



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

FOURTH SECTION

CASE OF ALBERT AND OTHERS v. HUNGARY

(Application no. 5294/14)

JUDGMENT

STRASBOURG

29 January 2019

**THIS CASE WAS REFERRED TO THE GRAND CHAMBER
WHICH DELIVERED JUDGMENT IN THE CASE ON
07/07/2020**

This judgment may be subject to editorial revision.

In the case of Albert and Others v. Hungary,

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

Ganna Yudkivska, *President*,

Paulo Pinto de Albuquerque,

Robert Spano,

Faris Vehabović,

Iulia Antoanella Motoc,

Carlo Ranzoni,

Marko Bošnjak, *judges*,

and Marialena Tsirli, *Section Registrar*,

Having deliberated in private on 4 December 2018,

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

PROCEDURE

1. The case originated in an application (no. 5294/14) against Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by Ms Józsefné Albert and 240 other Hungarian nationals, whose details are set out in the appendix, on 10 January 2014.

2. The applicants were represented by Mr I. Gárdos, a lawyer practising in Budapest. The Hungarian Government (“the Government”) were represented by their Agent, Mr Z. Tallódi, from the Ministry of Justice.

3. The applicants alleged, in particular, that the restriction of their rights to influence the operation of the banks in which they held shares, stemming from the Integration Act of 2013, had violated their rights under Article 1 of Protocol No. 1 to the Convention.

4. By a decision of 4 April 2017, the Court declared the application admissible and joined to the merits two objections by the Government concerning the applicants’ victim status.

5. The applicants filed further written observations (Rule 59 § 1 of the Rules of Court) and requested a hearing on the merits of the case. The Court however considered a hearing unnecessary in the present case (Rules 54 § 5 and 59 § 3).

6. As Mr Péter Paczolay, the judge elected in respect of Hungary, withdrew from sitting in the case (Rule 28 § 3), the President decided to appoint Mr Robert Spano, the judge elected in respect of Iceland, to sit as an *ad hoc* judge (Article 26 § 4 of the Convention and Rule 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicants are shareholders of two savings banks, namely Kinizsi Bank Zrt. (“Kinizsi Bank”) and Mohácsi Takarékos Bank Zrt. (“Mohácsi Bank”), and of one savings cooperative, Pátria Takarékszövetkezet (“Pátria Cooperative”). A list of the applicants is set out in the appendix, which also indicates the financial institution in which they hold shares and any changes to their situation following the lodging of the application.

8. At the time the application was lodged, the applicants held shares with an aggregate par value of 2,043,342,000 Hungarian forints (HUF), approximately 6,310,000 euros (EUR), representing 98.28% of the total registered capital of Kinizsi Bank and shares with an aggregate par value of HUF 1,833,300,000, approximately EUR 5,662,000, representing 87.65% of the total registered capital of Mohácsi Bank, and shares with an aggregate par value of HUF 8,100,000, approximately EUR 25,000, representing 5.61% of the total share capital of Pátria Cooperative.

9. On 18 December 2014 and 15 April 2015 respectively two of the applicants, Ms László Jánosné Boris (no. 18) and Ms. Endréné Csoltkó (no. 28), the only shareholders of Pátria Cooperative amongst the applicants, withdrew their complaints before the Court. Therefore, the facts of the case below do not contain any further information relating specifically to Pátria Cooperative.

A. Institutional protection system prior to the Integration Act

10. Kinizsi Bank and Mohácsi Bank were established in 1958 and used to operate as savings cooperatives. Their clientele was mostly from the local community.

11. In 1993 a voluntary and restricted integration took place involving 235 savings cooperatives, including the predecessors of Kinizsi Bank and Mohácsi Bank. The purpose of the integration was to enhance the cooperatives’ market position and financial security. With the active support of the Hungarian State and the PHARE Program of the European Union, they entered into an integration agreement. The key institutions of the integration were the National Association of Savings Cooperatives (*Országos Takarékszövetkezeti Szövetség* – “OTSZ”), the Savings Bank (*Takarékbank Zrt.*) and the National Fund for the Institutional Protection of Savings Cooperatives (*Országos Takarékszövetkezeti Intézményvédelmi Alap* – “OTIVA”), which was created as part of the integration. OTIVA, on the one hand, improved the security of deposits placed with the savings cooperatives by supplementing the National Deposit Insurance Fund (*Országos Betétbiztosítási Alap* – “OBA”), and, on the other hand, served to

prevent crisis situations and improved the stability of savings cooperatives. Until changes were introduced by the Integration Act, the shareholding of the savings cooperatives and certain saving banks (together referred to as “cooperative credit institutions”) in the Savings Bank exceeded 60%.

12. In 2006 and 2008 respectively Kinizsi Bank and Mohácsi Bank transformed into the companies limited by shares and received their licences for banking operations. They however remained members of OTIVA and part of the above-mentioned integration.

B. Economic situation of the cooperative credit institutions

13. According to Risk Report 2013/I issued by the Hungarian Financial Supervisory Authority (hereafter “the Supervisory Authority”) in June 2013, the cooperative credit institution sector remained profitable throughout the economic crisis. However, in 2011 and 2012 respectively the operating licences of two saving cooperatives were revoked by the Supervisory Authority, which resulted in the deposit holders obtaining indemnification from OBA.

14. Following an audit carried out with respect to 121 cooperative credit institutions, further to the entry into force of the Integration Act (see paragraph 16 below), a certain number of them had their operating licences withdrawn. Furthermore, ninety-one cooperative credit institutions were obliged to commit reserves, in eight cases a serious crisis situation was established and some required a capital injection from the Integration Organisation (see paragraph 18 below).

15. According to the Government, basing its findings on the data collected after the Integration Act came into force, considering the capital/loan ratio, thirty-nine cooperative credit institutions would not have been in a position to ensure profitable operations without the new measures. The above-mentioned audit also revealed that thirteen cooperative credit institutions had a capital adequacy ratio below 8%, five of which had a negative ratio value.

C. The Integration Act

1. Main features of the Integration Act and scope of its application

16. On 13 July 2013 Act no. CXXXV of 2013 on the Integration of Cooperative Credit Institutions and the Amendment of Certain Laws Regarding Economic Matters (“the Integration Act”) entered into force. It was then amended in several aspects, including by Act no. CXCVI of 2013 on the Amendment of Certain Laws Regarding the Integration of

Cooperative Credit Institutions (“the Integration (Amendment) Act”) with effect from 30 November 2013.

17. The Integration Act concerned cooperative credit institutions, that is most savings cooperatives operating as a cooperative and the banks operating as companies limited by shares who on 1 January 2013 had been members of OTIVA. Its scope therefore extended to Kinizsi Bank and Mohácsi Bank. It made the cooperative credit institutions *ipso jure* members of the Integration Organisation and shareholders of the Savings Bank.

18. The Integration Act abolished the integration of cooperatives organised on a voluntary basis, with voluntary membership, and terminated OTIVA. Instead, it introduced a mandatory integration headed by, *inter alia*, the Integration Organisation of Cooperative Credit Institutions (*Szövetkezeti Hitelintézetek Integrációs Szervezete* – “the Integration Organisation”), which had been newly created as a legal successor of OTIVA and other voluntary institutional protection funds, and the Savings Bank, which continued to be the central bank of the integration, now having more extensive powers. The Integration Act also created a financial risk pool, encompassing the whole of the cooperative credit institutions sector.

19. The Savings Bank supervises the operations of the cooperative credit institutions and is authorised to issue instructions in order to ensure compliance with the law and the regulations issued by the Integration Organisation and the Savings Bank. Apart from the cooperative credit institutions, the Savings Bank and the Hungarian Development Bank (*Magyar Fejlesztési Bank Zrt.* – “the MFB”) became members of the Integration Organisation by virtue of law. Due to the changes in the ownership of the Savings Bank pursuant to the Integration Act (see in particular, sections 13 and 20, cited in paragraph 39 below) the shareholding of Kinizsi Bank and Mohácsi Bank in the Savings Bank changed. While the two banks previously possessed 0.15% and 2.27% respectively in the Savings Bank, they had a 0.12% and 1.83% stake respectively following the implementation of the Integration Act.

20. The Integration Organisation’s assets are included in the consolidated own funds of the Savings Bank and the cooperative credit institutions. The solvency capital of the cooperative credit institutions is determined collectively, including the property of the Savings Bank and the Integration Organisation.

2. Possibilities to exit the system

21. Under section 17 of the Integration Act, the cooperative credit institutions which did not comply with the relevant requirements of the Integration Act were excluded from integration and their operating licences withdrawn. In such cases, and if they decided to exit, their shares in the Savings Bank could be bought by the MFB, who had a call option (section 20(10) of the Integration Act).

22. In July 2013 banks could leave the integration if they were each able to provide an additional HUF 2 billion, approximately EUR 6 million, as for the creation of a new bank. Moreover, following the amendment of the Integration Act, the cooperative credit institutions were obliged to deposit an amount equivalent to the value of the share capital they had had at the time of the establishment of their membership in the Integration Organisation to a separate account at the Savings Bank for 730 days (sections 11(7) and (8), and 20/A(12) and (13) of the Integration Act; see also paragraph 43 below). At least one bank, to which the Integration Act applied, decided to exit the system and this decision was accepted by the Supervisory Authority.

3. State's role in the integration

23. In 2012 the Hungarian State emerged as an indirect owner of the Savings Bank, when the MFB (see paragraph 19 above), which is owned by the State, purchased a stake in Deutsche Zentral-Genossenschaftsbank AG, representing 38.5% of the Savings Bank's shares. Following the entry into force of the Integration Act, the Savings Bank's capital was increased by HUF 654,986,000 to HUF 3,389,704,000 (approximately EUR 10 million) from the previous amount of HUF 2,735,038,000. Out of this capital increase, the State-owned Hungary Post (*Magyar Posta*) exercised its statutory subscription rights and acquired ordinary shares with an aggregate par value of HUF 654,666,000 (approximately EUR 2 million), almost 20% of the Savings Bank's shares (see section 20 of the Integration Act, cited in paragraph 39 below).

24. Apart from the capital increase, the State has directly paid HUF 136 billion, approximately EUR 420 million, to the Integration Organisation through the Joint Capital Coverage Fund of Cooperative Credit Institutions (hereinafter referred to as "the Fund").

25. It was envisaged that the State's ownership in the integration would only be of a temporary nature. In 2014 its stake in the Savings Bank was sold, through a bidding process, to one company. According to the Government, the majority of the buyer company is owned by savings cooperatives and private individuals and, as a result of this transaction, the direct and indirect shareholding of cooperative credit institutions in the Savings Bank increased to 76.96%.

D. Impact of the Integration Act on the decision making of the cooperative credit institutions

26. Following the entry into force of the Integration Act, the cooperative credit institutions were obliged to approve a new memorandum of association conforming to the model established by the Integration Organisation. They continue to be bound by any amendments to the model

introduced by the Integration Organisation (sections 17/H and 19(3) of the Integration Act, see also paragraph 46 below).

27. For a resolution by the board of directors and supervisory board of the cooperative credit institutions to be valid, an invitation to the relevant meeting of the board of directors or supervisory board, together with all related material, must be simultaneously sent to the Savings Bank (section 15/A of the Integration Act). Minutes of the general meetings and meetings of the board of directors of the cooperative credit institutions must always be submitted to the Savings Bank, and minutes of the supervisory board meetings must be sent to the Savings Bank in certain cases. The cooperative credit institutions are also required to inform, *inter alia*, the Integration Organisation and the Savings Bank of any legal proceedings in which they are involved (section 15/C of the Integration Act).

28. The shareholders of the cooperative credit institutions may take, *inter alia*, the following resolutions subject to consent/approval of the Savings Bank:

- the adoption of the annual financial report of the company (section 15(11) and 17/J(2) of the Integration Act);
- the issuing of bonds (section 17/K(1) of the Integration Act);
- decreases or increases of capital (*ibid.*);
- any payment to the shareholders under any legal title (e.g. dividends, reduction of capital) in connection with their status as shareholders (see section 17/Q(3) and (4) of the Integration Act, cited in paragraph 39 below);
- the conversion, merger or demerger of the company (section 17/S(3) of the Integration Act); and
- acquisition of own shares (section 17/Q(6) of the Integration Act).

29. The consent of the Savings Bank is required for the appointment of executive officers of the cooperative credit institutions (section 15(12) of the Integration Act). The Savings Bank is authorised to suspend their mandate; it may appoint a managing official for an interim period if the cooperative credit institutions do not comply with the instructions or their operations are not in compliance with the law or regulations, or if they are in a so-called crisis situation (section 15(4), (7) and (12) of the Integration Act).

30. The Integration Organisation is entitled to suspend the voting rights of the shareholders of the cooperative credit institution for one year if they threaten the reliable and secure operation of the cooperative credit institutions (see section 17/C(5), cited in paragraph 39 below).

31. The Integration Organisation is authorised to define the level of the cooperative credit institutions' solvency capital on an individual case-by-case (not consolidated) basis (section 17/C(1); if they do not reach the level defined, the Integration Organisation is authorised to increase the capital of the cooperative credit institutions, or take certain other measures (see section 17/C(2), cited in paragraph 39 below).

32. As to the actual application of the measures provided for by the Integration Act, the Government submitted the following information:

(i) There have been altogether 151 cases in which cooperative credit institutions sought the consent of the Integration Organisation for the appointment of board members; in ten cases the consent was refused, affecting seven cooperative credit institutions. These cases did not concern Kinizsi Bank or Mohácsi Bank.

(ii) Executive officers of cooperative credit institutions were removed in nine cases; four of these affected cooperative credit institutions where the capital adequacy ratio was largely insufficient, which led to a capital injection by the Integration Organisation in three cases and a merger with another cooperative credit institution in the fourth case; in the remaining five cases, executive officers were removed for breaches of the relevant legislation. These cases did not concern Kinizsi Bank or Mohácsi Bank.

(iii) In eight cases the Savings Bank refused to consent to the payment of dividends; the reasons were: (a) non-compliance with the relevant legislation (two cases, including Kinizsi Bank (see paragraph 35 below)), (b) the risk of not fulfilling the business plan (four cases), (c) the risk of not fulfilling the business plan but allowing for the payment of a limited amount of dividends (two cases, including Mohácsi Bank (see paragraph 35 below)).

(iv) In three cases the increase in capital was provided by the Integration Organisation in order to achieve the 8% capital adequacy ratio; none of them concerned Kinizsi Bank or Mohácsi Bank.

(v) The voting rights of shareholders of cooperative credit institutions have never been suspended by the Integration Organisation.

(vi) In two cases, not concerning Kinizsi Bank and Mohácsi Bank, the Savings Bank refused to consent to the payment of the shares' value in a cooperative credit institution for members who had exited the institution, finding that the payment would have jeopardised the fulfillment of the capital adequacy ratio requirements.

E. Interference by the integration bodies in the decision making of Kinizsi Bank and Mohácsi Bank

33. Kinizsi Bank and Mohácsi Bank had to adopt a memorandum of association in line with the model provided by the Integration Organisation following the entry into force of the Integration Act. However, the shareholders of the two banks who disagreed with the resolution adopting the aforementioned memorandum challenged it in court. On 12 March 2015 the Pécs High Court found for the plaintiffs in the case brought by the Mohácsi Bank's shareholders. The court held that the model memorandum of association issued by the Savings Bank and the Integration Organisation could not in any way deviate from the mandatory provisions of the

Companies Act. On 30 March 2015 a similar judgment was given by the Veszprém High Court in a case brought by the shareholders of Kinizsi Bank. In both cases, the decision adopting the impugned memorandum at the general meetings of the bank was annulled.

34. It would appear that the required solvency capital of Kinizsi Bank and Mohácsi Bank was at some point raised. However, both banks were able to comply with the new requirement.

35. In the case of Kinizsi Bank, the Savings Bank refused to approve the annual report for 2014 as the bank had not provided data to the auditor to complete the financial audit. The applicants submitted that the required data had been submitted in due time. In the case of Mohácsi Bank, the Savings Bank approved the annual financial report for 2014 but prohibited the actual payment of dividends amounting to 25% (see paragraph 32 above).

36. The Government averred that several further sets of proceedings were pending before Hungarian courts in which Kinizsi Bank or Mohácsi Bank or their shareholders had sought a remedy against certain decisions of the Savings Bank or the Integration Organisation.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The 2006 Companies Act

37. Act no. IV of 2006 on Companies (“the 2006 Companies Act”, as in force on 12 July 2013, a day before the Integration Act’s entry into force) provided, with respect to a general meeting of a limited liability company, as follows:

Section 231

“(1) The general meeting is the supreme body of a private company limited by shares, and consists of all shareholders.

(2) The following shall fall within the exclusive competence of the general meeting:

(a) decisions to approve and amend the articles of association, unless this Act contains provisions to the contrary;

(b) decisions on changing the operating form of the private limited company;

(c) decisions on converting or terminating the company without succession;

(d) with the exception of the provisions in section 37 (concerning the delegation of certain competences to the supervisory board), the election and removal of members of the management board or the general director, members of the supervisory board and the auditor, and their remuneration;

(e) approval of the annual report prepared pursuant to the Accounting Act;

(f) decisions to pay interim dividends, unless this Act contains provisions to the contrary;

- (g) decisions to convert printed share certificates into dematerialised shares;
- (h) alteration of the rights attached to the various series of shares, and the conversion of categories or classes of shares;
- (i) decisions to issue convertible bonds or bonds with subscription rights, unless this Act contains provisions to the contrary;
- (j) decisions to increase the share capital, unless this Act contains provisions to the contrary;
- (k) decisions to reduce the share capital, unless this Act contains provisions to the contrary;
- (l) decisions to abolish preferential subscription rights, or for authorising the management board for the exclusion or restriction of preferential subscription rights;
- (m) decisions on all issues which are assigned to the competence of the general meeting by law or the articles of association.”

B. Integration Act

38. The Preamble to the Integration Act (see paragraph 16 above) reads, in so far as relevant, as follows:

“The savings cooperatives industry needs to be restructured; the sector is under-capitalised, and the level of its organisation and the standard of its services are not adequate and its operability may not be ensured in the long term.

Under the authorisation of Act no. CCVI of 2007, in a Government decree the Hungarian State has established the minimum amount provided from State assets for the sectorial restructuring of savings cooperatives. Due to international commitments, however, the funds to be actually devoted to restructuring may not exceed the amount corresponding to the due consideration to be payable by investors in similar market conditions for the rights and positions acquired by the Hungarian State.

Though the Hungarian State acquires major ownership in the industry, it avails such strong positions to restructure, professionalise and reorganise the sector and wishes to sell its positions – thus improved and strengthened – in due time, provided that the positive developments induced by the Hungarian State seem to be irreversible.

The Act aims to provide a uniform and transparent legal framework for all cooperative credit institutions...

The personal scope of the Act extends to cooperative credit institutions defined in the Act, i.e. savings cooperatives, cooperative credits and other credit institutions described in the Act that at any time prior to the Act entering into force operated in cooperative form and prior to the Act entering into force has transformed from cooperatives to limited liability companies, retaining their cooperative affiliation, indicated by the fact that they continue to operate as members of an organisation representing savings cooperatives’ interests.”

39. Apart from those set out above (see paragraphs 21 to 31 above), the following provisions of the Integration Act (as amended) are relevant:

Section 1

“...

(4) [The Savings Bank] is obliged to approve a new risk management policy uniformly applicable to members of the integration within 120 days following the entry into force of this Act. The Integration Organisation, [the Savings Bank] and the cooperative credit institution shall bear joint and several liability for obligations assumed after the thirtieth day following the issuing of new risk management policy of [the Savings Bank].”

Section 1/A

“This Act aims to:

(a) establish a bank for the rural communities, operating under the principle of joint and several liability, the members of which are preferably local private property owners, the efficient operation and economies of scale of which are ensured by professional central management,

(b) provide institutional guarantees for the prudent operation of cooperative credit institutions in the long term,

(c) professionalise, modernise and organise a competitive cooperative credit institution sector,

(d) improve risk management of the cooperative credit institution sector,

(e) ensure integrated operation of the cooperative credit institution sector and establish the necessary infrastructure,

(f) standardise operational policies in order to achieve the aims described in paragraphs (a) to (e).

(g) ensure institutional protection of cooperative credit institutions,

(h) ensure compliance with international and European requirements, regulations, standards and customs applicable to credit institutions.”

Section 3

“...

(2) The Integration Organisation may accept as member who,

(a) made, in accordance with the provisions of the Civil Code, a preliminary undertaking towards the Savings Bank to take over one “C” preference share with a nominal value of HUF 2,000;

(b) approved a new memorandum or articles of association in line with the model pre-approved by the board of the Savings Bank in accordance with the present Act;

(c) except for the cooperative credit institutions defined in section 19(4), notified, in the manner prescribed by this Act, the Integration Organisation of its intention to join the organisation ...”

Section 4

“(1) The initial assets of the Integration Organisation shall consist of the contribution provided by the MFB and the assets acquired under the title of legal succession ...

(2) The contribution of the MFB shall amount to HUF 1,000,000,000, that is, one billion forints, to be provided by the MFB ...

...”

Section 11

“(1) The Board of the Integration Organisation shall adopt rules obligatory for the members of the Integration Organisation, save for the MFB, on the following:

- (a) accounting procedures;
- (b) internal control procedures;
- (c) suitability criteria for executive officers and the verification of such suitability;
- (d) provision of financial aid eligible for cooperative credit institutions;
- (e) building-up of the assets of the Integration Organisation described in section 4(4).

(2) Upon the initiative of the Board of [the Savings Bank], the Board of the Integration Organisation shall decide on the admission of a cooperative credit institution into the Integration Organisation and on its exclusion from the Integration Organisation.

...

(4) For the purpose of institutional protection, in the event that the measure(s) taken under section 17/C(2) yield(s) no result, the Integration Organisation may acquire ownership in [the Savings Bank] and the cooperative credit institution by means of a capital increase. The Integration Organisation is obliged to dispose of, within two years, the shares and bonds thus acquired in [the Savings Bank] or the cooperative credit institution

...

(7) Exit from the Integration Organisation shall be regulated by the statutes of the Integration Organisation. Cooperative credit institutions exiting the Integration Organisation shall apply to the Supervisory Authority for operational authorisation within [eight] days following the Integration Organisation’s notification of its exit from the Integration Organisation as if the financial institution were being newly established. If the cooperative credit institution exiting or excluded from the Integration Organisation fails to apply to the Supervisory Authority for operational authorisation ..., or the operational authorisation is not granted within 120 days of the date of the Integration Organisation’s notification of its exit or exclusion from the Integration Organisation, the Supervisory Authority shall revoke its operational authorisation and the provisions of section 17 shall be applied to the cooperative credit institution.

(8) In the event of exit or exclusion from the Integration Organisation, with respect to the exiting or excluded member, the joint and several liability of the members of the Integration Organisation shall terminate for the obligations assumed by the member as of the day of its exit or exclusion ...”

Section 12

“(2) The shareholders of [the Savings Bank] are the cooperative credit institutions, the eventual general or specific successor(s) of the MFB and Magyar Posta, and other

organisations, legal entities or natural persons acquiring shares in [the Savings Bank] with the consent of the Board of [the Savings Bank].”

Section 13

“(1) The authorised share capital of [the Savings Bank] shall be at least HUF 3,389,704,000 ...

(2) Magyar Posta shall acquire ownership in [the Savings Bank] by subscribing to ordinary shares.

(3) The cooperative credit institutions shall hold series “C” preference shares in [the Savings Bank].

(4) Shareholders of [the Savings Bank] may only hold one kind of preference share.”

Section 15

“...(2) [The Savings Bank] shall adopt rules obligatory for cooperative credit institutions on the following:

(a) the detailed rules on risk management, including credit authorisation, risk monitoring, deposit allocation, cash management and investment policy ... and rules on additional specific capital requirements in addition to laws, regulations and other binding rules;

(b) the applicable business policy;

(c) the joint marketing activity;

(d) the establishment of an integrated IT system.

(3) [The Savings Bank] shall exert control over the activity of the cooperative credit institution, and it may give instructions to the cooperative credit institution in order to ensure compliance with the laws and regulations, the rules issued by or the instructions given by the Integration Organisation and [the Savings Bank]. The cooperative credit institution is under an obligation to comply with those instructions. The instructions must be justified and a deadline for compliance must be set. As to whom the instructions are addressed, the cooperative credit institution has the right to resort to the courts in order to determine if the instructions are in accordance with the Act, other laws and regulations and the rules issued by [the Savings Bank] and the Integration Organisation. Resort to the courts has no suspensive effect; the instructions irrespectively shall be complied with by the deadline set therein.

(4) In the event that the cooperative credit institution fails to comply with the instructions or it is operating in discordance with the laws, regulations or rules:

(a) the Board of [the Savings Bank] may decide to suspend the mandate of the executive officer of the cooperative credit institution for a maximum of 180 days...

(b) upon the initiative of the Board of [the Savings Bank] or upon its own initiative, the Board of the Integration Organisation shall decide on the suspension of membership of the cooperative credit institution in the Integration Organisation and - if justified - on the exclusion of the cooperative credit institution from the Integration Organisation.

...

(7) If in the view of the Board of [the Savings Bank] a cooperative credit institution or a group of cooperative credit institutions is in crisis,

(a) the Board of [the Savings Bank] may decide to suspend the mandate of the executive officer of the cooperative credit institution for a maximum of 180 days; that suspension may be extended for an additional 180 days or – in particularly justified cases – it may decide to terminate their mandates and appoint executive officer(s) on a provisional basis;

(b) ... the Board of the Integration Organisation shall decide on the suspension of membership of the cooperative credit institution in the Integration Organisation and - if justified - on the exclusion of the cooperative credit institution from the Integration Organisation.

...

(19) In its capacity as the central bank of the cooperative credit institutions and of the integration, in order to ensure prudent operation [the Savings Bank] shall be entitled to give – at its sole discretion – prior consent to the acquisition of own shares or sale of own shares acquired by certain cooperative credit institutions and by the Integration Organisation, provided the value of the ownership to be acquired or to be sold exceeds 0.1% of the own funds of the integration, calculated on a consolidated basis. Transactions pertaining to the same ownership carried out within twelve months shall be aggregated.

(20) In addition to ... section 15(3), the cooperative credit institution may resort to the courts against the decision or instructions of the Board of [the Savings Bank] in accordance with the rules on the judicial review of company resolutions. Resort to the courts has no suspensive effect; the decision or instructions irrespectively shall be complied with by the deadline set therein.

(21) The cooperative credit institution has the right to resort to the courts and contest the decision taken by the Integration Organisation against it, in order to determine if the decision is in accordance with the Act, other laws and regulations and the rules issued by the Integration Organisation or other policies of the Integration. Resort to the courts has no suspensive effect; the decision irrespectively shall be complied with by the deadline set therein.

...”

Section 17

“(1) ... the Supervisory Authority shall revoke the operational authorisation of any cooperative credit institution that fails to comply with or to respect the deadline for complying with its obligations ...”

Section 17/C

“(1) A cooperative credit institution may be established with a minimum initial share capital of [HUF 250 million]. Regardless of its form of operation, the own funds of the cooperative credit institution may not be lower than the level established from time to time by the Integration Organisation on an individual (not consolidated) basis.

(2) Should the own funds of the cooperative credit institution fall below the level specified in subsection (1) or in the case described in section 19(13) [concerning the consequences for cooperative credit institutions who have applied unsuccessfully for a new licence], the Integration Organisation is entitled to resort to the following exceptional measures – without prejudice to the powers and duties of the Supervisory

Authority and provided the Supervisory Authority has failed to take such measures - by giving prior notice to the Supervisory Authority:

(a) It may provide for the cooperative credit institution:

(aa) to sell its assets not serving the purposes of banking operations;

(ab) to improve its capital structure (including the sale of assets) within the deadline set and in compliance with the requirements;

(ac) with regard to the financial services rendered by the financial institution and the risks assumed by that financial institution, it may determine an individual capital requirement higher than the level specified ...

(b) It may prevent or prohibit the cooperative credit institution from:

(ba) performing transactions in the relation [between] the owner and the cooperative credit institution;

(bb) paying deposits and other repayable funds;

(bc) assuming obligations.

(c) It may determine the maximum rate of interest to be stipulated by the cooperative credit institution.

(d) It may oblige the board of the cooperative credit institution to convene a general meeting and invite it to discuss specific items of the agenda or draw the attention of the board and the general meeting to the need for certain decisions to be taken ...

(e) It may call upon the following owner(s) of the cooperative credit institution to take the necessary measures:

(ea) owner(s) of the cooperative credit institution holding a minimum direct shareholding of 5% as registered in the stock registry or – for cooperative credit institutions operating in a cooperative form – in the registry of members;

(eb) owner(s) having qualifying majority influence.

...

(5) The Integration Organisation may suspend the voting rights of the owners of the cooperative credit institution for a definite period of time, but for no more than one year, by simultaneously taking the additional measures enlisted in subsection (2) ... provided the activity of the owner or his influence over the cooperative credit institution jeopardises the reliable and secure operation of the cooperative credit institution on the basis of the available facts; in such a case, votes concerned by the limitation shall be disregarded upon forming the quorum.”

Section 17/M

“(1) ... The purpose of the Fund is to compensate and indemnify claims enforced against the members of the integration of cooperatives under the principle of joint and several liability.”

Section 17/O

“The Fund relies on resources paid by the cooperative credit institutions and [the Savings Bank] ...”

Section 17/P

“(1) The cooperative credit institutions and [the Savings Bank] provide coverage for their joint and several liability defined in section 1(4) primarily by means of paying an annual contribution to the Fund and an extraordinary contribution as ordered by the Fund.

...”

Section 17/Q

“(3) The general meeting of the cooperative credit institution shall decide upon the decrease of authorised share capital or any payment or repayment made to the member (shareholder) under any [legal title] in connection with its membership (shareholder), and the prior consent of the Board of [the Savings Bank] is required.

(4) In relation to the above subsection (3), the Board of [the Savings Bank] may not refuse to grant its prior consent as long as the payment of dividends does not jeopardise the solvency of the cooperative credit institution or the performance of its business policy or the level of own funds as established on an individual basis. In connection with the above subsection (3), the Board of [the Savings Bank] is obliged to refuse its prior consent, provided that the investigation ... is not yet terminated or it has terminated and found ... that capital replacement is needed and capital replacement has not yet taken place.”

Section 20

“(1) Within thirty days following the entry into force of the Act ... the two auditors, independent ... upon the invitation of the MFB [they] shall determine the current market price of series “B” preference shares and establish the price unit of one ordinary share and one series “B” preference share of [the Savings Bank]. ...

(2) From the first capital increase of HUF 654,986,000 the share capital of [the Savings Bank], to be effected following the entry into force of this Act, Magyar Posta shall take over additional ordinary shares of HUF 654,666,000 at nominal value, while the cooperative credit institutions shall take over a maximum of HUF 320,000 of series “C” preference shares at nominal value. Series “C” preference shares have priority rights as determined in the statutes of [the Savings Bank]...

...

(10) The MFB shall have a call option on the series “B” preference shares of shareholders ... and for [the Savings Bank] shares held by the cooperative credit institutions of which the operational authorisation has been revoked. The call option is valid for one year and may be called as of the day following revocation of the operational authorisation. The call option may be exercised at the value determined by section 20(1). ... The purchase price shall be paid within [ninety] days following the call option statement. The consent of an authorised body of [the Savings Bank] is required for the acquisition of own shares by the MFB.

...”

Section 20/A

“...

(12) The cooperative credit institution which has declared its intention to exit the Integration Organisation is obliged to fully perform its obligations arising from this

Act so long as it is a member of the Integration Organisation. As regards section 11(7) the declared intention to exit will become effective, and the cooperative credit institution ceases to be a member of the Integration Organisation on the subsequent working day, if and when:

(a) the operational authorisation is granted by the Supervisory Authority, based on an application for authorisation,

(b) the cooperative credit institution has settled all its claims with the Integration Organisation and all its members and has no outstanding debt towards them, excluding cases where a member of the Integration Organisation placed a deposit with the institution and excluding pending liabilities within the scope of joint and several liability ...,

(c) the conditions for exit as determined in the statutes of the Integration Organisation effective at the date of the exit have been fulfilled,

(d) the condition described in subsection (13) has been fulfilled,

(e) the cooperative credit institution and the Integration Organisation have signed a joint statement on the scheduled exit.

(13) With regard to section 11(8), the excluded or exiting member is obliged to hold the value of its own funds as upon the establishment of its membership in the Integration Organisation in a separate account maintained with [the Savings Bank] for 730 days following the declaration of the intention to exit and to duly notify the Integration Organisation thereof. The amount paid to the [Fund] by the cooperative credit institution until the declaration of the intention to exit may be deducted from the amount to be placed in the separate account maintained with [the Savings Bank] under this subsection. The amount to be placed in the separate account maintained with [the Savings Bank] may be released on the conditions and dates to be determined in the statutes ...”

C. Constitutional Court decision no. 20/2014

40. The Constitutional Court reviewed the Integration Act in its decision no. 20/2014 (VII.3) of 30 June 2014. As regards the process of its adoption in noted, in particular, the following:

“The legislation under examination aimed at the transformation of a significant subsystem of the financial sector and was based on a complex regulatory concept. Due to this and the [particular] sensitivity of the sector the legislator had reasonable grounds for keeping the process of arrangement and preparation to a strict minimum. It was in the interest of both the credit institutions and their clients/depositors to maintain a [precarious] situation for as short a time as possible [so that] an atmosphere of panic or negative chain reaction did not occur.”

41. As regards the aim of the Integration Act and the justification for the limitations imposed on the cooperative credit institutions’ operations, the Constitutional Court held, *inter alia*, as follows:

“... [S]pecific credit institutions operate as a subsystem of the highly organised financial system and cannot be considered autonomous entities even in terms of civil law ...

...

Secure operation of credit institutions operating in cooperative form plays an important role in ensuring the stability of the financial sector as a whole. The sector in question gains its importance from its extensive branch network, the fact that in the majority of municipalities financial services are available solely through cooperative credit institutions, furthermore, cooperatives play a defining role in financing sole enterprises and businesses active in the agricultural sector. Maintaining this financial infrastructure and ensuring its operability constitutes a public interest that may justify interference with property (and financial autonomy) as part of economic and financial policy, social responsibility, the role of the national economy and social rigidity of property.

Since 2008-2009 statutory conditions of establishing and operating financial organisations, their supervision and control, consolidated management and coordination have become stricter all over the world. The integration itself and the control rights conferred to its bodies aim to coordinate the operation of cooperative credit institutions by means of rules and regulations on a general level and by means of specific measures and instructions on an individual level. These are necessary to coordinate the operation of the credit institutions concerned and to ensure integrated operation. For operational activity, the issues enlisted in section 15(2) of the Act (such as risk management, business policy, marketing and IT systems) are undoubtedly important, therefore the legislator has authorised [the Savings Bank] to establish binding regulations on such issues. In exercising its right of control, [the Savings Bank] monitors compliance with the regulations issued and, in that framework, it is entitled to give specific instructions. Taking into consideration that integrated operation is contingent upon compliance with the regulations and instructions mentioned, the legislator has also authorised the implementation of certain sanctions. Since cooperatives are managed by executive officers on an operative level, their mandates may be suspended or terminated. Sanctions against cooperatives not complying with the binding rules (suspension of the Integration Organisation's membership, exclusion) are one means of ensuring integrated operation. It is also justified to exercise [the Savings Bank]'s right of control and implement sanctions if a cooperative is in crisis, since – because of a financial risk pool – the operation of a single member may jeopardise the security of the whole system. ... The requirement pertaining to the suspension of the rights of [the Savings Bank] shareholders is a provision promoting the establishment and maintenance of the integration and compliance with integration requirements. ...

...

In addition to all this, the Act introduces a further limitation on the financial operations of cooperative credit institutions ... The objective of these rules is to ensure predictable, stable and prudent operation, minimise business risks and improve secure lending activity.

...

In examining the proportionality of the limitation, the Constitutional Court has considered it an important aspect that though the rights of control of the bodies of the integration have a decisive impact on the operational independence of cooperative credit institutions, this is outweighed by the benefits of integrated operation (mainly the reduction of business risks, improved profitability) and the fact that – in order to ensure the stability and security of the sector – the State contributes significant amounts to institutional protection through the MFB, thereby improving the stability of the sector. In legal terms, not only does the State take something from the system

(from the independence of credit institutions), but also gives something (financial coverage, security). ...

...

... The State – in this case as an economic and financial public administration authority – has set the objective of strengthening the cooperative credit institution sector within the system of financial institutions, ensuring its stability and operability and promoting efficient and competitive operation. In the view of the Constitutional Court, limitations on the right to property of ordinary shareholders are duly justified and compensated by this fact.

...

The acquisition of property by the State effected indirectly via Magyar Posta and the restriction of ordinary shareholders resulting therefrom has so far involved not only the mere acquisition of management rights, but also a real and complex financial reinforcement of the sector. Capital was provided by the State to the sector in two ways: on the one hand, through a capital increase effected in [the Savings Bank] the State provided extra assets to the central bank of integration, and, on the other hand, a significant amount (... about HUF 136.5 billion) was provided to [the Integration Organisation]. The latter amount should be spent on the transformation, professionalisation and reorganisation of the sector.”

42. As regards the call option of the MFB, the Constitutional Court noted the following:

“Since the [call] option, if exercised, entails loss of property, the proportionality of the public interest and deprivation requires compensation. The option may only be constitutional with a value guarantee ... In the case under review, the legislator has also provided for consideration: by virtue of section 20(1) and (10) to (11), a purchase price must be paid for the shares, the value of which is established as the [average] of an estimation given by two independent auditors, and the purchase price is to be paid within [ninety] days following the statement on the call option. The legislator has thus taken into consideration the requirement of a value guarantee, with no reduction in the assets of the shareholders.”

43. Regarding the scope of the Integration Act, extending to certain banks, the Constitutional Court found as follows:

“In considering the reasonable nature of such distinction it must not be overlooked that cooperatives-turned-banks have kept their membership in the institutional protection fund, hence maintaining their strong attachment to the cooperative credit institution sector at their own discretion despite the change in the way they operate. Membership ... offered them a special ‘financial safety net’ but the Act has dissolved such funds. [The Integration Organisation] has become their legal successor; hence, it is reasonable for this organisation to provide protection to all credit institutions which were members of one of the voluntary funds. Accordingly, it was necessary to extend the integration to those credit institutions already transformed into banks on the condition that – if they so decide – it is possible to leave the integration (in the meantime, one of the banks concerned has already taken this opportunity).”

44. Lastly, the following parts of the Constitutional Court decision are relevant to the issue of the remedies available as of 30 November 2013:

“ ... As a means of exercising control rights, the Act authorises the bodies of the integration to establish various regulations and decisions (... (i) rules, (ii) instructions

and (iii) other decisions); thereby giving them powers to exercise a fundamental influence on the operation of the cooperative credit institutions concerned. Misuse or abuse of such rights may result in a grave violation of the rights of those involved. To counterbalance this fact, the Act – as of 30 November 2013 – ensures cooperative credit institutions the right to resort to the courts:

...

(a) Section 15(3) of the Act ensures such a right ... against the instructions of [the Savings Bank]. ...

(b) In accordance with section 15(20) of the Act, the cooperative credit institution may contest the decision or instruction of [the Savings Bank] under the rules applying to the judicial review of company resolutions ...

(c) Section 15(21) of the Act provides a judicial avenue to contest the decisions of [the Integration Organisation] for the cooperative credit institution [concerned] by the decision. The court may examine whether that decision was in conformity with the law and other regulations and the policies issued by the integration bodies.

...

On the basis of the foregoing, it may be established that the right to seek a legal remedy against the instructions of [the Savings Bank] is ensured by section 15(3) and (20) of this Act, against its binding rules by section 45 of the Business Associations Act, or section 3:35 of the Civil Code replacing [it] [confirmed by section 15(20) of this Act].

...

As regards [the Integration Organisation's] rules, the Act does not provide for a similar requirement, regulating judicial review. Nevertheless, rules established by [Integration Organisation] are enforced through specific instructions and other individual decisions. In the event the rules are directly applicable, non-compliance entails sanctions for the cooperative credit institution, ... [the Savings Bank] takes measures to enforce the rules by means of a specific measure (gives instructions) under section 15(3) or implements sanctions in accordance with the provisions of the Act. Such individual decisions may be contested before the court and, in the course of the judicial review, the rules serving as the basis of the individual decisions [must] be examined."

45. As regards joint and several liability, the Constitutional Court revoked certain provisions of the Integration Act and held that the Fund should pay any amount payable on the grounds of joint and several liability instead of the debtor within a set time-limit. After payment has been effected by the Fund, any amount payable on the grounds of joint and several liability shall be paid by the other cooperative credit institutions, the Integration Organisation or the Savings Bank. It also noted that "liability for debts is incurred solely for the debts of cooperative credit institutions, so members of the integration assume no liability for the debts of [the Savings Bank] and [the Integration Organisation]."

46. The Constitutional Court also held that the provisions concerning the model memorandum of association should be interpreted so that such statutes may only contain compulsory elements that are essential for the

purposes of the Integration Act or serve the implementation thereof or are necessary for meeting the EU requirements on the integrated operation of credit institutions.

THE LAW

I. PRELIMINARY ISSUES

A. The Government's objections

47. The Government argued that the applicants could not be considered victims of a breach of their rights because, firstly, only the cooperative credit institutions, not the shareholders themselves, had been affected by the Integration Act. A mere loss of value of shares would also not be sufficient for conferring victim status on shareholders of a company. Secondly, a capital increase and the funds that the State had provided to the Integration Organisation (directly to the Fund) had to be considered as compensation for the restrictions imposed because such a contribution had decreased the business risk and increased the profitability of the cooperative credit institutions.

48. The applicants submitted that their complaints were limited to the provisions of the Integration Act that restricted their rights to influence the operations of the banks in which they held shares. They further explained that their complaints did not extend to the effect the Integration Act had on the cooperative credit institutions.

49. In its admissibility decision of 4 April 2017 the Court joined to the merits the two above-mentioned Government objections (see *Albert and Others v. Hungary* (dec.), no. 5294/14, §§ 57 and 61, 4 April 2017). It will thus address them together with the merits of the application.

B. Withdrawal of the application in so far as it concerns the shareholders of Pátria Cooperative

50. Two of the applicants, Ms László Jánosné Boris (no. 18) and Ms Endréné Csoltkó (no. 28), who were shareholders of Pátria Cooperative, withdrew their complaints before the Court (see paragraph 9 above).

51. In the light of the foregoing, and in the absence of any special circumstances regarding respect for the rights guaranteed by the Convention or its Protocols, the Court, in accordance with Article 37 § 1 (a) of the Convention, considers that it is no longer justified to continue the examination of the application in so far as it has been introduced by

Ms László Jánosné Boris and Ms Endréné Csoltkó and finds it appropriate to strike it out of the list.

52. In view of the above finding, the Court observes that the case before it now concerns only shareholders of Kinizsi Bank and Mohácsi Bank.

C. Whether it is justified to continue the examination of the application as regards the deceased applicants

53. The Court notes that seven of the applicants, Ms Erzsébet Ambergné Schumacher (no. 3), Mr Gyula Csanádi (no. 24), Ms Gyuláné Flórián (no. 45), Mr András Gász (no. 50), Mr László Sándor Jónás (no. 84), Mr Miklós Kovács (no. 111) and Mr János Múth (no. 137), died while the case was pending before the Court. Their heirs informed the Court that they wished to pursue the application lodged by them. The Court has accepted on a number of occasions that close relatives of a deceased applicant are entitled to take his or her place (see, among many authorities, *Petrović v. the former Yugoslav Republic of Macedonia*, nos. 30721/15, §§ 15 and 16, 22 June 2017). For the purposes of the instant case, the Court is prepared to accept that the heirs of the deceased applicants, who are indicated in the appendix, can pursue the application initially brought by the aforementioned applicants.

54. Furthermore, Mr József Győri (no. 59), Mr József Jakab (no. 83) and Mr György Kiss (no. 102) also died pending the proceedings before the Court. As regards Mr József Győri and Mr György Kiss, no heirs or relatives expressed any wish to continue the proceedings before the Court. As regards Mr József Jakab, his heir informed the Court that she did not wish to pursue the proceedings in his stead.

55. In these circumstances, the Court concludes that it is no longer justified to continue the examination of the application in so far as it concerns Mr József Győri, Mr József Jakab and Mr György Kiss, within the meaning of Article 37 § 1 (c) of the Convention (see, for example, *Dinçer and Others v. Turkey*, no. 10435/08, §§ 13 and 14, 3 November 2011). Furthermore, the Court finds no reasons of a general nature, as defined in Article 37 § 1 *in fine*, which would require the further examination of the application in so far as it concerns the complaints made on behalf of the above-mentioned applicants. Accordingly, this part of the application should be struck out of the list.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 OF THE CONVENTION

56. The applicants complained about the impact of the Integration Act on the exercise of their rights to influence the conduct and policy of the

banks of which they were shareholders. They relied on Article 1 of Protocol No. 1 to the Convention, 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. The parties’ arguments

1. The applicants

57. The applicants argued that the Integration Act imposed measures which could not be regarded as in the public interest because the cooperative credit institutions, which had amounted to only 5% of the credit institution sector had, already prior to the Act, been highly profitable. They contested the Government’s argument that the cooperative credit institutions had benefited from membership in the new protection system. They submitted that the latter had resulted from a misuse of power by the legislator, who had adopted the Integration Act and its amendment in haste, giving extensive powers to the Savings Bank.

58. The applicants acknowledged that they continued to own shares in Kinizsi Bank and Mohácsi Bank but argued that as shareholders they had lost their autonomy in exercising the rights normally attached to shares. In particular, they maintained that after receiving their licences for banking operations, Kinizsi Bank and Mohácsi Bank had no longer belonged to the sector of cooperatives but the Integration Act nevertheless applied to them. In their view, it excessively interfered with their rights to freely establish and amend a memorandum of association, adopt resolutions on a number of issues (such as adoption of the annual financial report, the issuing of bonds, reductions/increases of the share capital, any payments to the shareholders, acquisition of own shares, and the conversion, merger or demerger of the company), appoint directors/members of supervisory board and determine their remuneration. Moreover, the Integration Act required them to comply with the instructions issued by the Savings Bank, allowed for the suspension of voting rights and authorised the International Organisation to define, without any clear limits, the banks’ solvency capital (see paragraphs 26 to 31 and 39 above). This, in their view, amounted to a deprivation of their rights without receiving any compensation. In this connection, they submitted that the funds supplied by the State to the protection system could in no way improve their situation and that, in any event, the funds had been provided to the Savings Bank and the Integration Organisation, not to them.

Moreover, the applicants explained that their complaints did not extend to the effect the Integration Act had on Kinizsi Bank and Mohácsi Bank and to the concrete measures taken by the Savings Bank and the Integration Organisation against those banks. They argued that their right to property had been violated by “the mere existence of the obligation to request consent and by the right of the Savings Bank and the Integration Organisation [to interfere]”. In this connection, they also submitted that they as shareholders could only directly challenge the shareholders’ resolutions, not the measures of the Savings Bank and the Integration Organisation, and that a judicial review made sense only if the impugned measures exceeded the scope allowed by the Integration Act.

59. The applicants further argued that the security of depositors and prudent operation of financial institutions could be reached by much less restrictive measures, such as the effective operation of the supervisory authorities and proper regulation of the sector. They further submitted that though the provision of the Integration Act allowed for the banks to leave the integration it was practically impossible for them to fulfil the conditions for exiting, especially following the amendment of the Integration Act.

60. The applicants argued that the change in the ownership of the Savings Bank was irrelevant to the alleged violation in the present case. They also submitted that “the loss suffered by [their] banks with respect to the value of their shares in the Savings Bank [was] of an insignificant amount”. In their view, the only relevant issue was who should influence the operation of Kinizsi Bank and Mohácsi Bank and how. In this connection, they submitted that while their property had not been transferred to another entity, the Integration Act’s interference with their rights had been so severe as to amount to *de facto* expropriation.

2. The Government

61. The Government conceded that in so far as Article 1 of Protocol No. 1 could be applied to the present case, the measures in question could be considered as interference with the applicants’ right to property. However, they had been lawfully based on the Integration Act and the Constitutional Court’s decision. The impugned legislation concerned a very sensitive financial sector and the legislator had thus been justified in keeping the process and preparation to a strict minimum.

62. The Government also argued that the Integration Act pursued the legitimate aims of averting potential financial crises affecting the cooperative credit institutions, improving their function in the financial sector, protecting the interest of thousands of their depositors as well as making the system compliant with the requirements of the Third Basel Accord (2013/36/EU Directive).

63. The Government noted that the cooperative credit institutions had not been at an immediate risk before the entry into force of the Integration

Act because they had kept their lending activity low. However, low capitalisation of the cooperative credit institutions prior to the Integration Act, which had not been properly addressed in the 2013 Supervisory Authority's report due to their inadequate risk assessment mechanisms, would have not allowed for long-term profitable operations. This was the case because, *inter alia*, the interest rates of newly issued Hungarian State Bonds, often used by the cooperative credit institutions, had significantly dropped. In any event, even if the cooperative credit institutions could have maintained their previous business model, they would have not fulfilled their social function. Credit institutions were there to provide capital for the development of the economy through providing loans to enterprises and consumers. They did not fulfil this function by investing the consumers' deposits in State bonds.

64. As regards the application of the Integration Act to Kinizsi Bank and Mohácsi Bank, the Government submitted that both banks had been members of OTIVA, whose assets had been included in the Integration Organisation's assets. It had thus been inevitable that the Integration Organisation would provide protection to the two banks and that other services previously provided through the voluntary integration would be provided to them under the new system. They also drew attention to the funds provided by the MFB to the Integration Organisation, submitting that they had significantly raised the own funds of every single cooperative credit institution participating in the integration. Furthermore, the Government pointed out that certain uniformity regarding the operations of the cooperative credit institutions was necessary because of the joint and several liability, which had benefited the cooperative credit institutions and their creditors, and the fact that the solvency and liquidity were monitored as a whole on the basis of consolidated accounts of these institutions. For instance, the limitations on the use of profit served bank stability, did not make it impossible to eventually use such profit and could be challenged in court. The applicants' argument of *de facto* expropriation was thus wholly unfounded.

65. As regards the transfer of shares following the entry into force of the Integration Act, the Government submitted that the introduced rules were meant to provide membership rights to each cooperative credit institution, which had not previously been the case. The MFB paid proper compensation for series "B" shares. Moreover, as a result of the measures taken under the Integration Act, the value of the Savings Bank's shares had increased, meaning that the cooperative credit institutions had in fact benefited from them.

B. The Court's assessment

66. In its decision of 4 April 2017 the Court found Article 1 of Protocol No. 1 to be applicable to the circumstances of the case (see *Albert and Others*, cited above, § 43). In this connection, the Court reiterates that a share in a company is a complex object which certifies that the holder possesses a share in the company together with the corresponding rights. This encompasses an indirect claim over the company's assets, including the right to a share in them in the event of it being wound up, but also other unrestricted rights, especially voting rights and the right to influence the company's conduct and policy (see, among many authorities, *Olczak v. Poland* (dec.), no. 30417/96, § 60, ECHR 2002-X (extracts)).

67. The Court notes that the applicants hold shares in Kinizsi Bank and Mohácsi Bank (see paragraph 8 above) and that these banks, being *ipso jure* members of the Integration Organisation, are subject to control exercised by the integration's central bodies, namely the Integration Organisation and the Savings Bank (see paragraphs 26 to 31 above). The Court notes that the legislative provisions complained of mostly allow for measures to be taken against the cooperative credit institutions. Only very few provisions seem to allow for measures to be taken directly against particular shareholders. In this connection, it is observed that such measures were taken by the Savings Bank when it refused to consent to the payment of dividends in the case of Kinizsi Bank and imposed the limits on such payment in the case of Mohácsi Bank (see paragraphs 32 and 35 above). However, the applicants explicitly excluded such concrete measures from the scope of their complaint (see paragraph 58 above).

68. As regards the impugned legislative provisions allowing for measures to be taken against Kinizsi Bank and Mohácsi Bank, it cannot be ignored that the applicants fall short of holding 100% shares in the respective banks (see paragraph 8 above) and are thus not the "sole" owners of the companies in question (see, by contrast, *Ankarcrona v. Sweden* (dec.), no. 35178/97, 27 June 2000, and *Glas Nadezhda EOOD and Anatoliy Elenkov v. Bulgaria*, no. 14134/02, § 40, ECHR 2007). Therefore, it should normally be for Kinizsi Bank and Mohácsi Bank, not the applicants, to pursue an application before the Court, save if there were exceptional circumstances justifying the disregarding of legal personality (see *Agrotexim and Others v. Greece*, 24 October 1995, §§ 65 and 66, Series A no. 330-A). Such exceptions could be accepted when it is clearly established that it was impossible for the company to apply to the Convention institutions through the organs set up under its articles of incorporation or, in the event of liquidation, through its liquidators (see *Agrotexim and Others*, cited above, § 66; *Credit and Industrial Bank v. the Czech Republic*, no. 29010/95, §§ 50 to 52, ECHR 2003-XI (extracts); and *Feldman and Slovyanskyy Bank v. Ukraine*, no. 42758/05, §§ 28 and 29, 21 December

2017); where the acts or decisions complained of related to the actions of persons such as a liquidator acting on the company's behalf (see *G.J. v. Luxembourg*, no. 21156/93, § 24, 26 October 2000); or where the measures complained of consisted of the cancellation of shares belonging to the applicant and were directly aimed at the applicant's rights as a shareholder (see *Olczak*, cited above, § 58).

69. The Court notes, however, that the present case cannot be compared to any of the above situations. Firstly, notwithstanding their criticism of the reform of the institutional protection system, the applicants did not show that their shares in Kinizsi Bank and Mohácsi Bank had lost their economic value due to those banks' automatic membership in the Integration Organisation (see paragraph 23 above and section 20 of the Integration Act, cited in paragraph 39 above). Secondly, the applicants did not complain about any concrete measures directly affecting them but about the provisions of the Integration Act which (i) allow for instructions to be imposed on the cooperative credit institutions, including Kinizsi Bank and Mohácsi Bank, (ii) oblige the latter to seek the Savings Bank's consent for a number of important decisions such as the adoption of the annual financial report, issuing of bonds, changes in capital and the appointment of their executive officers (see paragraphs 28, 29 and 39 above) and (iii) require them to adjust their memorandum of association in line with the standard provisions issued by the Integration Organisation (see paragraph 26 above). These legislative provisions could indeed affect the applicants' interest, for instance by constraining the scope of the decisions which could be taken at the general meeting. However, none of them are directly aimed at the applicants as shareholders.

70. In this connection, it is to be reiterated that whenever a shareholder's interests are harmed by a measure directed at the company, it is up to the latter to take appropriate action. An act infringing only the company's rights does not involve responsibility towards the shareholders, even if their interests are affected. Such responsibility arises only if the act complained of is aimed at the rights of the shareholder as such or if the company has been wound up (see *Olczak*, cited above, § 59), which is not the situation in the present case.

71. Furthermore, while bearing in mind the applicants' argument that their rights had been infringed by "the mere existence" of the impugned legislative provisions (see paragraph 58 above), the Court cannot ignore the fact that Kinizsi Bank and Mohácsi Bank could contest decisions of the Savings Bank and the Integration Organisation and the Savings Bank's instructions before the domestic courts (see section 15 of the Integration Act cited in paragraph 39, see also paragraphs 44 and 58 above). Accordingly, since the applicants as shareholders are not entitled to pursue remedies against such measures, accepting the assumption that they have *locus standi* would engender considerable problems concerning the requirement of

exhaustion of domestic remedies (see *Agrotexim and Others*, cited above, § 65).

72. Having regard to the above and to the fact that the applicants did not point to any circumstances justifying the lifting of the corporate veil, the Court finds that they cannot claim to be victims of the alleged violation stemming from the legislative provisions that are aimed at regulating the operation of the cooperative credit institutions and allow for measures to be taken against Kinizsi Bank and Mohácsi Bank. Such measures could possibly amount to interference with the rights of those banks, but not the applicants.

73. In so far as the Integration Act allows for measures to be taken directly against the owners or shareholders of the cooperative credit institutions (for instance, the Savings Bank's consent/approval needed for any payment to the shareholders under any legal title – see paragraph 28 above), the Court has already noted that the applicants had explicitly excluded concrete measures, such as the Savings Bank's refusal to consent to the payment of dividends in the case of Kinizsi Bank and the limitation imposed on such payment in the case of Mohácsi Bank, from the scope of their complaint (see paragraph 67 above).

74. The Court further notes that measures such as the suspension of the shareholders' voting rights (see paragraph 30 above) and certain other measures stipulated in section 17/C of the Integration Act (see paragraph 39 above) can be taken only in exceptional cases. For instance, they can be taken on the condition that the cooperative credit institutions' funds fall under the required level or that they have been unsuccessful in applying for a new licence (see paragraph 39 above). Having regard to the information in the Court's possession (see paragraph 32 above) it has not been demonstrated that the applicants, as the shareholders of Kinizsi Bank and Mohácsi Bank, were in fact likely to run the risk of being affected by the aforementioned measures (see, *mutatis mutandis*, *Jensen and Rasmussen v. Denmark* (dec.), no. 52620/99, 20 March 2003).

75. The Court reiterates that the question whether an applicant can claim to be a victim of the violation alleged is relevant at all stages of the proceedings under the Convention (see *Centro Europa 7 S.r.l. and Di Stefano v. Italy* [GC], no. 38433/09, § 80, ECHR 2012). In the present case, it finds that the impugned legislation did not interfere with the applicants' rights in view of the scope of their complaints (see paragraphs 58 and 67 above) and that they therefore cannot claim to be victims of the alleged violations within the meaning of Article 34 of the Convention. Therefore, the Court is unable to take cognizance of the merits of the applicants' complaint. Accordingly, it upholds the Government's related objection.

76. Consequently there has been no violation of Article 1 of Protocol No. 1. This conclusion makes it unnecessary to examine the

remaining Government's objection concerning the alleged compensation received by the applicants (see paragraph 47 above).

FOR THESE REASONS, THE COURT,

1. *Holds*, unanimously, that (i) Ms Erzsébet Amberg, (ii) Mr László Gyula Csanádi, (iii) Mr Gyula György Flórián, (iv) Ms Judit Terézia Ádámné Gász, Ms Andrea Domokosné Gász and Ms Andrásné Gász, (v) Ms Glória Hoffmanné Jónás and Mr Robin Jónás, (vi) Ms Miklósné Kovács, and (vii) Ms Edina Kollárné Múth, Ms Jánosné Múth and Ms Melinda Schneiderné Múth have standing to continue the present proceedings instead of, respectively, (i) Ms Erzsébet Ambergné Schumacher (no. 3), (ii) Mr Gyula Csanádi (no. 24), (iii) Ms Gyuláné Flórián (no. 45), (iv) Mr András Gász (no. 50), (v) Mr László Sándor Jónás (no. 84), (vi) Mr Miklós Kovács (no. 111) and (vii) Mr János Múth (no. 137);
2. *Decides*, unanimously, to strike the application out of its list of cases as far as it concerns the applicants Ms László Jánosné Boris (no. 18), Ms. Endréné Csoltkó (no. 28), Mr József Győri (no. 59), Mr József Jakab (no. 83) and Mr György Kiss (no. 102);
3. *Holds*, by six votes to one, that the applicants cannot claim to be victims of the alleged violation and that there has been no violation of Article 1 of Protocol No. 1.

Done in English, and notified in writing on 29 January 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Marialena Tsirli
Registrar

Ganna Yudkivska
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Pinto de Albuquerque is annexed to this judgment.

G.Y.
M.T.

DISSENTING OPINION OF JUDGE PINTO DE ALBUQUERQUE

1. *Albert and Others v. Hungary* concerns one of the most consequential issues in property rights in Europe today: the extent to which State control of banks should be tolerated. The majority evade this extremely important question by erroneously arguing that individual shareholders are not directly harmed by the regulation of banks in which they have a stake. I respectfully disagree with this proposition, and would find a violation of Article 1 of Protocol No. 1.

2. This case presents an excellent occasion for the European Court of Human Rights (“the Court”) to address the legality of excessively stringent banking regulations, which have unfortunately become typical in many States under our jurisdiction. Given this judgment’s impact on millions of ordinary shareholders beyond Hungary, the Court must consider the significant ramifications of the challenged legislation.

The impact of the Integration Act on shareholders’ rights

3. The Court’s finding that the shareholders lack victim status because only the banks are affected by Act no. CXXXV of 2013 on the Integration of Cooperative Credit Institutions and the Amendment of Certain Laws Regarding Economic Matters (“the Integration Act”) is entirely misguided. The Integration Act has real and serious consequences for the property rights of the applicants as individual shareholders.

4. First, the right to establish and modify the deed of foundation of the banks is an important right associated with the ownership of shares. Yet, instead of enjoying the freedom to collectively create or amend the deed of foundation of Mohacsi Bank and Kinizsi Bank, the applicants are obliged to approve the standard statutes with content prescribed by the Integration Organisation¹.

5. Before the Integration Act came into force, this freedom was tangible and valuable for the applicants: since the applicants in aggregate held over 87% and 98% of shares in Mohacsi Bank and Kinizsi Bank respectively², they had effective control over the banks’ major decisions. It is misleading to suggest that anything falling short of a 100% shareholding means that the applicants could not exercise control over the company³. Without the interference of the Integration Act, the applicants together would have had the power to determine the most important matters of their credit

1. Applicants’ Observations of 17 April 2015, §60; Government’s Observations of 26 June 2015, § 3.

2. Judgment, § 8.

3. See Judgment, § 68.

institutions, including the many areas in which the Integration Organisation now has uncontested authority.

6. Second, the Integration Act excessively restricts the ordinary rights of shareholders by subjecting shareholder resolutions to prior approval of the Savings Bank⁴. Consequently, the Savings Bank can veto the most basic decisions like decreases or increases of capital, acquisition of own shares or the issuing of bonds. The legislation thus deprives the shareholders of the ability to determine a variety of questions that can affect the value of their shares dramatically.

7. Third, the Integration Act entitles the Integration Organisation to suspend the voting rights of the applicants altogether for one year if it considers that the shareholders “jeopardise the reliable and secure operation of the cooperative credit institution”⁵. Despite the drastic nature of such measure, the Act does not provide any concrete guidelines on what actions would count as jeopardising the operation. Considering that voting is the paramount right associated with shares, such suspension is an extremely serious, direct infringement upon the applicants’ property rights.

8. Moreover, the Integration Organisation can actually act contrary to the resolution of the shareholders. For instance, if the bank’s solvency capital does not reach a specific level, the Integration Organisation is authorised to increase that capital without shareholder approval⁶. The Savings Bank can also suspend the mandate of executive officers of the shareholders’ choosing; they may even appoint a managing official for an interim period⁷.

9. Under the majority’s reasoning, these strict, invasive regulations have had no measurable effect on the shareholders. However, the cumulative impact on shareholders who are unable to participate in such consequential choices cannot be precisely predicted, nor should it be underestimated. Even if there is no immediate, visible financial detriment, the sheer loss of control in these matters in and of itself constitutes interference with the shareholders’ right to the enjoyment of their property.

10. The majority further state that the suspension of voting rights and measures against the interests of shareholders occur only in exceptional cases, and that the applicants were not “in fact likely to run the risk of being affected by”⁸ these measures. These are entirely speculative observations that have no basis in the submissions. Even if these measures do not occur frequently, the fact that the law provides for the possibility of such extreme measures should itself be of great concern. After all, there has been no

4. Judgment, § 28; Applicants’ Observations of 17 April 2015, § 60(b).

5. Judgment, §§ 30 and 39.

6. Judgment, § 31.

7. Judgment, § 29.

8. Judgment, § 74.

principle in the history of the Court’s case-law to the effect that a single occurrence of a violation is not enough.

11. Fourth, cooperative credit institutions that do not comply with the relevant requirements of the Integration Act can be excluded from integration, and even have their operating licences withdrawn⁹. This means that the requirements with which the credit institutions must comply dictate the day-to-day activities of their banks, rather than the collective wishes of the shareholders. The applicants are thus subjected to an ongoing, continuous interference with their exercise of shareholder rights.

12. Fifth, the Savings Bank can actually refuse to consent to the payment of dividends on grounds of “non-compliance with the relevant legislation” or the “risk of not fulfilling the business plan”, which has already happened to shareholders of Mohacsi Bank¹⁰. Given that the right to payment of dividends is an essential right associated with shares, this is another instance of a severe encroachment.

13. The majority have unjustifiably disregarded these serious consequences by noting that “[o]nly very few provisions seem to allow for measures to be taken directly against particular shareholders”¹¹. This evaluation misses the point: the analysis ought to focus on the impact on the shares, not on the particular shareholders as persons. The interference at issue unequivocally targets the core substance of shareholders’ rights, namely their economic or pecuniary rights, such as the right to dividends, and their control or governance rights, such as the right to vote on the most significant decisions for their banks¹².

Shareholders’ rights under the Court’s case-law

14. The majority’s conclusion that the applicants cannot claim victim status under Article 34¹³ is inconsistent with the development of this Court’s case-law since *Agrotexim and Others v. Greece*, the leading case on the victim status of individual shareholders¹⁴. In *Agrotexim*, the Court held that “[o]nly a person whose personal interests have been directly affected could have [victim] status”¹⁵, and therefore matters that only concern the

9. Judgment, § 39 [citing Section 17(1) of the Integration Act].

10. Judgment, § 32.

11. Judgment, § 67.

12. On the economic and the control or governance rights of shareholders see, for example, Kern Alexander, “Bank resolution regimes: balancing prudential regulation and shareholder rights” (2009) 9 *Journal of Corporate Law Studies* 67.

13. Judgment, § 75.

14. *Agrotexim and Others v. Greece*, 24 October 1995, Series A no. 330-A. On this case and the subsequent case-law see Marius Emberland, “The Corporate Veil in the Case Law of the European Court of Human Rights” (2003) 63 *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 945, and *The human rights of companies: exploring the structure of ECHR protection*, Oxford, Oxford University Press, 2006.

corporate entity do not necessarily confer victim status on the shareholders. Put differently, the Court held that in the presence of measures affecting shareholder rights, “such as the right to attend the general meeting and to vote”¹⁶, these would be direct violations against which shareholders might bring claims. Thus, when shareholders in a public company complained that they were obliged to exchange their shares in an old company for shares in a new one at an unfavourable rate, as a result of a merger of the latter with another company, the Court found that they could claim to be victims of a violation of Article 1 of Protocol No. 1¹⁷. The Court held that the protection sought by the shareholder could include a guarantee that the terms of the share exchange were appropriate.

15. Put simply, shareholders have standing before the Court where the impugned measures have a direct bearing on their own rights which are inherent in the ownership of stocks or shares¹⁸.

16. Such a direct bearing is indeed at stake here. As the majority correctly explain, a share “certifies that the holder possesses a share in the company together with the corresponding rights. This encompasses an indirect claim over the company’s assets ... [and] also other unrestricted rights, especially voting rights and the right to influence the company’s conduct and policy”¹⁹. As demonstrated above, the shareholders have been directly affected by the Integration Act’s interference with the most important and representative rights associated with their shares, such as voting rights and the right to dividends.

17. Developments since *Agrotexim* have reaffirmed the standing of shareholders when their rights are directly at stake. For example, in *Olczak* the Court found that the cancellation of the applicant’s shares entitled him to bring a claim²⁰.

18. Similarly, in *Yukos v. Russia*²¹, the Court ordered the State to compensate the individual shareholders for the damage sustained by the

15. *Agrotexim and Others v. Greece*, § 59.

16. *Agrotexim and Others v. Greece*, § 62.

17. See *Offerhaus and Offerhaus v. the Netherlands* (dec.), no. 35730/97, 16 January 2001.

18. See Michal Kucera, *Convergence and Conflicts between Investment Law and Human Rights Law: A Dispute Settlement Approach – Jurisdiction Ratione Personae*, in Walid Ben Hamida and Frederique Coulée (eds), *CONVERGENCES ET CONTRADICTIONS DU DROIT DES INVESTISSEMENTS ET DES DROITS DE L’HOMME: UNE APPROCHE CONTENTIEUSE* (2017), p. 54.

19. Judgment, § 66.

20. See *Olczak v. Poland* (dec.), no. 30417/96, § 58, ECHR 2002-X (extracts)

21. *OAO Neftyanaya Kompaniya Yukos v. Russia* (Just Satisfaction), no. 14902/04, 31 July 2014; on this case see Hans-Georg Dederer, “The Yukos cases: a comparative case note on the ECtHR’s decisions and the PCA Tribunal’s awards” (2015) 10 (8) *Journal of Siberian Federal University. Humanities & social sciences* 2062; and Belen Giupponi, “Disentangling human rights and investors’ rights in international adjudication: the legacy of the Yukos cases” (2017) 24 *Willamette Journal of International Law and Dispute Resolution* 127.

relevant company, recognising their status as victims. The Court awarded damages to shareholders even though the direct harm at issue – the tax arrears and the injunction prohibiting the company from disposing of its assets – had been imposed on the company as a whole.

19. Likewise, in *Süzer and Eksen Holding v. Turkey*, the Court found that the takeover of a private bank by the State authorities could be regarded as an interference with the property right of the former shareholders of the bank²². The measures taken by the Turkish authorities had resulted in depriving the applicants of the economic rights, both tangible and intangible, related to the operation of their former bank²³. Thus, the Court recognised that some economic rights might not be immediately quantifiable, but nevertheless relevant. This conclusion was reached in spite of an acknowledgment that initially the measures taken by the government had fallen within its power of control over the Turkish banking sector to ensure its proper functioning.

20. As with those cases, the Integration Act has also gone beyond mere regulation of the control of property by interfering with the substance of the ownership – in this case, of shares. Therefore, there is no justification for deviating from this line of authority recognising the victim status of applicants in such a situation.

Protection of shareholders' rights in international law

21. International standards on the protection of shareholders' interests would also support a finding that the present applicants have victim status.

22. Shareholders' rights in situations where the company is adversely affected by government regulations have been recognised by various international courts and bodies. For instance, the International Court of Justice ("the ICJ") has held that direct infringement of a shareholder's rights include the right to any dividend, voting rights and the right to a share in the company's residual assets upon liquidation – whenever one of these direct rights is infringed, the shareholder has an independent right of action²⁴. Similarly, in the *ELSI* case²⁵, the ICJ accepted without discussion that the United States was entitled to initiate a suit on behalf of American

22. *Süzer and Eksen Holding A.Ş. v. Turkey*, no. 6334/05, §§ 143-144, 23 October 2012.

23. « Les mesures prises par l'ARSB ont eu pour conséquence de priver les requérants des droits patrimoniaux, tant corporels qu'incorporels, liés à l'exploitation de leur ancienne banque. », *ibid.*, § 144.

24. *Barcelona Traction, Light and Power Co., Ltd. (Belgium v. Spain)*, Judgment, 5 February 1970, ICJ Reports 1970, p. 4, § 47.

25. *Case concerning the Elettronica Sicula S.p.A. (ELSI) (United States of America v. Italy)*, Judgment, 20 July 1989, ICJ Reports 1989, p. 15.

shareholders in the Italian company when the authorities issued an order requisitioning ELSI's plant and related assets for six months²⁶.

23. The International Centre for the Settlement of Investment Disputes (ICSID) has also taken the position that shareholders' rights give rise to independent claims. One prominent arbitrator has concluded that "it is beyond doubt that shareholders have standing in ICSID to submit claims separate and independent from the claims of the corporation" and that "this principle applies to all shareholders, no matter whether or not they own the majority of the shares or control the corporation"²⁷.

24. For instance, in proceedings initiated by minority shareholders in a company after the value of their investment was diminished by conversion of contract sums from US dollars to pesos, the ICSID tribunal found "no bar in current international law to the concept of allowing claims by shareholders independently from those of the corporation concerned, not even if those shareholders are minority or non-controlling shareholders"²⁸. ICSID tribunals have consistently concluded that shareholder investments are protected by bilateral investment treaties, including in the context of financial institutions²⁹.

25. Similarly, the United Nations Commission on International Trade Law (UNCITRAL) has held in a NAFTA arbitration that "[t]he fact that a host State does not explicitly interfere with share ownership is not decisive" and that "[t]he issue is rather whether a breach of [the applicable treaty] leads with sufficient directness to loss or damage in respect of a given investment"³⁰.

26. The Permanent Court of Arbitration (PCA) has also accepted that controlling shareholders have standing to challenge State action affecting the company. Thus, in the widely known *Yukos* cases, the PCA dismissed Russia's jurisdictional objection that the company itself was "dead" as a legal person³¹. Significantly, the PCA found for the claimant shareholders

26. *Ibid.*, § 137.

27. Stanimir Alexandrov, *The "Baby Boom" of Treaty-Based Arbitrations and the Jurisdiction of ICSID Tribunals: Shareholders as "Investors" and Jurisdiction Ratione Temporis*, 4 LAW AND PRACTICE OF INTERNATIONAL COURTS AND TRIBUNALS (2005), p. 30.

28. *CMS v Argentina Decision on Jurisdiction (USA / Argentina BIT)*, 42 ILM 788 (2003), § 48.

29. See, e.g., *Alex Genin, Eastern Credit Limited, Inc. and A.S. Baltoil v. The Republic of Estonia*, Award, 25 June 2001, 6 ICSID Reports 241.

30. *GAMI Investments Inc. v United Mexican States*, UNCITRAL, Final Award, 15 November 2004, 44 ILM 545 (2005), § 33.

31. *Hulley Enterprises Limited (Cyprus) v. The Russian Federation*, Final Award, 18 July 2014, PCA Case No. AA 226; *Yukos Universal Limited (Isle of Man) v. The Russian Federation*, Final Award, 18 July 2014, PCA Case No. 227; *Veteran Petroleum Limited (Cyprus) v. The Russian Federation*, Final Award, 18 July 2014, PCA Case No. 228.

despite acknowledging that Russia had “not explicitly expropriated Yukos or the holdings of its shareholders”³².

27. Indeed, contemporary treaty law on foreign investments gives an “independent standing to shareholders”³³. Many investment treaties “include shareholding ... in their definitions of ‘investment’”³⁴, thereby allowing the shareholder to pursue claims for adverse action by a host State that affects the company’s value or profitability. There are “extensive and uniform” examples of arbitral cases on this point³⁵.

28. The Inter-American system also upholds the right of the shareholder to bring a suit. In *Cantos*, the applicant – the main shareholder of a corporation – filed a claim in his own name and on behalf of his company which had been subjected to arbitrary measures by the government³⁶. The Inter-American Court of Human Rights admitted the case, holding that “the rights and obligations attributed to companies become rights and obligations for the individuals who comprise them or who act in their name or representation”³⁷.

29. The European Court of Justice has admitted cases from shareholder applicants where the “intensity of [the regulation’s] effects ... necessarily

32. *Hulley Enterprises Limited (Cyprus) v. The Russian Federation*, Interim Award on Jurisdiction and Admissibility, 30 November 2009, Final Award, 18 July 2014, PCA Case No. AA 226, 1580.

33. C Schreuer and U Kriebaum, *The Concept of Property in Human Rights Law and International Investment Law*, in S Breitenmoser et al, *MENSCHENRECHTE, DEMOKRATIE UND RECHTSSTAAT: LIBER AMICORUM LUZIUS WILDHABER* (2007), p.754.

34. Ursula Kriebaum, *Is the European Court of Human Rights an alternative to investor-state arbitration?* in *HUMAN RIGHTS IN INTERNATIONAL INVESTMENT LAW AND ARBITRATION* (P.M. Dupuy, F. Francioni and E.U. Petersmann (eds), New York: Oxford University Press 2009), p. 224.

35. Kriebaum, p. 224 [citing *Antoine Goetz and ors v Burundi*, Award, 10 February 1999, 6 ICSID Reports 5; *Emilio Agustín Maffezini v Spain*, Decision on Jurisdiction, 25 January 2000, 5 ICSID Reports 396; *Compañía de Aguas del Aconquija, PA & Compagnie Générale des Eaux v Argentina* (the Vivendi case), Decision on Annulment, 3 July 2002, 6 ICSID Reports 340; *Azurix Corp v Argentina*, Decision on Jurisdiction, 8 December 2003, 43 ILM 259 (2004); *LG&E Energy Corp v Argentina*, Decision on Jurisdiction, 30 April 2004; *AMT v Zaire*, Award, 21 February 1997, 5 ICSID Reports 11; *Alex Genin v Estonia*, Award, 25 June 2001, 6 ICSID Reports 241; *CME Czech Republic BV (The Netherlands) v Czech Republic*, Partial Award, 13 September 2001, 9 ICSID Reports 121; *Camuzzi v Argentina*, Decision on Jurisdiction, 11 May 2005, at paras 12, 78–82, 140–142; *Gas Natural v Argentina*, Decision on Jurisdiction, 17 June 2005, at paras 32–35, 50–51; *AES Corp v Argentina*, Decision on Jurisdiction, 26 April 2005, at paras 85–89; *Compañía de Aguas del Aconquija, SA & Vivendi Universal SA v. Argentina (Vivendi II)*, Decision on Jurisdiction, 14 November 2005, at paras 88–94; and *Continental Casualty v Argentina*, Decision on Jurisdiction, 22 February 2006, at paras 51–54, 76–89.]

36. *Cantos v Argentina*, Preliminary Objections, 7 September 2001, Series C No 85.

37. *Ibid.*, § 27. The Court made specific reference to the case-law of the European Court of Human Rights in *Pine Valley Developments Ltd and Others v. Ireland*, 29 November 1991, Series A no. 222.

affects the substance and extent of [the shareholders'] rights”³⁸. Therefore, in *Trasta Komerbanka AS v Europea Central Bank*, “since the contested decision ha[d] the effect of withdrawing [the] bank’s authorisation and, accordingly, of preventing it from achieving its object and having an economic activity”, the Court found that the contested measure “directly affect[ed] the legal position of the shareholder applicants” and admitted their claims³⁹.

30. In sum, international law supports the finding that the victim status of shareholders must be recognised where their rights and privileges are affected⁴⁰.

Interference with the applicants’ right to peaceful enjoyment of their possessions

31. It is well-established that shares in a public company have an economic value and, therefore, must be regarded as “possessions” within the meaning of Article 1 of Protocol No. 1 to the Convention⁴¹. Having established that the shareholders have standing in the present case to challenge the measure, I will now turn to the substance of the violation of Article 1 of Protocol No. 1.

32. Article 1 of Protocol No. 1 lays out “three distinct rules” for the protection of property, as was explained in *Sporrong and Lönnroth v. Sweden*⁴²:

“The first rule, which is of a general nature, enounces the principle of peaceful enjoyment of property; it is set out in the first sentence of the first paragraph. The second rule covers deprivation of possessions and subjects it to certain conditions; it appears in the second sentence of the same paragraph. The third rule recognises that the States are entitled, amongst other things, to control the use of property in accordance with the general interest, by enforcing such laws as they deem necessary for the purpose; it is contained in the second paragraph.”

33. Notably, the Court has clarified in *James and Others v. United Kingdom* that the three rules are not “distinct” in the sense of being “unconnected”⁴³. Rather, “[t]he second and third rules are concerned with

38. *Trasta Komerbanka AS v Europea Central Bank*, Case T-247/16, 27 September 2017, § 67.

39. *Ibid.*, § 66.

40. See generally Stanimir A. Alexandrov, *The ‘Baby Boom’ of Treaty-Based Arbitrations and the Jurisdiction of ICSID Tribunals: Shareholders as ‘Investors’ and Jurisdiction Ratione Temporis*, 4 LAW AND PRACTICE INTL COURTS AND TRIBUNALS 19 (2005); Charles Schreuer, *Shareholder Protection in International Investment Law*, in P.-M. Dupuy/B. Fassbender/M.N. Shaw et al. (eds) VÖLKERRECHT ALS WERTORDNUNG, FESTSCHRIFT FÜR CHRISTIAN TOMUSCHAT (2006), pp. 601-619.

41. *Olczak v. Poland* (dec.), § 60; see also *Marini v. Albania*, no. 3738/02, § 164, 18 December 2007.

42. *Sporrong and Lönnroth v. Sweden*, 23 September 1982, § 61, Series A no. 52.

particular instances of interference with the right to peaceful enjoyment of property and should therefore be construed in the light of the general principle enunciated in the first rule”⁴⁴.

34. The relevant inquiry is thus the same for all three rules: the nature of the measure, the margin of appreciation, existence of a legitimate purpose, and proportionality.

Deprivation or regulation of the use of a possession?

35. Article 1 of Protocol No. 1 provides for two forms of interference with possessions: control and deprivation. Deprivation is the transfer *de jure* or *de facto* of the possession away from its owner to the State or to a third party, or its destruction. Control involves no transfer: the owner retains his possession, but is restricted in his use of it.

36. However, in *Sporrong and Lönnroth* the Court identified a new type of interference: interference with “the very substance of ownership”⁴⁵. This form of interference, which is of a general nature, allows the Court to review all situations not falling under the other two forms (deprivation or control of use).

37. Defining the nature of the violation is important because it determines the margin of appreciation: the scope of the margin of appreciation depends on the extent of the intrusion into the applicant’s sphere of interests⁴⁶. The margin of appreciation afforded in instances of deprivation of a possession is narrower than for the control of the use of property. Deprivation of a possession is, in the literal terms of Protocol No. 1, prohibited “except in the public interest”. By contrast, regulation (control of use) measures are not *per se* prohibited, but fall within a “right of the State to enforce such laws”⁴⁷. States do not have *per se* a “right” to deprive people of their possessions; such highly intrusive State action will be subjected to an enhanced standard of judicial review by this Court.

38. The majority have essentially given the State a wide margin of appreciation because they have treated the present case simply as a control of the use of property. However, it is evident that the nature of the violation at issue here is much more grave and consequential than mere control of the use of possessions.

39. What qualifies a measure as incompatible with the substance of the right to the peaceful enjoyment of property is not properly defined.

43. *James and Others v. the United Kingdom*, no. 8793/79, § 37, Series A no. 98.

44. *Ibid.*

45. *Sporrong and Lönnroth v. Sweden*, § 60,

46. *Hatton and Others v. the United Kingdom* [GC], no. 36022/97, §§ 103 and 123, ECHR 2003-VIII.

47. See my concurring opinion (§ 24) in *Könyv-Tár Kft and Others v. Hungary* (merits), no. 21623/13, 16 October 2018.

However, the Court’s jurisprudence provides some guidance as to what constitutes interference with the substance of ownership. For instance, simply recognising the lawfulness of expropriation in advance, even where actual expropriation has not happened, was an unlawful interference with the substance of ownership since it rendered possession “precarious”⁴⁸. Similarly, a restriction on the use of land – despite preserving the right to use the property – affected the very substance of ownership since it “reduced the possibility of its exercise”⁴⁹.

40. These cases are similar to the circumstances at issue, since the Integration Act has made the applicants’ ownership of shares “precarious” by conditioning shareholder rights upon various requirements. The Integration Act is like an ever-present sword of Damocles over affected shareholders: non-compliance will result in an immediate termination of a variety of rights. While the Government argue that the provisions of the Integration Act have the “mere possibility” of affecting the applicants⁵⁰, the case-law is clear that making a property right “precarious and defeasible over a long period of time”, by enabling the State to interfere with it in the future, can suffice for a violation to be found⁵¹.

41. Moreover, the Act “reduced the possibility of” exercising the rights associated with shares by severely limiting the choices left to banks and hindering the decision-making ability of shareholders⁵². As previously demonstrated, the tremendous impact on shareholder rights cannot be denied.

42. Therefore, the Integration Act cannot be understood merely as a form of control of the use of property, but rather “interference with the substance of ownership”. Accordingly, the margin of appreciation applicable in this case must be narrower than that afforded by the majority.

The legitimacy of the purpose of the interference measure

43. Where there is a clear interference with a property right as in this instant case, it must pursue a legitimate aim, or be in the general public interest. The notion of general interest “is necessarily extensive”⁵³.

48. *Matos e Silva, Lda., and Others v. Portugal*, 16 September 1996, § 79, Reports of Judgments and Decisions 1996-IV. See also Sabrina Robert-Cuendet, *Interference et Expropriation*, in Walid Ben Hamida and Frederique Coulée (eds), *CONVERGENCES ET CONTRADICTIONS DU DROIT DES INVESTISSEMENTS ET DES DROITS DE L’HOMME: UNE APPROCHE CONTENTIEUSE* (2017), p. 134 (noting that where a property right has been made precarious, the doctrines of deprivation and control of use intersect).

49. *Ayangil and Others v. Turkey*, no. 33294/03, § 40, 6 December 2011.

50. Government’s Observations of 26 June 2015, § 8.

51. *Ayangil and Others v. Turkey*, § 40.

52. See § 6 of this opinion.

53. *Hentrich v. France*, 22 September 1994, § 39, Series A no. 296-A.

44. But even under this generous standard, I am sceptical as to whether the Integration Act had a legitimate purpose. The purported aims of the Integration Act are laid out in Section 1/A⁵⁴.

45. On the surface, these aims appear legitimate⁵⁵. However, I am not convinced that they actually reflect the purpose of the Integration Act, because I fail to see how the violations at issue – severe restrictions on shareholder rights – achieve these goals. For instance, it is doubtful that the Act would “professionalise, modernise and organise” the cooperative credit institution sector. In fact, it is quite the opposite: severe State regulation of the banking industry turns the clock back on the modernisation of banks by hindering efficient and profit-maximising decision-making.

46. Similarly, it is doubtful whether the Act really seeks “prudent operation of cooperative credit institutions in the long term”, since it is unreasonable to expect that such extensive interference in bank management would improve the industry’s sustainability. If prudential bank regulation aims at the safety and soundness of the financial sector and the protection of depositors, any such interference should not undermine other regulatory objectives, such as corporate competitiveness and the variety of market-based business and risk-taking policies in the banking sector. Otherwise the negative externality of the prudential policy will be that of suppressing diversity in the banking sector, which in itself had a foreseeable social and economic cost, independent of the losses imposed on the banks’ shareholders.

47. Even if there is a legitimate aim involved, the Integration Act remains unlawful. It should be recalled that the Court found a violation in *Olczak* despite admitting that the purpose of the intervention in that case was “to prevent the bank from becoming insolvent” and that “[c]onsequently, the bank was to benefit from them, whereas the applicant’s interests suffered”⁵⁶. Likewise, the Integration Act seeks to ensure the “prudent operation of the cooperative credit institutions and protect the resources of the whole network”⁵⁷ to the detriment of the applicants who lost the privileges associated with their shares. No proper balancing of the

54. Judgment, § 39.

55. “(a) establish a bank for the rural communities, ... (b) provide institutional guarantees for the prudent operation of cooperative credit institutions in the long term, (c) professionalise, modernise and organise a competitive cooperative credit institution sector, (d) improve risk management of the cooperative credit institution sector, (e) ensure integrated operation of the cooperative credit institution sector and establish the necessary infrastructure, (f) standardise operational policies in order to achieve the aims described in paragraphs (a) to (e). (g) ensure institutional protection of cooperative credit institutions, (h) ensure compliance with international and European requirements, regulations, standards and customs applicable to credit institutions”. Ibid.

56. See *Olczak v. Poland* (dec.), § 58.

57. See the Constitutional Court decision no. 20.2014.

rights of shareholders against the alleged objectives of prudential regulation and crisis management was performed, as will now be explained.

The proportionality of the interference measure

48. The most evident problem with the Integration Act is its failure to satisfy the proportionality test. Even where there is a general interest or legitimate aim behind the interference, States are required to strike a fair balance “between the demands of the general interest of the community and the requirements of the protection of the individual’s fundamental rights”⁵⁸. Specifically, the “measure must be both appropriate for achieving its aim and not disproportionate thereto”⁵⁹. In other words, there “must be a reasonable relationship of proportionality between the means employed and the aim pursued”⁶⁰.

49. This balance is upset when the victims must bear “an individual and excessive burden”⁶¹ or one that is “disproportionate”⁶². Several factors can be relevant to whether a “fair balance” has been struck: the degree of protection from arbitrariness that is afforded by the proceedings⁶³; availability of less restrictive alternatives⁶⁴; and the degree of harm imposed on the victims (including, for instance, whether the affected individuals have been adequately compensated)⁶⁵.

50. In the present case, there are plenty of factors to justify the conclusion that the interference has been entirely disproportionate.

51. First, there is no evidence that the financial circumstances of the credit institutions had necessitated government interference. In the decade leading up to the Integration Act, only two non-OTIVA⁶⁶ savings cooperatives had gone into liquidation⁶⁷. By contrast, both Kinizsi Bank and Mohacsi Takarek Bank were healthy and profitable at the time the Integration Act was introduced. Mohacsi Takarek was ranked fifth and Kinizsi fourteenth for profitability among thirty-six banks in 2012⁶⁸. The capital adequacy ratio of the cooperative credit institutions at all times

58. *Sporrong and Lönnroth v. Sweden*, § 69.

59. *James and Others v. the United Kingdom*, § 50.

60. *Ibid.*

61. *Sporrong and Lönnroth v. Sweden*, § 73.

62. *Erkner and Hofauer v. Austria*, 23 April 1987, § 79, Series A no. 117.

63. *Hentrich v. France*, § 45.

64. *OAO Neftyanaya Kompaniya Yukos v. Russia*, no. 14902/04, §§ 652-654, 20 September 2011.

65. *James v. the United Kingdom*, § 54.

66. OTIVA stands for *Országos Takarékszövetkezeti Intézményvédelmi Alap* (National Fund for the Institutional Protection of Savings Cooperatives).

67. Applicants’ Observations of 17 April 2015, § 19; Government’s Observations of 26 June 2015, § 46.

68. Applicants’ Observations of 17 April 2015, § 12.

exceeded the regulatory requirements, and fared better than the rest of the banking and credit institution sectors⁶⁹. Indeed, in the years leading up to the Integration Act, cooperative credit institutions remained profitable while some of the other groups in the banking sector (major banks, small- and medium-sized banks) suffered losses⁷⁰.

52. Even the Government admitted that “[o]bviously, there has been no immediate risk for cooperative credit institutions since they kept their lending activity low”⁷¹. Nonetheless, the Government’s position is that the Integration Act was necessary for “long term profitable operation”⁷². Yet it is difficult to see how such future concerns – which have yet to manifest themselves – merited the immediate, drastic provisions of the Integration Act.

53. Second, the State failed to consider or evaluate any less restrictive measures. The Integration Act was adopted without any period of prior consultation with the banks and shareholders affected, nor any form of preliminary impact assessment. Indeed, it bypassed the ordinary legislative procedure, as the Act passed during an extraordinary sitting of Parliament, as a matter of urgency, within two days following the submission of the legislative proposal⁷³. In other words, there is no evidence that the government had considered any alternative methods of intervention that would have had a less drastic impact on the applicants’ rights. Moreover, the rushed nature of the Act’s passage and the apparent lack of a proper deliberation process raise concerns for “regulatory arbitrage”, a common worry for macro-prudential supervision of the banking sector in general⁷⁴.

54. Third, the Integration Act provided no compensation for the individual shareholders. Compensation terms are “material to the assessment whether the contested measure respects the requisite fair balance”⁷⁵. Interference with property without payment of an amount reasonably related to its value is usually disproportionate, and a total lack of compensation is justifiable only in exceptional circumstances⁷⁶. The

69. Applicants’ Observations of 17 April 2015, § 7. The Government argued that ratios were often calculated on the basis of unsound estimates, which “became apparent through the audits carried out after the integration by independent audit firms”. However, they failed to provide the said audits to substantiate this point, despite admitting that the Supervisory Authority actually relied on these estimates. See Government’s Observations of 26 June 2015, § 32.

70. Applicants’ Observations of 17 April 2015, § 7.

71. Government’s Observations of 26 June 2015, § 78.

72. Ibid.

73. Applicants’ Observations of 17 April 2015, § 20.

74. See Bart P.M. Joosen, “The Limitations of Regulating Macro-Prudential Supervision in Europe”, in 25 *Journal of International Banking Law and Regulation* 10, 498 (2010).

75. *Vistiņš and Perepjolkins v. Latvia (Just Satisfaction)* [GC], no. 71243/01, § 110, ECHR 2014.

76. *Former King of Greece and Others v. Greece* [GC], no. 25701/94, § 89, ECHR 2000 XII, and *Broniowski v. Poland* [GC], no. 31443/96, § 176, ECHR 2004-V.

Government submit that the funding provided to the Integration Organisation and the Savings Bank must be regarded as compensation. However, there is no direct relationship between these organisations and the applicant shareholders that would allow the funding to flow to the latter. Even if there is some indirect advantage afforded to the shareholders *vis-à-vis* their banks, any such benefit is too tenuous to be considered adequate compensation⁷⁷.

55. Fourth, the State provided no judicial remedy for the applicant shareholders. The Act is entirely silent on the right to legal remedy for individual shareholders. While provisions in section 15 of the Integration Act allow the banks to initiate legal proceedings to challenge policies of the Savings Bank and the Integration Organisation that do not comply with the Integration Act⁷⁸, there are no similar provisions that enable shareholders to challenge these policies. Besides, the scope of judicial challenge for banks is limited, rendering the potential remedy particularly weak.

56. Moreover, the Integration Act ensures that any delay caused by judicial proceedings favours the government. Section 15 provides that “[r]esort to the courts has no suspensive effect”⁷⁹, making any remedy less timely and, therefore, less effective.

57. Fifth, the consequences for non-compliance with the Integration Act are excessively drastic and punitive. In essence, the Integration Act presents an ultimatum to the banks and applicant shareholders: follow the guidance of the Savings Bank to the letter, or shut down the business entirely. For one, all banks are obliged to apply for an operating licence again by fulfilling the new conditions imposed by the Integration Act.

58. Remarkably, such re-certification is an ongoing, repeated process: the Savings Bank proposes what is called a “sample statute” that can be modified without any approval from the affected banks. While the Government alleged that the sample statute could not encroach upon the

77. By contrast, the EU has a Single Resolution Fund for countries which are part of the Banking Union and are subject to the Single Resolution Mechanism, which imposes responsibilities on shareholders such as mandatory bail-in provisions. This fund directly compensates shareholders or creditors in accordance with Article 75 of the Bank Resolution and Recovery Directive [Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council OJ 2014 L173/190 (BRRD)]. This mechanism leaves no shareholder worse off – at least in theory – since the fund can be used to pay the difference to any shareholder or creditor who has incurred greater losses than they would have incurred in a winding-up under normal insolvency proceedings. The Hungarian government has set up no such fund to compensate shareholders who may incur losses.

78. Judgment, §39 [citing Integration Act, Section 15(3), (20), (21)].

79. Ibid.

rights of the shareholders' meeting provided for by the law on companies, they admitted that this was so "unless there [was] an express authorisation to the contrary in the Integration Act"⁸⁰. In other words, the Integration Act supersedes any infringement of shareholder rights.

59. Furthermore, if the majority shareholders do not adopt these changes by amending the deed of foundation of their banks accordingly, the Supervisory Authority can withdraw the operating licence⁸¹.

60. In sum, it is impossible to conclude that there is a reasonable relationship of proportionality between the public interest pursued by the Integration Act and the consequences suffered by the applicant shareholders and their banks.

Conclusion

61. As shareholders, the applicants are entitled to make decisions for the credit institutions. Multiple provisions of the Integration Act violate the very essence of the right conferred on the applicants by virtue of their shares. As the Hungarian Constitutional Court has found, the Integration Act "contains provisions directly, factually and actually affecting the person and the specific legal relationship" of shareholders, including the applicants⁸².

62. The violations at issue deprived the applicants of the essential rights associated with their shares. The majority recognise the violation but sidestep the issue by invoking the legal fiction that there was no direct impact on their rights. The applicants are clearly victims of the State policy as their right to vote, to participate in the making of major decisions for the respective banks, and the right to payments, were all undermined. For these reasons, I respectfully dissent.

80. Government's Observations of 26 June 2015, § 7.

81. Section 17/H(1) of the Integration Act, cited in Applicants' Observations of 17 April 2015, § 52.

82. Applicants' Observations of 17 April 2015, § 62 [citing CC Resolution, part III, Section 2.1, paragraphs 43 and 49].

APPENDIX

Nº.	Name of applicant	Date of birth	Place of residence	Name of the bank concerned
1.	Józsefné ALBERT	17/04/1935	Szentjakabfa	Kinizsi Bank
2.	Zoltán AGG	26/07/1975	Mohács	Mohácsi Bank
3.	Erzsébet AMBERGNÉ SCHUMACHER* (heir: Erzsébet Amberg)	11/04/1948	Nagyvázsony	Kinizsi Bank
4.	Anita AUTH (changed her name from Anita Ritzlné Auth)	27/02/1971	Somberek	Mohácsi Bank
5.	József AUTH	02/12/1943	Somberek	Mohácsi Bank
6.	Józsefné AUTH	12/09/1945	Somberek	Mohácsi Bank
7.	Katalin BALI	31/05/1941	Mohács	Mohácsi Bank
8.	Gábor BARTA	11/11/1951	Véménd	Mohácsi Bank
9.	Antalné BAUMGARTNER	01/12/1951	Véménd	Mohácsi Bank
10.	József Antal BECK	27/07/1954	Babarc	Mohácsi Bank
11.	József BECKER	03/07/1961	Babarc	Mohácsi Bank
12.	Mihály BELVARACZ	13/07/1939	Mohács	Mohácsi Bank
13.	Józsefné BICSÉRDI	22/06/1947	Lánycsók	Mohácsi Bank
14.	Ádámné BODA	19/11/1949	Kisnyárad	Mohácsi Bank
15.	Márta BOGDÁN	22/08/1958	Zánka	Kinizsi Bank

Nº.	Name of applicant	Date of birth	Place of residence	Name of the bank concerned
16.	Endre BÓKAY	25/05/1954	Pécs	Mohácsi Bank
17.	Istvánné BOKROS	24/12/1951	Somberek	Mohácsi Bank
18.	László Jánosné BORIS	1951	Gyömrő	Pátria
19.	István BUBREG	08/11/1942	Mohács	Mohácsi Bank
20.	Istvánné BUBREG	26/01/1946	Mohács	Mohácsi Bank
21.	Krisztina BUBREGNÉ HARIS	28/08/1977	Mohács	Mohácsi Bank
22.	Eszter BUCHER	14/11/1977	Pécs	Mohácsi Bank
23.	Tamás BUCHER	30/03/1986	Szombathely	Mohácsi Bank
24.	Gyula CSANÁDI* (heir: László Gyula Csanádi)	23/12/1940	Mohács	Mohácsi Bank
25.	László Gyula CSANÁDI	28/04/1967	Mohács	Mohácsi Bank
26.	Ferenc CSEH	10/12/1947	Szentantalfa	Kinizsi Bank
27.	Eszter CSIZMADIA	22/05/1968	Pécs	Mohácsi Bank
28.	Endréné CSOLTKÓ	1965	Monor	Pátria
29.	Gergely DÁRDAI	09/05/1952	Véménd	Mohácsi Bank
30.	Gergelyné DÁRDAI	31/07/1956	Véménd	Mohácsi Bank
31.	Istvánné DÁVID	12/02/1959	Palotabozsok	Mohácsi Bank
32.	Gyula DOMBAI	17/11/1939	Somberek	Mohácsi Bank
33.	Imre László DOMONKOS	05/03/1962	Keszü	Mohácsi Bank
34.	Dezső EJHINGER	23/09/1935	Ajka	Kinizsi Bank

Nº.	Name of applicant	Date of birth	Place of residence	Name of the bank concerned
35.	Gellért ÉVA	08/10/1954	Mohács	Mohácsi Bank
36.	Endre Bertalan FÁBIÁN	22/04/1951	Nemesvámos	Kinizsi Bank
37.	Istvánné FACSKÓ	17/08/1935	Mohács	Mohácsi Bank
38.	László FADDI	23/08/1961	Pécs	Mohácsi Bank
39.	Mária Márta FEKETE	17/12/1940	Budapest	Kinizsi Bank
40.	József Attiláné IRÉNYI	03/04/1955	Lánycsók	Mohácsi Bank
41.	György FISCHER	28/03/1956	Dunaszekcső	Mohácsi Bank
42.	Gábor FLÓDUNG	22/03/1970	Palotabozsok	Mohácsi Bank
43.	Bence FLORIÁN	18/03/1983	Veszprém	Kinizsi Bank
44.	Dóra FLÓRIÁN	22/12/1978	Veszprém	Kinizsi Bank
45.	Gyulané FLÓRIÁN* (heir: Gyula György Flórián)	16/05/1916	Veszprém	Kinizsi Bank
46.	Gyula György FLÓRIÁN	10/12/1943	Veszprém	Kinizsi Bank
47.	István Flórián FODOR	11/08/1946	Tótvázsony	Kinizsi Bank
48.	András FOLBERT	23/04/1959	Mohács	Mohácsi Bank
49.	József FRISCHMANN	12/10/1951	Mohács	Mohácsi Bank
50.	András GÁSZ* (heirs: Judit Terézia Ádámné Gász, Andrea Domokosné Gász, Andrásné Gász)	04/09/1940	Véménd	Mohácsi Bank
51.	Andrásné GÁSZ	17/09/1942	Véménd	Mohácsi Bank

Nº.	Name of applicant	Date of birth	Place of residence	Name of the bank concerned
52.	Judit GERGELY	22/12/1964	Mohács	Mohácsi Bank
53.	Tibor GERGELY	16/04/1960	Mohács	Mohácsi Bank
54.	Orsolya Erzsébet GILLY	05/03/1964	Mohács	Mohácsi Bank
55.	Péter István GINTER	20/08/1938	Palotabozsok	Mohácsi Bank
56.	Györgyi GRÓB	09/07/1952	Mohács	Mohácsi Bank
57.	Éva Irén GYIMESI	01/12/1962	Bonyhád	Mohácsi Bank
58.	Jánosné GYIMESI	05/02/1942	Palotabozsok	Mohácsi Bank
59.	József GYÖRI*	17/11/1934	Someberek	Mohácsi Bank
60.	József János HADRA	03/01/1959	Lánycsók	Mohácsi Bank
61.	Zsolt HAFNER	15/05/1970	Mohács	Mohácsi Bank
62.	István HAGEN	06/04/1972	Mohács	Mohácsi Bank
63.	János István HAGEN	20/08/1938	Mohács	Mohácsi Bank
64.	Erő HARCZ	06/04/1944	Mohács	Mohácsi Bank
65.	Zoltán Elek HARDI	07/10/1954	Öcs	Kinizsi Bank
66.	Károly HEGYI	12/05/1942	Ajka	Kinizsi Bank
67.	Zoltán András HELILIG	01/03/1956	Tótvázsony	Kinizsi Bank
68.	Hanna HEIRICH	05/07/1982	Véménd	Mohácsi Bank
69.	József HEIRICH	26/03/1962	Véménd	Mohácsi Bank
70.	Józsefné HEIRICH	27/09/1956	Véménd	Mohácsi Bank

Nº.	Name of applicant	Date of birth	Place of residence	Name of the bank concerned
71.	József HELLEBRAND	19/09/1961	Palotabozsok	Mohácsi Bank
72.	Józsefné HELLEBRAND	17/04/1965	Palotabozsok	Mohácsi Bank
73.	János HENGL	13/11/1954	Mohács	Mohácsi Bank
74.	József HIGLI	16/10/1937	Balatoncsicsó	Kinizsi Bank
75.	Györgyné HOFFMANN	23/02/1932	Babarc	Mohácsi Bank
76.	Józsefné HOLOCSI	17/09/1943	Somberek	Mohácsi Bank
77.	Etele Péterné HORVÁTH	21/01/1959	Véménd	Mohácsi Bank
78.	Judit HUNYADINÉ TÓTH	03/12/1955	Mohács	Mohácsi Bank
79.	László György HUPPERT	09/10/1955	Majs	Mohácsi Bank
80.	Konrád HÜTTNER	31/05/1951	Lánycsók	Mohácsi Bank
81.	Bence Ferenc ILLÉS	12/12/1989	Lánycsók	Mohácsi Bank
82.	Zsuzsanna ILLÉSNE HENGL	19/01/1964	Lánycsók	Mohácsi Bank
83.	József JAKAB*	07/04/1944	Szebény	Mohácsi Bank
84.	László Sándor JÓNÁS* (heir: Glória Hoffmanné Jónás, Robin Jónás)	16/10/1949	Mohács	Mohácsi Bank
85.	Attila JORDÁN	03/05/1970	Palotabozsok	Mohácsi Bank
86.	Klára Katalin JORDÁNNÉ KOVÁCS	09/12/1974	Palotabozsok	Mohácsi Bank

Nº.	Name of applicant	Date of birth	Place of residence	Name of the bank concerned
87.	Krisztina KRESZ (changed her name from Krisztina Jordanne Kresz)	16/01/1970	Kozármisleny	Mohácsi Bank
88.	Béla JUHOS	29/12/1940	Mohács	Mohácsi Bank
89.	Bélané JUHOS	24/08/1942	Mohács	Mohácsi Bank
90.	Erzsébet JUNG	10/12/1954	Veszprém	Kinizsi Bank
91.	Ferenc KAISER	18/03/1948	Székelyszabar	Mohácsi Bank
92.	Anita KAJTÁR	26/07/1972	Pécs	Mohácsi Bank
93.	Csaba KAJTÁR	31/10/1974	Pécsvárad	Mohácsi Bank
94.	István KAPONYI	09/06/1942	Mohács	Mohácsi Bank
95.	Kálmánné KARÁDI	26/11/1962	Pécs	Mohácsi Bank
96.	László Józsefné KERN	27/03/1955	Lánycsók	Mohácsi Bank
97.	Attila KESZLER	04/05/1969	Romonya	Mohácsi Bank
98.	Gyöngyi Anna KETTÉ ROTT	13/05/1963	Mohács	Mohácsi Bank
99.	Gyuláné KINCSES	13/05/1926	Veszprém	Kinizsi Bank
100.	Klára Ilona KINCSES	25/05/1953	Veszprém	Kinizsi Bank
101.	Károly KIS	07/04/1953	Mohács	Mohácsi Bank
102.	György KISS*	03/03/1948	Geresdlak	Mohácsi Bank
103.	István KISS	17/08/1947	Palotabozsok	Mohácsi Bank
104.	Sándor KISS-SEBŐK	22/07/1946	Balatonfüred	Kinizsi Bank

Nº.	Name of applicant	Date of birth	Place of residence	Name of the bank concerned
105.	Zoltán György KLIEBERT	29/09/1952	Babarc	Mohácsi Bank
106.	Attila KOSTYÁK	01/04/1979	Mohács	Mohácsi Bank
107.	Gábor KOVÁCS	12/11/1945	Szentantalfa	Kinizsi Bank
108.	Gábor Attila KOVÁCS	22/11/1979	Szentantalfa	Kinizsi Bank
109.	Gáborné KOVÁCS	14/10/1952	Szentantalfa	Kinizsi Bank
110.	János KOVÁCS	25/08/1940	Mohács	Mohácsi Bank
111.	Miklós KOVÁCS* (heir: Miklósné Kovács)	13/12/1951	Görcsönydoboka	Mohácsi Bank
112.	Andrásné KRAFT	22/09/1949	Himesháza	Mohácsi Bank
113.	Ádám KRAMMER	30/08/1953	Bátaszék	Mohácsi Bank
114.	Rita KULTNÉ MÁTYÁS	09/03/1956	Mohács	Mohácsi Bank
115.	Sándor KURUCZ	13/11/1965	Veszprém	Kinizsi Bank
116.	Antal LAKATOS	06/08/1963	Veszprém	Kinizsi Bank
117.	Antal LAKATOS ifj.	13/11/1986	Veszprém	Kinizsi Bank
118.	Balázs LAKATOS	04/09/1990	Veszprém	Kinizsi Bank
119.	Eszter LAKATOS	15/07/1985	Budapest	Kinizsi Bank
120.	Éva LAKATOS	24/11/1960	Budapest	Kinizsi Bank
121.	Judit LAKATOS	17/12/1986	Budapest	Kinizsi Bank
122.	Péter LAKATOS	29/06/1985	Budapest	Kinizsi Bank
123.	László Antalné LESCHING	10/09/1949	Mohács	Mohácsi Bank
124.	János LINK	28/06/1960	Geresdlak	Mohácsi Bank
125.	Ádám LOVÁSZ	17/04/1992	Bóly	Mohácsi Bank
126.	Ildikó Anna LOVÁSZ	13/06/1964	Bóly	Mohácsi Bank

Nº.	Name of applicant	Date of birth	Place of residence	Name of the bank concerned
127.	József LOVÁSZ	26/04/1961	Bóly	Mohácsi Bank
128.	József MARKOVICS	16/03/1943	Mohács	Mohácsi Bank
129.	Lázárné MÁRTON	28/07/1951	Gárdony	Mohácsi Bank
130.	Attila Vince MÁTRAI	22/12/1953	Mohács	Mohácsi Bank
131.	Zoltán MEZEY	19/07/1947	Mohács	Mohácsi Bank
132.	Lajos MÓD	10/02/1942	Mohács	Mohácsi Bank
133.	Károly MOLNÁR	29/01/1945	Dunaszekcső	Mohácsi Bank
134.	Mártonné MOLNÁR	21/02/1953	Veszprém	Kinizsi Bank
135.	János MÓRÓ	17/03/1954	Zánka	Kinizsi Bank
136.	Jánosné MÓRÓ	25/10/1956	Zánka	Kinizsi Bank
137.	János MÚTH* (heir: Edina Kollárné Múth, Jánosné Múth, Melinda Schneiderné Múth)	22/04/1952	Geresdlak	Mohácsi Bank
138.	Ambrus MÜLLER	01/12/1938	Mohács	Mohácsi Bank
139.	Katalin MÜLLERLEI (changed her name from Katalin Purmann Györgyné)	04/01/1958	Somberek	Mohácsi Bank
140.	Bélané NAGY	11/02/1952	Lánycsók	Mohácsi Bank
141.	Emilné NAGY	26/02/1936	Pécs	Mohácsi Bank
142.	Gáborné NAGY	22/11/1938	Nemesvámos	Kinizsi Bank
143.	Lajos NAGY	26/10/1939	Kapolcs	Kinizsi Bank
144.	László József NAGY	30/04/1957	Nagyvázsony	Kinizsi Bank

Nº.	Name of applicant	Date of birth	Place of residence	Name of the bank concerned
145.	Norbert NAGY	08/04/1982	Mohács	Mohácsi Bank
146.	Sándor Imréné NAGY	26/09/1955	Mohács	Mohácsi Bank
147.	István NÉMET VARGA	13/02/1962	Homorúd	Mohácsi Bank
148.	Gabriella NYIRŐNÉ PANGHY	22/10/1960	Somberek	Mohácsi Bank
149.	István Gábor NYUL	22/09/1968	Mohács	Mohácsi Bank
150.	István János NYUL	24/12/1940	Mohács	Mohácsi Bank
151.	István Jánosné NYUL	28/12/1938	Mohács	Mohácsi Bank
152.	Zoltán István NYUL	17/02/1967	Pécs	Mohácsi Bank
153.	Róbert PAIZS	20/01/1978	Pécs	Mohácsi Bank
154.	Zoltán PAKUSZA	29/08/1954	Székelyszabar	Mohácsi Bank
155.	Endre Kálmán PAP	10/07/1941	Budapest	Kinizsi Bank
156.	Endre Tamás PAP	26/04/1972	Budapest	Kinizsi Bank
157.	Zita Mária PAP	21/07/1974	Budapest	Kinizsi Bank
158.	Gábor PAPP	03/10/1972	Veszprém	Kinizsi Bank
159.	Gáborné PAPP	28/08/1979	Veszprém	Kinizsi Bank
160.	László PÁVEL	21/05/1963	Mohács	Mohácsi Bank
161.	Gábor PÁVKOVICS	11/10/1969	Mohács	Mohácsi Bank
162.	Tamás PÁVKOVICS	31/07/1968	Mohács	Mohácsi Bank
163.	Erika Anna PÁVKOVICSNÉ HEGEDŰS	10/08/1969	Mohács	Mohácsi Bank

Nº.	Name of applicant	Date of birth	Place of residence	Name of the bank concerned
164.	Gitta Szilvia PÁVKOVICSNÉ SZŰCS	28/01/1971	Mohács	Mohácsi Bank
165.	Gyuláné PÉTER	15/03/1959	Somberek	Mohácsi Bank
166.	József PÉTER	24/02/1939	Palotabozsok	Mohácsi Bank
167.	Alexandra PETHES	21/10/1989	Véménd	Mohácsi Bank
168.	Csaba PETHES	25/06/1985	Véménd	Mohácsi Bank
169.	Csaba Sándor PETHES	01/06/1958	Véménd	Mohácsi Bank
170.	Csaba Sándorné PETHES	19/08/1967	Véménd	Mohácsi Bank
171.	Balázs PETHŐ	17/03/1977	Balatonfüred	Kinizsi Bank
172.	Csaba PETHŐ	09/06/1979	Balatonfüred	Kinizsi Bank
173.	Jenő PETHŐ	24/12/1954	Balatonfüred	Kinizsi Bank
174.	Ágnes PETHŐNÉ SCHULCZ	23/08/1956	Balatonfüred	Kinizsi Bank
175.	Éva Mária PETZ	01/03/1961	Mohács	Mohácsi Bank
176.	Balázs PINTÉR	04/04/1977	Balatonfüred	Kinizsi Bank
177.	Péter PINTÉR	03/05/1975	Aszófő	Kinizsi Bank
178.	Sándor PINTÉR	21/03/1945	Aszófő	Kinizsi Bank
179.	Renáta Ildikó PONGRÁCZNÉ KOVÁCS	25/11/1977	Szentantalfa	Kinizsi Bank
180.	Edina Zsuzsanna RAPPÁL	12/11/1962	Mohács	Mohácsi Bank
181.	Benjámin RITZL	11/12/1991	Somberek	Mohácsi Bank
182.	Jánosné RITZL	11/03/1957	Görcsönydoboka	Mohácsi Bank

Nº.	Name of applicant	Date of birth	Place of residence	Name of the bank concerned
183.	József RITZL	29/06/1968	Somberek	Mohácsi Bank
184.	Albert ROSTA	15/10/1951	Ajka	Kinizsi Bank
185.	Szilvia SAJNOVICSNÉ PAPP	09/08/1973	Pécs	Mohácsi Bank
186.	András SCHAFFER	27/06/1984	Mohács	Mohácsi Bank
187.	Judit SCHAFFER	04/09/1987	Mohács	Mohácsi Bank
188.	Róbert SCHAFFER	23/08/1954	Mohács	Mohácsi Bank
189.	Ferenc János SCHAUER	03/10/1948	Somberek	Mohácsi Bank
190.	András SCHMALCZ	30/11/1984	Budapest	Mohácsi Bank
191.	Ádámné SCHMIDT	04/08/1952	Mohács	Mohácsi Bank
192.	Éva SCHMIDTNÉ MÁRI	03/05/1971	Dunaszekcső	Mohácsi Bank
193.	Dezső SCHWOY	26/10/1960	Mohács	Mohácsi Bank
194.	Zsolt Dénesné SIMONYI	31/01/1950	Pécs	Mohácsi Bank
195.	Ákos STADLER	20/02/1979	Veszprém	Kinizsi Bank
196.	Emese Gabriella STADLER	15/05/1969	Veszprém	Kinizsi Bank
197.	Ferenc János STADLER	10/07/1946	Nemesvámos	Kinizsi Bank
198.	Gábor STADLER	26/05/1970	Veszprém	Kinizsi Bank
199.	László STEIXNER	26/05/1946	Szentjakabfa	Kinizsi Bank
200.	Jánosné STOLCZ	23/01/1959	Geresdlak	Mohácsi Bank
201.	Antal STRENNER	12/07/1963	Veszprém	Kinizsi Bank
202.	Zoltánné STRENNER	04/10/1935	Veszprém	Kinizsi Bank

Nº.	Name of applicant	Date of birth	Place of residence	Name of the bank concerned
203.	István SVÉGER	27/08/1952	Mohács	Mohácsi Bank
204.	Lajos SZALAY	28/01/1939	Balatonszőlős	Kinizsi Bank
205.	Zoltán Tamás SZARKA	11/01/1967	Pécs	Mohácsi Bank
206.	Bélané SZEKERES	08/11/1946	Révfülöp	Kinizsi Bank
207.	Károly Péter SZIROM	02/04/1953	Pécs	Mohácsi Bank
208.	József SZOMBATI	10/01/1943	Nagyvázsony	Kinizsi Bank
209.	Józsefné SZOMBATI	27/01/1949	Nagyvázsony	Kinizsi Bank
210.	János Tiborné TAKÁCS	28/10/1953	Lánycsók	Mohácsi Bank
211.	László TAKÁCS	02/04/1964	Palotabozsok	Mohácsi Bank
212.	Ferencné TAKÁCS NAGY	27/04/1964	Somberek	Mohácsi Bank
213.	Marianna TAKÁCSNÉ HIGLI	13/09/1966	Veszprém	Kinizsi Bank
214.	Katalin TAKÁCSNÉ OBERT	08/10/1964	Palotabozsok	Mohácsi Bank
215.	Jánosné TILL	19/01/1953	Véménd	Mohácsi Bank
216.	Gábor Tamás TORJAY	03/12/1969	Mohács	Mohácsi Bank
217.	Gábor TÓTH	03/02/1955	Révfülöp	Kinizsi Bank
218.	Gabriella TÓTHNÉ NYIRŐ	13/07/1981	Szekszárd	Mohácsi Bank
219.	József TRAPP	21/01/1957	Palotabozsok	Mohácsi Bank
220.	Józsefné TRAPP	17/04/1960	Palotabozsok	Mohácsi Bank
221.	József TROSZT	23/11/1961	Görcsönydoboka	Mohácsi Bank
222.	Gabriella TUTTINÉ MERKLER	28/09/1967	Kölked	Mohácsi Bank

Nº.	Name of applicant	Date of birth	Place of residence	Name of the bank concerned
223.	Lászlóné VAJDA	25/09/1959	Veszprém	Kinizsi Bank
224.	Lőrinc VARGA	25/03/1951	Nemesvámos	Kinizsi Bank
225.	György Sándor VARGA	29/07/1948	Lánycsók	Mohácsi Bank
226.	Péter Ferenc VARGA	12/06/1952	Mohács	Mohácsi Bank
227.	Antalné VÁRHEGYI	17/01/1947	Lánycsók	Mohácsi Bank
228.	Gyula VASS	23/09/1951	Zánka	Kinizsi Bank
229.	Gyuláné VASS	27/11/1954	Zánka	Kinizsi Bank
230.	László VEINER	09/05/1980	Zánka	Kinizsi Bank
231.	Tivadar VILLÁNYI	29/04/1958	Veszprém	Kinizsi Bank
232.	György János WERNER	29/09/1950	Mohács	Mohácsi Bank
233.	János WERNER	14/04/1954	Himesháza	Mohácsi Bank
234.	Jánosné WERNER	09/04/1959	Himesháza	Mohácsi Bank
235.	István ZAB	21/04/1963	Lánycsók	Mohácsi Bank
236.	Orsolya ZEILER	13/01/1973	Romonya	Mohácsi Bank
237.	Mihály ZÖMBIK	24/07/1954	Nemesvámos	Kinizsi Bank
238.	Mihály ZÖMBIK ifj.	25/04/1980	Nemesvámos	Kinizsi Bank
239.	Nóra ZÖMBIK	26/03/1987	Nemesvámos	Kinizsi Bank
240.	Györgyné ZSIFKOVICS	03/03/1939	Lánycsók	Mohácsi Bank
241.	János ZSOLDOS	17/11/1937	Balatonszepezd	Kinizsi Bank

* Applicants who died in the course of the proceedings.