



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

FOURTH SECTION

CASE OF SAKSKOBURGGOTSKI AND CHROBOK v. BULGARIA

(Applications nos. 38948/10 and 8954/17)

JUDGMENT

Art 1 P1 • Control of the use of property • Disproportionate ban on any commercial exploitation of forests allegedly obtained through restitution • No allegation of unlawful activity prior to ban, nor demonstration of inadequacy of existing legislative tools • Lengthy moratorium initially intended as temporary, with no possibility for applicants to contest it
Art 6 § 1 • Access to court • Parliamentary decision imposing moratorium not open to judicial review

STRASBOURG

7 September 2021

FINAL

28/02/2022

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

In the case of Sakskoburggotski and Chrobok v. Bulgaria,

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

Tim Eicke, *President*,
Armen Harutyunyan,
Gabriele Kucsko-Stadlmayer,
Pere Pastor Vilanova,
Jolien Schukking,
Ana Maria Guerra Martins, *judges*,
Maiia Petrova Rousseva, *ad hoc judge*,

and Andrea Tamietti, *Section Registrar*,

Having regard to:

the applications (nos. 38948/10 and 8954/17) 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 a Bulgarian national, Mr Simeon Borisov Sakskoburggotski (“the first applicant”) and a Bulgarian and German national, Ms Maria-Luisa Borisova Chrobok (“the second applicant”, together “the applicants”), on 16 June 2010 and 13 January 2017 respectively;

the decision of the Chamber to join the applications, to give notice to the Bulgarian Government (“the Government”) of the applicants’ complaints examined in the present judgment, and to declare inadmissible the complaints of the remaining initial applicants in application no. 38948/10, as well as, in its entirety, another application lodged by the applicants (see *Sakskoburggotski and Others v. Bulgaria* (dec.), nos. 38948/10 and 2 others, 20 March 2018);

the fact that the German Government did not avail themselves of the possibility to submit written comments in view of the second applicant’s German nationality;

the parties’ observations;

Considering that Mr Yonko Grozev, the judge elected in respect of Bulgaria, was unable to sit in the case (Rule 28 of the Rules of Court), and that on 22 November 2017 the President of the Chamber appointed Ms Maiia Rousseva to sit as an *ad hoc* judge in his place (Article 26 § 4 of the Convention and Rule 29);

Having deliberated in private on 15 June and 6 July 2021,

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

INTRODUCTION

1. The case concerns the attempts of the applicants – the former King of Bulgaria and his sister – to obtain the restitution of former properties of the Crown, as well as a moratorium on any transfer of property and on the

commercial exploitation of some of these properties, which were in the possession of the applicants.

THE FACTS

2. The first applicant was born in 1937 and lives in Sofia. The second applicant was born in 1933 and lives in the United States of America. The applicants are brother and sister. They were represented by Mr M. Ekimdzhiev and Ms K. Boncheva, lawyers practising in Plovdiv, and Ms E. Hristova, a lawyer practicing in Sofia.

3. The Government were represented by their Agents, Ms M. Dimitrova and Ms I. Stancheva-Chinova of the Ministry of Justice.

4. The facts of the case, as submitted by the parties and as apparent from documents available to the public, may be summarised as follows.

I. THE BULGARIAN MONARCHY

5. The modern Bulgarian State was created in 1878 as a principality (*Княжество*). In 1908 it was proclaimed a kingdom (*Царство*). Its first monarch, Prince Alexander I, ruled until 1886.

6. In 1887 an Austrian prince, Ferdinand, was crowned as Prince (*Княз*) Ferdinand I. In 1908 he became King (*Цар*).

7. Ferdinand I abdicated in 1918 and his son Boris acceded to the throne as King Boris III. Ferdinand passed away in exile in 1948.

8. In 1930 King Boris III married the Italian princess Giovanna di Savoia. Their daughter, Maria-Luisa (the second applicant), was born in 1933 and their son, Simeon (the first applicant), in 1937.

9. King Boris III passed away on 28 August 1943 and on the same day the first applicant acceded to the throne as King Simeon II.

10. In 1944 the communist party took power in Bulgaria. On 15 September 1946 the communist authorities held a referendum on the form of government to be established. After more than 90% of the participants voted for a republic, the monarchy was abolished. The royal family left the country on 16 September 1946. They went to Egypt, and after 1951 settled in Spain. The Queen Mother, Giovanna, passed away in 2000.

II. THE FIRST APPLICANT'S RETURN TO BULGARIA

11. The first applicant visited Bulgaria in 1996 and on several occasions thereafter. In 2001 he returned to the country indefinitely.

12. In 2001 he founded a political party, which won the general elections. On 24 July 2001 the first applicant was sworn in as Prime Minister. He remained in this post until 17 August 2005. The next

Government, in power between 17 August 2005 and 27 July 2009, was formed by a coalition of three parties, including the first applicant's party.

III. THE PROPERTY OF THE CROWN UNDER THE KINGDOM AND THE PROPERTIES SUBSEQUENTLY CLAIMED BY THE APPLICANTS

A. The Civil List

13. Under the Constitution of the Kingdom, the King received a yearly sum of money to cover his expenses and those of his household. That money became known as "the Civil List". The Civil List and the properties of the Crown were managed by the Intendancy of the King's Civil List (hereafter "the Intendancy"), created in 1890 by Ferdinand I. The Intendancy would also represent the King in civil transactions.

B. The 1947 Act

14. In December 1947, following the abolition of the monarchy (see paragraph 10 above), Parliament passed the Act on Declaring State Property the Properties of the Families of the Former Kings Ferdinand and Boris and their Heirs (hereafter "the 1947 Act", see paragraph 126 below).

15. Prior to that, in September 1946, the Intendancy prepared a list of the properties of the Crown on the basis of which the 1947 Act was later implemented. It was validated by the then Prime Minister Kimon Georgiev and subsequently came to be known as "the Kimon Georgiev list". The list included a section entitled "Personal properties owned by the former King", which contained, among others, all properties described in paragraphs 25-48 below. It also mentioned 452 hectares of forestry land in the Samokov area (see paragraphs 49-56 below).

16. After 1947 the former properties of the Crown belonged to, and were used by, the Bulgarian State.

C. Developments leading up to the 1998 judgment of the Constitutional Court

17. After the first applicant's return to Bulgaria (see paragraph 11 above), he and the second applicant expressed an interest in the restitution of some of the former properties of the Crown. The first applicant did not wish however such restitution to be effectuated via an Act of Parliament and sought other means to achieve it.

18. The applicants submitted a newspaper article, published on 23 March 2006 in the *Trud* daily and citing a former member of the Constitutional Court, Mr Georgi Markov. He described the situation after the first applicant's return to Bulgaria as follows:

“[During a private meeting in 1997] Simeon II made it clear that he did not wish a debate in Parliament on the royal properties which, given the majority of the [Bulgarian Socialist Party], would result in an easily predictable vote. According to him, this would give rise to meaningless debate, and would provide an occasion for ill-wishers to wave the flags of “monarcho-fascism” and the “robbing of the nation”. He obviously wished that the properties be returned – if possible – through the magistracy, which is politically unaligned, since he did not wish to be indebted to any political party.

It was obvious that the [1947 Act] could be challenged before the [Constitutional Court], but the question who should apply to it remained open. The King did not wish this to be a political body – the President, the Council of Ministers, a group of MPs. It was unthinkable to convene the plenaries of the [Supreme Administrative Court] or the [Supreme Court of Cassation]. This left the Chief Public Prosecutor.

In March 1998 I had lunch with [the then Chief Public Prosecutor]. I noted that even former communists had received their former properties, while his Majesty had to sleep in hotels. Some MPs had already discussed the matter with the Chief Public Prosecutor, who expressed his surprise at the fact that no one had until then addressed the prosecution authorities.

Such address followed soon. It came from a friend of mine, [A.D.]. She sent an indignant letter to the Chief Public Prosecutor, asking how it could be that, in a State ruled by law, some people could have their properties restituted, and others, such as the royal family – not.”

19. As a result of the above developments, in early 1998 the Chief Public Prosecutor applied to the Constitutional Court to have the 1947 Act declared unconstitutional.

20. In judgment no. 12 of 4 June 1998 (hereafter “the 1998 judgment of the Constitutional Court”, see paragraphs 132-133 below), the Constitutional Court allowed the application, holding unanimously that the 1947 Act contradicted certain provisions of the Constitution, namely those guaranteeing the right to property and prohibiting discrimination.

D. Properties claimed by the applicants and subsequent developments concerning them

21. After the 1998 judgment of the Constitutional Court, and apparently considering that it had given rise to restitution in their favour, the applicants sought the return of some of the properties used previously by the royal family. Below is a description of these properties, as well as of the developments concerning them after the judgment at issue.

1. Princess Evdokia’s house in Sofia

22. Before 1946 Princess Evdokia – daughter of Ferdinand I and aunt of the applicants – had lived in a two-storey house, built on a plot of land in Sofia measuring 7,185 square metres. She had bought it from a private party in 1937. Princess Evdokia left Bulgaria in 1946 with the applicants and their mother.

23. In a decision of 12 December 1999 (amended by a further decision of 23 November 2000), the mayor of Sofia, referring to the 1998 judgment of the Constitutional Court (see paragraph 20 above), removed the property from the list of municipal properties and ordered that possession be transferred to the heirs of Kings Ferdinand I and Boris III.

24. In 2001 the applicants sold the property to a private investor, who demolished the house and constructed residential buildings on the site.

2. The Vrana Estate

25. The Vrana Estate, on the outskirts of Sofia, consists of a park (a botanical garden) measuring 992,672 square metres, a palace built on 2,013 square metres and several auxiliary buildings. The estate was created at the beginning of the twentieth century and the palace itself was built between 1909 and 1912. After 1947 it was considered to be State property and in 1988 was allocated for use to the People's Council (local authority) in Sofia. On 3 November 1999 it was registered as the private municipal property of the Sofia municipality.

26. In a decision of 23 January 2001 (amended on 7 August 2001) the mayor of Sofia, referring to the 1998 judgment of the Constitutional Court, removed the property from the list of municipal properties and ordered that possession be transferred to the heirs of Kings Ferdinand I and Boris III.

27. In August 2001 the applicants donated 968,097 square metres of the park to the Sofia municipality, on condition that it be maintained as a botanical garden and be open to the public. The notarial deed mentioned that they would retain for themselves 3,203 square metres of the land, which had been taken by buildings, and an additional 21,372 square metres of the park. On 18 September 2001 the applicants obtained a notarial deed, recognising them as owners of a plot of 21,372 square metres of land.

28. The Vrana palace is currently the first applicant's principal residence.

3. The Banya estate

29. The estate is situated in Banya, a thermal resort in the vicinity of Karlovo. It consists of a plot of land measuring 10,598 square metres and two buildings, one two-storey and measuring 90 square metres and the other one-storey and measuring 100 square metres. The land was acquired by King Boris III between 1928 and 1935 and the buildings were constructed around 1930. The property was registered as State-owned in 1996.

30. In 2001 the applicants requested the return of this property. In a decision of 28 December 2004, the governor of the Plovdiv region, referring to the 1998 judgment of the Constitutional Court and notary deeds from 1928 and 1929, removed the property from the list of State properties and ordered that possession be transferred to "those entitled".

31. In a report prepared by a parliamentary commission set up to inquire into the presumed restitution in favour of the royal family and presented to Parliament on 17 August 2006 (see paragraph 59 below), Boris III's property rights to this estate were said to have been "incontestable".

32. In 2012 the applicants mortgaged the property. The mortgage was discharged in 2017. The second applicant has her registered address in Bulgaria in the Banya estate.

4. The Bistritsa estate

33. The estate consists of a palace covering an area of 550 square metres, a number of auxiliary buildings and a plot of land measuring 197,923 square metres. It is situated in the resort of Borovets in the foothills of the Rila Mountain. The palace was constructed between 1898 and 1914. In 1930 the Intendancy obtained a notary deed, indicating that it had become the owner of the property on the basis of adverse possession.

34. In a decision of 31 August 2000, concerning also other properties (see paragraph 51 below), the Samokov land commission, relying on the Forests Restitution Act (see paragraph 143 below), restored the applicants' property rights to the land of the estate, mentioning that the property included "a building/historical monument".

35. On an unspecified date the estate was registered as public State property. On 14 October 2002 the Government took a decision to register it as private State property.

36. In a decision of 18 October 2002, the Governor of the Plovdiv region removed the property from the list of State properties and ordered that possession be transferred to "those entitled".

5. The Sitnyakovo estate

37. The estate consists of a palace covering an area of 580 square metres, auxiliary buildings and land measuring 20,368 square metres. It is situated in the Rila Mountain.

38. In 1981 the palace was declared a cultural monument.

39. In 1995 the Government authorised the use of the estate by the Union of Bulgarian Writers.

40. On 19 June 2003 the buildings were registered as private State property.

41. In a decision of 17 November 2003, the Governor of the Sofia region, referring to the 1998 judgment of the Constitutional Court, removed the buildings from the list of State properties and ordered that possession be transferred to "those entitled". The decision noted that the buildings had been constructed on forestry land, without specifying who owned it.

6. The Saragyol estate

42. The estate consisted of a hunting lodge covering an area of 292 square metres and two auxiliary buildings. All the buildings were constructed between 1904 and 1914 on land which is currently part of the Rila National Park.

43. After 1947 the property was used by a hunting association, and after 1956 by a State body. In 1987 it was registered as State property, and on 1 September 2001 was once again registered as public State property. The applicants requested the transfer of possession of this property in 1998, but no decision was taken at the time.

44. On 14 October 2002, by Government decision, the complex was registered as private State property. On 18 October 2002, the Governor of the Sofia region, referring to that decision and the 1998 judgment of the Constitutional Court, removed the buildings from the list of State properties and ordered that possession be transferred to “those entitled”.

7. The Krichim estate

45. That estate consists of a palace covering an area of 770 square metres, numerous auxiliary buildings and land measuring 371,500 square metres, situated in the foothills of the Rhodopi Mountain in the Plovdiv region. It was constructed in 1901.

46. In 2007 the property was registered as public State property. It is currently used by a Government body.

47. On an unspecified date the applicants applied to the Governor of Plovdiv region to remove the property from the lists of State properties. Their application was rejected on 24 July 2007.

48. After the applicants applied for the judicial review of the refusal, the Supreme Administrative Court found their application inadmissible in a final judgment of 10 November 2008, noting that registration and deregistration of properties as private or public property of the State were “internal” and “technical” actions for the administration and could not in themselves affect any rights the applicants might have had. If the applicants claimed to be the owners of the estate, they had to bring a civil action.

8. Forestry land

49. On 23 November 1998, within the time-limit provided for in section 13(1) of the Forests Restitution Act 1997 (see paragraph 143 below), the applicants applied for the restitution of two plots of forestry land in the area of Samokov and Rila Mountain, measuring 2.2 and 2,148 hectares respectively. In support of this application they submitted two notary deeds of 1930, indicating that the owner of those properties was the Intendancy, which had acquired them on the basis of adverse possession.

50. Further to that application, on 30 June 2000 the Samokov land commission (after 2002 renamed “agriculture department”) adopted two decisions ordering the restitution to the heirs of Ferdinand I and Boris III of several plots to a total area of 4.35 hectares. Both decisions stated that they were based on decisions taken on 9 July 2003 [*sic*].

51. On 31 August 2000 the Samokov land commission took two further decisions, ordering the restitution to the heirs of Ferdinand I and Boris III of numerous plots to a total area of 1,062.6 hectares. Both decisions stated that they were based on a decision taken on 10 March 2000; such document has not been presented by the parties. As mentioned in paragraph 34 above, one of the properties in the list was the Bistritsa estate.

52. Two more decisions were taken on 9 July 2003. The Samokov agriculture department (previously named “land commission”) ordered the restitution to the heirs of Ferdinand I and Boris III of several more plots to a total area of 587.39 hectares.

53. The total area of the land held to be subject to restitution was thus about 1,654 hectares.

54. The above decisions of the land commission/agriculture department, not having been appealed against, entered into force. They were supplemented by plans of the corresponding plots. The applicants entered into possession of the land.

55. On an unspecified date, most likely in 2005, the head of the National Forest Authority (currently named Executive Forests Agency) approved a forestry plan on the management and economic use of the applicants’ forests. Subsequently the applicants had carried out logging operations.

56. In 2007 and 2008 the applicants sold some of the plots to third parties.

IV. RELEVANT PARLIAMENTARY MOTIONS AND DECISIONS

57. In February 2004 several members of Parliament introduced a Bill which proposed the imposition of “an injunction on the immoveable and the moveable properties under the [1947 Act]”. It also proposed a stay of “the procedures concerning the return of the above properties” and a ban on any commercial exploitation of the restituted forests. It stated that any property rights held by the heirs of the former Kings were to be regulated by an Act adopted by Parliament. However, the bill was never scheduled for examination by Parliament.

58. In July 2005 members of Parliament introduced another Bill declaring null and void all administrative decisions considered to restore property rights to the royal family. This bill was never tabled in Parliament either.

59. In 2006 a parliamentary commission was set up with the task of investigating the presumed restitution in favour of the royal family. Its

report, presented to members of Parliament on 17 August 2006, described the properties transferred to the heirs of the former Kings and the respective administrative procedures. It presented the conflicting opinions of its members, in particular on two questions: 1) the legal status of the Intendancy and whether it had acquired properties for the State or for the Kings in their private capacity, and 2) any restitution effect of the 1998 judgment of the Constitutional Court (see paragraph 20 above). After discussion, Parliament adopted a decision stating that it accepted the report, rejecting proposals from the opposition to conclude that it considered the transfer of a number of properties to the applicants contrary to law.

60. On 18 December 2009 Parliament took a decision, imposing a moratorium on any transfer of property and on any commercial exploitation of the properties which could be considered to have been restituted to the applicants (see paragraph 137 below). At the date of the latest communication from the parties (October 2020) those measures were still in force. The applicants' complaints to the Court with regard to the moratorium were introduced on 16 June 2010.

V. JUDICIAL PROCEEDINGS

A. Concerning the Krichim estate

61. On 29 May 2008 the applicants brought *rei vindicatio* proceedings against the State (see paragraph 154 below), contending that they owned the Krichim estate (as mentioned in paragraph 48 above, in November 2008 the Supreme Administrative Court also indicated that if the applicants were to show that they were the owners, they were to bring such proceedings). The Krichim estate was the only property claimed by the applicants of which they had not obtained the possession (see paragraph 47 above).

62. The applicants claimed that previously their father, King Boris III, had acquired ownership of the estate through adverse possession, the property having been in the possession of the Intendancy in his name after his accession to the throne in 1918. The applicants argued that the Intendancy had merely represented the "civil personality" of the King.

63. The claim was dismissed by the Plovdiv Regional Court in a judgment on 9 July 2010. This judgment was upheld on 10 March 2011 by the Plovdiv Court of Appeal. The domestic courts found that it had not been shown that the estate had been the private property of the Kings, most notably because it had been in the possession of the Intendancy which, being a State body, had held it for the State. The domestic courts found further that the "Kimon Georgiev list" mentioning that the estate at issue was the personal property of the King (see paragraph 15 above) could not validly establish any property rights.

64. The applicants lodged an appeal on points of law.

65. In a decision of 2 February 2012, the Supreme Court of Cassation (hereafter “the Supreme Court”) accepted it for examination, considering it necessary to adjudicate on the legal status of the Intendancy.

66. In a judgment of 8 June 2012, the Supreme Court dismissed the appeal and upheld the judgment of the Plovdiv Court of Appeal. On the question accepted for examination, it held as follows:

“The normative documents from that historical period provide an unequivocal answer to the question what kind of institution the Intendancy of the Civil List was. All regulations on the structure and the functions of that Palace service tasked with providing normal work conditions to the institution deemed to be the most important under the Constitution, namely the monarchy, have been preserved. ...

Under section 3 of the Rules of the Intendancy ... the Intendancy is the body representing the Royal Court under civil law ... It is tasked with a wide range of functions aimed at ensuring the activities of the King, as Head of State, which means that it is a State body ... and that it has acquired, since the time of its creation, legal personality and capacity enabling it to secure and carry out the rights and obligations assigned to it under its Rules as the body responsible for the maintenance and upkeep of the King, precisely as Head of State, and his family. ...

The Intendancy performed its tasks through financing from the State budget and owned and managed a substantial portfolio of movable and immovable properties: palaces, museums, zoological and botanical gardens, hunting and agricultural estates, stables, cars and so on. ...

The amount of the Civil List paid by the State budget increased insignificantly [throughout the years], whereas the sum from the budget for the maintenance and functioning of the Intendancy of the Civil List increased much more rapidly and with more substantial amounts. ... Thus, for example, the budget for 1939 [of the Civil List of the King and the apanage provided to other members of the royal family] totalled 6,229,205 levs. This is a small part of the budget for the maintenance and the work of the Intendancy, which for 1939 was set at 28,246,873 levs, which is many times higher.

This undoubtedly means that the Intendancy ... cannot be equated to the Civil List itself and does not operate merely with the amount representing the Civil List. The Intendancy ... which, among many other functions related to the maintenance of the monarch as Head of State, managed his Civil List, should be distinguished from the Civil List itself – the sum paid by the State budget for the King’s personal expenses, for his upkeep as a private individual and [that] of his family. [Thus] the Intendancy was not created merely and only to manage the King’s Civil List”.

67. On the basis of the foregoing considerations, the Supreme Court concluded that in the case at hand the applicants had not shown that the Intendancy had been in adverse possession of the property claimed by them for the Kings and not for the State. They had thus failed to show that their predecessors – the former Kings – had been the owners of that property and their claims had no merit.

B. Concerning the Saragyl estate

1. The State's claims against the applicants

68. On 30 May 2011 the Minister of Public Works, acting on behalf of the State, brought a *rei vindicatio* action (see paragraph 154 below), claiming that the State owned the Saragyl estate, occupied by the applicants on the strength of the decision of the regional governor of 18 October 2002 (see paragraph 44 above). The claim was specifically based on the fact that the buildings had been constructed on State land and had thus become the property of the State (*приватизация*). The Minister also sought compensation from the applicants for their use of the property between 2006 and 2011.

69. The first and second applicants contested the claims. They brought a counterclaim asking, were they to be ordered to surrender possession, to be allowed to retain the property until the State reimbursed the expenses incurred by them for its maintenance.

70. On an unspecified date the Sofia Regional Court imposed an interim injunction, which was entered into the property register on 1 September 2011. Under the relevant provisions of the Code of Civil Procedure, such an injunction means that the party against whom it is issued is forbidden from passing on property rights and from modifying or damaging the property at issue (see, for more details, paragraph 152 below).

2. Judgment of the Sofia Regional Court

71. The Sofia Regional Court delivered judgment on 28 August 2014.

72. Analysing the legislation in force at the time when the disputed buildings had been constructed, namely between 1904 and 1914 (see paragraph 42 above), it concluded that the land on which they had been constructed had been State property. Even though there were no documents substantiating its rights, the State enjoyed “residual” ownership, as there were no claims that the land had been private or municipal. The applicants’ predecessors had not acquired the right to construct on the land (*право на строеж*), which would have allowed them to gain ownership of the buildings. This meant that at the time of their construction the buildings had become State property as well. The former Kings could not have acquired them through adverse possession; even if it could be acknowledged that they had established such possession, the running of the relevant time-limits (twenty years at the time) had been interrupted by law and had not expired by the time the royal family had left Bulgaria.

73. The Sofia Regional Court also addressed the effect of the quashing of the 1947 Act by the Constitutional Court in 1998 (see paragraph 20 above). It pointed out that the 1947 Act had had a one-off effect, which

meant that the 1998 judgment, which only had an effect *ex nunc*, could not retroactively annul its consequences.

74. As to the applicants' argument that they had in any event acquired the disputed property on the basis of other restitution legislation, namely section 2(2) of the Restitution of Ownership of Nationalised Immovable Property Act (hereafter "the Restitution Act", see paragraphs 141-142 below), the Sofia Regional Court pointed out that the provision was inapplicable, as it referred to the taking of property "not under statutory conditions", which was not the case here, the State having passed the 1947 Act.

75. Lastly, the applicants claimed that they could have acquired the disputed property through adverse possession, having occupied it since 2002. The Sofia Regional Court also dismissed that argument. It pointed out that the Governor's 2002 decision to transfer possession of the property to the applicants (see paragraph 44 above) could not have given rise to property rights, which meant that they could not claim to be *bona fide* possessors, and the period of adverse possession applicable to them was ten years (see paragraph 155 below); that period had not expired by the time the State had brought its action.

76. Having regard to the foregoing considerations, the Sofia Regional Court found that the State owned the disputed property and ordered the applicants to surrender possession.

77. As to the State's claim for compensation against them (see paragraph 68 *in fine* above), the domestic court dismissed it, noting that the State had itself taken the erroneous decision to allow the applicants to use the property. Lastly, it also dismissed the applicants' request to be allowed to retain the property until the reimbursement of the expenses which they had incurred for maintaining the buildings since 2002 (see paragraph 69 above).

3. *Judgment of the Sofia Court of Appeal*

78. The applicants appealed. The Minister of Public Works also lodged an appeal, contesting the dismissal by the Sofia Regional Court of the State's claim for compensation against them.

79. The Sofia Court of Appeal delivered judgment on 30 July 2015, upholding the lower court's findings as to the State's property rights.

80. In contrast, it reversed the lower court's judgment inasmuch as it concerned the State's compensation claim. Relying on section 73(1) of the Property Act (see paragraph 157 below), it allowed this claim, awarding the State 30,000 Bulgarian leva (BGN – approximately 15,340 euros (EUR)). In addition, it acknowledged that the applicants had incurred expenses necessary for maintaining the buildings, amounting to BGN 13,099 (approximately EUR 6,700). Deducting this from the sum awarded to the State, it ordered the applicants to pay the State BGN 16,901 (approximately EUR 8,640).

4. Judgment of the Supreme Court

81. The applicants lodged an appeal on points of law.

82. In a decision of 8 February 2016, the Supreme Court accepted the appeal for examination, noting that it had to examine several questions raised by the applicants.

83. The Supreme Court delivered judgment on 14 July 2016. On the first question raised by the applicants, concerning the State's property rights to forestry land under the legislation in force between 1904 and 1914, it held that it had not been necessary for a particular plot of land to have been formally registered as State property; that applied in all cases not concerning the property of private individuals or a municipality. Thus, in the case at hand, the land on which the disputed buildings had been constructed had been State property. The Supreme Court was prepared to accept that those buildings had been constructed with King Ferdinand I's own money. However, as he had not acquired the right to construct on the land allowing him to gain ownership of the buildings, the buildings had become State property.

84. The Supreme Court then considered whether, under the Constitution and the legislation of the Kingdom, the King could, in principle, acquire property through adverse possession. It held that this was possible, but only where the King was acting in a private capacity and not as Head of State. In addition, after a King had abdicated, any adverse possession which he had established could not then be continued by the next King, the abdication having only public-law and not private-law implications. Applied to the facts of the present case, this meant that any adverse possession established by Boris III could not be joined to that of Ferdinand I, and that when Boris III had acceded to the throne in 1918 (see paragraph 7 above) the relevant time-limits had started running anew. Neither of the two Kings had been in adverse possession of the property for the period of time required by statute (twenty years at the time) after 1918, owing, in particular, to various interruptions of the running of the time-limits by operation of the law.

85. On the next question, concerning the legal effect of the 1998 judgment of the Constitutional Court (see paragraph 20 above), the Supreme Court held that that judgment could not "undo" any property rights acquired by the State on the basis of the 1947 Act and could not restore the situation existing prior to the enactment of that Act. This was so because the 1947 Act had had a one-off effect, which had been completed at the time of its enactment. Only the body having passed the 1947 Act, Parliament, could take a new decision on the question of the former Kings' property, where it judged it appropriate and in the manner it judged appropriate. The 1998 judgment of the Constitutional Court relied on by the applicants could thus not alone restore any rights that their predecessors might have had. The judgment remained akin to a "moral assessment", demonstrating the Constitutional Court's view on the "historical compatibility or

incompatibility of an Act which is no longer applicable with the values of the modern Constitution”.

86. The Supreme Court held further that the applicants could not claim to have had their rights restored on the basis of section 2(2) of the Restitution Act 1992 (see paragraph 142 below), as its preconditions had not been met: the applicants had not shown that their predecessors had owned the property claimed, and in any event, even if this had been so, that property could not be said to have been taken by the State “not under statutory conditions”, as required by that section.

87. The 1998 judgment of the Constitutional Court could not lead to the applicants being considered as *bona fide* possessors of the property after 2002, justifying, arguably, the application of the five-year period of adverse possession (see paragraph 155 below). This held because the 1998 judgment could not restore any property rights lost by the applicants, and the 2002 decision of the regional governor transferring possession of the property to them (see paragraph 44 above) was even less capable of doing so. Thus, the applicants’ possession after 2002 had been based on no valid legal ground, and the ten-year period of adverse possession applied, which had not expired by 2011 when the State had brought an action against them (see paragraph 68 above).

88. On the basis of the above, the Supreme Court confirmed the lower courts’ judgments, in so far as they had allowed the State’s *rei vindicatio* action against the applicants.

89. Unlike the Sofia Court of Appeal, the Supreme Court held that the applicants were not liable to pay compensation to the State for having used the property after 2002. While, indeed, section 73(1) of the Property Act provided that *mala fide* possessors were liable to reimburse any profit received from the contested property (see paragraph 157 below), in the circumstances of the present case finding the applicants automatically liable on that ground for the period preceding the final judgment on the State’s *rei vindicatio* action would be a disproportionate measure, contrary to Article 1 of Protocol No. 1 to the Convention. This was so because, even if the State had allowed the applicants to use the property without valid legal ground, this had been through its own error.

90. Lastly, the Supreme Court confirmed that the State was to reimburse the applicants’ expenses for maintaining the buildings after 2002 (see paragraph 80 above), and authorised them to retain the property until that sum was paid to them.

91. The applicants’ complaints to the Court related to the proceedings above were introduced on 13 January 2017.

C. Concerning the Sitnyakovo estate

1. *The State's claims against the applicants*

92. On 24 March 2011 the Minister of Public Works, representing the State, brought a *rei vindicatio* action against the applicants (see paragraph 154 below), seeking to recover possession of the Sitnyakovo estate. He argued that the estate, occupied by the applicants on the strength of the decision of the regional governor of 17 November 2003 (see paragraph 41 above), was State property. In addition, the Minister sought compensation from the applicants for their use of the property between 2003 and 2011.

93. The applicants contested the claims. They brought a counterclaim seeking reimbursement of the expenses which they had incurred in maintaining the property after 2003 and requesting to be allowed to retain the property pending payment by the State.

94. Upon a request by the State, in a decision of 20 June 2011 the Sofia Regional Court imposed an interim injunction on the disputed property.

2. *Judgment of the Sofia Regional Court*

95. In a judgment of 31 October 2014, the Sofia Regional Court acknowledged that the State owned the disputed property and ordered the applicants to surrender possession.

96. It noted, firstly, that the applicants had not claimed to be the owners of the land of the estate and that it was State property.

97. As regards the buildings, the Sofia Regional Court pointed out that the State claimed to have become their owner by dint of adverse possession. The buildings had been in the possession of the Intendancy, whose status had already been examined by the Supreme Court in its judgment of 8 June 2012 (in the proceedings concerning the Krichim estate, see paragraphs 66-67 above). The Intendancy had been a State body, exercising rights on behalf of the State. Thus, the State had become the owner of the property after the expiry of the relevant period of adverse possession. It had not been established that Ferdinand I or Boris III had personally been in adverse possession of the property.

98. In any event, the royal family had lost any right to property that they might have had with the enactment of the 1947 Act. Their rights had not been restored by virtue of the 1998 judgment of the Constitutional Court (see paragraph 20 above), as it only applied *ex nunc* and could not “wipe out” the effects of the 1947 Act. In addition, restitution could only be decided on by Parliament. The applicants could not claim to have had their property rights restored to them under section 2(2) of the Restitution Act introduced in 1997 (see paragraph 142 below), as its preconditions had not been met. Nor could the applicants rely on adverse possession running after

2003, because they had not been *bona fide* possessors of the disputed property and the ten-year prescription period (see paragraph 155 below) had not expired by 2011, when the State had introduced its *rei vindicatio* action (see paragraph 92 above).

99. The Sofia Regional Court held in addition that the applicants were entitled to retain the property until the State reimbursed the expenses which they had incurred in maintaining the disputed property. It dismissed the State's compensation claim (see paragraph 92 *in fine* above), pointing out that the applicants had not profited from the use of the property: in 2003, when they had entered into possession, the buildings had been in a bad state of repair and deemed unusable. In any event, the applicants had occupied it with the knowledge and consent of the rightful owner, the State.

3. *Judgment of the Sofia Court of Appeal*

100. The applicants lodged an appeal. The Minister of Public Works also appealed, contesting the dismissal by the Sofia Regional Court of the State's compensation claim.

101. The Sofia Court of Appeal delivered judgment on 2 July 2015, upholding the lower court's findings as to the State's property rights.

102. However, it reversed the lower court's judgment in so far as it concerned the State's compensation claim (see paragraph 92 *in fine* above). Relying on section 73(1) of the Property Act (see paragraph 157 below), the Sofia Court of Appeal allowed the claim, awarding the State BGN 13,064 (approximately EUR 6,680), deducting that sum from the amount due to the applicants for maintaining the building after 2003.

4. *Judgment of the Supreme Court*

103. The applicants lodged an appeal on points of law.

104. In a decision of 29 July 2016, the Supreme Court accepted it for examination, only in so far as it concerned the applicants' liability for the use of the property before 2011.

105. It delivered judgment on 28 December 2016. Referring to its findings in the previous judgment delivered in the proceedings concerning the Saragyol estate (see paragraph 89 above), the Supreme Court held that the applicants were not liable for compensation to the State on that ground, and that holding otherwise would mean imposing a disproportionate burden on them.

106. The applicants' complaints to the Court related to the proceedings above were introduced on 13 January 2017.

D. Concerning the Bistritsa estate

107. On 24 March 2011 the Minister of Public Works, acting on behalf of the State, brought a *rei vindicatio* action against the applicants (see paragraph 154 below). He claimed that the State was the owner of the Bistritsa estate, held by the applicants on the strength of the regional governor's decision of 18 October 2002 (see paragraph 36 above).

108. On an unspecified date the Sofia Regional Court imposed an interim injunction on the property. The injunction was entered into the property register on 31 May 2011.

109. In a judgment of 21 August 2014, the Sofia Regional Court allowed the *rei vindicatio* action. That judgment has not been submitted to the Court.

110. Both parties lodged appeals against it.

111. The Sofia Court of Appeal delivered judgment on 25 July 2017. It upheld the Sofia Regional Court's conclusion on the State's *rei vindicatio* action against the applicants, considering that the land commission's decision of 31 August 2000 (see paragraph 34 above) for the restitution of the estate was null and void. This held because the preconditions for restitution set out in section 2(1) of the Forests Restitution Act (see paragraph 143 below) had manifestly not been met, and the decision therefore lacked any valid legal grounds. In addition, the former Kings had not owned the estate in their capacity as private persons.

112. The applicants lodged appeals on points of law, which were accepted for examination by the Supreme Court in a decision of 20 November 2018.

113. On 21 March 2019 the Supreme Court adjourned the proceedings, considering that the case raised important issues concerning the interpretation of the Constitution. On 3 April 2019 it brought the matter before the Constitutional Court. The latter delivered a judgment on 28 April 2020 (see paragraphs 135-136 below). On 15 May 2020 the Supreme Court resumed its examination of the case.

114. The Supreme Court gave a judgment on 12 October 2020. It found, first, that King Ferdinand I had bought the land of the estate and then had had the buildings constructed with his own money. After his abdication (see paragraph 7 above) the property had been possessed by King Boris III and his family, and had not been State-owned. The estate had passed into property of the State with the adoption of the 1947 Act, but that Act had been declared unconstitutional in the 1998 judgment of the Constitutional Court (see paragraphs 20 above and 133 below).

115. As to the significance of the judgment of the Constitutional Court of 28 April 2020 (see paragraph 136 below), the Supreme Court reasoned as follows:

“[The 1947 Act], according to the classification adopted by the Constitutional Court, is a non-normative act (a law in the formal sense). Its legal effect arises only once

after its entry into force and is revoked at the time of the entry into force of the 1991 Constitution, because it has been declared unconstitutional by the Constitutional Court. After that the State is no longer the valid owner of the properties which had been declared State-owned [on the strength of the 1947 Act], including the property which is subject to the present proceedings. ...

The Act confiscating the [royal] properties in 1947 has been declared unconstitutional, and also, seeing its legal character, invalid, which means that according to the general principles of property law it cannot render the State the owner of the properties it has acquired.”

According to the Supreme Court, the “invalidity” of the 1947 Act meant that the applicants, as heirs of their King Ferdinand I, were entitled to the restitution of the Bistritsa estate. They had therefore validly acquired ownership after the 1947 Act had been declared unconstitutional, and the State’s *rei vindicatio* claim had no merit.

E. Concerning the Vrana estate

116. On 24 March 2011 the Minister of Public Works, acting on behalf of the State, brought *rei vindicatio* proceedings against the applicants and the Sofia municipality (see paragraph 154 below). The action concerned both the part of the estate which the applicants had retained for themselves and the part donated by them to the municipality (see paragraph 27 above). The Minister argued that the Vrana estate had been erroneously considered municipal property – it was public State property – and that it had been transferred into the possession of the applicants by the Sofia mayor (see paragraph 26 above) without any valid legal grounds. In addition, the Minister claimed compensation for the use of the property, arguing that the applicants had used it unlawfully for many years.

117. The applicants contested the claim, arguing that there were no grounds for considering the estate public State property. They contended that the palace had been built by their grandfather and had always been considered his and his successors’ private property before the abolition of the monarchy. The former Kings had acquired title to property through adverse possession. The applicants considered furthermore that the 1998 judgment of the Constitutional Court (see paragraph 20 above) had restored their property rights. They also claimed the reimbursement of the expenses incurred by them for repairs to and maintenance of the property.

118. In a decision of 6 July 2011 the Sofia City Court imposed an interim injunction on the property. That decision was upheld on 24 November 2011 by the Sofia Court of Appeal.

119. The Sofia City Court delivered judgment on 22 August 2018, allowing the State’s *rei vindicatio* claims. It found that the applicants’ predecessors, the former Kings, had not owned the estate in their private capacity. Kings could not acquire State-owned properties through adverse possession, and in addition the relevant periods of adverse possession had

not expired. But even if the Kings had owned the estate, it had become State property on the strength of the 1947 Act, and had not been the subject to restitution, either by virtue of the 1998 judgment of the Constitutional Court or under the Restitution Act 1992 (see paragraphs 141-142 below). Nor could the applicants have acquired the property by adverse possession after 2001, because public State property could not be acquired in that manner. The estate had to be considered public State property because it represented a cultural monument of national significance.

120. Furthermore, noting that the applicants had not been the owners of the estate in 2001, the Sofia City Court held that they could not have validly transferred part of it to the Sofia municipality (see paragraph 27 above), and that that part was also to be considered State property.

121. The Sofia City Court dismissed the State's compensation claim against the applicants, noting that it had not been shown that they had received any profit from the estate. Lastly, it found that the first applicant had spent BGN 1,323,495 (approximately EUR 677,000) on repairing and maintaining the property and authorised him to retain the property until that sum was paid to him.

122. The applicants lodged an appeal. On 13 November 2019 the Sofia Court of Appeal adjourned the proceedings, pending delivery of the Constitutional Court's judgment mentioned in paragraph 113 above. At the time of the latest submissions from the parties (October 2020), the case was still pending before the Sofia Court of Appeal.

F. Concerning the forestry land

123. On 4 November 2009 the Minister of Agriculture, acting on behalf of the State, brought *rei vindicatio* proceedings (see paragraph 154 below) against the applicants concerning the plots described in paragraphs 50-53 above. Referring to the 2000 and 2003 restitution decisions of the Samokov land commission/agriculture department (see paragraphs 50-52 above), he argued that there had been no grounds for restitution, since the 1947 Act was not among the ones listed in section 2(1) of the Forests Restitution Act (see paragraph 143 below). In addition, the documents presented in support of the applicants' restitution application did not show convincingly that their father, King Boris III, had been the owner of certain of these plots. The Minister also sought compensation for the use of the land by the applicants prior to the lodging of the claim.

124. On 13 September 2011 the Sofia Regional Court imposed an interim injunction on the disputed properties.

125. At the time of the latest submissions from the parties (October 2020), the case was still pending before the Sofia Regional Court.

RELEVANT LEGAL FRAMEWORK

I. THE 1947 ACT

126. In December 1947, after the abolition of the monarchy in Bulgaria (see paragraph 10 above), Parliament passed the Act Declaring State Property the Properties of the Families of the Former Kings Ferdinand and Boris and Their Heirs (*Закон за обявяване държавна собственост имотите на семействата на бившите царе Фердинанд и Борис и на техните наследници* – “the 1947 Act”). The 1947 Act comprises two sections, which read as follows:

“1. All movable and immovable properties, located on the territory of Bulgaria and owned by the families of the former Kings Ferdinand and Boris and their heirs, personally acquired or inherited, shall be the property of the People’s Republic of Bulgaria.

2. The use of those properties shall be governed by Regulations, adopted by the Council of Ministers upon a proposal by the Minister of Finance.”

II. THE 1991 CONSTITUTION AND THE CONSTITUTIONAL COURT ACT

127. In 1991, after the fall of communism, a new Constitution entered into force.

128. By virtue of Article 86 § 1 of the Constitution, the National Assembly (Parliament) is competent to enact legislative acts and to adopt decisions and declarations. In a judgment of 28 September 1998 in a case where it had been argued that Parliament had not had the competence to take a decision on a specific matter, the Constitutional Court pointed out that decisions of Parliament could concern a wide range of issues, given that its competence in that regard had not been defined in the Constitution (*Решение № 25 от 28 септември 1998 на КС на РБ по к.д. № 22/1998 г.*).

129. Articles 147 to 152 of the Constitution deal with the role and functions of the Constitutional Court. Article 151 § 2 provides that any legal provision found unconstitutional by that court ceases to apply from the moment the relevant judgment enters into force (three days after its publication in the Official Gazette). The Constitutional Court Act 1991 (*Закон за Конституционен съд*) also provides, in section 22(2), that legislative acts found to be unconstitutional will not apply. In addition, section 22(4) provides that:

“the legal effect of any such act shall be regulated by the body which has enacted it.”

III. JUDGMENTS OF THE CONSTITUTIONAL COURT

A. Judgment no. 12 of 4 June 1998

130. In early 1998 the Chief Public Prosecutor applied to the Constitutional Court to have the 1947 Act declared unconstitutional (see paragraph 19 above).

131. The Constitutional Court accepted the case for examination in a decision of 7 April 1998, pointing out that the 1947 Act was still in force and that it was therefore competent to examine its conformity with the Constitution. It decided in addition to constitute as interested parties the National Assembly, the Council of Ministers and the Ministers of Finance and Public Works, as well as the applicants. The Council of Ministers and the Minister of Finance made submissions in favour of the Chief Public Prosecutor's application. The parliamentary Committee on Legal Affairs also supported the application, noting, however, that any finding that the 1947 Act was unconstitutional would not mean that the former properties of the Crown which were public State property should be restituted to the heirs of the former Kings.

132. In judgment no. 12 of 4 June 1998 (*Решение № 12 от 4 юни 1998 г. на КС на РБ по к.д. № 13/1998 г.* – “the 1998 judgment of the Constitutional Court”), the Constitutional Court deemed the application admissible and declared itself competent to examine the compatibility of the 1947 Act with the current Constitution, even though it had entered into force under a previous legal regime.

133. On the merits of the case, the Constitutional Court held, in particular, as follows:

“The taking of [the royal family's] properties under [section 1 of the 1947 Act] is equivalent to forcible uncompensated deprivation of property. In view of its nature and effects, it is no different from confiscation. ... It was not justified by the needs of the State or municipalities, the existence of which is a prerequisite for any expropriation. The foregoing considerations mean that [section 1 of the 1947 Act] impinges upon the right to property guaranteed by the Constitution.

...

The persons in respect of whom [section 1 of the 1947 Act] is applicable are defined by reference to two criteria: (a) these persons being members of the families of the former Kings Ferdinand and Boris, and (b) their capacity as heirs. Both criteria are linked to the origins and personal status of these persons ... Those considerations render this provision incompatible with [the prohibition of discrimination].

...”

B. Judgment no. 3 of 28 April 2020

134. The question raised before the Constitutional Court by the Supreme Court (see paragraph 113 above) was phrased as follows: “What are the

legal consequences of judgments of the Constitutional Court declaring acts of legislation having a one-off effect incompatible with the Constitution?”

135. On 9 May 2019 the Constitutional Court accepted the case for examination. It delivered judgment on the merits on 28 April 2020 (*Решение № 3 от 28 април 2020 г. на КС на РБ по к.д. № 5/2019 г.*).

136. The Constitutional Court described Acts of Parliament having a one off-effect such as the 1947 Act as “non-normative”, considering them akin to decisions of Parliament and decrees of the President. It then continued its analysis concerning all types of “non-normative legal acts” as follows:

“The legal effects of non-normative legal acts arise once, in a moment preceding the entry into force of the judgment of the Constitutional Court declaring them unconstitutional. Since those effects have already arisen, the judgment of the Constitutional Court cannot affect them in the manner previewed in the provision of Article 151 § 2 [of the Constitution] ... – by discontinuing their application for the future.

That is why, where the constitutionality of non-normative legal acts is being reviewed, the supremacy of the Constitution can only be ensured once their declared unconstitutionality is effective as from the moment of their adoption or promulgation. Accepting the opposite would mean that in such situations judgments of the Constitutional Court would not have any real legal effect, which would undermine the supremacy of the Constitution. ...

The purpose of the constitutional control institutionalised in the proceedings before the Constitutional Court to guarantee that the supremacy of the Constitution can only be achieved if non-normative legal acts found to be unconstitutional, and whose legal consequences have already arisen, are invalid from the moment of their adoption or promulgation....

Such acts adopted before the 1991 Constitution are to be considered invalid as from the moment of the Constitution’s entry into force.”

IV. PARLIAMENTARY DECISION OF 18 DECEMBER 2009

137. On 18 December 2009 Parliament took the following decision (see paragraph 60 above):

“The National Assembly, referring to Article 86 § 1 of the Constitution of the Republic of Bulgaria,

Decides:

1. To stay any transfer of land, agricultural land, forests, buildings and movables for which there are decisions recognising and restoring the property rights, or which are given in compensation to the heirs of the former Kings Ferdinand I and Boris III.

2. To stay any commercial exploitation and construction in the properties under paragraph 1.

3. The measures shall be in force until the enactment of special legislation.

4. The people possessing or holding the above-mentioned properties and objects shall be obliged to take good care of them, or otherwise shall be liable for damage.”

138. During the parliamentary debate, the members of Parliament who had authored or were supporting the decision justified it on the following grounds: the properties claimed by the applicants were of great value; the forests could be destroyed if the logging undertaken on behalf of the applicants continued; the matter was of significant legal and moral importance and a decision of that kind was a “moral act”, showing Parliament’s attitude; many questions surrounding the process of restitution remained unanswered; and the restitution raised the issue of possible abuse of power on the part of the first applicant who had been Prime Minister at the time when it had first arisen. Members of Parliament who opposed the decision contended, for their part, that it unduly interfered with the right to property and that it imposed unnecessary restrictions which, moreover, fell within the jurisdiction not of Parliament but of the courts.

139. On 28 December 2009 the national Ombudsman challenged the decision before the Constitutional Court. He argued that Parliament had not been competent to take a decision concerning specific individuals, and that the decision at issue was “purely political”. He further argued that the decision had been adopted in breach of the principle of separation of powers, because it was not Parliament but the courts which were competent to order interim injunctions. He also considered that the decision breached the provisions of the Constitution guaranteeing the right to property and prohibiting discrimination.

140. On 9 February 2010 the Constitutional Court declared the challenge inadmissible, reasoning that the Ombudsman was only competent to challenge legislative acts and not decisions of Parliament. Other bodies competent to refer a matter to the Constitutional Court (namely one-fifth of the members of Parliament, the Council of Ministers, the Supreme Court of Cassation, the Supreme Administrative Court and the Chief Public Prosecutor) could do so with regard to both legislative acts and decisions.

V. RELEVANT LAW AND PRACTICE CONCERNING RESTITUTION

A. The Restitution Act 1992

141. The Restitution of Ownership of Nationalised Immovable Property Act (*Закон за възстановяване собствеността върху одържавени недвижими имоти* – “the Restitution Act”) was passed in 1992. It provided that former owners of certain immovable properties nationalised after 1945, or their heirs, would regain ownership. Restitution under the Restitution Act was by operation of law and there was no need for an administrative or judicial decision in that regard.

142. In November 1997 a new sub-section 2 was added to section 2 of the Act, providing for the restitution of movable and immovable property:

“taken without justification or expropriated not under statutory conditions by the State, the municipalities and the People’s Councils in the period from 9 September 1944 to 1989”.

B. The Forests Restitution Act 1997

143. By section 2(1) of this Act (*Закон за възстановяване на собствеността върху горите и земите от горския фонд*), adopted in November 1997, restitution is permissible only with respect to forestry land nationalised under several specified Acts adopted between 1944 and 1958, which do not include the 1947 Act, as well as under “subsequent Acts, Decrees and decisions of the Council of Ministers” and other bodies of the communist State. There is no reported case-law where that latter part of section 2(1) was applied. Under section 13(1) of the Act, applications for restitution had to be submitted before 30 June 1999.

144. Section 13a(1) of the Act stipulates that a decision for restitution taken by the competent body, which has entered into force and is accompanied by a plan of the relevant plot, represents a valid title to property, equivalent to a notarial deed.

145. On 14 January 2013 the Plenary of the Civil Chambers of the Supreme Court delivered interpretative decision no. 5/2013. It found that court judgments ordering restitution under the Forests Restitution Act (delivered in judicial review proceedings or where the interested person had directly lodged a claim against the relevant land commission or agriculture department) had binding effect on the State and its bodies, which could not seek re-examination of the matter in new judicial proceedings. On the other hand, the State could still bring civil proceedings indirectly challenging restitution decisions of the administrative authorities. This was so because the State could not be considered a party to the proceedings before those authorities, and an indirect challenge of the restitution decisions in question was “the only means for the State to defend” its rights.

VI. CONTROL OF THE USE OF FORESTS

146. The management, use and protection of forests is currently regulated by the Forests Act 2011 (*Закон за горите*). It provides for different supervisory measures conducted by bodies of the Executive Forests Agency. Those bodies are in particular competent to verify the legality of activities in the forests, to retain the object of unlawful activities, to establish breaches of the relevant rules and to bring the perpetrators, if necessary by force, to the police, and to order the suspension or discontinuation of unlawful activities. The Forests Act provides also for administrative sanctions for breaches of the relevant rules. Furthermore, by-laws provide for the adoption of forestry plans, valid for five or ten years, and for the issuance of logging permits.

147. Unlawful logging is a criminal offence under Article 235 of the Criminal Code.

VII. STATE AND MUNICIPAL PROPERTIES

148. By section 2(2) of the State Property Act 1996 (*Закон за държавната собственост*), public State property includes properties of national significance, properties used by State bodies and other properties designated as such by the Government. State properties not included in the above-mentioned list are to be considered private. Similar provisions are set out in section 3 of the 1996 Municipal Property Act (*Закон за общинската собственост*).

149. The procedures relating to the registration of properties on the lists of State and municipal properties and their removal from such lists are set out in sections 68 to 79 of the State Property Act and sections 56 to 64 of the Municipal Property Act. It is further provided that any dispute as to property rights is to be determined by the courts (section 79(3) of the State Property Act and section 64(2) of the Municipal Property Act), and that acts of registration and deregistration of State and municipal property cannot in themselves give rise to property rights (section 5(3) of the State Property Act and section 5(3) of the Municipal Property Act).

150. The Supreme Court of Cassation and the Supreme Administrative Court have also consistently held that a decision of the relevant administrative body registering or deregistering a property as State or municipally-owned only has a declaratory effect and cannot give rise to, or affect, any property rights (for example, *Решение № 2167 от 17.12.2004 г. на ВКС по гр. д. № 1958/2003 г., IV г. о.*; *Решение № 270 от 15.01.2004 г. на ВАС по адм. д. № 7926/2003 г., IV о.*; *Решение № 4728 от 5.05.2006 г. на ВАС по адм. д. № 8809/2005 г., III г. о.*).

151. Until 1996 the applicable legislation did not permit private individuals to acquire State or municipal property through adverse possession, as regulated under section 79 of the Property Act (see paragraph 155 below). This changed in June 1996 with the adoption of the State Property Act and the Municipal Property Act, which authorised the adverse possession of private State and municipal properties. However, in 2006 Parliament imposed a moratorium on the expiry of adverse possession periods in respect of such properties. Its reasoning was that the local authorities needed more time to identify and register municipally and State-owned properties. That moratorium, initially in force until the end of 2006, was prolonged on numerous occasions after that. Currently it is in force until 31 December 2022.

VIII. INTERIM INJUNCTIONS

152. Interim injunctions in civil proceedings are provided for in the 2007 Code of Civil Procedure. When such a measure concerns immovable property, the party against whom it is issued is forbidden from passing on property rights and from modifying or damaging the property at issue (Article 451 § 1 of the Code). Any transactions involving the property are invalid *vis-à-vis* the party in whose favour the injunction was granted (Article 452).

153. Interim injunctions are decided upon by a court, in private and at the request of the interested party. Once informed of that decision, the party against whom the injunction was issued is entitled to appeal against it (Articles 395-396 of the Code of Civil Procedure). That party can at any time seek the lifting of the measure (Article 402).

IX. RELEVANT PROVISIONS OF THE PROPERTY ACT

154. Section 108 of the Property Act 1951 (*Закон за собствеността*) provides that the owner of an object may claim it from anyone who possesses it or holds it without lawful grounds (*rei vindicatio*). Under the relevant case-law of the domestic courts, the plaintiff in *rei vindicatio* proceedings must prove two elements: 1) the validity of his title and 2) the fact that there are no legal grounds for the defendant to hold or possess the property.

155. Under section 79 of the same Act a person holding in possession real estate under a defective title may become its owner after five years of undisturbed possession in cases of *bona fide* possession, and after ten years in all other cases.

156. Section 71 of the Property Act provides that, prior to the owner of a property bringing an action to recover possession, a *bona fide* possessor is entitled to use that property and receive profit from it. The domestic courts have found this to mean that after bringing the action indicated above such a possessor is liable to reimburse the owner for any such profit received (*Решение № 1926 от 17.X.1968 г. по зп. д. № 1226/68 г., I з. о.; Решение № 837 от 16.06.2005 г. на БКС по зп. д. № 186/2004 г., IV з. о.; Решение № 25 от 30.03.2017 г. на БКС по зп. д. № 2389/2016 г., IV з. о., ГК*).

157. Where, on the other hand, the possession is *mala fide*, the owner can claim compensation for all profit which has or could have been received from the property, even for a period preceding the bringing of an action to recover that property (section 73(1) of the Act).

X. PROTECTION AGAINST DISCRIMINATION

158. The relevant provisions of the Protection Against Discrimination Act have been summarised in *Fartunova and Kolenichev v. Bulgaria* ((dec.), no. 39017/12, §§ 16-23, 16 June 2020).

THE LAW

I. ALLEGED VIOLATIONS OF ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION AND OF ARTICLE 6 § 1 AND ARTICLE 13 OF THE CONVENTION

159. Relying on Article 1 of Protocol No. 1 to the Convention and Article 13 of the Convention, the applicants complained of the domestic courts' findings that the State was the owner of the Saragyol and Sitnyakovo estates (see paragraphs 71-90 and 95-105 above). They also complained under Article 6 § 1 of the Convention of the outcome of the judicial proceedings concerning those two estates.

160. Furthermore, the applicants complained under Article 1 of Protocol No. 1 of the 2009 legal moratorium on any transfer and on any commercial exploitation of the properties in their possession (see paragraphs 60 and 137 above), considering that it placed a disproportionate burden on them. They complained in addition, relying on Article 6 § 1 and Article 13 of the Convention, of the impossibility to challenge that moratorium before a tribunal or any other body. They complained additionally under Article 14 of the Convention that the decision on the moratorium discriminated against them on the basis of their origin, social position and political affiliation.

161. The relevant provisions relied on by the applicants read as follows:

Article 1 of Protocol No. 1

“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.”

Article 6

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

Article 13

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

Article 14

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

A. Arguments of the parties

1. General considerations

162. The Government observed that the applicants had obtained the possession of the properties concerned at a time when the first applicant had been Prime Minister, and by bodies “which reported directly or indirectly to him”. After his political party fell from power, the State started actively contesting the restitution and seeking to recover the properties concerned.

163. The applicants disputed the Government’s suggestion that the first of them had abused his power while acting as Prime Minister. They pointed out that neither the parliamentary commission set up in 2006 to inquire into the restitution of their properties (see paragraph 59 above), nor the national courts in the domestic proceedings, had established such abuse. On the contrary, it was the actions undertaken by the State after 2009 that amounted to “political revenge”. The applicants insisted that they had acted in good faith, which was in particular proven by the fact that they had renovated and improved the properties they had received.

2. Concerning the domestic courts’ refusal to recognise the applicants as the owners of the Sitnyakovo and Saragyol estates

(a) The Government

164. The Government argued that the applicants did not have “existing possessions”, or any “legitimate expectation” as to the restitution of the two properties, which meant that Article 1 of Protocol No. 1 was inapplicable. They pointed out that States enjoyed a wide margin of appreciation to decide on restitution matters and whether or not to authorise the restitution of certain categories of properties.

165. In submissions made in September 2018 the Government pointed out that the 1998 judgment of the Constitutional Court (see paragraphs 132-133 above) had not had a restitution effect and therefore could not have given rise to any “legitimate expectation” to restitution for the applicants. Nor could the administrative decisions surrendering possession of the different properties (see paragraphs 41 and 44 above) give

rise to such an expectation. In that latter regard the Government relied on *Velikin and Others v. Bulgaria* ((dec.), no. 28936/03, 1 December 2009) and *Ivanova and Others v. Bulgaria* ((dec.), no. 66467/01, 1 December 2009).

166. The Government pointed out that the applicants had failed to show in the domestic proceedings that their predecessors had owned personally the disputed properties. They thus considered correct the domestic judicial findings concerning the Sitnyakovo and Saragyol estates to the effect that the applicants were not their owners. Concerning these properties, the Government pointed out additionally that the domestic decisions were well-reasoned and given after a thorough analysis of the arguments put forward by the applicants.

167. In additional observations made in October 2020, the Government argued that the judgment of the Constitutional Court of 28 April 2020 (see paragraphs 135-136 above) did not automatically mean that the applicants had the right to restitution with regard to particular properties. It had been proven “beyond doubt” that the Sitnyakovo and Saragyol estates had always been State-owned.

(b) The applicants

168. In submissions made in October 2018 the applicants argued that in 1998 there had been a “political will” for the restitution of the royal properties, and the State bodies concerned had chosen a specific path for that, namely through the 1998 judgment of the Constitutional Court (see paragraphs 132-133 above), preceded in November 1997 by amendments to section 2 of the Restitution Act (see paragraph 142 above). This had been a “coordinated inter-institutional policy” aimed to repair a historical injustice and return the royal properties to the heirs of the former Kings.

169. As to whether their predecessors had been the owners of the properties claimed, the applicants urged the Court to carry out “its own primary assessment”. They pointed out that the institution of the King, as well as the legal status of the Intendancy and the Civil List, could not be properly approached by means of the legal notions and terminology of the Republic, and that the “Kimon Georgiev list”, created immediately after the abolition of the monarchy (see paragraph 15 above), was a more suitable source on the legal status of the properties of the Crown. The applicants relied additionally on the Court’s judgment in the case of *Former King of Greece and Others v. Greece* ([GC] (merits), no. 25701/94, ECHR 2000-XII).

170. In further observations submitted in October 2020 the applicants argued that the judgment of the Constitutional Court of 28 April 2020, as interpreted by the Supreme Court in its judgment of 12 October 2020 (see paragraphs 115 and 136 above) meant that they had had a “legitimate expectation” to restitution.

171. Lastly, the applicants contended that in the judicial proceedings concerning the Sitnyakovo and Saragyol estates the national courts had acted in breach of Article 6 § 1 of the Convention. This was because the courts had in particular, in their view, ignored the political will for the restitution of their properties, thus acting contrary to the principle of legal certainty. In addition, the national courts had required the applicants to prove facts which had occurred a long time ago and concerned the very specific situation of the royal family under the Kingdom.

3. *Concerning the 2009 legal moratorium*

(a) **The Government**

172. Concerning the 2009 legal moratorium (see paragraphs 60 and 137 above), the Government argued that, in view of the inapplicability of Article 1 of Protocol No. 1, the applicants could not allege any interference with their property rights. In any event, the moratorium had been lawfully decided upon by Parliament, and pursued the legitimate aim of preserving the properties concerned – which were of significant monetary, architectural and historical value – while the State decided on the approach to take. The moratorium had relatively quickly – in view of the complexity of the matters – been followed by interim injunctions in the proceedings brought by the State against the applicants. After those injunctions the moratorium had become “nugatory *de facto*” and had thus not engendered insecurity for the applicants for an overly lengthy period of time. Moreover, the moratorium could not have been a surprise for the applicants, since it followed “logically” from the previous political developments. Even in practice, the moratorium had not prevented the applicants from exploiting commercially the properties held by them, since it could be seen on the websites of the Bistritsa, Banya and Saragyol estates that tickets were being sold to visitors. The applicants had in addition even been able to mortgage the Banya estate (see paragraph 32 above).

173. As to the complaint that the applicants had been unable to challenge the 2009 moratorium, imposed by decision of Parliament, the Government pointed out that such a decision had to be seen as replacing a missing law, and that neither Article 6 § 1 nor Article 13 of the Convention guaranteed the right to challenge legislative acts. In addition, the applicants had had another possible means of defending their rights, namely the civil proceedings to which they had been party.

(b) **The applicants**

174. The applicants argued that the moratorium had been decided upon by Parliament in breach of the principle of separation of powers, since it had concerned interim measures, which are within the competence of the courts. The applicants thus considered the moratorium contrary to the Constitution

and a populist measure amounting to “arbitrary political action”. In their view, it had become meaningless, given that in the proceedings brought by the State the courts had ordered injunctions, and some of these proceedings had already been completed in favour of the State. Nevertheless, the applicants pointed out that the moratorium had led to a lengthy period of uncertainty for them. Moreover, it had no clear aim and placed an excessive burden on them, since they were prevented from economically exploiting the properties concerned but were at the same time obliged to take good care of them.

175. The applicants pointed out that, under domestic law, judicial injunctions could be challenged before the competent national courts; however, they had been unable to challenge the 2009 moratorium, which contained identical measures. This was so simply because Parliament had taken a decision which was normally within the competence of the courts. The applicants had at their disposal no non-judicial procedure to challenge the moratorium either.

B. The Court’s assessment

1. Complaints related to the domestic courts’ refusal to recognise the applicants as the owners of the Sitnyakovo and Saragyl estates

(a) Admissibility

(i) Article 1 of Protocol No. 1

176. The Court recalls that Article 1 of Protocol No. 1 cannot be interpreted as imposing any general obligation on the Contracting States to restore property which was transferred to them before they ratified the Convention. Nor does Article 1 of Protocol No. 1 impose any restrictions on the Contracting States’ freedom to determine the scope of property restitution and to choose the conditions under which they agree to restore property rights of former owners (see, among other authorities, *Kopecký v. Slovakia* [GC], no. 44912/98, § 35 (d), ECHR 2004-IX, and *Sivova and Koleva v. Bulgaria*, no. 30383/03, § 88, 15 November 2011).

177. Under the Court’s case-law, an applicant can allege a violation of Article 1 of Protocol No. 1 only in so far as the case relates to his or her “possessions” within the meaning of this provision. “Possessions” can be either “existing possessions” or assets, including claims, in respect of which the applicant can argue that he or she has at least a “legitimate expectation” of obtaining effective enjoyment of a property right. By way of contrast, the hope of recognition of a property right which it has been impossible to exercise effectively cannot be considered a “possession” within the meaning of Article 1 of Protocol No. 1, nor can a conditional claim which lapses as a result of the non-fulfilment of the condition (see, among other authorities, *Kopecký*, cited above, § 35 (c), ECHR 2004-IX, and *Von Maltzan and*

Others v. Germany (dec.) [GC], nos. 71916/01 and 2 others, § 74, ECHR 2005-V).

178. An applicant can claim to have a “legitimate expectation” attracting protection under Article 1 of Protocol No. 1 where it has sufficient basis in national law, for example where there is settled domestic case-law confirming that this is the case. In contrast, no legitimate expectation can be said to arise where there is a dispute as to the correct interpretation and application of domestic law and the applicant’s submissions are rejected by the national courts (see *Anheuser-Busch Inc. v. Portugal* [GC], no. 73049/01, § 65, ECHR 2007-I, and, in the specific context of restitution of property, *Jantner v. Slovakia*, no. 39050/97, §§ 29-33, 4 March 2003, and *Velikin and Others*, cited above, §§ 63-64 and 67-69).

179. The complaint under examination concerns the applicants’ claimed title to property to the Sitnyakovo and Saragyol estates. While the applicants obtained possession thereof in 2002 and 2003, when the estates were removed from the lists of State properties (see paragraphs 41 and 44 above), this fact alone is insufficient for the Court to conclude that they had “existing possessions”, in the sense of recognised title to property. Indeed, according to domestic law and the case-law of the national courts, administrative decisions such as the ones taken upon request by the applicants in 2002 and 2003 cannot in themselves create or affect property rights (see paragraphs 149-150 above; also *Velikin and Others*, cited above, § 67).

180. The Court must therefore assess whether the applicants had a “legitimate expectation” to have become and to be recognised as the owners of the Sitnyakovo and Saragyol estates.

181. In the domestic proceedings concerning those two estates the national courts reached, in particular, two conclusions: 1) that the applicants’ predecessors, the former Kings Ferdinand I and Boris III, had not been the owners of these properties in their quality as private persons, and that even prior to the passing of the 1947 Act the properties had been State-owned, and 2) that even if that had not been so, no restitution had taken place in favour of the applicants, in particular on the strength of the 1998 judgment of the Constitutional Court.

182. The applicants disputed these conclusions. As concerns the former one, they urged the Court to conduct its own assessment, taking into account in particular the so-called “Kimon Georgiev list” (see paragraph 169 above). In that document prepared in 1946, which listed the properties of the Crown, the two estates were mentioned under the heading “Personal properties owned by the former King” (see paragraph 15 above).

183. The Court recalls that it is in the first place for the domestic authorities, notably the courts, to interpret and apply domestic law (see, among others, *Former King of Greece and Others*, § 82; *Kopecký*, § 56; and *Velikin and Others*, § 71, all cited above). It is, as a general rule, not its task

to substitute its own assessment of the facts for that of the domestic courts, and it is for those courts to assess the evidence before them (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 150, 20 March 2018).

184. In the case at hand, the national courts analysed in detail the arguments concerning the claimed property rights of the former Kings to the Sitnyakovo and Saragyol estates. In the previous proceedings concerning the Krichim estate the Supreme Court had examined the legal status of the Intendancy, concluding that it had been a State body and that it had acquired properties on behalf the State, and not on behalf of the Kings in their quality as private persons (see paragraphs 66-67 above); these findings were referred to in the proceedings concerning the Sitnyakovo estate (see paragraph 97 above). The national courts analysed other factors relevant to the claimed title to property of the former Kings, such as Ferdinand I's abdication in 1918, the manner in which the buildings of the estates had been constructed, or the running of prescription periods before 1947, and saw no reason to conclude that the Kings had become the owners of the two estates; their conclusion was that even prior to the passing of the 1947 Act the properties had been State-owned (see paragraphs 72, 83-84 and 97 above).

185. The Court, pointing out once again that it is, as a rule, for the national courts to assess the facts and the evidence before them, sees no reason, as urged by the applicants, to re-examine the matter. In particular, it perceives no arbitrariness or manifest unreasonableness in the domestic courts' findings summarised above. In disputing them, the applicants referred mainly to the "Kimon Georgiev list", placing, as already mentioned, the two properties at issue under the heading "Personal properties owned by the King" (see paragraph 15 above). However, an argument concerning exactly that list was examined and dismissed at the domestic level, with the national courts holding that the characterisation of a property in that list could not establish any property rights (see paragraph 63 above).

186. Accordingly, the domestic courts found that the applicants' predecessors had not owned the Sitnyakovo and Saragyol estates in their capacity as private persons, giving sufficient reasons which the Court is not prepared to question. This, in itself, constitutes a sufficient ground for rejecting the applicants' restitution claims, and the Court will not discuss the additional finding reached by the courts, namely that no restitution had taken place in favour of the applicants, in particular on the basis of the 1998 judgment of the Constitutional Court (see paragraphs 73-74, 85-86 and 98 above). It is true that in the proceedings concerning exclusively the Bistritsa estate the Supreme Court, referring to the judgment of the Constitutional Court of 28 April 2020, reached the opposite conclusion, namely that the 1998 judgment of the Constitutional Court had restored the applicants'

property rights to that estate (see paragraph 115 above). Nevertheless, it is not for the Court to assess in this context the effect of a subsequent judgment adopted many years later.

187. The applicants relied on the case of the *Former King of Greece and Others* (cited above; see paragraph 169 *in fine* above). Indeed, in that judgment (see, notably, §§ 60-66) the Court concluded that prior to their expropriation by the Greek State the properties which were the subject of the application had been owned by members of the royal family “as private individuals”. In order to reach that conclusion, the Court took into account the manner in which the individual properties had been acquired, their subsequent transfer, in accordance with Greek civil law, between members of the royal family or to third parties, and the actions of the Greek State, which had on several occasions treated the properties as private.

188. However, the present case is different, and the Court already differentiated it in a former decision in the case, when examining the applicants’ complaints with regard to the Krichim estate (see *Sakskoburggotski and Others v. Bulgaria* (dec.), nos. 38948/10 and 2 others, §§ 153-54, 20 March 2018). It cannot automatically transpose to the present case any findings it has made earlier in other judgments. As mentioned above, in the present case the domestic courts reached conclusions which are neither arbitrary nor manifestly unreasonable on the question whether the applicants’ predecessors had owned the two estates in their capacity as private individuals, and the Court will not engage with an assessment of the legal consequences of the 1998 judgment of the Constitutional Court.

189. Finally, the Court adds that in the proceedings concerning the Sitnyakovo and Saragyol estates the national courts dismissed, giving what appear to be relevant and sufficient reasons, the argument that the applicants had acquired property rights by means of adverse possession (see paragraphs 75, 87 and 98 above). In the current proceedings the applicants did not dispute the domestic courts’ conclusions in that regard.

190. Accordingly, since the domestic courts dismissed the applicants’ claims to have become the owners of the Sitnyakovo and Saragyol estates, no “legitimate expectation” can be said to have arisen for the applicants in that particular regard.

191. It follows that Article 1 of Protocol No. 1 is inapplicable and the complaint under examination is incompatible *ratione materiae* with the provisions of the Convention, within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

(ii) *Article 6 § 1 and Article 13 of the Convention*

192. The complaint under Article 6 § 1 of the Convention (see paragraphs 159 and 171 above) concerns the manner in which the national courts decided on the State’s *rei vindicatio* claims. However, the Court has held repeatedly that it is not its task to deal with errors of fact or law

allegedly committed by the national courts (see *Waite and Kennedy v. Germany* [GC], no. 26083/94, § 54, ECHR 1999-I). It should not act as a court of fourth instance and will not therefore question under Article 6 § 1 the findings of the national courts, unless these findings can be regarded as arbitrary or manifestly unreasonable (see *Bochan v. Ukraine (no. 2)* [GC], no. 22251/08, § 61, ECHR 2015).

193. In the present case the Court does not consider the national courts' findings arbitrary or manifestly unreasonable. In particular, it observes that their analysis as to the legal consequences of the 1998 judgment of the Constitutional Court was made prior to the 2020 judgment of the same court, which eventually clarified that question. The courts examined and responded in detail to the applicants' arguments, referring to the relevant provisions of domestic law (see paragraphs 71-105 above). The Court refers in addition to its findings under paragraph 185 above.

194. Accordingly, the complaint under Article 6 § 1 is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

195. Lastly, the applicants also complained under Article 13 of the Convention (see paragraph 159 above). Inasmuch as any separate issue is raised under that Article, in view of its above findings the Court considers that the applicants cannot be said to have had any arguable claim of a violation of the Convention, and that Article 13 does not therefore apply (see, for instance and amongst many other authorities, *Walter v. Italy* (dec.), no. 18059/06, 11 July 2006). The complaint under this Article is therefore incompatible *ratione materiae* with the provisions of the Convention, within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

2. Complaints related to the 2009 legal moratorium

196. The applicants complained, under Article 1 of Protocol No. 1 and Articles 6 § 1, 13 and 14 of the Convention, of the consequences of the legal moratorium decided upon by Parliament in 2009 (see paragraph 160 above). The complaints concern numerous properties, as described in paragraphs 22-56 above, with differing situations and legal statuses. Moreover, the moratorium itself comprises two components – a ban on any transfer of the properties which the applicants claimed to have acquired, and a ban on any commercial exploitation of the same properties (see paragraph 137 above). The Court will examine those different components below.

(a) Admissibility

(i) Complaint under Article 14 of the Convention with regard to all properties

197. The applicants complained under Article 14 of the Convention that the decision on the moratorium discriminated against them on the basis of

their origin, social position and political affiliation (see paragraph 160 above). However, in so far as this provision, taken in conjunction with Article 1 of Protocol No. 1 or Articles 6 § 1 or 13 of the Convention, can be seen as raising genuine issues in the case, the Court has found in cases of alleged discrimination, even based on a legislative act, that the different procedures under the Protection Against Discrimination Act (see paragraph 158 above) represented an effective remedy (see *Fartunova and Kolenichev v. Bulgaria* (dec.), no. 39017/12, §§ 55-62, 16 June 2020). The applicants have not informed the Court of having resorted to that remedy. Accordingly, the complaint under Article 14 of the Convention must be declared inadmissible under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

(ii) *Princess Evdokia's house*

198. Possession of this house was transferred to the applicants in 1999 and in 2001 the applicants sold it to a private party (see paragraphs 23-24 above). It has not been claimed that they were subsequently in any way held liable in relation to that property, in particular after the imposition of the moratorium in 2009.

199. Thus, regardless of whether the applicants can be said to have validly acquired title to property, or a “legitimate expectation” to restitution, the moratorium did not result in any interference with their rights guaranteed by Article 1 of Protocol No. 1 or Articles 6 § 1 and 13 of the Convention.

200. The applicants were not therefore the victims of any alleged violation of their rights, and their complaints with regard to Princess Evdokia's house are incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a). They must thus be rejected in accordance with Article 35 § 4.

(iii) *The estates*

- (α) Complaint under Article 1 of Protocol No. 1 with regard to the ban on any transfer of property

– *Sitnyakovo and Saragyol estates*

201. The Court already found that the applicants did not have any “existing possession”, nor a “legitimate expectation” to be recognised as the owners of those two estates (see paragraphs 179-190 above). This means that the ban on any transfer of property did not interfere with any “possessions” of theirs and they are not victims of the alleged violation of their rights. Accordingly, the complaint under examination is incompatible *ratione materiae* with the provisions of the Convention, within the meaning of Article 35 § 3 (a), and must be rejected in accordance with Article 35 § 4.

– *Vrana, Banya and Bistritsa estates*

202. The domestic proceedings concerning the applicants' claimed title to property to the Vrana estate were, on the date of the latest information available to the Court, still pending before the Sofia Court of Appeal (see paragraph 122 above). The Banya estate (see paragraphs 29-32 above), on the other hand, has not been the subject of any judicial proceedings and the State has not sought to recover possession from the applicants. Thus, the latter's claims to have acquired title to the Vrana and Banya estates have never been confirmed or rejected with finality by the domestic courts.

203. The Court points additionally to the moratorium on acquiring State and municipally-owned properties through adverse possession, in force since 2006 (see paragraph 151 above). The conformity of that moratorium with the Convention is not the subject of the present proceedings. In any event, the applicants could not have acquired the Vrana and Banya estates through that means. This is so because the applicants appear to have enjoyed the undisturbed possession of the Banya estate only since 2004 (see paragraphs 30 and 155 above).

204. Consequently, the applicants have not established that, in this situation of uncertainty as to their claimed title to property to the Vrana and Banya estates, they were able to dispose lawfully of those estates. The applicants were not therefore the victims of the alleged violation of Article 1 of Protocol No. 1.

205. The above considerations are also valid with regard to the Bistritsa estate. Even though in a final judgment of 12 October 2020 the Supreme Court found that the applicants were its rightful owners (see paragraphs 114-115 above), until that date the situation remained equally uncertain. As above, the applicants have not shown that in such a situation they were able to dispose lawfully of that estate.

206. As to the situation after the Supreme Court's judgment of 12 October 2020 which recognised their title to property, the applicants have not shown that the 2009 moratorium remains applicable. They have, in addition, not complained specifically of the current state of affairs with regard to the Bistritsa estate.

207. The applicants were not therefore the victims of the alleged violation of Article 1 of Protocol No. 1.

208. In view of the considerations above, the Court concludes that the complaint under examination, concerning the ban on disposing of the Vrana, Banya and Bistritsa estates, is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a). It must be rejected in accordance with Article 35 § 4.

- (β) Complaint under Article 1 of Protocol No. 1 with regard to the ban on any commercial exploitation

209. The 2009 legal moratorium also included a ban on any commercial exploitation of the five estates (see paragraph 137 above).

210. The Court does not consider it necessary to establish whether the applicants had a “legitimate expectation” to carry out such an exploitation, for the reasons below.

211. Despite the existence of the ban at issue, it does not appear that the applicants were prevented from commercially exploiting the properties at issue. Indeed, as alleged by the Government and not contested by the applicants, they were selling tickets to visitors to the Saragyol, Bistritsa and Banya estates (see paragraph 172 above). It is in addition significant, as mentioned, that the Vrana palace is the first applicant’s principal residence (see paragraph 28 above), while the Banya estate is the second applicant’s registered address in Bulgaria (see paragraph 32 above). Moreover, in the domestic proceedings concerning the Sitnyakovo estate it was confirmed that, at the time when the applicants had obtained possession, the buildings of the estate had been unusable and the applicants had been even unable to profit from them (see paragraph 99 above). Finally, it is also noteworthy that the applicants did not make any claims for just satisfaction on the basis of lost profits from the commercial exploitation of the five estates, whereas they did make such a claim in relation to the forestry land (see paragraphs 278-279 below).

212. In view of the considerations above, the Court finds that the applicants have not shown that they were prevented in practice from undertaking any further economic activity in the five estates.

213. The Court observes additionally that, while the applicants were obliged under the 2009 legal moratorium to take care of and maintain the properties concerned (see paragraph 137 above), in the proceedings concerning the Sitnyakovo and Saragyol estates they were entitled to recover the expenses they had incurred for that purpose. The national courts, while accepting that the applicants did not own those properties, found the State liable to reimburse the expenses incurred by them, and authorised the applicants to retain the properties until these sums were paid to them (see paragraphs 77, 90 and 99 above). In the same proceedings the applicants were also found not to be liable to pay compensation to the State for having occupied and used the properties for many years, the Supreme Court stating in particular that holding otherwise would be contrary to Article 1 of Protocol No. 1 (see paragraphs 89 and 105 above). Similar findings were made by the first-instance court in the proceedings concerning the Vrana estate, which were, at the date of latest information available to the Court (October 2020), still pending before the Sofia Court of Appeal (see paragraphs 121-122 above). Having regard to these considerations, the

measure under examination did not have any further negative consequences for the applicants, nor did it impose any significant burden on them.

214. It follows from the above that no interference with the applicants' rights under Article 1 of Protocol No. 1 came about as a result of the ban imposed in 2009 by Parliament on any commercial exploitation of the Sitnyakovo, Saragjol, Bistritsa, Vrana and Banya estates.

215. The applicants were not therefore the victims of any alleged violation of their rights under Article 1 of Protocol No. 1 as concerns the five estates. It follows that their complaint concerning the ban on any commercial exploitation of these estates is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

(γ) Complaints under Articles 6 § 1 and 13 of the Convention

216. The applicants complained in addition under Articles 6 § 1 and 13 of the Convention of the impossibility to challenge the different aspects of the moratorium (see paragraph 160 above).

– *The impossibility to challenge the ban on transfer of property with regard to the Sitnyakovo, Saragjol, Bistritsa and Vrana estates*

217. The ban to transfer property was imposed by Parliament in December 2009 (see paragraphs 60 and 137 above). After the State brought proceedings against the applicants, seeking to recover possession of the four estates, between May and November 2011 the domestic courts imposed interim injunctions on these properties (see paragraphs 70, 94, 108 and 118 above), entailing the legal consequences described in paragraph 152 above. Accordingly, it was for a period of less than two years that the 2009 moratorium resulted in any potential inability for the applicants to dispose of these four estates.

218. The Court refers to its analysis below on the identical complaints concerning the forestry land claimed by the applicants (see paragraph 248 below). For the same reasons as put forward with regard to those complaints, namely the relatively short duration of the measure at issue and the exceptional character of the particular case, it finds the current complaints manifestly ill-founded, and rejects them in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

– *The impossibility to challenge the ban on transfer of property with regard to the Banya estate*

219. The considerations above are not applicable to the Banya estate (see paragraphs 29-32 above), which has not been the subject of judicial proceedings or of any interim measures.

220. As concerns the Banya estate, notwithstanding its observations on the uncertainty of the applicants' title to property (see paragraph 204

above), for the purposes of the present analysis the Court is prepared to accept that the ban on disposing of property affected their “civil rights and obligations”. Indeed, the applicants have been in possession of the Banya estate since 2004 (see paragraph 30 above), possession which has not been disturbed and is apparently tolerated by the State. This is sufficient to conclude that they have a sufficiently established proprietary interest so as to be capable of engaging the civil aspect of Article 6 (see, *mutatis mutandis*, *Hamer v. Belgium*, no. 21861/03, § 76, ECHR 2007-V (extracts), and *Kosmas and Others v. Greece*, no. 20086/13, § 71, 29 June 2017).

221. The Court has held that for Article 6 § 1 in its “civil” limb to be applicable, there must be a dispute over a “right” which can be said, at least on arguable grounds, to be recognised under domestic law. The dispute must be genuine and serious; it may relate not only to the actual existence of a right but also to its scope and the manner of its exercise (see, as a recent authority, *Károly Nagy v. Hungary* [GC], no. 56665/09, § 60, 14 September 2017). The Court accepts that there was such a dispute in this case. The lawfulness and the scope of the parliamentary decision of 18 December 2009 imposing the moratorium constituted the very object of that dispute.

222. For the above reasons the Court concludes that Article 6 § 1 of the Convention was applicable to this aspect of the case.

223. The Court is furthermore of the view that the complaint under Article 6 § 1 is not manifestly ill-founded, nor inadmissible on any other ground enlisted in Article 35 of the Convention. It must therefore be declared admissible.

224. In view of the above considerations, the Court also declares admissible the related complaint under Article 13 of the Convention.

– *The impossibility to challenge the ban on any commercial exploitation with regard to all five estates*

225. Lastly, the complaints under Articles 6 § 1 and 13 also concerned the impossibility for the applicants to challenge the ban on any commercial exploitation of the five estates.

226. Notwithstanding its observations above that the applicants had not shown that they had been prevented in practice from undertaking small-scale economic activity in the five estates, and that they had not suffered any additional negative consequences (see paragraphs 211-213 above), the Court considers that the mere existence of the measure under examination is sufficient to reach the conclusion that it affected the “civil rights and obligations” of the applicants. Moreover, it accepts that there also existed a “dispute” as to the existence of these rights and obligations and as to the scope and manner of their exercise. Article 6 § 1 of the Convention is therefore applicable.

227. The Court is furthermore of the view that the complaint under Article 6 § 1 is not manifestly ill-founded, nor inadmissible on any other ground enlisted in Article 35 of the Convention. It must therefore be declared admissible.

228. In view of the above considerations, the Court also declares admissible the related complaint under Article 13 of the Convention.

(iv) *Forestry land*

(α) Complaints concerning both components of the moratorium

229. Prior to the imposition of the moratorium under examination the applicants sold some of the restituted plots of forestry land to third parties (see paragraph 56 above). Accordingly, the restrictions contained in that moratorium did not affect any possession or use of those plots by the applicants. In so far as the complaints under examination are to be understood to concern those plots, the complaints are therefore incompatible *ratione personae* with the provisions of the Convention, within the meaning of Article 35 § 3 (a), and must be rejected in accordance with Article 35 § 4.

(β) Remaining complaints related to the ban on any transfer of property

230. Between 2000 and 2003 the Samokov land commission/agriculture department ordered the restitution in favour of the applicants of numerous plots of forestry land, in proceedings initiated by the applicants under the Forests Restitution Act. The applicants entered into possession of these plots and had logging carried out (see paragraphs 50-55 above).

231. The Court points out at the outset that the restitution of the forestry land was not based on the 1998 judgment of the Constitutional Court (see paragraph 20 above) or the Restitution Act (see paragraphs 141-142 above), but was carried out, as mentioned, in proceedings under the Forests Restitution Act. Thus, the forestry land must be distinguished from the properties discussed above.

232. The restitution decisions in favour of the applicants were supplemented by plans of the plots (see paragraphs 50-54 above). According to domestic law, this, in principle, meant that they were valid titles to property, akin to notarial deeds (see paragraph 144 above).

233. In November 2009 the State brought *rei vindicatio* proceedings against the applicants, contesting the restitution decisions and seeking to recover possession of the forestry land (see paragraph 123 above). Domestic jurisprudence considers such actions, in principle, admissible (see paragraph 145 above). At the date of the latest information provided by the parties (October 2020), the proceedings were still pending before the first-instance court (see paragraph 125 above).

234. Seeing the pendency of the proceedings in which the applicants' title to property is being disputed, it may be premature to determine whether

the applicants have any “existing possessions” or a “legitimate expectation” to acquire title to property on the basis of the decisions on restitution, and thus to be able to transfer such title. However, it is unnecessary to reach a definite conclusion on that regard. Indeed, even assuming that the applicants had “possessions” and that Article 1 of Protocol No. 1 was therefore applicable, the Court considers the complaint under that provision in any event inadmissible for the considerations below.

235. As already indicated above (see paragraph 56), in 2007-08, prior to the imposition of the 2009 legal moratorium, the applicants sold some of the restituted plots to third parties. It could thus be accepted that, but for the moratorium, they might have wished to sell to third parties or otherwise transfer other plots. This is sufficient to conclude that the moratorium, and more specifically the ban on any transfer of title to property, interfered with any “possessions” the applicants’ might have had. The interference amounted to “control of the use of property”, within the meaning of the second paragraph of Article 1 of Protocol No. 1 (see, *mutatis mutandis*, *Zelenchuk and Tsytsyura v. Ukraine*, nos. 846/16 and 1075/16, § 104, 22 May 2018).

236. The Court observes in addition that in the proceedings brought by the State against the applicants, on 13 September 2011 the Sofia Regional Court imposed on the plots an interim injunction (see paragraph 124 above). Under domestic law a judicial interim injunction entails a prohibition from passing on any property rights (see paragraph 152 above). The applicants were entitled to contest before the competent court the initial imposition of such an injunction, or to seek that it be lifted (see paragraph 153 above).

237. Accordingly, after 13 September 2011 it was not only on the strength of the 2009 legal moratorium, but also on the basis of a separate judicial injunction imposed by the Sofia Regional Court that the applicants were unable to transfer title to property of any of the plots of forestry land. This means that the interference with any “possessions” the applicants’ might have had, based on the moratorium, lasted from 18 December 2009 to 13 September 2011 – about a year and nine months.

238. Under the Court’s case-law, any interference with rights guaranteed under Article 1 of Protocol No. 1 must be prescribed by law and must pursue one or more legitimate aims. In addition, there must be a reasonable relationship of proportionality between the means employed and the aims sought to be realised. In other words, the Court must determine whether a fair balance was struck between the demands of the general interest and the interest of the individuals concerned. The requisite balance will not be found if the person concerned has had to bear “an individual and excessive burden” (see, among many other authorities, *James and Others v. the United Kingdom*, 21 February 1986, § 50, Series A no. 98; *Beyeler v. Italy* [GC], no. 33202/96, §§ 108-14, ECHR 2000-I; and *Vasilev and Doycheva v. Bulgaria*, no. 14966/04, § 45, 31 May 2012).

239. Turning to the question whether any interference with the applicants' "possessions" was prescribed by law, the Court observes that the measure disputed by them was decided on by Parliament (see paragraphs 60 and 137 above). It was argued at the time by some Members of Parliament, as well as the national Ombudsman, that Parliament was imposing interim measures, which were normally within the competence of the courts (see paragraphs 138-139 above). The same argument was raised by the applicants in their submissions to the Court (see paragraph 174 above). The Ombudsman considered in addition problematic the fact that Parliament had taken a decision concerning specific individuals (see paragraph 139 above).

240. However, the Court observes that Article 86 § 1 of the Constitution authorises Parliament to take decisions on a wide variety of matters. This has been confirmed by the Constitutional Court, which has pointed out that Parliament's competence in that regard is not restricted by the Constitution (see paragraph 128 above).

241. The Court takes note additionally of the unique nature and symbolic importance of the case at hand, which involves the former royal family and their position under the Republic. In the particular circumstances of the case, the Court does not find it especially problematic, from the point of view of the lawfulness requirement under Article 1 of Protocol No. 1, that Parliament, in its decision of 18 December 2009, specifically addressed the situation of the applicants. Nor does the Court consider that the fact that Parliament imposed restrictions on the applicants similar to those normally associated with an interim injunction ordered by a court raises a genuine issue with lawfulness. It has not been argued that this impinged upon the competence of the courts to impose such injunctions, and indeed, as mentioned above, such a measure was ordered later by the Sofia Regional Court (see paragraph 124 above).

242. The Court thus concludes that any interference with the applicants' rights can be considered prescribed by law.

243. As to whether the interference pursued a legitimate aim in the public interest, the Court finds that, the ban on transferring title to property being akin to an interim injunction, that interference aimed at preserving the *status quo* and facilitating the eventual enforcement of a judgment ordering the applicants to surrender possession (see, *mutatis mutandis*, *JGK Statyba Ltd and Guselnikovas v. Lithuania*, no. 3330/12, § 130, 5 November 2013).

244. Turning, lastly, to the question whether a fair balance was struck between the legitimate aim pursued and the individual interests of the applicants, the Court points out that the interference it is examining was of relatively short duration, namely about a year and nine months (see paragraph 237 above; contrast, for example, *Zelenchuk and Tsytsyura*, cited above, § 144, where a similar measure found problematic by the Court had remained in force for the applicants for ten to twelve years, and *JGK Statyba Ltd and Guselnikovas*, cited above, §§ 131-32 and 143-44, where

the applicant company had been unable to sell its property for over ten years). The restriction was imposed after the Minister of Agriculture, acting on behalf of the State, had already brought an action against the applicants concerning the forestry land (see paragraph 123 above).

245. The Court takes note, moreover, of the exceptional nature of the present case, as already highlighted above, the numerous properties concerned, as well as the fact that the moratorium was decided on by Parliament soon after the first applicant's party fell from power in 2009 (see paragraph 12 above). For these reasons, it would appear reasonable that the new Government needed time to prepare fully their reaction, including in the context of the proceedings concerning the forestry land.

246. In view of the above, the Court considers that the interference with any "possessions" the applicants' might have had, based on the ban on transferring title to property to the forestry land as imposed by Parliament on 18 December 2009, was not disproportionate to the legitimate aim pursued, and that it did not impose an excessive individual burden on the applicants.

247. Accordingly, the complaint under Article 1 of Protocol No. 1 concerning the ban defined above is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

248. Lastly, concerning the complaints under Article 6 § 1 and Article 13 of the Convention about the impossibility for the applicants to challenge the ban on transferring title to property (see paragraph 160 above), the Court points out once again to the relatively short duration of the measure complained of – one year and nine months – and the exceptional character of the case as discussed above. This is sufficient to conclude that, similarly to the complaint under Article 1 of Protocol No. 1, the complaints under Article 6 § 1 and Article 13 of the Convention are manifestly ill-founded, and that they and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

(γ) Remaining complaints related to the ban on any commercial exploitation

249. The Court observes that the domestic proceedings concerning the forestry land restituted to the applicants are still pending (see paragraphs 125 and 233 above).

250. In contrast to its findings above, the Court does not consider that the pendency of the domestic proceedings could prevent it from determining whether the applicants had any "legitimate expectation" to exploit the forestry land commercially. Under the Property Act the possessor of a property is entitled to use it and to receive profit from it while proceedings concerning the ownership are pending and, if he or she is eventually found not to be the owner, such possessor must reimburse to the rightful owner the profit which was received or could have been received from the use of the disputed property (see paragraphs 156-157 above).

251. In the circumstances of the present case the above means that once they obtained possession of the forestry land they claimed to have acquired by means of restitution, and even after the Minister of Agriculture brought a *rei vindicatio* action, the applicants had a “legitimate expectation” to be able to exploit the forests commercially. This was subject to the proviso, as mentioned above, that they might eventually be liable, if unsuccessful in the proceedings, to repay the State the profits which they had received or could have received. The Court finds thus that in that regard the applicants had “possessions” within the meaning of Article 1 of Protocol No. 1.

252. It furthermore notes that the complaint under Article 1 of Protocol No. 1 concerning the ban on any commercial exploitation of the forestry land is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, or inadmissible on any other ground. It must therefore be declared admissible.

253. Lastly, seeing that the complaints under Articles 6 § 1 and 13 of the Convention concerning the commercial exploitation of the forestry land are closely linked to the one under Article 1 of Protocol No. 1 (see paragraph 160 above), the Court likewise declares them admissible.

(b) Merits

(i) Complaint under Article 1 of Protocol No. 1

254. The applicants raised several complaints under Article 1 of Protocol No. 1, but the Court declared admissible only the complaint concerning the ban of any commercial exploitation of the forests the applicants claimed to have obtained on the basis of restitution (see paragraph 252 above).

255. Turning to the merits of that complaint, the Court notes that prior to the imposition of the moratorium on 18 December 2009, the applicants had launched economic activity in the forests they claimed to have acquired by means of restitution, as they had had a forestry plan approved and logging carried out (see paragraph 55 above). The decision of 18 December 2009 banned any such commercial exploitation (see paragraph 137 above).

256. Accordingly, the Court concludes that there was a State interference with the applicants’ “possessions” as regards the commercial exploitation of the forests. As noted in paragraph 235 above, the interference qualifies as “control of the use of property” within the meaning of the second paragraph of Article 1 of Protocol No. 1 (see, *mutatis mutandis*, *Debelianovi v. Bulgaria*, no. 61951/00, § 51, 29 March 2007, and *Werra Naturstein GmbH & Co KG v. Germany* (merits), no. 32377/12, § 41, 19 January 2017).

257. The Court reiterates that any interference with rights guaranteed under Article 1 of Protocol No. 1 must be prescribed by law and must pursue one or more legitimate aims. In addition, there must be a reasonable

relationship of proportionality between the means employed and the aims sought to be realised (see the case-law quoted in paragraph 238 above).

258. For the same reasons as set out in paragraphs 240-241 above the Court is prepared to accept that the interference under examination was lawful.

259. Turning to the question whether it pursued any legitimate aim, the Court points out that during the parliamentary debate leading up to the adoption of the moratorium the following reasons were put forward in its defence (concerning all the properties claimed by the applicants and both components of the moratorium): the case concerned properties of great value; the forests could be destroyed if the logging undertaken on behalf of the applicants continued; the matter was of significant legal and moral importance and a decision of that kind was a “moral act”, showing Parliament’s attitude; many questions surrounding the process of restitution remained unanswered; and the restitution raised the issue of possible abuse of power on the part of the first applicant (see paragraph 138 above). In addition, in their submissions in the proceedings before the Court the Government stated that the moratorium was aimed at preserving properties of significant monetary, architectural and historic value (see paragraph 172 above).

260. As concerns specifically the complaint under examination, the Court can discern from the above the following potential legitimate aims pursued by the interference with the applicants’ rights: the forests could be destroyed if the logging undertaken on behalf of the applicants continued; the ban on any commercial exploitation was aimed therefore at preserving them. The Court, taking note of the State’s margin of appreciation, is prepared to accept that the interference with the applicants’ rights pursued a legitimate aim in the public interest.

261. The Court thus turns to the question whether the interference was proportionate to such an aim and makes the following observations.

262. First, it has not been informed of any allegations, even less of any findings by the national authorities, that the logging undertaken on behalf of the applicants prior to the imposition of the moratorium had been unlawful, or that it had breached the forestry plan approved by the head of the National Forest Authority (see paragraph 55 above). Furthermore, domestic law, namely the Forests Act and its by-laws, regulate the use and the conservation of forests and provide for different sanctions for breaches of the relevant requirements (see paragraph 146 above). The Criminal Code, in addition, criminalises unlawful logging (see paragraph 147 above).

263. The Government have not shown that, if there were any suspicions that an unlawful activity in the forests restituted to the applicants had been undertaken, or if any danger of the forests’ destruction existed, the authorities could not have reacted with the legislative tools described in the preceding paragraph. Neither has it been claimed that these tools could not

have adequately addressed the goals pursued by the interference with the applicants' rights, without recourse to a full prohibition of any commercial exploitation (see, for a similar consideration, *Zelenchuk and Tsytsyura*, cited above, § 127). The Government have not justified such a global restrictive solution, and the Court has to take into account any existing alternative paths (*ibid.*, § 128).

264. Second, as already underlined in paragraph 250 above, the Property Act regulates situations where a party to proceedings concerning the ownership of a property possesses and uses that property, and that party's liability, if unsuccessful, to reimburse to the rightful owner any actual or potential profits (see paragraphs 156-157 above). The Court sees no reason to consider that the interests of the State, if found eventually to be the owner of the forestry land restituted to the applicants, would not be sufficiently protected by these provisions.

265. Third, the Court points to the duration of the interference under examination, which started in 2009 and continued, at the least, until the date of the latest information communicated by the parties (October 2020 – see paragraph 60 above; see also, by contrast, the finding in paragraph 237 above that the other interference with the applicants' rights, namely the ban on transferring title to property, ceased in September 2011). The Court finds such a duration exorbitant (see *Debelianovi*, cited above, § 56). Moreover, it appears that the moratorium was initially intended to be temporary, since it was indicated at the time of its imposition that it would remain in force until the enactment of special legislation (see paragraph 137 above); however, no such legislation has ever been introduced in Parliament. The applicants are thus in a situation of uncertainty as to the end of the interference they complain of. It is also significant that no effort has been made by the authorities during the lengthy period under examination to assess the applicants' situation and the effect of the restriction at issue, nor have the applicants been entitled to any compensation.

266. And fourth, the applicants had no possibility at their disposal to contest the restriction at issue or to seek that it be lifted. The Government considered that the applicants had been able to defend their rights in the domestic judicial proceedings (see paragraph 173 above); however, the Court points out that these proceedings, in which the State brought a *rei vindicatio* claim against the applicants (see paragraph 123 above), concern the ownership of the forestry land, and not its possible commercial exploitation and the restrictions thereon. It is also significant that the national Ombudsman's challenge against the moratorium before the Constitutional Court was found to be inadmissible (see paragraphs 139-140 above).

267. The Court takes note of the considerations described in paragraph 245 above, which could be also valid in the context of the present

complaint. However, it considers them insufficient to justify a lengthy restriction such as the one under examination.

268. In view thereof, the Court concludes that the ban on any commercial exploitation of the forestry land the applicants claim to have acquired via restitution, on the strength of the moratorium decided upon by Parliament on 18 December 2009, was disproportionate to any legitimate aim that interference could have pursued, and has imposed an excessive individual burden on the applicants.

269. It follows that there has been a violation of Article 1 of Protocol No. 1 in that regard.

(ii) Complaints under Articles 6 § 1 and 13 of the Convention

270. The Court declared admissible the following complaints under Articles 6 § 1 and 13 of the Convention: the complaints about the inability of the applicants to challenge the ban on disposing of the Banya estate (see paragraphs 223-224 above), and the complaints about their inability to contest the ban on any commercial exploitation of the Sitnyakovo, Saragjol, Bistritsa Vrana and Banya estates (see paragraphs 227-228 above) as well as of the forestry land (see paragraph 253 above).

271. Article 6 § 1 secures to everyone the right to have a claim relating to his civil rights and obligations brought before a court. The right of access to a court must be practical and effective (see, as a recent authority, *Zubac v. Croatia* [GC], no. 40160/12, §§ 76-77, 5 April 2018, with further references).

272. Article 6 does not guarantee a right of access to a court with power to invalidate or override a law enacted by the legislature (see, among other authorities, *Posti and Rahko v. Finland*, no. 27824/95, § 52, ECHR 2002-VII). However, in the present case the applicants did not complain of the impossibility to challenge such a law, but with regard to a decision adopted by Parliament, namely the one taken on 18 December 2009 (see paragraph 137 above). Under Bulgarian law, the distinction between a legislative act and a decision by Parliament is maintained in the Constitution (see paragraph 128 above) and has been reiterated by the Constitutional Court when examining the Ombudsman's challenge against the moratorium under examination (see paragraph 140 above).

273. The decision of 18 December 2009 imposing different restrictions on the applicants was not reviewed, nor was it open to review, by a tribunal or other body exercising judicial powers. The Court already dismissed the Government's argument that the judicial proceedings in which the State contested the applicants' alleged title to property to the forestry land provided adequate access to a court (see paragraphs 173 and 266 above); it considers that this conclusion equally applies under Article 6 § 1 of the Convention and with regard to the remaining properties which were the subject of such judicial proceedings. As mentioned, no judicial proceedings

have been initiated concerning the Banya estate (see paragraphs 202 and 219 above).

274. The Government have provided no further justification of the absence of access to a court.

275. There has accordingly been a violation of the applicants' right of such access, as guaranteed by Article 6 § 1 of the Convention.

276. Finally, in view of its decision concerning Article 6 § 1, the Court considers that it does not have to examine the case under Article 13 of the Convention. The requirements of Article 13 are less strict than those of Article 6, and are in this instance absorbed by them (see, among many other authorities, *De Geouffre de la Pradelle v. France*, 16 December 1992, § 37, Series A no. 253-B).

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

277. Article 41 of the Convention provides:

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

A. Damage

278. The applicants requested the Court to order the respondent Government to recognise their title to property to the Sitnyakovo and Saragyol estates and surrender to them possession thereof. Alternatively, they claimed those properties' market value, totalling, according to them, 485,179 euros (EUR).

279. The applicants claimed in addition compensation for the impossibility to exploit commercially the forests restituted to them. In support of this claim they submitted an expert report, which concluded that the profit they could have obtained from logging, between 18 December 2009 and 19 October 2018, amounted to 2,054,319 Bulgarian levs (BGN), equivalent of EUR 1,050,356.

280. The applicants did not make any other claims for pecuniary damage, or a claim in respect of non-pecuniary damage.

281. The Government contested the claims.

282. The Court points out that it only found a violation of the applicants' rights as concerns the ban on any commercial exploitation of the forests restituted to them and not sold before the entry into force of the moratorium, as well as a violation of some aspects of the complaint under Article 6 § 1 of the Convention, and that it dismissed the remaining complaints as inadmissible, including the ones related to the unsuccessful restitution of the Sitnyakovo and Saragyol estates. Accordingly, the Court sees no reason to

accede to the applicants' request outlined in paragraph 278 above to order the State to recognise their title to property and surrender to them possession of those estates, or to award their value.

283. As to the claim concerning the commercial exploitation of the restituted forests not sold before the entry into force of the moratorium (see paragraph 279 above), the Court considers that the question of the application of Article 41 is not ready for decision in so far as it concerns the claims in respect of pecuniary damage and reserves it, due regard being had to the possibility that an agreement between the respondent State and the applicants will be reached (Rule 75 § 1 of the Rules of Court).

B. Costs and expenses

284. The applicants claimed EUR 400,116 for the expenses incurred by them in the domestic proceedings.

285. For the costs and expenses incurred before the Court, the applicants claimed the reimbursement of EUR 45,600, paid by them for their legal representation. In support of this claim they presented the relevant invoices.

286. The applicants claimed in addition EUR 1,048 for postage, translation, printing and copying. They presented receipts and invoices showing the payment of the equivalent of EUR 130 for postage, and a contract for translation, indicating that EUR 848 had been paid to the translator. The applicants requested that any sum awarded for the costs described in the current paragraph be paid directly to the law firm of their legal representatives, Ekimdzhiev and Partners.

287. The Government contested the claims. They argued in particular that the amount paid by the applicants for their legal representation before the Court had been excessive. They pointed out in addition that parts of the sum had been paid by a "third party", namely the first applicant's wife, whose name had been indicated on the paying-in slips.

288. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. Furthermore, costs and expenses are only recoverable to the extent that they relate to the violation found. If the complaints raised in the application were only partially successful and a substantial portion of the applicant's pleadings concerned inadmissible complaints, the Court may find it appropriate to reduce the award in respect of costs and expenses (see, as a recent authority, *Denisov v. Ukraine* [GC], no. 76639/11, § 146, 25 September 2018, with further references).

289. In the present case, regard being had to the above considerations, the Court rejects the claim for costs and expenses incurred in the domestic proceedings, since they were not related to the violations found.

290. As to the costs and expenses incurred in the proceedings before it, the Court points out that it dismissed as inadmissible many of the complaints raised by the applicants. The Court thus considers it appropriate to reduce the award in respect of costs and expenses. Lastly, it accepts that the expenses claimed were incurred by the applicants themselves, notwithstanding the fact that some sums were actually paid by the first applicant's wife (see, *mutatis mutandis*, *Zikatanova and Others v. Bulgaria*, no. 45806/11, § 70, 12 December 2019).

291. In view of the above, the Court awards the applicants EUR 4,500 for their legal representation in the proceedings before it, and EUR 500 for the expenses for postage, translation, printing and copying. It holds that, as requested by the applicants (see paragraph 286 above), the latter sum (EUR 500) is to be paid directly into the bank account of the law firm Ekimdzhiev and Partners (see, *mutatis mutandis*, *Khlaifia and Others v. Italy* [GC], no. 16483/12, § 288, ECHR 2016 (extracts)).

C. Default interest

292. 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. *Declares* the complaints under Article 1 of Protocol No. 1 to the Convention concerning the ban on any commercial exploitation of the forestry land not sold by the applicants before the entry into force of the 2009 legal moratorium, and the complaints under and Articles 6 § 1 and 13 of the Convention concerning the impossibility for the applicants to challenge the ban on any transfer of property of the Banya estate and the ban on any commercial exploitation as concerns the Sitnyakovo, Saragyol, Bistritsa, Vrana and Banya estates and the forestry land admissible, and the remainder of the applications inadmissible;
2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention on account of the ban on any commercial exploitation of the forestry land;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
4. *Holds* that there is no need to examine separately the complaints under Article 13 of the Convention;

5. *Holds* that the question of the application of Article 41 of the Convention, in so far as it concerns the claim in respect of pecuniary damage stemming from the ban on the commercial exploitation of the restituted forestry land not sold by the applicants before the entry into force of the 2009 legal moratorium, is not ready for decision; accordingly,
- (a) reserves the said question;
 - (b) invites the Government and the applicants to submit, within six months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, their written observations on the matter and, in particular, to notify the Court of any agreement that they may reach;
 - (c) reserves the further procedure and delegates to the President of the Chamber the power to fix the same if need be;
6. *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, EUR 5,000 (five thousand euros), to be converted into Bulgarian levs at the rate applicable at the date of settlement, plus any tax that may be chargeable to the applicants, in respect of costs and expenses, EUR 500 (five hundred euros) of which to be paid into the bank account of the law firm Ekimdzhiev and Partners;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
7. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 7 September 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

{signature_p_2}

Andrea Tamietti
Registrar

Tim Eicke
President