the amount set as provisional compensation for the expropriation – which had been fixed by decision no. 1664/1923 of the "Omissis" Court of First Instance in 1934 – into the Deposits and Loans Fund (*Ταμείο Παρακαταθηκών και Δανείων*) in the name of the former owner (that is, "Omissis". or the neighbour – whoever eventually won the dispute). At the same time, it published a notice of that payment in the Government Gazette.

6. Following the end of the dispute concerning the ownership of the plot in question, on an unspecified date "Omissis" requested the relevant courts to fix the final amount of compensation to be paid. However, that process was interrupted on 10 November 1940 (following Greece's invasion by Italy), when the Greek government enacted Law no. 2636/1940 on enemy transactions and the sequestration of enemy property, whereby all enemy-owned property" (*Εχθρικές περιουσίες* – hereinafter "enemy property") was placed under sequestration (*μεσεγγύηση*). Properties belonging to Italian citizens were deemed to constitute enemy property. The proceedings concerning the determination of the final amount of compensation in respect of the plot in question were then interrupted in 1943, following the execution of "Omissis". on 16 November 1943 by the Nazis within the context of the Holocaust. In his will, he had nominated as his heirs his children (H., A., A. and K.), and his daughters-in-law (M. and Z.), who each received 1/6 of his property.

7. In 1947, a peace treaty was signed between Italy and the Allies, which was ratified by Greece. Under Article 79 of the Treaty, the Allied signatories were empowered to seize and dispose of enemy properties. The Greek authorities appointed commissioners to handle enemy properties that were considered to have been placed under sequestration pursuant to the 1940 law (which was the case for plot no. 26). The two commissioners appointed in respect of that plot (K.A. and G.D.) on 21 June 1957 issued a report on handover of half of the plot in question to the State on the same date.

8. By way of two other laws – namely Legislative Decree no. 1138/1949 on enemy property and Law no. 1530/1950 – the Greek government classified as "enemy property" those properties belonging to German and Bulgarian citizens or entities and ordered their seizure "with no further formalities" to the benefit of the Greek State. Initially, those laws did not include Italian properties. At the same time, the two laws provided a deadline of three months for any third-party claiming title (and all associated rights) in respect of seized enemy property to bring an action seeking the recognition of such title and rights (Article 2 of Law no. 1530/1950).

9. In 1952 the heirs of "Omissis". lodged applications seeking the fixing of the final amount of compensation in respect of the expropriation; following subsequent appeals by both the heirs and the applicant community, the final amount was fixed definitively by decisions nos. 251/1957 and 252/1957 of the Thessaloniki Court of Appeal. The applicant community paid the final compensation to the first three of the heirs – H., A. and A. in 1967, in respect of whom the expropriation proceedings were thereby concluded. As regards the other three heirs (K., M. and Z.) – who together owned half of the plot in question (1/6 each) – the proceedings were interrupted, because Royal Decree no. 4 of 13 May 1955 extended the validity of Law no. 1530/1950 concerning enemy property to Italian properties. Accordingly, the relevant properties of Italian citizens were transferred to the Greek State "with no further formalities". The three-month time-limit for lodging an objection was also provided in this case in respect of third parties claiming property rights. In view of Royal Decree no. 4 – and following the issuance of a document dated 5 December 1955 by which the Greek State asked the applicant community not to pay the compensation to K., M., and Z., as it had assumed their right to compensation – the applicant community paid the due compensation amount into the Deposits and Loans Fund in 1969.

II. DOMESTIC LITIGATION

10. On 18 January 1966, the State brought an action in the First-Instance Court of Thessaloniki against the applicant community, requesting the determination of the final amount of compensation due for the plot (hereinafter: the disputed plot concerns ½ of the original plot no. 26, as for the other half the expropriation was completed by the payment of compensation owed to three of the heirs of "Omissis", see paragraph 9 above). In that action, the government stated that the applicant community had been using the expropriated plot in question since 1920 but had not yet paid the final compensation that was due to the government, as it had succeeded K., M., and Z. in their right to compensation following the enactment of Royal Decree no. 4 of 13 May 1955. By decision no. 3817/1973 of the Thessaloniki Multi-Member Court of First Instance (delivered on 29 December 1973), the final price was set at 2,500 drachmas per square metre. It cannot be seen from the case file whether any proceedings followed the delivery of the above-mentioned decision as regards the determination of the final compensation.

11. According to the applicant community, it had exercised full property rights in respect of the plot in question – including sales, leasing and construction located within it – until the end of 1970s, when the Greek State had started making various assertions in relation to it. In reply to those actions, the applicant community brought on 7 February 1981 a declaratory action (*αναγνωριστική αγωγή*) against the State, aiming to secure recognition of its property rights. In particular, the applicant community referred to the 1920 expropriation, which, as far as plot no. 26 was concerned, had been finalised in 1934, with the payment to the Deposits and Loans Fund

of the amount set as provisional compensation. As the basis of its action, the applicant community claimed acquisition by way of *usucapio* (that is, ownership acquired by length of possession), since it had been using the property without interruption for more than thirty years (from 1920 until 1955) – which was the minimum period provided by Roman law, that is to say the law that had been in force at the time in respect of extraordinary *usucapio*. The applicant community further asserted that the Greek government had not acquired any property rights from the heirs of "Omissis", given that in 1955 the plot at issue had already belonged to the applicant community. Moreover, the Greek government had no right to receive any compensation, given that it had taken no action since 1955 aimed at asserting ownership of the plot.

12. The case was heard by the Thessaloniki Court of First Instance on 9 June 1983 and on 22 April 1999. By judgment no. 33723/1999 of 28 December 1999, the court ruled that the XXX had acquired property rights by way of *usucapio* prior to the enactment of Royal Decree no. 4 of 13 May 1955, as it had occupied the plot in question in good faith and as owner (*με καλή πίστη και διάνοια κυρίου*) since 1921 – that is to say for more than thirty years. The fact that the applicant community had acted in the capacity of an owner was proved by various infrastructure works that it had initiated, and by sales and leases of parts of the plot carried out after 1950.

13. Following an appeal by the Greek State, in July 2005 the Thessaloniki Court of Appeal issued judgment no. 2276/2005, by which it confirmed that the applicant community had acquired property rights in respect of the plot in question by virtue of *usucapio* – but only as regards a part measuring 4,588 sq.m., rather than the entire plot measuring 7,332.94 sq.m. (which the first-instance court had erroneously awarded to the applicant community). The fact that the applicant community had been exercising property rights over the part of the plot in question even after 1955 was proved, *inter alia*, by: a) the fact that it had paid taxes to the municipality of Thessaloniki in 1971, 1973 and 1977, b) the fact that it had leased parts of the plot in question to third parties (for example, to a petrol station in 1980), c) a State document dated 5 December 1955 by which the State had requested the applicant community to refrain from paying the final amount of compensation to the heirs of "Omissis" (as the State had succeeded them in respect of their right to compensation, and d) a fine imposed on the applicant community by the Thessaloniki urban planning office in 1979 for construction work carried out on the plot in question without a permit.

14. Following that judgment, the Greek State lodged an appeal on points of law. On 5 March 2008 the Court of Cassation reversed the appellate court's judgment on the grounds that that court had failed to examine the argument (which had not been raised before the first-instance court) advanced by the Greek State before it – namely, that the thirty-year *usucapio* period had been interrupted in 1947 by virtue of the appointment by the Greek State of the commissioners (according to Law no. 2636/1940) and that, in order to secure its property rights over the plot in question, the applicant community ought to have requested that those rights be recognised during the three-month time-limit provided by the laws of 1950 and 1955 (judgment no. 458/2008). It then remitted the case to the Thessaloniki Court of Appeal.

15. On 28 April 2016 the Court of Appeal of Thessaloniki examined the objection that had been lodged by the Greek State and upheld it. It deemed that the applicant community ought to have sought the recognition of its property rights over the plot in question (in its capacity as a third

party that was not an enemy of the State) within the three-month time-limit set by Law no. 1530/1950 in conjunction with Royal Decree no. 4 of 13 May 1955, given that the Greek State had indicated (by virtue of the appointment of commissioners) its intention to exercise its rights prior to the enactment of Law no. 1530/1950. It therefore dismissed the applicant community's initial declaratory action of 1981 on the grounds that the applicant community had not claimed its property rights within the three-month time-limit (which had expired on 13 August 1955) provided by the 1955 law (judgment no. 658/2016).

16. On 31 October 2016 the applicant community appealed on points of law to the Court of Cassation. It argued, *inter alia*, that the appellate court had failed to examine its argument that – in any event and regardless of whether or not it had acquired the plot in question by way of *usucapio* – it had acquired title to the plot in question by virtue of completing the expropriation through its payment to the Deposits and Loans Fund in 1934 of the amount set as provisional compensation and by virtue of the publication of the notice of that payment in the Government Gazette. That meant that any *in rem* rights of other persons had ceased to exist in 1934 and that the plot in question could therefore not have been considered to constitute "enemy property" – and nor could it have been deemed to be under sequestration during the term of office of the commissioners (1947-1957) – under Law no. 2636/1940. The applicant community further argued that the three-month deadline set by Law no. 1530/1950 had been very short and had resulted in the violation of the applicant community's rights under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention, given also that the applicant community had been given no notice that the plot in question would be seized.

17. On 7 March 2018 the Court of Cassation allowed the appeal on points of law by its judgment no. 486/2018. It held that the appellate court had failed to examine the applicant community's argument that the expropriation had already been completed in 1934 and that it had thus acquired title to the plot in question; it could thus not have been placed under the sequestration provided by the law of 1940. That argument would, if it had been examined by the appellate court, have had a substantive effect on the dispute before it. The court further held that it (that is to say the same division of the Court of Cassation) should hear the applicant community's 1981 initial declaratory action on the merits and render a final judgment on the substance.

18. On 3 September 2019 the Court of Cassation delivered judgment no. 1105/2019, which dismissed the applicant community's initial declaratory action. It held that, following its expropriation in 1934, the applicant community had had in its possession plot no. 26, on which it had constructed buildings and had formed the Jewish residence 0151 (a plot of land encompassing the plot in question and measuring several thousand square metres) and had lawfully paid the provisional compensation amount into the Deposits and Loans Fund in 1934. Nevertheless, the Greek State had placed the plot in question under sequestration in 1947 by virtue of the appointment of commissioners, as it had been considered "enemy property" (belonging to Italian citizens), pursuant to Law no. 2636/1940. The commissioners had managed the plot and had handed over half of it ("the plot in question") to the State on 21 June 1957. It followed that the Greek State had expressed its will to exercise its rights deriving from Law no. 1138/1949 prior to the enactment of Law no. 1530/1950; the applicant community should therefore have brought an action within the three-month time-limit set by Law no. 1530/1950

(which had been extended to encompass Italian properties by Royal Decree no. 4 of 13 May 1955). As regards the applicant community's argument that it had acquired the title to plot no. 26 prior to its sequestration, the Court of Cassation acknowledged that the 1920 expropriation had been finalised in 1934 (with the payment of the amount set as provisional compensation in the name of the former owner and with the publication of the official notice thereof), and that the title to plot no. 26 had indeed thus been transferred to the applicant community at that time, resulting in the deletion of any other *in rem* rights of "Omissis" (and anyone else). However, the possibility for it to exercise its right to assert ownership in respect of the plot in question following the completion of the expropriation process should have been sought by bringing an action within the three-month time-limit set by Law no. 1530/1950. In particular, the court held as follows:

"In 1947, and before the entry into force of Law no. 1530/1950 – that is to say before 9 January 1950 – the plot in question was placed under sequestration by the Greek State as enemy property pursuant to the provisions of Law no. 2636/1940, [as an asset] belonging to Italian citizens – namely, to the heirs of "Omissis", K., M. and Z.; the royal decree of 10 November 1940, which entered into force retroactively as of 28 October1940, stipulated that among those people who were defined as "enemies" under the provisions of the above-mentioned law were included those with Italian nationality; K.A. and G.D. (employees of the DAP office of Thessaloniki) were appointed as commissioners and have managed it ever since, and delivered half of it on 21 June 1957 to the Greek State. Therefore, in the light of what is noted above – [and] given that the latter had (before the entry into force of Law no. 1530/1950) expressed its intention to exercise its rights under Law no. 1138/1949 in respect of this property (which before the entry into force of that Law [no. 1530/1950] had been sequestered [and had come] into the possession of its employees (the [above-mentioned] commissioners), in accordance with the provisions of Articles 1, 6, 7, 12 and 13 of Law no. 2636/1940) – the above-mentioned provision of Article 2 of Law no. 1530/1950 is applicable, its validity having been extended by Royal Decree no. 4/13.5.1955 ... to Italian properties. Therefore, in order for the applicant community – a third party [and a non-enemy] – to claim rights (such as ownership) to the plot in question (that is to say an asset that had come into [the possession of] the Greek State on the basis of provisions of the above-mentioned Royal Decree no. 4/13.5.1955 – which (asset) refers to enemy property, for which the Greek State had exercised, before the entry into force of Law no. 1530/1950, its rights emanating from Law no. 1138/1949, given that it had come, as sequestrated, into the possession of its above-mentioned employees, as commissioners), [the applicant community] had to exercise its invoked right by lodging a declaratory action against the Greek State with the Athens Court of Appeal within a three-month time-limit, which started from the entry into force of the Royal Decree – that is to say on 13-5-1955 and expired on 13-8-1955 (Article 2 § 2 last sentence), in accordance with Article 2 § 1 of Law no. 1530/1950... In the present case, the application was deposited with the Registry of the first-instance court on 10 February 1981, and notified to the respondent on 20 February 1981 – that is to say after the expiration of the three-month deadline. Indeed, according to what is noted above, by virtue of the completion of the above-mentioned expropriation (which was [accomplished by virtue of] the full payment of the legally fixed compensation, for which the relevant receipt of deposit was issued, and by [virtue of] the publication of the relevant notice in the Government Gazette), the applicant community obtained ownership of the plot in question; [and] ... any other *in*

rem rights of the former owner "Omissis", as well as of any third person, were extinguished ... The argument that the ownership of the plot had been obtained through expropriation and that the plot in question – as "non-enemy"-[related] – could not have been [liable to] sequestration under Law no. 2636/1940 ... was advanced by the applicant community in an admissible manner for the first time before the Court of Appeal. However, the exercise of the right (emanating from that fact) to request the recognition of its title to the plot in question should have legally taken place by means of [the applicant community] bringing an action in the court that held exclusive jurisdiction [in respect of the matter] – namely, the Athens Court of Appeal – within the three-month deadline set by Article 2 § 1 of Law no. 1530/1950, that is to say by 13 August 1955, when ... it should have requested for whatever reason the recognition of its title to the plot in question. When that deadline expired, the applicant community's right to bring the relevant action was extinguished..."

19. The judgment was finalised and made accessible to the parties on 22 November 2019.

III. FURTHER INFORMATION

A. The applicant community

20. The applicant community maintained that it had proceeded to carry out (in the capacity of owner of the plot in question) various acts that went unhindered at least until 1976, when the State began advancing various assertions that forced the applicant community to bring its above-mentioned declaratory action in order to reaffirm its rights. Such acts included construction works, the sale and leasing of numerous apartments and the leasing of a petrol station. By way of example, it presented to the Court a series of documents, including: a lease agreement in respect of a petrol station dated 15 January 1997 and another lease in respect of the same petrol station dated 21 April 2003; lease agreements dated 24 October 2014 and 15 November 2022 in respect of parts of the plot; notarial deeds dated 12 January 2006 and 29 October 2008 for the establishment of ownership of flats located in part of the plot in question; and a building permit dated 2 July 2010 issued by the Thessaloniki municipal urban planning authority for the construction of a building in Kleanthous Street (which formed part of the plot in question).

21. Moreover, as can be seen from the documents presented to the Court by the Government, other acts undertaken in the capacity of an owner of the plot in question may be attributable to the applicant community. These include: leasing agreements that predate the ones noted above, such as: a lease agreement for a petrol station dated 29 May 1980; a legal action brought by the applicant community on 30 December 1968 against other individuals concerning an area of land measuring 1,110 sq.m. that lay within plot no. 26 (which the domestic courts dismissed on the merits, concluding that that part of plot no. 26 belonged to the individuals concerned); and applications for construction permits (which resulted in the issuance of construction permits nos. 3305/1991, 1109/1998 and 1907/2001 by the Thessaloniki municipal urban planning authority).

22. In addition, according to the applicant community, the plot in question had been recorded under its name in the Land Register (*Υποθηκοφυλάκειο Θεσσαλονίκης*) of Thessaloniki throughout the years since 1934; no note on the transfer of ownership to State had been appended to the plot's entry in the Register. Even today, following the creation of the new

Cadastre (*Κτηματολόγιο*) of Thessaloniki, it appears that the various properties continue to belong to the applicant community and its successors. The Cadastre cites as the point when the applicant community acquired title the expropriation of 1920, which was noted in the Land Register of Thessaloniki on 13 November 1928 – as evidenced by the cadastre sheets presented to the Court.

B. The Government

23. According to the Government, the commissioners appointed for the plot in question in 1947 had, in the course of carrying out their management duties: drafted an audit report dated 28 May 1953 on the ownership titles of "Omissis"; listed (in an inventory protocol dated 18 May 1953) the assets belonging to three of the heirs of "Omissis" (K., M. and Z.); drafted a report dated 24 April 1957 on the assets of the heirs of "Omissis" that were transferred to the State by virtue of Law no. 1530/1950, and a supplementary report thereto dated 5 June 1957; appeared before domestic courts; and performed onsite inspections, and handed over the management of the land in question to the Real Estate Office of Thessaloniki (*Κτηματικό Γραφείο Θεσσαλονίκης* – the public service responsible for actions related to State property) through a report of handover and acceptance dated 21 June 1957 (that is the handover was on paper). The description of the plot in the record notes that:

"... a one-half part of the existing rights of any nature in respect of a plot of 16,627 cubits (plot no. 26 on the relevant chart) [was] expropriated to the benefit of the XXX on the basis of the Royal Decree of 26 November 1920 ...

By decisions no. 251/57 and 252/57 of the Court of Appeal, which are final and irrevocable, the price for the first plot was fixed at 85 drachmas per cubit."

24. After the management of the plot was handed over to the State in 1957, the State registered the land in the records of the Real Estate Office on 16 October 1957. In this regard, the Government adduced a registration sheet, which mentioned the plot in question and cited as its provenance:

"Any possible existing rights of any nature emanating from the compensation [paid for] the expropriated plots nos. 26 and 28 to the benefit of the XXX accrued to the State, on the basis of Emergency Law no. 1530/50 and Decree no. 4/13-5-55, half of which used to belong to the Italian citizens K., Z. and M."

25. The State also registered the land in the Land Register of Thessaloniki, which resulted in the issuance of certificate no. 12760, dated 26 July 1958, pursuant to which the relevant order issued by the Directorate for Public Real Estate of the Ministry of Finance, dated 2 November 1957, concerning half of the plot in question, which had come into the ownership of the State, pursuant to Law no. 1530/50 and Royal Decree no. 4 of 13 May 1955, was registered in book no. 205 under entry no. 196.

26. On 18 June 1966, the State brought an action in the Thessaloniki Court of First Instance against the applicant community seeking the determination of the final price, which resulted in the delivery of judgment no. 3817/1973 by the Thessaloniki Multi-Member Court of First Instance (see paragraph 10 above). On 3 November 1970 the State and its agents further performed onsite examinations and drafted estimate reports on the value of "the expropriated

plots ... to the benefit of the XXX". The State further began the process for the recognition of the State as the beneficiary of the compensation for the expropriation of the plot in question, as determined by the above-mentioned decision, and as evidenced by the document dated 29 October 1975 issued by the Financial Service of the Public Estates of Thessaloniki and addressed to the State Legal Council.

27. The State next proceeded to halt construction works within the plot in question; namely, on 14 April 1981, following a complaint lodged by 350 residents of the area, the Financial Service of the Public Estates of Thessaloniki sent a document to the Urban Planning Directorate of Thessaloniki requesting the cessation of the construction of a petrol station in which it stated that the State had title to the plot in question, given the fact that the relevant expropriation had not yet been completed. On 4 June 1999 the Real Estate Office of Thessaloniki sent to the Urban Construction office of the Thessaloniki Prefecture a document requesting the revocation of the building permit that had been issued in 1998 to the benefit of the applicant community, as the property status of the contested plot had not yet been finally determined following the declaratory legal action that the applicant community had brought. On 23 October 2003 the Real Estate Office of Thessaloniki drafted a report, after an onsite examination, on all the construction works that had been carried out on the plot; on 17 October 2003 it brought an action for the annulment of act no. 7426/2003 of the Urban Planning Directorate of Thessaloniki in order that the act could be amended so that it listed the State as co-owner of half of the plot. However, that action was rejected, as the domestic proceedings initiated by the applicant community concerning the declaration of ownership of the plot were still pending.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. LAW No. 2636/1940 ON LEGAL ACTS BY ENEMIES AND THE SEQUESTRATION OF ENEMY PROPERTIES

28. The relevant provisions of Law no. 2636/1940 read as follows:

Article 1

"'Enemies' within the meaning of the present law shall be [deemed to be]:

a) the States which by royal decree (issued upon a proposal made by the President of the Government, the Minister for Foreign Affairs and the Minister of Finance) shall be deemed to be enemies within the meaning of the present law ...;

b) natural persons who have the nationality of the States designated as enemies or who have their domicile or permanent residence in them;

c) ..."

Article 6

"Enemy properties located in Greece shall be placed under sequestration upon the entry into force of the present law; any disposal of such property shall be prohibited and shall be null and void."

Article 12

"1. Managers of the enemy properties under sequestration shall be by law the ... commissioners of the region in which each respective property is located.

2. Where there is more than one ... commissioner, the manager shall be appointed by a decision of the Minister of Finance... .

3 ..."

II. LEGISLATIVE DECREE No. 423/1947

29. Under Article 79 § 1 of the peace treaty of 10 February 1947 between the Allies and Coalition Forces, as ratified by Legislative Decree no. 423/1947, each member of the Allies and Coalition Forces had the right to seize, withhold or liquidate all property, rights or interests which, on the date of the entry into force of that treaty, were [situated or existed] in its territory and belonged to Italy or to Italian nationals and to take any other measure in respect of such property or rights or interests.

III. LEGISLATIVE DECREE No. 1138/1949, AS SUPPLEMENTED BY ROYAL DECREES Nos. 9/23-10-1952 AND 4/13-5-1955

30. Under Articles 1-3 of Legislative Decree no. 1138/1949, enemy property – including real property situated in Greece – meant property that at the material time belonged to the German State or to legal persons that had their seat in Germany, or to natural persons who had German nationality.

31. Under Royal Decrees nos. 9/23-10-1952 and 4/13-5-1955, which were based on Article 37 of Legislative Decree 1138/1949 and Article 16 of Law no. 1530/1950, the above-noted provisions concerning enemy property extended to Italian properties, that is to say properties that at the material time belonged to the Italian State, or to legal persons that had their seat in Italy, or to natural persons who had Italian nationality.

32. The Court of Cassation, by its decisions nos. 1134/2011 and 458/2008, confirmed that in order for property belonging to the Italian State or to Italian citizens to be transferred to the Greek State pursuant to Royal Decree no. 4 of 13 May 1955, the property had to have been located in Greek territory and had to have belonged on 22 October 1947 (the date of the publication of Legislative Decree no. 423/1947 ratifying the peace treaty of 10 February 1947) to Italy or to an Italian national – irrespective of whether she or he had had another nationality as well. The same general principle was referred to in the impugned decision no. 1105/2019 of the Court of Cassation. Similar findings have been made in cases nos. 261/1987 and 445/1991 of the Court of Cassation in respect of property belonging to the German State or the German citizens in which the crucial date was considered to be 24 January 1946.

IV. Law 1530/1950 on supplementing, amending, and repealing certain provisions of Legislative DECREE 1138/1949 ON ENEMY PROPERTY

33. The relevant provisions of Law 1530/1950 read as follows:

Article 1

"1. From the entry hereof into force, enemy property within the meaning of Legislative Decree no. 1138/1949 shall automatically and without further formalities be transferred to the Greek State ...

2. From the entry into force of the present law, ... assets that are transferred to the Greek State, in accordance with the preceding paragraph, shall be considered to belong solely to the Greek State, even if the State does not physically possess [such assets], the recognition of any third party as possessor in any temporary or regular proceedings being excluded ...

3. In respect of real estate, the transfer of ownership shall be deemed to have been completed without any further action or formalities on the basis of the present law; the change in ownership shall be simply noted in the transfer registers following [the issuance of] a document by the Minister of Finance or by a body specifically authorised by him to do so, addressed to the transfers registrar."

Article 2

"1. Third parties who are not enemies and who assert their own rights of any nature in respect of the assets referred to in Articles 1 and 3 of Legislative Decree no. 1138/1949 have the right, as has any non-enemy who has a legitimate interest and who contests the State's rights under those provisions – within a three-month mandatory time-limit starting from the date on which the present law enters into force which cannot be extended owing to distance – to request the recognition and satisfaction of their rights *via* an action which is brought in the court provided by Article 3 of the present law (the Athens Court of Appeal) against the State and which is notified to [the State] within eight days of its filing. Simply bringing an action in a court produces no results if ... the evidence is not mentioned in the action and if the supporting documents are not attached to it.

2. The provisions of the preceding paragraph shall apply by analogy in cases in which third parties [that are] non-enemies put forward any claims against an owner of assets that, under Legislative Decree no. 1138/1949 and the present Law, have been transferred to the Greek State.

3. The provisions of paragraph 1 of the present Article shall also apply to cases in which anyone who has a legitimate interest [and is a] non-enemy contests the rights of the State on the basis of the provisions of Legislative Decree no. 1138/1949 and the present Law.

4. Additionally, the provisions of paragraph 1 of the present Article shall apply by analogy to cases affected by the provisions of paragraphs 3 and 4 of Article 2 of Legislative Decree no. 1138/1949, as supplemented by Article 8 of the present Law.

5. The term "non-enemies" for the purposes of the application of the provisions of the present Article shall mean natural and legal persons that are not former enemies within the meaning of Legislative Decree no. 1138/1949 and those who are not and have never been enemies within the meaning of Law no. 2636/1940."

34. Under decision no. 1105/2019 of the Court of Cassation, the deadline set by Article 2 § 1 of Law no. 1530/1950 is to be enforced only in respect of actions brought by non-enemies and refers only to (i) enemy property in respect of which the Greek State expressed, prior to the enactment of Law no. 1530/1950, its intention to exercise its rights under Legislative Decree

no. 1138/1949 by seizing, liquidating, or disposing of such property in accordance with the procedure provided by Article 4 and (ii) those properties that have been transferred under sequestration to the commissioner (as their manager), pursuant to Articles 1, 6, 7, 12 and 13 of Law no. 2636/1940.

V. CODE OF CIVIL PROCEDURE

35. By Article 25 of Law no. 5130/2024 which was published in the Government Gazette on 1 August 2024, Article 544 of the Code of Civil Procedure was modified as follows:

"The reopening [of a case following the delivery of a final court judgment] shall be allowed only in the following cases:

...

11. If a final judgment of the European Court of Human Rights has been delivered that declares that the contested decision was taken in breach of a right relating to the fairness of the procedure followed or of a provision of the substantive law of the European Convention on Human Rights."

36. In addition, Article 581 in its relevant parts reads as follows:

Article 581

Procedure before the court of referral

"1. Before the court of referral, the case shall be introduced and heard by summons...

2. The case shall be heard within the limits set by the judgment having granted the appeal on points of law...

..."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 of protocol No. 1 to THE CONVENTION

37. The applicant community complained that by rejecting the declaratory action by which it had sought to be recognised as the sole owner of plot no. 26, the Court of Cassation had violated its right to the peaceful enjoyment of its property. as provided by Article 1 of Protocol 1, which reads as follows:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Admissibility

38. The Court will first examine whether the events complained of (namely, the applicant community being allegedly deprived of its property) fall within its jurisdiction *ratione*

temporis. In this regard, it notes that incompatibility *ratione temporis* is a matter that concerns the Court's jurisdiction rather than a question of admissibility in the narrow sense of that term. Since the scope of the Court's jurisdiction is determined by the Convention itself – in particular by Article 32, and not by the parties' submissions in respect of a particular case – the mere absence of a plea of incompatibility cannot extend that jurisdiction. Accordingly, the Court has to satisfy itself that it has jurisdiction in any case brought before it, and is therefore obliged to examine the question of its jurisdiction at every stage of the proceedings (see *Blečić v. Croatia* [GC], no. 59532/00, § 67, ECHR 2006-III).

1. *The parties' arguments*

39. The Government submitted that Greece's acceptance of the right of individual application had taken effect on 20 November 1985. In the present case, the alleged interference with the applicant community's rights under Article 1 of Protocol No. 1 to the Convention had taken place in 1947 – when the plot in question had been handed to the Greek State (for the State to hold it in escrow) as enemy property belonging to Italian nationals, in accordance with Law 2636/1940. Given that the Greek State had exercised its rights under Royal Decree 1138/1949 prior to the entry into force of Law no. 1530/1950, the property at issue had been acquired by the Greek State under the provisions of Royal Decree no. 4 of 13 May 1955. The two public servants who had been appointed as commissioners had delivered half of the plot to the Greek State on 21 June 1957 (as for the other half, the applicant community paid the final compensation to the first three of the heirs – H., A. and A. in 1967, in respect of whom the expropriation proceedings were thereby concluded – see paragraph 9 above). The Government noted that the Court of Cassation had held that, irrespective of the legality of the above-mentioned actions (that is to say of the placement of the plot in question in escrow and its devolvement the ownership of the State), the applicant community should have exercised the right claimed within the three-month time-limit set out in Royal Decree no. 4 of 13 May 1955. The Government further noted that all the above-mentioned events and enactments of relevant laws – which constituted interference with the applicant community's right to assert ownership – had preceded the entry into force of the Convention in respect of Greece. The fact that the final judicial decision had been delivered after the entry into force of the Convention did not – according to the Court's consistent case-law – bring the alleged interference within the Court's temporal jurisdiction.

40. The applicant community replied that the present application fell well within the Court's jurisdiction. After paying the provisional indemnity in 1934, it had acquired full ownership of plot no. 26 and had thereafter exercised unhindered its rights in respect of that plot for a long time. Only in 1976 (in the course of another set of litigation proceedings) had the Greek Government claimed for the first time property rights; this had forced the applicant community to bring a declaratory action in order to reaffirm its property rights in respect of the plot in question. It had then brought a declaratory action in 1981, and the litigation had been concluded by decision no. 1105/2019, which had finally settled the dispute concerning the ownership of the plot at issue. Until the delivery of that decision, the applicant community had been confident that its property rights were intact and had had the legitimate expectation that such rights would be recognised by the domestic courts, given that the ownership of the plot had been transferred to the applicant community in 1934, as also acknowledged by the Court of

Cassation in its final decision. Given that the applicant community had already acquired ownership of the plot, Royal Decree no. 4 of 13 May 1955 could not have applied to its possessions, as it would have if the land had still been owned by the heirs of "Omissis". Therefore, the final act to have constituted an interference with the applicant community's property had been the Court of Cassation's delivery of decision no. 1105/2019, which had surprisingly held that the applicant community ought to have complied with the three-month time-limit set out in Royal Decree no. 4 of 13 May 1955 – in spite of the payment in 1934 of the provisional indemnity owed for the expropriation. However, as a Greek legal entity, the applicant community could not have known that it fell within the provisions of that law. That was further proved by the fact that neither the commissioners nor the State had carried out any acts in the capacity of an owner. The actions undertaken by the government in the capacity of an owner had amounted only to the preparation of internal reports concerning the estimation of value of the plot and documents addressed to the applicant community, which had referred only to the determination of the final amount for the compensation. On the contrary, the applicant community had never been hindered from exercising ownership rights in respect of plot no. 26 – including the sale and leasing of apartments, the leasing of a petrol station, and the issuance of a building permit. Only after 1981 when the applicant community had lodged its declaratory action, had the government started to openly contest the applicant community's ownership.

2. *General principles deriving from the Court's case-law*

41. The Court's jurisdiction *ratione temporis* covers only the period after the date of the ratification of the Convention or its Protocols by the respondent State. From the ratification date onwards, all the State's alleged acts and omissions must conform to the Convention or its Protocols and subsequent facts fall within the Court's jurisdiction even where they are merely extensions of an already existing situation (see, for example, *Broniowski v. Poland* [GC] (dec.), no. 31443/96, §§ 74 et seq., ECHR 2002-X, with further references). The Court may, however, have regard to the facts prior to ratification in so far as they could be considered to have created a situation extending beyond that date or may be relevant for the understanding of facts occurring after that date (ibid.).

42. A continuing violation of the Convention – that is to say, a situation which originates before the date on which the Convention entered into force but which continues after that date – has effects on the temporal limitations of the Court's jurisdiction. In particular, such situations as a continuing and total denial of access to – and the control, use and enjoyment of – property, as well as any compensation for the expropriation of property, may fall within this notion, even if they stemmed from events or laws that occurred before the ratification of the Convention or the Protocol (see *Gniazdowska-Sapieha v. Poland* (dec.), no. 18887/11, § 68, 9 July 2024, with further references).

43. However, as the Court has consistently held, the deprivation of ownership or another right *in rem* is in principle an instantaneous act and does not produce a continuing situation of "deprivation of a right" (see, among many other authorities, *Malhous v. the Czech Republic* [GC] (dec.) no. 33071/96, ECHR 2000-XII; *Bergauer and Others v. the Czech Republic* (dec.), no. 17120/04, 13 December 2005; and *Von Maltzan and Others v. Germany* [GC] (dec.), nos. 71916/01, 71917/01 and 10260/02, § 74, ECHR 2005-V).

44. The Court reiterates that in order to establish its temporal jurisdiction it is essential to identify, in each specific case, the exact time of the alleged interference. In doing so the Court must take into account both the facts of which the applicant community complains and the scope of the Convention right alleged to have been violated (see *Blečić*, cited above, § 82).

3. *Application of the above-noted principles in the present case*

45. The Court notes that Greece ratified the Convention and Protocol No. 1 thereto on 28 March 1953; the former entered into force in respect of Greece on 3 September 1953 and the latter on 18 May 1954. Greece withdrew from the Convention and Protocol No. 1 on 12 December 1969 (with effect from 13 June 1970), but was not thereby released from its obligations under them "in respect of any act that, being capable of constituting a violation of such obligations, [might] have been performed by it" on an earlier date (former Article 65 § 2 of the Convention); Greece ratified the Convention and Protocol No. 1 again on 28 November 1974 after the collapse of the military dictatorship established by the *coup d'état* of April 1967 (see *Papamichalopoulos and Others v. Greece*, 24 June 1993, § 40, Series A no. 260-B).

46. However, Greece's acceptance of the right of individual application was limited to events taking place after the date of the declaration to that effect on 20 November 1985. It follows that the Court is not competent to examine any complaints raised by applicants against Greece in so far as the alleged violations are based on events that occurred before 20 November 1985 (see *Papamichalopoulos and Others*, cited above, § 40).

47. The Court reiterates that its temporal jurisdiction is to be determined in relation to the facts forming the basis of the alleged interference. The subsequent failure of remedies aimed at redressing that interference cannot bring it within the Court's temporal jurisdiction (see *Blečić*, cited above, § 77).

48. Turning to the circumstances of the present case, the applicant community complained that the State had taken over the plot that had been expropriated to its benefit in 1920 – thus violating its right to peaceful enjoyment of its property. The domestic courts concluded that the applicant community had become the owner of the contested plot in 1934 by virtue of it paying the amount set as provisional compensation into the Deposits and Loans Fund (see paragraph 18 above). That being so, the Court accepts that the termination of the applicant community's property rights was the act constituting the basis of the alleged interference. It remains to be determined when that termination actually occurred.

49. In this regard, the Court notes that if the applicant community lost the ownership of the contested plot in 1955 as a result of the enactment of Law no. 1530/50 and Royal Decree no. 4 of 13 May 1955, as argued by the Government, then the complaint should be rejected for being incompatible *ratione temporis* with the provisions of the Convention. If, however, the plot in question remained under the ownership of the applicant community until the final decision no. 1105/2019 of the Court of Cassation, then the interference with the applicant community's property arose by virtue of the final domestic decision, and the relevant complaint falls within the Court's jurisdiction. In order to assess this crucial element and thus the critical date on which the interference occurred, – and given the fact that the domestic courts made no assessment of this question – the Court will itself consider the arguments of the parties.

50. The Court will first examine the public records adduced by the parties. In this regard, it notes that Article 1 § 3 of Law no. 1530/1950 provided that any transfer of ownership within the context of the laws concerning enemy property should be recorded in the relevant transfer register (in respect of the instant case, in the Land Register). In this regard, the Government argued that the relevant transfer had been duly noted and in support of their argument submitted certificate no. 12760 of 26 July 1958, which recorded the relevant order issued by the Ministry of Finance's public real estate directorate (paragraph 25 above). The applicant community rejected that argument and contended that no note recording the transfer of the contested plot had been deposited in the Land Register; as evidence, it submitted certificates of registration from the new Cadastre of Thessaloniki (which replaced the system previously in place, that is to say the Land Register) in which parts of the plot were recorded as being under its ownership; the certificates made reference to the relevant records of the Land Register and stated that the plot had been obtained by means of the expropriation that had taken place in 1920 (see paragraph 22 above). In view of the above-noted contradictory evidence (that is, the certificate adduced by the government and the Cadastre certificate adduced by the applicant community), the Court does not consider that the above-mentioned registrations in the Land Register constitute conclusive evidence of ownership.

51. Turning to the other elements adduced by the parties, the Court notes that according to the relevant record held by the Thessaloniki Real Estate Office which holds records relating to public property, plot no. 26 was registered only in respect of the compensation that was still owed by the applicant community after the expropriation (see paragraph 24 above). The Court further notes that, following the enactment of Law no. 1530/50 and Royal Decree no. 4 of 13 May 1955, the State sent a letter to the applicant community in which it stated that it had succeeded the heirs of "Omissis". as regards the latter's right to compensation (see paragraph 9 above). The State then proceeded to initiate a series of proceedings aimed at realising its right to receive the compensation owed as the final price following the expropriation of the plot to the benefit of the applicant community: for example, it brought an action in 1966 concerning the determination of the final price for half of the contested plot, and it ordered the initiation of proceedings in 1975 aimed at securing the compensation fixed following the that action. Moreover, the Thessaloniki municipal urban planning authority issued building permits to the applicant community on several occasions – including in 2010 (see paragraphs 20-21 above); furthermore, that same authority refused to register the State as owner of the contested plot until the owner status was determined by the domestic courts (see paragraph 27 above).

52. It follows from the above-noted considerations that the applicant community was considered by the State to be the legal owner of plot no. 26 and that the State only began arguing that it had the right to receive the compensation owed for the expropriation in 1975 at the latest. It seems that only after that date did the State start asserting that the plot belonged to it rather than to the applicant community, which forced the applicant community to lodge its declaratory action in 1981. In fact, no action seems to have been taken by the government to affirm its property rights until the cessation of construction works undertaken by the applicant community (see paragraph 27 above), as the other actions cited by the Government referred to internal reports concerning the value of the contested plot; those reports did not indicate that the State was the owner, rather, they indicated that it had the right to receive the compensation owed for the expropriation. On the contrary, up until that point the applicant community

exercised its rights unhindered – as evidenced by various documents, including numerous lease agreements, notarial deeds in respect of the establishment of flat ownerships, and building permits; the creation of many of those documents necessitated the authorities taking some kind of action – for example, the building permits were issued by the Thessaloniki municipal urban planning authority.

53. In view of the above, the Court considers that the alleged interference with the applicant community's rights was the result of a series of sets of judicial proceedings that ended with the decision of the Court of Cassation's no. 1105/2019 of 3 September 2019. Only by virtue of that final decision did the applicant community lose its ownership of the contested plot, as it was then that it was irrevocably decided that Law no. 1530/50 and Royal Decree no. 4 of 13 May 1955 were applicable to plot no. 26 – even though the applicant community had acquired ownership of it by paying the amount set as provisional compensation in 1934. It is in fact this judgment – which was delivered after Greece's recognition of the compulsory jurisdiction of the Court – that is at the centre of the case upon which the Court is called upon to adjudicate with regard to the requirements of the provisions invoked by the applicant community (see *Patriarcat œcuménique v. Türkiye* (dec.), no. 14340/05, 12 June 2007). This conclusion is further reinforced by the judgments delivered by the national courts, which until 2005 unequivocally acknowledged the applicant community as the owner of the contested plot; it was not until 2016 that for the first time those courts deemed that it was the State that was the owner. The Court considers that the applicant community's complaint under Article 1 of Protocol No. 1 is therefore compatible *ratione temporis* with the provisions of the Convention within the meaning of Article 35 § 3 (a).

4. The Court's conclusion

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

B. Merits

1. The applicant community's arguments

55. The applicant community argued that its right to the peaceful enjoyment of its property (namely, plot no. 26) had been violated by the final judgment of the Court of Cassation. The applicant community had been the lawful owner of that plot since 1934, when the applicant community had paid into the Deposits and Loans Fund the amount set as provisional compensation for the expropriation and when the relevant notice had been published into the Government Gazette – a fact that was not contested by the Government in their observations. The Court of Cassation had acknowledged that fact in both its decisions nos. 486/2018 and 1105/2019. It had nevertheless failed to draw the only reasonable conclusion from that acknowledgement – namely, that in 1940, plot no. 26 could not have been categorised as "enemy property" within the meaning of Law no. 1530/1950, since it had already belonged to the applicant community long before the enactment of those laws. That conclusion had been referred to in the first decision of the Court of Cassation no. 486/2018; despite the Court of Cassation being bound by the findings of its first judgment, it had failed to take into account in its judgment no. 1105/2019 the legal consequences arising from the acknowledgement of the fact

that the expropriation had been already finalised in 1934. The applicant community submitted that that had resulted in the Court of Cassation ignoring the binding effect of its own decision no. 486/2018 and disregarding the relevant provision of Article 581 § 2 of the Code of Civil Procedure, which had provided that when a case was referred by a cassation decision, it should thereafter be examined within the limits set by the latter decision.

56. The applicant community noted that the Court of Cassation had concluded that it (that is, the applicant community) had still had to declare its property rights within the three-month time-limit set by the laws of 1950 and 1955 – a time-limit that was so restrictive that it had amounted to excessive formalism. However, that conclusion had been contradictory: the contradiction had lain in the fact that, even though the applicant community's capacity as owner of the plot had been acknowledged, the Court of Cassation had nevertheless deemed that the applicant community was a "third party" within the meaning of Royal Decree no. 4 of 13 May 1955, who thus had to follow the procedure provided by that law. That had resulted in the *de facto* expropriation of the plot in question without any compensation being awarded to the applicant community; that had constituted a violation of the first two rules of Article 1 of Protocol No. 1 to the Convention.

57. The applicant community further noted that the Government had endorsed, by virtue of their observations lodged with the Court, the conclusion of the Court of Cassation that despite the applicant community's status as the owner of the plot, it nevertheless ought to have complied with the three-month time-limit set out by the relevant law, irrespective of the fact that the placement of the impugned plot under sequestration and the appointment of commissioners had not constituted lawful acts, as the plot had not been an enemy property within the meaning of the laws in force at the time. However, that conclusion had been in breach of the long-standing case-law of the Court of Cassation itself, according to which when an administrative act had caused damage to an individual, the civil courts were empowered within the context of a civil dispute, to review – if necessary in order to be able to make a ruling – the legality of that act and to overturn if it had not been lawful. In other words, the Court of Cassation should have reviewed the legality of the administrative acts placing plot no. 26 under sequestration and appointing commissioners in 1947, and considered them void as illegal, given that the impugned property already belonged to a Greek entity at the time of publication of the relevant laws of 1947, 1950 and 1955. In this regard, the applicant community asserted that it had not been aware of the appointment of commissioners pursuant to the relevant legislation and of the commissioners having handed over the management of the plot to the State. They had never received an official notification that commissioners had been appointed in respect of the impugned, and that, given that the only outstanding issue in the period until 1975 had concerned the final amount of compensation, they were under the impression that the commissioners had served that purpose. This was further confirmed by the audit report dated 28 May 1953 from the commissioners in which they had acknowledged that the plot in question had been expropriated to the benefit of the applicant community in 1920 and that the latter had paid the amount set as provisional compensation in 1934 (see paragraph 23 above).

58. In the light of the foregoing, the applicant community argued that it being deprived of its property had not occurred in accordance with the law, as the laws of 1949, 1950 and 1955 had not been applicable in its case, since the impugned plot had not been lawfully placed under

sequestration. It further maintained that that deprivation had not served the public interest; in particular, the laws in question might have pursued the public interest, namely, to impede the enemy's activities within the context of World War II, but given the fact that the plot had belonged to a Greek entity, such considerations had not been applicable given the present circumstances.

59. Lastly, the applicant community claimed that there had been no fair balance between the competing interests, as no compensation whatsoever had been awarded in respect of the fact that its property had been expropriated. The applicant community could not possibly have contested the placement of its property under sequestration in 1940 under Law no. 2636/1940, as that law had concerned only enemy properties and not properties belonging to Greek entities like itself. It could not possibly have contested the appointment of the commissioners in 1947, as it had never been notified of that appointment. Moreover, that appointment had taken place approximately two years after the return of only about 2,000 Jews to Thessaloniki of the population of 50,000 Jews, who had been deported to concentration camps; the applicant community had therefore scarcely been in a position to react to that appointment, as it had not had and could not have had, under such circumstances a well-operating legal department. Over the years that had followed, the applicant community had remained unaware of the appointment of the commissioners, as neither the commissioners nor any government official of had prevented it from exercising its full ownership rights in respect of the plot in question. Lastly, the applicant community had not reacted within the three-month time-limit set by the 1955 law because that time-limit had continued to concern only "enemy" property and not Greek legal entities.

2. *The Government's arguments*

60. The Government contended that the applicant community's arguments fell to be examined under the first of the three rules set out by Article 1 of Protocol No. 1 to the Convention. They argued that the said interference had been provided for by Article 2 § 1 of Law no. 1530/1950, which had been sufficiently accessible, clear and foreseeable. That Law had pursued a legitimate aim – legal certainty and the legal and actual settlement of the assets referred to in Articles 1 and 3 of Legislative Decree no. 1138/1949 – namely, enemy property located in Greece. The Government also emphasised the fact that the Court of Cassation had not expressed the view that the applicant community's asset constituted "enemy property" within the meaning of the above-mentioned laws; it had merely concluded that (i) the impugned plot constituted an asset that had come under the ownership of the Greek State on the basis of the provisions of Royal Decree no. 4 of 13 May 1955, and (ii) the asset was related to enemy property, but without expressing the view that it constituted enemy property.

61. The Government submitted that the legitimate aim of Law no. 2636/1940 on the placement of enemy properties under sequestration, as defined in its explanatory report to that Law, had been twofold: on the one hand: to prevent the enemy from engaging in economic activity at the State's expense, and on the other hand, to safeguard the said assets as indemnification for the damage caused to the State; therefore, such interference had been in the public interest.

62. In addition, the Government submitted that the said interference had been proportionate. According to the judgment of the Court of Cassation, the expropriation had been indeed

completed in 1934, and any property rights of any other person in respect of the impugned plot had ceased to exist; that had meant that the plot could not have been placed under sequestration as it had not been "enemy property". However, the State had exercised its rights under Royal Decree no. 1138/1949 prior to the entry into force of Law no. 1530/1950 by placing the plot under sequestration and by appointing the commissioners as managers. Consequently, the Court of Cassation had taken into account the fact that the property in question had been placed under sequestration and had held that, irrespective of the lawfulness of the State's actions (that is, the sequestration and the appointment of the commissioners), the applicant community should have exercised the right that it had asserted in its declaratory action within the three-month time-limit that had begun when the said Royal Decree had entered into force; that time-limit had begun on 13 May 1955 and had expired on 13 August 1955. The applicant community had thus had the opportunity – within the three-month time-limit set in Article 2 § 1 of Law no. 1530/1950 in conjunction with Royal Decree no. 4 of 13 May 1955 – to bring an action in the Athens Court of Appeal asserting its property rights.

63. The Government further pointed out in their additional observations that the applicant community had never raised an objection before a public authority or a court in the period from 1947 until 1957, during which the commissioners appointed by the State had managed the property in their capacity of being responsible for finding, recording, maintaining and exploiting it, and for taking all the measures necessary for safeguarding and managing the plot. While no effort to find the owners of plot no. 26 and notify them of the appointment of the commissioners appears to have been made, the applicant community had been aware of it – as proved by the fact that during domestic proceedings in 1968 the applicant community had summoned one of the two commissioners (in that capacity) to testify before the courts. The first time that the applicant community had raised its claims had been by means of its declaratory action of 1981, which proved that the applicant community had had nothing to do with plot no. 26 from at least 1947 until 1981. That fact could not be justified by the applicant community's lack of an active and well-organised legal department, as asserted by the applicant community, nor by the fact that the applicant community had not been notified of the appointment of commissioners and of the fact that the plot had been placed under sequestration. The Government further stressed that the meaning of the provisions in question had not been entirely clear – as indicated by the long litigation process and the delivery of many judgments by the Court of Cassation.

64. In the light of the foregoing, the applicant community could not have been considered to have suffered an individual, excessive burden that had upset the fair balance that had to exist between the obligation to protect its right to respect for its possessions and the requirements of the general public interest, as dictated by the Court's case-law.

3. *The Court's assessment*

(a) General principles

65. The relevant principles regarding Article 1 of Protocol No. 1 have been summarised in *G.I.E.M. S.r.l. and Others v. Italy* ([GC], nos. 1828/06 and 2 others, §§ 289, 292 and 293, 28 June 2018); *Iatridis v. Greece* ([GC], no. 31107/96, § 58, ECHR 1999-II); *Moskal v. Poland* (no. 10373/05,

§§ 49-52, 15 September 2009); *Lelas v. Croatia* (no. 55555/08, § 76, 20 May 2010, with further references); and *Beyeler v. Italy* ([GC], no. 33202/96, §§ 109-10 ECHR 2000-I).

66. The Court reiterates that the first and most important requirement of Article 1 of Protocol No. 1 is that any interference by a public authority with the peaceful enjoyment of possessions should be lawful: the second sentence of the first paragraph authorises a deprivation of possessions only "subject to the conditions provided for by law" and the second paragraph recognises that States have the right to control the use of property by enforcing "laws". Moreover, the rule of law, one of the fundamental principles of a democratic society, is inherent in all the Articles of the Convention (see, for instance, *Former King of Greece and Others v. Greece* [GC] (merits), no. 25701/94, § 79, ECHR 2000-XII, and *Broniowski v. Poland* [GC], no. 31443/96, § 147, ECHR 2004-V).

67. The principle of lawfulness also presupposes a certain quality of the applicable provisions of domestic law. In this regard, it should be pointed out that when speaking of "law", Article 1 of Protocol No. 1 alludes to the very same concept as that to which the Convention refers elsewhere when using that term (see, for example, *Vistiņš and Perepjolkins v. Latvia* [GC], no. 71243/01, § 96, 25 October 2012). It follows that the legal norms upon which the interference is based should be sufficiently accessible, precise and foreseeable in their application (see, among many other authorities, *Beyeler v. Italy* [GC], no. 33202/96, §§ 109-10, ECHR 2000-I). In particular, a norm is "foreseeable" when it affords a measure of protection against arbitrary interferences by the public authorities (see *Centro Europa 7 S.r.l. and Di Stefano v. Italy* [GC], no. 38433/09, § 143, ECHR 2012). An individual must be able, if need be with appropriate advice, to foresee – to a degree that is reasonable in the circumstances – the consequences that a given action may entail (see, for example, *Sun v. Russia*, no. 31004/02, § 27, 5 February 2009, and *Adzhigovich v. Russia*, no. 23202/05, § 29, 8 October 2009). The principle of lawfulness also requires the Court to verify whether the way in which the domestic law is interpreted and applied by the domestic courts gives rise to consequences that are consistent with the principles of the Convention (see, for example, *Apostolidi and Others v. Turkey*, no. 45628/99, § 70, 27 March 2007, and *Nacaryan and Deryan v. Turkey*, nos. 19558/02 and 27904/02, § 58, 8 January 2008).

68. The Court further recalls that an individual acting in good faith is, in principle, entitled to rely on statements made by State officials or public officials who appear to have the authority to do so, and to assume that all internal rules and procedures have been complied with, unless it clearly follows from publicly accessible documents (including primary or subordinate legislation), or an individual was otherwise aware, or should have been aware, that a certain official lacked the authority to legally bind the State. It should not be incumbent on an individual to ensure that the State authorities are adhering to their own internal rules and procedures – which are inaccessible to the public and which are primarily designed to ensure accountability and efficiency within a State authority. A State whose authorities have failed to observe their own internal rules and procedures should not be allowed to profit from their wrongdoing and escape their obligations. In other words, the risk of any mistake made by State authorities must be borne by the State; the errors must not be remedied at the expense of the individual concerned – especially where no other conflicting private interest is at stake (see *Lelas*, cited above, § 74).

69. Moreover, the principle of "good governance" requires that where an issue in the general interest is at stake it is incumbent on the public authorities to act in good time, in an appropriate manner and with the utmost consistency (see *Beyeler*, cited above, § 120, and *Megadat.com S.r.l. v. Moldova*, no. 21151/04, § 72, 8 April 2008).

70. Lastly, the existence of a legal basis is not in itself sufficient to satisfy the principle of lawfulness. When referring to "law", Article 1 of Protocol No. 1 alludes to a concept that comprises statutory law as well as case-law (see *Aliyeva and Others v. Azerbaijan*, nos. 66249/16 and 6 others, § 129, 21 September 2021).

(b) Application of the relevant principles in the present case

71. In the light of the above-noted finding that the interference with the applicant community's possession stems from the decision of the Court of Cassation no. 1105/2019 of 3 September 2019, which constituted the unequivocal moment at which the applicant community lost ownership of the impugned plot, the Court finds that there has been an interference with the applicant community's property. As regards the question of which of the rules contained in Article 1 of Protocol No. 1 applies, the Court considers that there is no need to take a clear stance on the question of the rule of Article 1 of Protocol No. 1 under which the case should be examined – that is, whether it should be examined under the general principle of the peaceful enjoyment of property comprised in the first rule or in the context of deprivation of property in the second rule – because the principles governing the question of justification within both contexts are substantially the same, involving, as they do, the legitimacy of the aim of any interference, as well as its proportionality and the preservation of a fair balance (see *Credit Europe Leasing Ifn S.A. v. Romania,* no. 38072/11, § 71, 21 July 2020). The Court must therefore examine whether the interference complained of was lawful and, if so, whether it was proportionate to the legitimate aim pursued.

72. The Court observes that in 2019 the Court of Cassation ruled that – even though the applicant community had acquired ownership of the impugned plot in 1934 by virtue of it paying into the Deposits and Loans Fund the amount set as provisional compensation owed for the expropriation – the impugned plot had fallen within the application of Royal Decree no. 4 of 13 May 1955 in conjunction with Law no. 1530/1950, which had enabled the immediate seizure of enemy property and its transfer to the State without further formalities. The Court of Cassation reached that conclusion on the basis of the appointment of commissioners in 1947, deeming that the State had exercised its rights emanating from Law no. 1138/1949 before the enactment of Law no. 1530/1950 and that the plot in question had been under sequestration, under the management of the above-mentioned commissioners. It thus deemed that the applicant community – as a third party claiming ownership of the seized plot – should have brought an action within the three-month time-limit provided by Article 2 § 1 of Law no. 1530/1950 (see paragraph 18 above).

73. The Court will accordingly examine whether that finding was foreseeable for the applicant community, given the circumstances of the case (see, *mutatis mutandis*, the above-cited cases of *Sun*, § 29, and *Lelas*, § 75).

74. In this regard, the Court notes that – pursuant to the Legislative Decree no. 1138/1949, supplemented by Royal Decrees nos. 9/23-10-1952 and 4/13-5-1955 – any property situated in

Greece belonging to Italian citizens or the Italian State was seized and transferred to the State without further formalities. According to the interpretation given by the domestic courts to the above-mentioned legislation, in order for property belonging to the Italian State or to Italian citizens to be transferred to the Greek State on the basis of that legislation, the property must have been located in Greek territory and must have belonged on 22 October 1947 (that is to say the date of the publication of Legislative Decree no. 423/1947 ratifying the peace treaty of 10 February 1947) to Italy or to an Italian national (see paragraphs 30-32 above).

75. In the present case, the Court of Cassation acknowledged that plot no. 26 had come under the ownership of the applicant community in 1934 by virtue of the paying into the Deposits and Loans Fund of the amount set as provisional compensation owed for the expropriation. The Court observes that even the appointment of commissioners, which took place in 1947, whether the applicant community was aware of that or not, did not change the ownership of the plot: pursuant to Law no. 2636/1940, the commissioners were appointed to merely manage the plot, which had been sequestrated (but not transferred to the ownership of the commissioners or the State). Nevertheless, the Court of Cassation concluded that the impugned plot had become the property of the State under the legislation of 1950 and 1955 concerning enemy property.

76. In this regard the Court observes that the interpretation arrived at by the Court of Cassation in the present case appears to contradict the general principles cited at the beginning of the impugned decision no. 1105/2019, as well as its own case-law regarding the matter, given the fact that it has held that, in order for the legislation concerning the transfer of enemy property to have applied to a particular property, there were two fundamental conditions that had had to be met – one being that the property belonged to Italy or an Italian citizen on 22 October 1947 - 1947 – or to Germany or to a German citizen on 24 January 1946 (see paragraph 32 above). However, by the Court of Cassation's own acknowledgement, that condition had not been met in the present case, given that the applicant community had been the owner of the plot since 1934; even the appointment of commissioners had not changed that fact. No explanation as to why the circumstances of the instant case had warranted a different conclusion was given by the Court of Cassation, despite the applicant community having raised an objection in respect of its own rights on the plot (see paragraph 17 above). The Court reiterates that where such manifestly conflicting decisions interfere with the right to the peaceful enjoyment of one's possessions and when no reasonable explanation is given for such divergence, such interferences cannot be considered lawful for the purposes of Article 1 of Protocol No. 1 to the Convention because they lead to inconsistent case-law that lacks the required precision to enable individuals to foresee the consequences of their actions (see *Aliyeva and Others*, cited above, § 134, with further references).

77. In the light of the above, the Court considers that the Court of Cassation's 2019 interpretation of the relevant domestic legislation and its application to the present case was not foreseeable under the circumstances. On the one hand, that legislation referred to properties belonging to Italian citizens and categorised them as enemy property; however, as acknowledged by the Court of Cassation, plot no. 26 no longer belonged to the Italian citizens as it had been the property of the applicant community since 1934, and the condition for the application of the legislation governing enemy property was therefore not met. On the other hand, the Court of Cassation based its decision on the fact that the State had exercised its rights

under Law no. 1138/1949 by virtue of it appointing commissioners in 1947, which had thus automatically placed the impugned plot under the application of Royal Decree no. 4 of 13 May 1955. However, the Court notes that the appointment of commissioners seems not to have been lawful in the first place, as the plot in question already belonged to the applicant community in 1947 when the commissioners were appointed and thus, the relevant conditions set out in the law had not been met. Moreover, it had no effect on the ownership of the plot at the material time, because, pursuant to the domestic legislation, the commissioners were appointed to manage the sequestrated property and not own it. In view of the above-noted considerations, the Court fails to see how the applicant community could have foreseen that the legislation regarding enemy property concerned its own property, in view also of the Court of Cassation's case-law concerning conditions that had to be met in order for the legislation to apply to a particular property.

78. The Court further notes the long-standing stance of the State, which until 1975 only undertook actions aimed at securing compensation; only after 1975 did it begin to assert that it actually owned the impugned plot (see paragraph 52 above). In this regard, the statements and actions by various State organs, which were aimed purely at securing compensation – on which the applicant community was entitled to rely, as the applicant community's good faith has not been questioned – reinforced the applicant community's belief that it was the legal owner of the plot and the only outstanding issue in respect of which the State lodged any claims concerned the question of the compensation owed for the expropriation. The lack of consistency in the State's actions over the years – namely, the change in its stance after 1975 – contradicts the principle of "good governance", which requires that where an issue in the general interest is at stake it is incumbent on the public authorities to act in good time, in an appropriate manner and with the utmost consistency (see *The J. Paul Getty Trust and Others v. Italy*, no. 35271/19, § 377, 2 May 2024).

79. In the light of the above, the Court finds that the impugned interference was incompatible with the principle of lawfulness and therefore contravened Article 1 of Protocol No. 1 (see, *mutatis mutandis*, *Frizen v. Russia*, no. 58254/00, § 35, 24 March 2005; *Adzhigovich*, cited above, § 34; and *Cazacu v. Moldova*, no. 40117/02, §§ 46-47, 23 October 2007), because the manner in which the apex national court interpreted and applied the relevant domestic law namely, Law no. 1530/50 in conjunction with Royal Decree no. 4 of 13 May 1955, was not foreseeable for the applicant community, which could not have reasonably expected that the property which had already come under its ownership in 1934 would be affected in 1950 and 1955 by the legislation concerning enemy property. Moreover, the applicant community could have reasonably expected that the State's actions – such as the letter dated 5 December 1955 by which the State acknowledged that it had succeeded the heirs of "Omissis" in respect of the right to compensation and the action brought in 1966 seeking the determination of the final price – meant that the State had acknowledged that plot no. 26 belonged to the applicant community. Furthermore, the applicant community could not have anticipated the change in the State's stance, and neither could it have anticipated the interpretation given to the domestic legislation by the domestic courts as late as 2019.

80. This finding that the interference was not in accordance with the law renders it unnecessary to examine whether a fair balance has been struck between the general interests of the community and the need to protect the applicant community's fundamental rights.

81. There has therefore been a violation of Article 1 of Protocol No. 1.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

82. The applicant community complained that the Court of Cassation by its decision no. 1105/2019 had violated its right to a fair trial, as provided by Article 6 § 1 of the Convention, which in its relevant parts reads as follows:

"In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

83. The Court observes that this complaint is linked to the one examined above and must therefore likewise be declared admissible.

84. Having regard to its finding under Article 1 of Protocol No. 1 (see paragraph 81 above), the Court finds that it is not necessary to examine whether, in this case, there has been a violation of Article 6 § 1.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

85. Article 41 of the Convention provides:

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

A. Damage

86. The applicant community claimed 100,000 euros (EUR) in respect of non-pecuniary damage.

87. The Government argued that the finding of a violation should constitute sufficient compensation for any non-pecuniary damage sustained by the applicant community – especially given the financial situation of the country, which had been further aggravated by the Covid-19 crisis. In any event, the amount requested was excessive and unjustified in view of the circumstances of the case.

88. The Court notes that the applicant community did not request an award in respect of pecuniary damage. In any event, it observes that domestic law provides for the possibility of reopening of proceedings. Specifically, under Article 544 § 11 of the Code of Civil Procedure, an interested party may request the reopening of civil proceedings in respect of a case where a final judgment of the European Court of Human Rights has been delivered that declares "that the contested decision was taken in breach of a right relating to the fairness of the procedure followed or a provision of substantive law of the European Convention on Human Rights" (see paragraph 35 above). It is for the applicant community now to make use of that opportunity, and if the case is to be re-examined, the domestic courts will, in principle, be obliged to apply Article 1 of Protocol No. 1, as interpreted by the Court (see *Yordanov and Others v. Bulgaria*, nos. 265/17 and 26473/18, § 148, 26 September 2023).

89. As regards the requested award in respect of non-pecuniary damage, the Court considers that the applicant community has suffered non-pecuniary damage that cannot be compensated for solely by the finding of a violation, and that compensation should therefore be awarded. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant community the sum of EUR 5,000 under this head, plus any tax that may be chargeable on this amount.

B. Costs and expenses

90. The applicant community also claimed EUR 106,288, plus VAT (EUR 14,704.32) – a total of EUR 120,972.32 for the costs and expenses incurred before the domestic courts and the Court. In particular, the applicant community asked for EUR 45,000 in respect of its legal representation during the proceedings before the first-instance court and the appeal court; in this regard it presented two receipts for money paid to lawyers dated 31 August 2017 and 23 November 2017 in the amount of, respectively, EUR 35,000 and EUR 10,000; each receipt was headed by the words "Fee for case no. 26 property land Registry expropriation 0151". The applicant community further submitted receipts issued by the law firm Alivizatos, Kisoussopoulou and Associates in respect of money paid in connection with the proceedings before the Court of Cassation (including the two hearings held during those proceedings) for payment of the total amount of EUR 22,500, plus VAT amounting to EUR 5,400 – a total of EUR 27,900. It further submitted receipts issued by Mr A. Karabatzos, a lawyer, for money paid in connection with the same proceedings in the amount of EUR 18,768, plus VAT EUR 4,504.32 – a total of EUR 23,272.32. Lastly, the applicant community requested, for the expenses incurred in the proceedings before the Court, the amount of EUR 20,000, plus VAT EUR 4,800 – that is to say a total amount of EUR 24,800.

91. The Government argued that the conditions for awarding costs and expenses had not been met, as the costs had not been linked to the alleged violations of the Convention and thus had not been incurred in the process of preventing or correcting these violations. They maintained that the receipts in respect of the first-instance and appeal-court proceedings were vague, as it was not possible to infer the necessity or the exact purpose of those costs. As regards costs claimed for the proceedings before the Court of Cassation (as submitted in respect of two law firms) and the costs incurred before the Court, the sums claimed were manifestly excessive.

92. According to the Court's case-law, an applicant community is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and to the above-noted criteria, the Court considers excessive the total sum claimed for the costs and expenses incurred during the domestic proceedings. In view of the multiple hearings and the lengthy domestic proceedings that resulted in the delivery of three decisions by the Court of Cassation, the Court considers it reasonable to award the applicant community EUR 30,000, plus any tax that may be chargeable to the applicant community. As regards the proceedings before it, regard being had to the documents in its possession and to the complexity of the case, the Court considers it reasonable to award the sum of EUR 10,000, plus any tax that may be chargeable to the applicant community.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;
3. *Holds* that there is no need to examine separately the complaint under Article 6 § 1 of the Convention;
4. *Holds*

(a) that the respondent State is to pay the applicant community, within three months from the date on which the judgment becomes final, in accordance with Article 44 § 2 of the Convention, the following amounts:

(i) EUR 5,000 (five thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 40,000 (forty thousand euros), plus any tax that may be chargeable to the applicant community, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points;

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

Done in English, and notified in writing on 6 May 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar

Peeter Roosma President