



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

FIFTH SECTION

CASE OF KOSTOV AND OTHERS v. BULGARIA

(Applications nos. 66581/12 and 25054/15)

JUDGMENT

Art 1 P1 • Deprivation of property • Calculation of compensation following expropriation • Shortage of comparable property to assess market value, owing to strict legal criteria of comparison • Value of other plots of land expropriated for the same infrastructure project not taken into consideration • Major discrepancies between values indicative of market prices for other expropriated land and the compensation actually awarded to the applicants • Compensation not reasonably related to the value of the applicants' land • Excessive individual burden Art 41 • Just satisfaction • Reopening of domestic proceedings considered an appropriate means to remedy the violation

STRASBOURG

14 May 2020

FINAL

14/08/2020

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Kostov and Others v. Bulgaria,

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

Síofra O’Leary, *President*,

Ganna Yudkivska,

Yonko Grozev,

Mārtiņš Mits,

Lətif Hüseynov,

Lado Chanturia,

Anja Seibert-Fohr, *judges*,

and Victor Soloveytschik, *Deputy Section Registrar*,

Having regard to:

the applications (nos. 66581/12 and 25054/15) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by three Bulgarian nationals, Mr Nedyalko Georgiev Kostov (“the first applicant”), Ms Severina Prodanova Popova (“the second applicant”) and Mr Boris Prodanov Velichkov (“the third applicant”) (together “the applicants”), on 3 October 2012 and 12 May 2015 respectively;

the decision to give notice to the Bulgarian Government (“the Government”) of the complaints concerning the alleged disproportionality of the compensation awarded to the applicants when their property was expropriated at the State and to declare inadmissible the remainder of application no. 25054/15;

the parties’ observations;

Having deliberated in private on 15 April 2020,

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

INTRODUCTION

The case concerns, in particular, a complaint under Article 1 of Protocol No. 1 that the applicants were awarded disproportionately low amounts of compensation when their property was expropriated by the State for the construction of roads.

THE FACTS

1. The applicants were born in 1971, 1951 and 1944 respectively and live in Sofia. The first applicant was represented by Ms N. Sedefova, and the second and third applicants were represented by Mr A. Kashamov; both lawyers practise in Sofia.

2. The Government were represented by their Agent, Ms I. Nedyalkova of the Ministry of Justice.

3. The facts of the case, as submitted by the parties, may be summarised as follows.

I. THE CASE OF THE FIRST APPLICANT

4. In 2007 the Council of Ministers (Government) expropriated a number of privately-owned plots of land on the outskirts of Sofia for the construction of a junction on the Sofia-Varna motorway.

5. In two decisions dated 21 and 25 February 2008 the local body responsible for deciding on the restitution of agricultural land – the Kremikovtsi agriculture department – ordered the restitution of three plots of land in the same area to their pre-collectivisation owners. On 3 July 2008 the first applicant bought the plots of land from those people’s heir for 4,000 Bulgarian lev (BGN, equivalent to 2,046 euros (EUR)). In 2010 he obtained three notarial deeds.

6. The first of the plots at issue measured 19,187 square metres and was described in the relevant documents as eighth category “marshland”. Its valuation for taxation purposes was BGN 671.50 (EUR 343).

7. The other two plots, totalling 4,643 square metres, were described as “other agricultural land” of the tenth category. The Government submitted that before the construction of the motorway junction, those plots had partially consisted of ponds – the result of previous gravel extraction. The two plots’ valuation for taxation purposes was BGN 41.80 (EUR 21).

8. In August 2011 the Minister of Public Works proposed the expropriation of several more plots of land necessary for the construction of the junction, including parts of those acquired by the first applicant. The plots had not been the subject of the initial expropriation (see paragraph 4 above) as at that time they had not been privately owned. On 15 September 2011 the Council of Ministers decided to expropriate the land at issue, awarding monetary compensation to the owners.

9. The land expropriated from the first applicant measured 21,323 square metres. The total compensation awarded to him in the decision of 15 September 2011, calculated in accordance with the Regulation on the calculation of the value of agricultural land (hereinafter “the Regulation”, see paragraph 30 below), amounted to BGN 1,748 (EUR 894) – on average about BGN 0.08 (EUR 0.04) per square metre.

10. The first applicant applied for a judicial review of the Council of Minister’s decision, arguing that the compensation was too low and in breach of section 32(2) of the State Property Act 1996 (hereinafter “the 1996 Act”, see paragraph 25 below). He pointed out that the Supreme Administrative Court had awarded compensation varying from BGN 55 (EUR 28) to about BGN 101 (EUR 52) per square metre for the land expropriated for the same purpose in 2007 in the area appertaining to the same village (*землище*) (see paragraph 4 above).

11. The Supreme Administrative Court appointed an expert to calculate the market value of the land expropriated from the first applicant. In his report submitted on 16 January 2012 the expert stated that he had been unable to identify any comparable plots meeting the requirements of section 1a of the supplementary provisions of the 1996 Act, and that the amount of compensation thus had to be calculated in accordance with section 32(3) of the same Act (see paragraphs 25 and 26 below). Applying the rules contained in the Regulation, the expert assessed the value of the first applicant's expropriated land at BGN 4,779 (EUR 2,445) – on average BGN 0.22 (EUR 0.11) per square metre.

12. The first applicant contested the expert report. He presented several notarial deeds for the sale of plots of land in the area, as well as documents concerning the inclusion of one such plot in the capital of a company.

13. The expert was tasked with preparing a new valuation, taking into account the documents presented by the first applicant. In his report of 12 March 2012 he found that most of the plots of land concerned were not comparable, since they appertained to the territory of a different village, or had been included in the urban area of Sofia and were not categorised as agricultural land. Another plot could not be taken into account as the respective contract had not been concluded within the one-year period provided for under section 1a(2) of the supplementary provisions of the 1996 Act (see paragraph 26 below), namely between July 2010 and July 2011; the contract at issue had been concluded in April 2010, and the plot concerned had been sold for about BGN 6 (EUR 3) per square metre. According to the expert, only one plot of land qualified as comparable, as it was of the same kind, on the territory appertaining to the same village, and it had been sold in August 2010, within the one-year period. The price of that plot had been about BGN 225 (EUR 115) per square metre. If that was to be taken as the average market value of land in the area, the value of the first applicant's expropriated land had to be set at BGN 4,804,627 (EUR 2,457,609).

14. The Supreme Administrative Court gave a judgment on 5 April 2012. It held that one comparable plot of land was not sufficient to establish the market value of the expropriated land, and that the amount of compensation should therefore be calculated under section 32(3) of the 1996 Act. Applying the method provided for in the Regulation, the expert had calculated the amount of compensation due to the first applicant at BGN 4,779 (see paragraph 11 above), which was the amount to be awarded.

II. THE CASE OF THE SECOND AND THIRD APPLICANTS

15. The second and third applicants were the owners of a plot of land on the outskirts of Sofia, on the strength of a restitution decision of the then Serdika land commission (later renamed "the agriculture department") of

21 June 1999. The plot, measuring 6,101 square metres, was described in the decision as a fourth-category “field”. Its valuation for taxation purposes was BGN 1,141.20 (EUR 583).

16. Between 2012 and 2015 the second and third applicants rented the plot together with two other plots as agricultural land to a private party. In exchange, they were to receive fifty kilograms of grain each year.

17. On 21 December 2013 the Council of Ministers issued a decision to expropriate the second and third applicants’ plot, and other land in the area, for the construction of a section of the ring road around Sofia. The decision stated that the second and third applicants would receive monetary compensation in the amount of BGN 5,116, equivalent to EUR 2,616, or BGN 0.84 (EUR 0.43) per square metre.

18. The second and third applicants applied for a judicial review of the expropriation decision, arguing in particular that the compensation awarded to them was too low and bore no relationship to the fair market value of the land.

19. The Supreme Administrative Court appointed an expert to calculate the market value of the land. The expert submitted two reports dated 14 May and 10 September 2014. He listed a number of contracts concluded within the period to be taken into account concerning land in the same area, and proposed several calculations of the value of the second and third applicants’ land, depending on which of the plots concerned were to be considered as comparable. The valuations ranged from BGN 21.5 (EUR 11) to BGN 104 (EUR 53) per square metre.

20. The Supreme Administrative Court gave a judgment on 14 November 2014. It found that as only one of the plots described by the expert (sold in 2012 for a price equivalent to BGN 25 (EUR 13) per square metre) could qualify as comparable, it was insufficient to calculate an average market value. As to the remaining plots of land, they could not be considered as comparable because some of them were not located in the same zone (see paragraph 26 below) and others had been jointly mortgaged in a single contract without an indication of their individual values. Another plot of land had been included in the capital of a company but, according to the Supreme Administrative Court, that was not among the types of transaction provided for by section 1a(2) of the supplementary provisions of the 1996 Act (see paragraph 26 below). In particular, such a transaction was not to be entered into the property register.

21. Accordingly, since only one comparable plot had been found and it was insufficient to establish an average market value of the expropriated land, the amount of compensation had to be calculated in accordance with the Regulation. As that had been the method used by the Council of Ministers when expropriating the second and third applicants’ land and awarding them BGN 5,116 (BGN 0.84 per square metre) in compensation, the application for a judicial review of that decision had no merit.

22. At the beginning of 2015 the Council of Ministers settled several other similar cases that had been pending before the Supreme Administrative Court, concerning agricultural land of unspecified category in the same zone as the second and third applicants' and expropriated on the strength of the same decision of 21 December 2013. It agreed to pay compensation of BGN 20.05 (equivalent to EUR 10) per square metre to the owners. The decision to seek a settlement, according to a memorandum submitted to the Council of Ministers by the Minister of Public Works in December 2014, had been taken in order to unblock urgently the construction of the ring road, delayed by numerous applications for judicial reviews. The Minister of Public Works noted that in a neighbouring zone where land had been expropriated as well, the owners had been paid the compensation indicated above, calculated on the basis of sufficient comparable plots, and that most of the owners had not applied for a judicial review. Such compensation was therefore considered appropriate for the cases to be settled.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. THE CONSTITUTION AND THE 1996 ACT

23. Article 17 § 5 of the Constitution of Bulgaria provides that private property may be expropriated for State or municipal needs only on the basis of a law, only if those needs cannot be satisfied otherwise, and in exchange for prior and equivalent compensation.

24. Section 32(1) of the State Property Act (*Закон за държавната собственост* – the “1996 Act”) reiterates that private property can be expropriated for State needs that cannot be satisfied otherwise, in exchange for equivalent compensation. Until 2006 no further requirements regarding the term “equivalent compensation” were provided for.

25. In 2006 Parliament adopted a Bill amending section 32 of the 1996 Act. A new subsection (2) was added, specifying that the equivalent monetary compensation had to be calculated on the basis of “the market value of comparable properties situated in proximity to the expropriated one”. A new subsection (3) was also added, providing that where no relevant comparable properties could be found for the calculation of the market value, the monetary compensation was to be calculated on the basis of formulae adopted by the Government. As concerns the value of land defined as agricultural, subsection (3) refers to the formulae contained in the Regulation (see paragraphs 30-32 below).

26. The Bill also added a new section 1a to the supplementary provisions of the 1996 Act. Its subsection 2 defines the term “market value” used in section 32(2) as the average value indicated in all contracts for valuable consideration entered in the property register – sales of properties,

exchanges, public auctions, mortgages and others – concluded in the year preceding the assessment for the purposes of expropriation, and where, in addition, at least one of the parties is a commercial entity. Subsection 4 defines furthermore the term “in proximity” used in section 32(2) as: a) in the same zone (*район*) in the cities where zoning exists; b) in the same neighbourhood (*квартал*) in the remaining towns and villages; c) belonging to the territory of the same town or village (“*в едно и също землище*”), as concerns agricultural and forestry land.

27. The explanatory memorandum to the above-mentioned Bill stated that the amendments were aimed at removing a legal lacuna, namely the lack of definition of the term “equivalent compensation”, and at introducing common criteria in that regard. Previously, the experts appointed by the Supreme Administrative Court had used different methods of valuation, leading to varying results, and in some cases to compensation “exceeding by five to eight times the real market value of the property to be expropriated”. During the parliamentary debate on the Bill, it was also noted that the previous practice (experts’ calculations without any statutory criteria to rely on) had incited corruption. Some members of Parliament spoke in addition of the practice, when purchasing and selling immoveable property, of declaring lower values in order to pay less tax. Such practice justified the inclusion in the list under section 1a(2) only of transactions where one of the parties was a commercial entity.

28. Initially, the practice of the Supreme Administrative Court was divergent on the question whether it was acceptable to calculate the market value defined above if only one comparable property existed. In the majority of cases it held that no “average” value could be established where only one comparable property had been shown to exist (*Решение № 13101 от 3.11.2010 г. на БАС по адм. д. № 5728/2010 г.*; *Решение № 4984 от 5.04.2012 г. на БАС по адм. д. № 12888/2011 г.*), but in some cases it reasoned that, in so far as a comparable property had been actually sold on the market, this was sufficient to establish a market price (*Решение № 13321 от 9.11.2009 г. на БАС по адм. д. № 7327/2009 г.*). Following a legislative amendment in 2014, section 1a(2) now expressly requires at least two comparable properties in order to assess the market value of a property.

29. Section 34a of the 1996 Act provides that the Council of Ministers (Government) will take decisions on the expropriation of private property where this is needed for projects of national significance. Section 38 of the Act provides that its decisions are subject to judicial review. At the time, the competent tribunal was the Supreme Administrative Court, whose judgments were final.

II. THE REGULATION

30. The Regulation on the calculation of the value of agricultural land (*Наредба за реда за определяне на цени на земеделските земи*), referred to by section 32(3) of the 1996 Act (see paragraph 25 above), was adopted by the Council of Ministers in 1998. Initially, it was applicable only in the context of the restitution of agricultural land and where such land was the subject of a transaction with the participation of the State. In 2006 it was decided that the Regulation should also be applicable to compensation for expropriated property under the 1996 Act.

31. The Regulation provides for a basic value, depending on the category of the land for agricultural purposes (the first category being land of the highest quality and the tenth category, land of the lowest quality) and “the market conditions”. The basic value is then to be augmented or reduced by reference to criteria such as proximity to cities, infrastructure or the coast, or whether the land is irrigable.

32. Section 3 of the Regulation states that the basic value equals twenty-five times the annual rent for the respective category of agricultural land. For the different categories of land, the value varies between BGN 0.04 (EUR 0.02) and BGN 0.63 (EUR 0.32) per square metre. The scale of basic values has not been updated since 1998.

III. JUDGMENT OF THE CONSTITUTIONAL COURT OF 4 JULY 2006

33. In 2006 a group of members of Parliament challenged the constitutionality of all amendments to the 1996 Act described in paragraphs 25-26 above. In a judgment of 4 July 2006 (*Решение на Конституционния съд № 6, 4.07.2006 г., к.д. 5/2006 г.*) the Constitutional Court found that these amendments did not conflict with the Constitution.

34. The Constitutional Court considered that the introduction of common criteria for the assessment of the market value of expropriated properties did not impinge upon, but in fact protected, the rights of owners of expropriated property. It went on as follows:

“In this way it is guaranteed that the same objective criteria will be used, namely transactions at market value with immoveable properties similar to the one to be expropriated and situated in proximity to it, where at least one of the parties is a commercial entity. The determination of equivalent monetary compensation without reliance on any clear objective criteria is not in the interest of the owners of expropriated properties and may always be to their detriment. This is so because the impact of subjective factors, not based on common objective criteria, leads to deviations from the realistic value, in one direction or the other.”

35. According to the Constitutional Court, the amendments at issue filled a legal lacuna and were necessary to guarantee that all persons were equal before the law. The legislative approach to the matter was balanced. The equivalent compensation required under section 32 of the 1996 Act

meant “the market value which the owner could receive if the property were sold on the free market”.

36. Concerning more specifically section 32(3) of the 1996 Act, the Constitutional Court found that it represented the “natural continuation” of the requirement of common criteria. It pointed out, nevertheless, that the provision concerned an “exception”, and that its application had to be premised on the “undeniable impossibility” of applying section 32(2).

37. Four (out of twelve) judges of the Constitutional Court dissented. They considered that the 2006 amendments to the 1996 Act described above had been expressly aimed at reducing the compensation paid by the State, to the detriment of the right to property. Some of the judges argued that the list of transactions which could be used for the purpose of comparison (under section 1a of the supplementary provisions of the 1996 Act) had been unjustifiably shortened. Other judges contested the newly-introduced approach in its entirety, namely the reliance on other transactions to calculate the relevant market value. They highlighted some issues in that regard, such as the practice by parties to immoveable property transactions of fraudulently declaring much lower values.

38. As to section 32(3) of the 1996 Act, referring to, among other things, the Regulation (see paragraph 25 above), the dissenting judges stated that its application could not lead to an award of “equivalent” and just compensation or to the establishment of fair market values. On the contrary, it could only lead to valuations which were “evidently and dramatically lower”. The judges considered that other means of establishing a market value, for instance through the expertise of an estate agent, were more appropriate. They pointed out in that regard that a property “always ha[d] a market value”.

IV. OTHER PROVISIONS

39. Article 239 of the Code of Administrative Procedure provides that a final judgment issued by the administrative courts can be set aside and the proceedings reopened where, in particular, a judgment of the Court finds a violation of the Convention. An application for reopening is to be submitted to the Supreme Administrative Court within three months of notification of the Court’s judgment.

40. Article 5 § 4 of the Constitution stipulates that international treaties which have been ratified and published in the Official Gazette and have entered into force for Bulgaria are to be considered part of the domestic law. They are to take precedence where the provisions of an Act adopted by Parliament conflict with them.

THE LAW

I. JOINDER OF THE APPLICATIONS

41. Having regard to the similar subject matter of the two applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1

42. The applicants complained under Article 1 of Protocol No. 1 that the compensation awarded to them when their property was expropriated had been disproportionately low.

43. Article 1 of Protocol No. 1 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. Submissions by the parties

1. *The Government*

(a) General comments

44. The Government submitted that the expropriation of the applicants’ property had been necessary for the implementation of important infrastructure projects. Moreover, it had been lawful, as it had been based on the respective provisions of the 1996 Act, which were clear and accessible.

45. The Government pointed out that the State enjoyed a wide margin of appreciation in setting the appropriate levels of compensation and in estimating the value of a property. Parliament had acted within that margin when adopting the methods of establishing market values under the 1996 Act, in particular under section 1a of the supplementary provisions. It was significant in addition that domestic law itself required “equivalent” compensation, and that the applicants had had a possibility to contest the valuations of their land and present evidence in that regard to the Supreme Administrative Court.

46. As to the Regulation, the Government contended that it provided “objective standards” and that its use to calculate compensation for expropriated properties was not *per se* contrary to Article 1 of Protocol No. 1. The method provided for in the Regulation was applicable only

exceptionally, where the market value of expropriated property could not be determined under section 32(2) of the 1996 Act. The appropriateness of such an approach had been confirmed by the Constitutional Court.

47. Lastly, the Government submitted data from the National Statistics Institute, showing that between 2010 and 2014 the average prices of agricultural land in the region of Sofia had been between BGN 0.14 (EUR 0.07) and BGN 0.43 (EUR 0.22) per square metre.

(b) Concerning the individual cases

(i) The first applicant

48. The Government pointed out that the first applicant's expropriated land was in a relatively low category and that it had largely consisted of marshland and ponds. It had thus had "barely" any value for farming, and in addition, due to its characteristics, had been of "very little investment value". The Government also referred to the low valuation of the applicant's land for taxation purposes and to the statistical data on the prices of agricultural land in Sofia (see paragraphs 6-7 and 47 above). They noted that the applicant had acquired the land at issue three years before the expropriation for BGN 4,000 (EUR 2,046).

49. The above considerations, in the Government's view, showed that the compensation awarded to the first applicant for his expropriated land – BGN 4,779 (EUR 2,445) – had been reasonably related to the actual value of that land, and that he had not been made to bear an excessive individual burden.

50. The Government stated that the plot of land considered by the Supreme Administrative Court to have been the only one comparable to the applicant's within the meaning of section 32(2) of the 1996 Act (see paragraphs 13-14 above) was in fact located much closer to the urban area of Sofia and in proximity to a major boulevard. Its value had thus been justifiably higher and could not therefore provide a valid basis for assessing the value of the applicant's expropriated land.

(ii) The second and third applicants

51. The Government referred to the relatively low valuation of the second and third applicants' land for taxation purposes and to the fact that prior to the expropriation, the applicants had derived a very small yearly profit from it. The Government also referred to the statistical data on the value of agricultural land in Sofia (with prices varying between BGN 0.14 (EUR 0.07) and BGN 0.43 (EUR 0.22) per square metre), observing that the compensation awarded to the second and third applicants – equivalent to BGN 0.84 (EUR 0.43) per square metre – had been significantly higher.

52. In view of the above considerations, the Government contended that the compensation awarded to the second and third applicants had been

reasonably related to the market value of their land, and that they had not been made to bear an excessive individual burden.

53. Lastly, the Government argued that the amount of compensation which the Council of Ministers had agreed to pay to the owners of expropriated land located in the same zone as the second and third applicants' – BGN 20.05 (EUR 10) per square metre (see paragraph 22 above) – was not "necessarily indicative" of the fair market price of that land. The Council of Ministers had taken a sovereign decision to settle these cases and pay the compensation at issue, prompted by the urgent need to unblock the construction of the ring road.

2. The applicants

(a) The first applicant

54. The first applicant argued that the criteria contained in section 1a of the supplementary provisions of the 1996 Act were too restrictive and led to the exclusion of some transactions, which could, in reality, provide valid data as to the just market value of land to be expropriated. He considered that, on the whole, this led to the award of lower compensation. He referred to the dissenting opinions of some of the judges in the Constitutional Court, who, in objecting to that court's judgment of 4 July 2006, had expressed the same views.

55. In addition, the first applicant contested the Supreme Administrative Court's refusal in his case to accept that one comparable property was sufficient to establish the market value of his land, pointing out that at the time, this had not been an express requirement of the 1996 Act. Such an approach was wrong, and the Supreme Administrative Court had unjustifiably refused to accept the market value of the applicant's land as established on the basis of that one comparable property, namely in the amount of BGN 4,804,627 (EUR 2,457,609).

56. The first applicant submitted that the compensation actually awarded to him – BGN 4,779 (EUR 2,445) – bore no relationship to the fair market value of his land. He pointed out that the characteristics of the land for farming purposes, referred to by the Government, were of no relevance for the establishment of its market value, given that it was situated close to Sofia and in proximity to commercial and industrial installations. He submitted a statement by a company specialised in the valuation of immoveable property, which was of the view that land such as the plots expropriated from him could be of interest to investors, or could be let out, generating a "high income".

57. The first applicant contested the statistical data provided by the Government on the prices of agricultural land in the region of Sofia. He pointed out that it was the practice in Bulgaria to declare a low value when concluding property transactions, in order to pay less tax.

(b) The second and third applicants

58. The second and third applicants contested the Supreme Administrative Court's refusal to accept two transactions – a mortgage and the inclusion of a plot of land in the capital of a company – as valid for the purpose of comparison. They argued that this “unpredictable” approach had been at variance with the requirements of the 1996 Act, and that the interference with their property rights had not therefore been lawful.

59. In addition, the second and third applicants pointed out that other owners of expropriated land in the same area had received much higher awards of compensation, “in plain disregard of the relevant legal provisions and procedures”.

60. The applicants thus concluded that the fair balance required under Article 1 of Protocol No. 1 had not been achieved, and that they had been made to bear an excessive individual burden.

B. Admissibility

61. The Court notes that the complaints under examination are neither manifestly ill-founded, nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

C. Merits

1. Relevant general principles

62. An interference with the right to the peaceful enjoyment of possessions must always strike a “fair balance” between the demands of the general interests of the community and the individual's fundamental rights. In other words, there must be a reasonable relationship of proportionality between the means employed and the aim sought to be realised by any measure depriving a person of his possessions. In determining whether this requirement has been met, the Court recognises that the State enjoys a wide margin of appreciation with regard both to choosing the means of enforcement and to ascertaining whether the consequences of enforcement are justified in the general interest (see *Scordino v. Italy (no. 1)* [GC] (no. 36813/97, §§ 93-94, ECHR 2006-V, and *Vistiņš and Perepjolkins v. Latvia* [GC] (no. 71243/01, §§ 108-09, 25 October 2012).

63. Compensation terms under the relevant legislation are material to the assessment of whether the contested measure respects the requisite fair balance and, notably, whether it imposes a disproportionate burden on the applicants. The taking of property without payment of an amount reasonably related to its value would normally constitute a disproportionate interference (see *Papachelas v. Greece* [GC], no. 31423/96, § 48, ECHR 1999-II). The amount of compensation must be calculated based on

the value of the property at the date on which ownership thereof was lost (see *Vistiņš and Perepjolkins*, cited above, §§ 111).

64. Where an individual's property has been expropriated, there should be a procedure ensuring an overall assessment of the consequences of the expropriation, including the award of an amount of compensation in line with the value of the expropriated property, the determination of the persons entitled to compensation and the settlement of any other issues relating to the expropriation. Where an issue in the general interest is at stake, it is incumbent on the public authorities to act in good time, and in an appropriate and consistent manner (see *Vistiņš and Perepjolkins*, cited above, §§ 111 and 114).

2. *Whether there was an interference with the applicants' rights*

65. The Court, noting that land owned by the applicants was expropriated for public needs, finds that there was an interference with the applicants' "possessions". That interference amounted to deprivation of property, within the meaning of the second sentence of the first paragraph of Article 1 of Protocol No. 1 (see *Scordino (no. 1)*, § 79, and *Papachelas*, § 45, both cited above).

3. *Lawfulness*

66. The applicants did not seem to contest the legal basis of the expropriation of their land as such. The Court also observes that the expropriation was carried out under the 1996 Act, which appears to have provided a clear and foreseeable legal basis (see paragraph 24 above).

67. Under the head of lawfulness, the applicants took issue with the manner in which the Supreme Administrative Court had determined the compensation to be awarded to them, considering that it had not been "subject to the conditions provided for by law". In particular, the first applicant argued that the Supreme Administrative Court had wrongly concluded in his case that one comparable property was insufficient to establish the market value of his land (see paragraph 55 above). The second and third applicants contended that in their case the Supreme Administrative Court's decision had been in breach of the law in determining which plots of land similar to theirs could validly count as comparable property (see paragraph 58 above).

68. The Court reiterates that its power to review compliance with domestic law is limited, and that it is in the first place for the national authorities, notably the courts, to interpret and apply such law (see *Former King of Greece and Others v. Greece* [GC], no. 25701/94, § 82, ECHR 2000-XII, and *Svitlana Ilchenko v. Ukraine*, no. 47166/09, § 66, 4 July 2019). As to the particular issues raised, it sees no manifest unreasonableness or arbitrariness in the Supreme Administrative Court's

approach. In the case of the first applicant, the position that the Supreme Administrative Court took, namely that one comparable property was insufficient to establish a market value, was the prevalent one, and it subsequently became a statutory requirement (see paragraph 28 above). As to the second and third applicants' case, the Supreme Administrative Court gave sufficient and relevant reasons when finding that certain types of property – one of them subject to a mortgage and the other included in a company's capital – could not count as comparable property within the meaning of the 1996 Act (see paragraph 20 above).

69. Accordingly, the manner in which the amount of compensation was assessed, and hence the interference with the applicants' "possessions", was "subject to the conditions provided for by law", as required under Article 1 § 1 of Protocol No. 1. Deficiencies in the applicable domestic regulatory framework will however be addressed below in relation to the proportionality of the impugned interference.

4. *Legitimate aim*

70. The applicants' land was taken for the construction of public roads. Thus, the interference with their "possessions" pursued a legitimate aim in the public interest (see *Papachelas*, cited above, § 45).

5. *Proportionality*

71. The salient question, therefore, is whether the interference at issue was proportionate, in other words whether the authorities struck a fair balance between the demands of the general interest of the community and the requirement to protect the applicants' rights (see paragraph 62 above).

72. As pointed out above (see paragraph 63), Article 1 of Protocol No. 1 requires compensation which is reasonably related to the value of the expropriated property.

73. The Court has held that in some cases legitimate objectives in the public interest, such as those pursued in measures of economic reform or measures designed to achieve greater social justice, may justify the award of compensation which does not reflect the market value of the property in question (see, for example, *Jahn and Others v. Germany* [GC], nos. 46720/99 and 2 others, §§ 116-17, ECHR 2005-VI, and *Velikovi and Others v. Bulgaria*, nos. 43278/98 and 8 others, § 179-80, 15 March 2007).

74. However, no objectives of an exceptional character appear to have been pursued in the cases at hand, nor have the Government claimed so. The Court has thus to determine whether the applicants were awarded an amount of compensation that was reasonably related to the value of their expropriated land at the time of the expropriation, as required under Article 1 of Protocol No. 1 (see paragraph 63 above).

75. The Bulgarian Constitution and the 1996 Act provide that the owners of expropriated property should receive “equivalent” compensation (see paragraphs 23-24 above). According to the national Constitutional Court, this means “the market value which the owner could receive if the property were sold on the free market” (see paragraph 35 above). The Court is satisfied that the compensation required under domestic law is, in principle, in line with that required under its case-law, as defined above.

76. Under domestic law, section 32(2) of the 1996 Act and section 1a (2) and (4) of the supplementary provisions thereof define what the requisite “equivalent” compensation should be, and how, in principle, it should be assessed. Those provisions contain a number of requirements as to the types of transactions which can be used to assess the fair market value of expropriated property (see paragraphs 25-26 above). If a sufficient number of plots of land that can serve as comparable property cannot be found, section 32(3) of the 1996 Act must be applied. It provides that in respect of land considered to be agricultural, as in the cases at hand, the relevant compensation must be calculated in accordance with the Regulation (see paragraph 25 above).

77. The Court reiterates that it is not its task to review the relevant legislation in the abstract; it has to confine itself, as far as possible, to examining the problems raised by the specific cases before it. To that end it must examine the above-mentioned law in so far as the applicants objected to its consequences for their property rights (see *The Holy Monasteries v. Greece*, 9 December 1994, § 55, Series A no. 301-A, and *Scordino (no. 1)*, cited above, § 100).

78. In the applicants’ cases, the Supreme Administrative Court found that it was unable to calculate the “equivalent” compensation due to them on the basis of section 32(2) of the 1996 Act, which refers to “the market value of comparable properties situated in proximity to the expropriated one”. This was so because in each of the two cases, only one comparable property, as defined in section 1a(2) and (4), was shown to exist, and that was found to be insufficient (see paragraphs 14 and 20 above).

79. The first applicant criticised the restrictions on the types of land qualifying as comparable under the 1996 Act, finding them disproportionate (see paragraph 54 above). The Court observes that, indeed, subsections (2) and (4) of section 1a of the supplementary provisions of that Act provide for a number of restrictions on the transactions which can be used to calculate the market value of a property: they have to be for valuable consideration, such as sales, exchanges, public auctions, mortgages and others; they have to have been entered in the property register and to have been concluded in the year preceding the assessment for the purposes of expropriation; the plots have to be situated “in proximity” as defined in subsection (4); at least one of the parties has to have been a commercial entity (see paragraph 26 above).

80. The Court has held that the national authorities are in principle better placed than an international court to evaluate local needs and conditions, and that in matters of general social and economic policy, including urban and regional planning, the domestic policy-maker should be afforded a particularly broad margin of appreciation (see *Vistiņš and Perepjolkins*, cited above, § 98). Thus, the Court is not prepared to hold that factors such as the ones defined above, limiting the discretion of the authorities, including the courts, are in principle in breach of Article 1 of Protocol No. 1. In particular, it has not been claimed that such an approach could not, where there are sufficient comparable properties meeting the relevant criteria, lead to the establishment of a fair market price, and thus the award of “equivalent” compensation.

81. However, as mentioned above, that method was found to be inapplicable to the applicants’ cases, because a sufficient number of comparable properties meeting the particular requirements were not found. Therefore, pursuant to section 32(3) of the 1996 Act, the compensation due to them was calculated in accordance with the Regulation. The Court has thus to assess, on the basis of the facts submitted by the parties, whether, in practice, the rules provided for in the Regulation led to the award of compensation that was reasonably related to the value of the applicants’ land. This question is, in fact, one of the main points of disagreement between the parties (see paragraphs 48-49, 51-53, 56 and 59 above).

82. The Court observes in that regard that the first applicant’s land was expropriated in 2011, and that several years earlier, in 2007, the Supreme Administrative Court had awarded owners of land in the area appertaining to the same village, expropriated for the same infrastructure project, compensation ranging between BGN 55 (EUR 28) and BGN 101 (EUR 52) per square metre (see paragraph 10 above). In the judicial-review proceedings initiated by the first applicant, a plot of land was identified as being comparable to his land, within the meaning of section 32(2) of the 1996 Act, and it had been sold for BGN 225 (EUR 115) per square metre (see paragraph 13 above). As regards the latter plot, the Court takes note of the Government’s arguments (see paragraph 50 above) that it was not comparable to the first applicant’s land, as well as the more general arguments about the quality of his land (see paragraph 48 above). While such arguments might be, in principle, relevant, it is significant that in the case at hand the Supreme Administrative Court found the plot at issue to be comparable, complying with the requirements of domestic law, and that had at least one other comparable plot been found, its value (BGN 225, equivalent of EUR 115 per square metre) would have been relied on to calculate the fair market value of the first applicant’s land. In addition, another plot of land in the same area had been sold just outside the time-limit under section 1a(2) of the supplementary provisions, in April 2010, for BGN 6 (EUR 3) per square metre (see paragraph 13 above).

83. In the case of the second and third applicants, a plot that had been sold for BGN 25 (EUR 13) per square metre was identified by the Supreme Administrative Court as a comparable one (see paragraph 20 above). Once again, there appears to be no doubt that that value would have been used to establish the market price of the expropriated land, had at least one other comparable plot meeting the relevant requirements been shown to exist. In addition, soon after the judicial-review proceedings initiated by the second and third applicants had ended, the Council of Ministers settled other similar cases concerning land in the same zone, expropriated for the same infrastructure project, agreeing to pay the owners BGN 20.05 (EUR 10) per square metre, basing its assessment of such a value on what it considered the market value of land in a neighbouring zone (see paragraph 22 above).

84. The Court is conscious that the values cited above were not considered to reflect the market value of the applicants' land, assessed in accordance with the relevant criteria under domestic law. Nor does the Court itself find that they establish definitively any such value. Furthermore, it takes note of the Government's statement (see paragraph 53 above) that the Council of Ministers' decision to settle the remaining cases concerning land in the same zone as the second and third applicants' was taken under some pressure, coming from the need to finalise a major public project, and that the proposed compensation of BGN 20.05 (EUR 10) per square metre may not have "necessarily" represented a fair market value.

85. Nevertheless, the Court cannot ignore the above-mentioned valuations, which should be taken at least as indication of market prices in the respective areas. In the case of the first applicant, four years had passed between the first round of expropriations and the expropriation of his land, but it has not been shown that market prices in the area fell substantially during that period of time. As regards the second and third applicants, it is significant that the compensation of BGN 20.05 (EUR 10) per square metre proposed by the Council of Ministers was the one offered to and not contested by most of the owners in a neighbouring zone (see paragraph 22 above).

86. The Court notes that, in accordance with the criteria provided for in the Regulation, the first applicant was awarded an average of BGN 0.22 (EUR 0.11) per square metre as compensation for his land, and the second and third applicants were awarded BGN 0.84 (EUR 0.43) per square metre (see paragraphs 11 and 17 above). It is not the Court's task, in principle, to assess the manner in which the value of agricultural land is calculated under that Regulation, which is also applicable in other situations, such as in the process of restitution (see paragraph 30 above). As noted above (see paragraph 77), the Court's task is to examine the relevant domestic law in so far as the applicants objected to its consequences for their property rights. Still, the Court finds it important to note that the Regulation was adopted a long time ago and was based on general information about the whole

country and not on information specific to the market value related to the particular plots (see paragraphs 30-32 above).

87. As observed above, in the cases at hand the market value of the applicants' land was not established in accordance with the criteria under section 32(2) of the 1996 Act and section 1a(2) and (4) of the supplementary provisions. Neither do the documents provided to it allow the Court to determine precisely such market value. Nevertheless, the materials submitted to it are sufficient to establish major discrepancies between the values discussed above as being indicative of market prices, between BGN 6 (EUR 3) and BGN 225 (EUR 115) in the case of the first applicant and between BGN 20.05 (EUR 10) and BGN 25 (EUR 13) in the case of the second and third applicants (see paragraphs 82-83 above), and the compensation actually awarded – an average of BGN 0.22 (EUR 0.11) per square metre in the case of the first applicant and BGN 0.84 (EUR 0.43) per square metre in the case of the second and third applicants. The question of these discrepancies was never explained by the Supreme Administrative Court in terms of individual characteristics of the applicants' property or other relevant factors, as it never actually addressed it. Yet, these discrepancies seem to justify precisely the fears expressed by the judges who dissented in the Constitutional Court's judgment of 4 July 2006, stating that compensation calculated under section 32(3) of the 1996 Act, as in the cases under examination, would be "evidently and dramatically lower" than fair market values (see paragraph 38 above).

88. The Court turns to the Government's additional arguments, made in defence of their position that the applicants had received the compensation required under Article 1 of Protocol No. 1, namely those concerning the expropriated land's relatively low value for taxation purposes, as well as the statistical data on the prices of agricultural land in the region of Sofia (see paragraphs 47-48 and 51 above).

89. The Court observes in that regard that it has not been claimed that the value for taxation purposes, calculated at the national level, corresponds to a property's fair market value. It is noteworthy that the rules concerning the calculation of the "equivalent" compensation required under domestic law (section 32 (2) of the 1996 Act and section 1a of the supplementary provisions thereof) make no reference to that value and do not consider it indicative of a market value. As to the statistical data provided by the Government, it has not been explained how they were compiled, nor whether they were based on real values in transactions with agricultural land or on ones declared by the parties thereto. As indicated by some members of Parliament, the dissenting judges of the Constitutional Court and the first applicant (see paragraphs 27, 38 and 57 above), the declared value appears often to be significantly lower.

90. Lastly, the Court also finds irrelevant two additional circumstances relied on by the Government (see paragraphs 48 and 51 above): the

relatively low price for which the first applicant acquired his land in 2008 and the low income which the second and third applicants had derived from their land prior to the expropriation (see, on the first point, *Vistiņš and Perepjolkins*, cited above, § 121). The Court observes once again that the rules concerning the calculation of the “equivalent” compensation required under domestic law did not refer to any such factors.

91. In view of the considerations above, the Court concludes that the application of the rules provided for in the Regulation did not lead to the award of compensation that was reasonably related to the value of the applicants’ land, as required under Article 1 of Protocol No. 1.

92. It follows that the expropriation complained of by the applicants imposed on them a disproportionate and excessive burden, upsetting the fair balance to be struck between the protection of property and the requirements of the general interest.

93. Accordingly, there has been a violation of Article 1 of Protocol No. 1.

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

94. The applicants complained in addition that the judicial-review proceedings initiated by them had been unfair, and thus in breach of Article 6 § 1 of the Convention.

95. The Court notes that this complaint is linked to the one examined above, and must likewise be declared admissible.

96. However, having regard to its findings under Article 1 of Protocol No. 1, the Court finds that no separate issue arises under Article 6 § 1 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

97. Article 41 of the Convention provides:

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

A. Pecuniary damage

1. *The first applicant*

98. The first applicant contended that the market value of his land had been validly established in the proceedings before the Supreme Administrative Court at BGN 4,804,627, the equivalent of EUR 2,457,609. Accordingly, in respect of pecuniary damage he claimed that sum, minus the money he had actually received in compensation – BGN 4,779

(EUR 2,445). He claimed an additional BGN 408,000 (equivalent to EUR 209,000) in interest.

99. The Government disputed the claims, reiterating their arguments as to the “extremely poor quality” and low value of the first applicant’s land.

100. The Court observes that two valuations of that land were prepared in the context of the domestic expropriation proceedings. One of them, relying on the Regulation, set the land’s value at BGN 4,779 (EUR 2,445) (see paragraph 11 above). This was the amount awarded to the applicant (see paragraph 14 above). However, in finding a violation of Article 1 of Protocol No. 1, the Court has already held that this sum was not reasonably related to the land’s value.

101. The second valuation was based on the price of the only comparable property which had been identified in the judicial-review proceedings. The expert appointed in those proceedings set the land’s potential value at BGN 4,804,627 (EUR 2,457,609). That valuation was not, however, accepted by the Supreme Administrative Court, since one comparable property was judged to be insufficient (see paragraph 13 above). Furthermore, the Court cannot ignore the objection made by the Government in the present proceedings that that property, while considered comparable, had individual characteristics differentiating it from the first applicant’s property (see paragraph 50 above): an objection which the Supreme Administrative Court, due to the formal limitations set by the relevant legislation, never addressed. Thus, the Court cannot accept that BGN 4,804,627 (EUR 2,457,609) was definitively established as the market value of the first applicant’s land.

102. The Court reiterates that in a case such as the present one, concerning a lawful expropriation, it is to make an award which is, as far as possible, “reasonably related” to the market value of the expropriated land at the time the applicant lost ownership thereof (see *Vistiņš and Perepjolkins v. Latvia* (just satisfaction) [GC], no. 71243/01, § 36, ECHR 2014).

103. However, as the Court already noted, the documents provided to it do not allow it to determine precisely such a value. The deficiencies established by the Court in the present case flow from the fact that the calculation under the Regulation does not lead to the award of compensation that is reasonably related to the value of the applicants’ land and the applicable rules do not enable the domestic courts to include additional elements in their analysis, when the restrictions under domestic law as to the properties to be treated as comparable do not allow them to establish the market value.

104. Article 239 of the Code of Administrative Procedure provides for the reopening of administrative judicial proceedings where the Court has found a violation of the Convention (see paragraph 39 above). The Court has found above a violation of Article 1 of Protocol No. 1 and, following

the notification of the present judgment, the first applicant will be entitled to seek such a reopening. If his case is to be re-examined by the domestic courts, they will, in principle, be obliged, on the strength of Article 5 § 4 of the Constitution, to apply Article 1 of Protocol No. 1, as interpreted in the Court's case-law, where the applicable domestic rules conflict with it (see paragraph 40 above).

105. In view of the above, reiterating that due to the deficiencies in the domestic assessment of the value of the first applicant's property it is unable to make its own assessment as to pecuniary damage, the Court finds that a reopening of the domestic proceedings, as discussed in the previous paragraph, would constitute, in principle, an appropriate means to remedy the violation (see *Bistrović v. Croatia*, no. 25774/05, § 58, 31 May 2007; *Gereksar and Others v. Turkey*, no. 34764/05 and 3 others, § 75, 1 February 2011; *Kravchuk v. Russia*, no. 10899/12, §§ 55-56, 26 November 2019). It thus dismisses the first applicant's claim for pecuniary damage, in so far as it concerns the value of his plots of land.

106. Lastly, under the head of pecuniary damage the first applicant also claimed interest (see paragraph 98 above *in fine*).

107. The Court reiterates that reparation for pecuniary damage must result in the closest possible situation to that which would have existed if the breach in question had not occurred. In cases such as the present one, this is limited to the payment of appropriate compensation which should have been awarded at the time of the expropriation. By contrast, there is no basis on which the first applicant can claim any additional compensation in respect of the period subsequent to the expropriation (see *Vistiņš and Perepjolkins v. Latvia* (just satisfaction), cited above, § 34). That part of the first applicant's claim should thus be rejected.

2. The second and third applicants

108. The second and third applicants made no specific claim in respect of pecuniary damage, referring to several cases where the Court had made an award on an equitable basis.

109. The Government argued that the applicants had failed to comply with the requirements of Rule 60 of the Rules of Court, and urged the Court not to make any award.

110. Under Rule 60 § 2 of the Rules of Court an applicant must submit itemised particulars of all claims, together with any relevant supporting documents. If the applicant fails to comply with these requirements, the Court may reject the claim in whole or in part (Rules 60 § 3).

111. In the present case, the second and third applicants failed to submit any specific or quantified claim in respect of pecuniary damage, or any relevant supporting documents. The Court, having regard to the requirements of Rule 60, therefore makes no award under the present head (see *Schatschaschwili v. Germany* [GC], no. 9154/10, § 170, ECHR 2015,

and *Couderc and Hachette Filipacchi Associés v. France* [GC], no. 40454/07, § 157, ECHR 2015 (extracts)).

112. Nevertheless, the Court observes that the possibility under domestic law to seek the reopening of the proceedings and the reassessment of the compensation due, discussed above when examining the first applicant's claim, remains open for the second and third applicants as well, on the basis of the finding by the Court of a violation of their rights under Article 1 of Protocol No. 1.

B. Non-pecuniary damage

113. In respect of non-pecuniary damage, the first applicant claimed EUR 20,000.

114. The second and third applicants claimed "compensation determined in equity".

115. The Government disputed the claims.

116. As it is in the nature of non-pecuniary damage that it does not lend itself to precise calculation, Rule 60 does not prevent the Court from examining claims in that regard which the applicants did not quantify but left the amount to its discretion (see *Maestri v. Italy* [GC], no. 39748/98, § 48, ECHR 2004-I, and *Narodni List D.D. v. Croatia*, no. 2782/12, § 78, 8 November 2018).

117. In light of the above and the circumstances of the cases under examination, the Court awards EUR 5,000 to the first applicant, and another EUR 5,000 jointly to the second and third applicants, in respect of non-pecuniary damage, plus any tax that may be chargeable.

C. Costs and expenses

1. The first applicant

118. The first applicant claimed BGN 4,000 (EUR 2,046) for the fees charged by his legal representative before the Court. He submitted two statements made by her to the effect that she had been paid such a sum. He also claimed BGN 250 (EUR 128) for the expert statement referred to in paragraph 56 above, submitting a receipt which mentioned a different company name, and BGN 500 (EUR 256) for translation costs, submitting a receipt.

119. The Government contended that the claims were not sufficiently substantiated and that the one concerning the costs for the applicant's legal representation was excessive.

120. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its

possession and the above criteria, the Court awards the first applicant the entirety of the costs for his legal representation and for translation, totalling EUR 2,302. It dismisses the remainder of the claim, as it has not been supported by any relevant evidence. Any tax that may be chargeable to the applicant should be added to the award.

2. The second and third applicants

121. The second and third applicants claimed EUR 2,520 for the work performed by their legal representative before the Court. In support of this claim they submitted a contract for legal representation and a time-sheet. They requested that any amount awarded under this head be paid directly to their representative, Mr A. Kashamov.

122. The Government contested the claim, considering it excessive.

123. The Court, referring to the criteria in paragraph 120 above, awards the amount claimed in full, plus any tax that may be chargeable to the applicants. As requested by the applicants, the award is to be paid directly to Mr Kashamov.

D. Default interest

124. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that there has been a violation of Article 1 of Protocol No. 1;
4. *Holds* that there is no need to examine the complaint under Article 6 § 1 of the Convention;
5. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Bulgarian leva at the rate applicable at the date of settlement:

- (i) EUR 5,000 (five thousand euros) to the first applicant, and the same amount jointly to the second and third applicants, plus any tax that may be chargeable, in respect of non-pecuniary damage;
- (ii) EUR 2,302 (two thousand three hundred and two euros) to the first applicant, and EUR 2,520 (two thousand five hundred and twenty euros) to the second and third applicants, plus any tax that may be chargeable to the applicants, in respect of costs and expenses; the amount awarded to the second and third applicants is to be paid directly to their legal representative, Mr A. Kashamov;
- (b) that from the expiry of the above-mentioned three months until settlement, simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points;

6. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 14 May 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytschik
Deputy Registrar

Síofra O'Leary
President