



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

**CASE OF THE FORMER KING OF GREECE & OTHERS
v. GREECE**

(Application no. 25701/94)

JUDGMENT
(Just satisfaction)

STRASBOURG

28 November 2002

This judgment is final but may be subject to editorial revision.

In the case of the Former King of Greece & Others v. Greece,

The European Court of Human Rights, sitting as a Grand Chamber composed of the following judges:

Mr L. WILDHABER, *President*,
Mr J.-P. COSTA,
Mr L. FERRARI BRAVO,
Mr GAUKUR JÖRUNDSSON,
Mrs E. PALM,
Mr L. CAFLISCH,
Mr I. CABRAL BARRETO,
Mr W. FUHRMANN,
Mr B. ZUPANČIČ,
Mrs N. VAJIĆ,
Mr J. HEDIGAN,
Mrs W. THOMASSEN,
Mr M. PELLONPÄÄ,
Mrs M. TSATSA-NIKOLOVSKA,
Mr E. LEVITS,
Mr K. TRAJA,
Mr G. KOUMANTOS, *ad hoc judge*,

and also of Mr P. MAHONEY, *Registrar*,

Having deliberated in private on 26 June and 6 November 2002,

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

PROCEDURE

1. The case originated in an application (no. 25701/94) against the Hellenic Republic lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by the former King of Greece and eight members of his family, on 21 October 1994. The applicants alleged that Law no. 2215/1994 which was passed by the Greek Parliament on 16 April 1994 and became law with effect from 11 May 1994 violated their Convention rights. The applicants were represented by Messrs. Nathene & Co., Solicitors in London. The Greek Government (“the Government”) were represented by the delegate of their Agent, Mr M. Apessos, Senior Adviser of the State Legal Council. The Commission declared the application partly admissible on 21 April 1998 in so far as it concerned the former King of Greece (“the first applicant”), his sister, Princess Irene (“the second applicant”), and his aunt, Princess Ekaterini (“the third applicant”). It referred the case to the Court, in

accordance with the provisions applicable prior to the entry into force of Protocol No. 11 to the Convention, on 30 October 1999 (Article 5 § 4 of Protocol No. 11 and former Articles 47 and 48 of the Convention).

2. In a judgment delivered on 23 November 2000 (“the principal judgment”), the Court (Grand Chamber) held that there had been a violation of Article 1 of Protocol No. 1 (by fifteen votes to two) and that it was not necessary to examine the applicants' complaint under Article 14 of the Convention taken together with Article 1 of Protocol No. 1 (unanimously). More specifically, as regards Article 1 of Protocol No. 1, the Court held that the lack of any compensation for the deprivation of the applicants' property upset, to the detriment of the applicants, the fair balance between the protection of property and the requirements of public interest (*The former King of Greece and Others v. Greece* [GC], no. 25701/94, § 99, ECHR 2000–XII).

3. Under Article 41 of the Convention the applicants sought just satisfaction of GRD 165,562,391,740 for their immovable property, plus £ 3,416,330 for their personal movable property (i.e. furniture, paintings, books, etc). They further claimed £ 100,000 for non-pecuniary damage, but on the basis that this sum was to be given to the victims of the earthquake which struck Athens in September 1999. Lastly, they claimed £ 644,502.42 in respect of costs and expenses in the national courts and before the Convention institutions until the date of the hearing on the merits of the case before the Court, namely 14 June 2000.

4. Since the question of the application of Article 41 of the Convention was not ready for decision, the Court reserved it and invited the Government and the applicants to submit, within six months, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach (*ibid.*, § 107, and point 3 of the operative provisions).

5. The applicants and the Government each filed three sets of observations within the extended time-limits allowed to them. No basis was found on which a friendly settlement could be secured.

THE LAW

6. 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

1. Submissions by the applicants in their observations dated 21 May 2001, 28 November 2001 and 15 April 2002

7. The applicants primarily invited the Court to state that the annulment of Law no. 2215/1994 and the return of the property to them (together with compensation for non-pecuniary damage and costs and expenses incurred in vindicating their rights) would constitute *restitutio in integrum*. In the event of the estates not being returned, they affirmed that they found no reason why the amount of compensation should be less than full compensation. In that connection they stressed that the taking of their property had not been part of any national economic or social programme and that even if it had been part of such a programme, Article 17 of the Greek Constitution provided for full compensation to be paid.

8. As for the date for valuing the property, the applicants submitted that the amount of compensation should be based on the current value of the property. Further, they sought interest on the amount of compensation in so far as necessary.

(a) Pecuniary damage

(i) The claims of each applicant

9. For the purposes of assessing the pecuniary damage suffered, the applicants asked the Court to have regard to the position of each individual applicant, which could be summarised as follows. The claim in respect of Tatoi was made by the first applicant alone; the claim in respect of Polydendri was made by the three applicants in proportion to their respective ownership rights (101,5/288 for the first applicant, 101,5/288 for the second applicant and 36/288 for the third applicant); the claim in respect of Mon Repos was made by the first applicant alone; lastly, the claim in respect of the movable property was made by the first applicant alone.

As regards in particular the claim in respect of the Tatoi estate

10. The applicants emphasised that the whole of Tatoi should be taken into account for the assessment of just satisfaction. In particular, they contested the Government's argument (see paragraph 46 below) that the claim for just satisfaction in relation to Tatoi should be limited to that part of Tatoi which remained with the first applicant in 1992 after a donation of an area of 37,426,000 square metres to the National Forest of Tatoi Foundation (see paragraphs 37-39 of the principal judgment).

11. The applicants admitted that in their memorial dated 13 April 2000 they had stated that they were not making any claim to the property of the Foundation. However, this was on the express basis that they did not accept the Government's contention that the 1992 arrangement was invalidated by Law no. 2215/1994. Indeed, their claim was that the 1994 law was not valid. However, in its principal judgment the Court found that Law no. 2215/1994 was valid and that the land which had been donated to the Foundation in 1992 remained with the first applicant when the 1994 law was passed (see paragraphs 71-72 of the principal judgment). As a result of that judgment, the applicants considered that they should be compensated for the loss of that land as well as for the remainder of the Tatoi property. The applicants pointed out that the market valuation of the Government's own valuers, Lambert Smith Hampton (see paragraphs 17 and 48 below), also referred to the whole of Tatoi.

12. As for the Government's argument (see paragraph 47 below) that in assessing just satisfaction the Court should take into account the fact that part of the Tatoi property (namely the Bafi area) had been a donation to King George I (the first applicant's great-grandfather), the applicants stated that the Bafi forest had not been donated to King George I, but had been purchased by him. The sum fixed and paid had been GRD 60,000, which was the value of the property at the time, and by no means a symbolic sum. In any event, even if the Bafi area had been a donation to King George I, this would not in any way have affected the first applicant's ownership of the land, or his right to compensation for its taking.

(ii) Valuation

13. As regards the method of valuation that should be used to determine an appropriate amount of compensation if the relevant immovable property was not returned to them, the applicants made the following submissions.

(a) The "objective" value

14. The applicants first made reference to the so-called "objective", or tax value, which is arrived at by the application of a statutory formula for valuation. They stressed that this value represented the minimum value which under Greek law the State would have to pay by way of compensation for a lawful expropriation. It was open to the person whose property had been expropriated to insist that compensation should instead be based on market value, if he considered that the "objective" value was lower than what could fairly be obtained in the market.

15. In that connection, the applicants pointed out that on 13 April 2000 they had submitted to the Court a report by Moore Stephens SA dated 27 March 2000 calculating the "objective" value as GRD 165,562,391,740.

That report had been criticised by the Government who had asserted that it contained errors of calculation. The applicants contended that the Government's criticism was based on changes in the relevant Greek law concerning the basis for calculation of the "objective" value which took place shortly after the submission of the report. It was thus conceivable that these changes were specifically intended to lower the values applicable to their properties; nonetheless, the applicants had asked Moore Stephens SA to prepare a new report "in the light of the subsequent and *ex post facto* changes in the law". This second report dated 16 November 2001 calculated the "objective" value as GRD 92,762,992,030. This amount was broken down as follows: Tatoi: GRD 67,555,055,225; Polydendri: GRD 19,237,144,050; Mon Repos: GRD 5,970,792,755.

16. However, the applicants submitted that it would be wrong for the Court to base its assessment of compensation on that value; they repeated that the statutory formula had been altered at the Government's instigation in the course of the proceedings, and that this change had had the effect of reducing the "objective" value of the properties to an amount very significantly below their true market value.

(b) The market value

17. The applicants stated that they were prepared to accept the market value stated in the valuation report prepared by Lambert Smith Hampton on behalf of the Government on 29 May 2000. This report expressly noted that Lambert Smith Hampton had been "instructed...to inspect and assess the current open market capital value of the...properties". According to the report, the value of all the relevant properties was estimated at GRD 187,592,000,000. The applicants further pointed out that it was stated on the last page of the report that "a special user [might] well pay a higher price in order to acquire one or more of the above major properties". They also stressed that the figures supplied by the report were May 2000 figures and that in Greece prices had risen very considerably in recent months.

18. However, the applicants observed that the Government had not clarified their position as to whether they accepted this valuation. In fact, the Government had stated that they had commissioned Lambert Smith Hampton to prepare a report so that they could assess the magnitude of the so called "tax exemptions" (see paragraph 48 below). The applicants argued that, whatever the Government's primary purpose in obtaining the report, the fact remained that it provided a relevant and reliable yardstick of market valuation.

19. The applicants further contended that they had themselves obtained a report on the market value of the properties by the international valuers FPD Savills. This report, dated 7 April 2001, estimated the total value of the

properties at GRD 161,100,000,000. This calculation was conservative as compared with the higher value given in the Lambert Smith Hampton report submitted by the Government, although both reports adopted the same careful methodology.

20. The applicants submitted that there could be no justification for the Court adopting a value which was below the lower of the two estimates that had been placed before it by the parties. However, the Government had submitted that the market valuation of the properties was not an appropriate method on which to base the Court's assessment of just satisfaction (see paragraphs 49-51 below). The applicants considered that the reasons put forward by the Government for this view were disingenuous.

21. More specifically, as to the Government's assertion that the present case was unique in the history of the Court in terms of the value of the properties in question, the applicants contended that it was surprising that the Government should seek to rely on the extent of its own violation of the Convention as a reason for reducing the amount of compensation to be awarded to the victims of that violation. The fact that the property in question was large and valuable provided no justification, as a matter of legal principle and logic, for reducing the amount of compensation. Moreover, this argument was contradicted by the report of the Government's own valuers, Lambert Smith Hampton, who had taken into account comparable transactions, and who had felt able, on the strength of such comparative and other evidence, to express a view as to the fair market value of the properties. The same applied to FPD Savills, who had likewise been able to estimate the market value of the properties on the basis of comparative and other evidence.

22. The applicants further contended that the fact that a large part of the relevant land was forest land had no bearing on the appropriateness of using market value as a basis for the assessment of just satisfaction. Both Lambert Smith Hampton and FPD Savills had taken into account the particular features of the relevant properties, including the fact that much of the land enjoyed a protected status as forest land, when arriving at their estimates of market value.

23. In the circumstances, the applicants submitted that the Government had put forward no credible argument as to why the market value method of valuation was inappropriate in this case and that they had failed to give any cogent reason why the market value report prepared by their own valuers, Lambert Smith Hampton, should not be used as a basis for the Court's assessment of just satisfaction. Alternatively, at the very least, the award of just satisfaction should reflect the valuation contained in the applicants' market value report prepared by FPD Savills.

24. The applicants therefore invited the Court to base its decision on the two market valuations that it had before it and award them an amount of at least GRD 161,100,000,000 in respect of the immovable property, if that property was not returned to them.

(iii) Movable property

25. The first applicant submitted that his main concern was to have his movable property in Greece (i.e. furniture, cutlery, books, paintings, etc.) returned to him. These chattels were personal belongings with sentimental and family associations “just as any family has”. The first applicant argued that to the best of his knowledge, confiscation or even expropriation of personal movable items had no precedent in Greece or in any other country.

26. However, should the Government fail to restore these chattels to him, the first applicant sought an award of compensation representing their market value. He referred to a valuation made by Christie, Manson & Woods Ltd. (“Christie’s”), which estimated the current value of the chattels at £ 3,723,800.

27. The first applicant noted, however, that the Christie’s valuation only covered part of his movable property still in Greece. It did not include any of the 826 items of movable property loaned by him in 1977 for the use of the Presidency of the Republic. Nor did it include all the items belonging to him that remained at Tatoi.

28. Moreover, the first applicant argued that the Government were wholly wrong to submit that he was making a claim in respect of chattels which were already in his possession. He confirmed that the National Gallery of Greece had granted him official permission for the export of certain works of art belonging him; however, it was apparent from a comparison of the number of items referred to in the permission (271) with the number of items listed in the Christie’s valuation (912), that the permission to export dealt only with part of his chattels in Greece. None of the chattels referred to in the Christie’s valuation had been exported from Greece.

29. In particular, as to the works of art referred to in the official permission, the first applicant submitted that he had made arrangements for their export, but before all the relevant chattels could be exported, a ministerial decision was taken which had the effect of countermanding the permission. This meant that only part of the items for which permission had originally been granted were in fact exported. The export of those items had taken place with the official approval of the authorities and their stamp. As for the very substantial number of chattels that were listed in the permission but had remained in Greece, the first applicant could not be certain that some of them had not been misappropriated by third parties in Greece.

30. The first applicant further submitted that he had recently received notification of a decision by the Minister of Finance in Greece that a committee should be formed to compile an inventory and evaluation of the movable property which remained at Tatoi. He had accepted this proposal through his representative in Greece. He emphasised, however, that the proposed exercise of producing an inventory and evaluation of the relevant chattels should not be permitted to delay the Court's determination of the issue of just satisfaction so far as the remainder of the case was concerned. He submitted that there was no good reason why the Court should not reach a speedy decision so far as the properties of Tatoi, Polydendri and Mon Repos were concerned and, if need be, postpone the determination of just satisfaction in relation to the chattels until after completion of the proposed inventory and evaluation.

(iv) Past privileges and tax exemptions

31. The applicants stressed that, as a matter of legal principle and logic, any privileges or tax exemptions that were available to members of the royal family in the past had no bearing whatever on the amount of just satisfaction that should be awarded.

32. In fact, the concept of just satisfaction required the owner to be fairly compensated for what he had lost by being deprived of his property, regardless of any benefits or privileges which might have been received by him or his predecessors prior to the taking of the property. The issue of just satisfaction had to be examined in relation to the interference with the relevant ownership rights as they were at the time of the taking, and it was the value of those ownership rights which had to be considered.

33. Moreover, there was no precedent in the jurisprudence of the Court for such matters to be taken into account when assessing compensation for the loss of property: on the contrary, the Court's case-law made it clear that the respondent Government were under an obligation to make reparation for the consequences of the breach of the Convention in such a way as to restore as far as possible the situation existing before the breach. This involved returning of the relevant property to the applicants, or payment of compensation reflecting its current value. It would in any event be quite illogical for the Court to take any past privileges or tax exemptions into account in determining the question of just satisfaction, given its ruling that these matters could not be relevant in relation to the issue of proportionality (see paragraph 98 of the principal judgment).

34. More specifically, the applicants argued that to refer to any tax exemptions enjoyed by the royal family in the past was somewhat misleading unless reference was made to the special obligations of the royal family. The latter had in fact many obligations to the State which were specified by law, including an obligation for the King to pay for all the outgoings of his household, down to the last drachma. The greatest part of

the Civil List went to pay for expenses relating to the exercise of the King's functions, exactly as the Greek State today paid all the expenses of the President of the Republic.

35. In other words, the tax exemptions which the royal family historically enjoyed, were provided by law in recognition of the very large expenses which the royal family were legally obliged to meet as part of their official duties. It would be tantamount to the retrospective imposition of tax for the value of any such exemptions now to be taken into account in reduction of the amount of compensation that would otherwise be awarded to them. The applicants referred to an expert report by Professor Georgiades which stated that this would not be permissible as a matter of Greek law, including the Greek Constitution. The same applied, as a matter of principle, under the Convention.

36. Further, the applicants contended that any payments for essential repairs and renovation of the properties were provided by the State some fifty years ago, in recognition of the damage which had been caused to them during the period of civil unrest when they were in the possession of the State and were neglected.

37. Moreover, the applicants stated that they had paid all amounts of tax owed by them, and that no amounts of tax had been written off pursuant to Article 5 of Law no. 2215/1994¹. In any event, such a repayment could not possibly be equated with payment of compensation.

38. The applicants also argued that if it were relevant for the Court to take into account any benefits or privileges that might have been available to the royal family in the past, it would also need to consider any benefits provided by the royal family to the Greek State. The applicants referred, for example, to the donation to the Greek Heritage and Olympic Committee by King George I of an extremely valuable piece of land in the centre of Athens for the building of the Olympic Stadium. This was land that King George I had bought from Ziller, a well known German architect who designed most of the famous buildings in 19th century Athens. Ziller had bought the area where the marble stadium stood today in order to make archaeological excavations to find the old stadium. He had then gone bankrupt and in 1869 King George I had bought the land from him. Its current value ran into billions of drachmas.

39. In view of the above, the applicants argued that any past privileges and tax exemptions that might have been available to them or to their predecessors were of no relevance to the question of just satisfaction. In any event, they submitted that the calculations and figures put forward by the two reports prepared in this respect for the Government by Deloitte & Touche (see paragraphs 61–63 below) were both misconceived and incorrect. To support this allegation, the applicants referred to a report by Moore Stephens SA dated 16 November 2001, which considered in detail the above-mentioned reports and in which it was stated that “Deloitte & Touche [had] made a number of very serious errors” and that the figure put forward by them as the present monetary value of the hypothetical tax burden (i.e. GRD 197,500,000,000 - see paragraph 61 below) was “grossly exaggerated”. Moore Stephens SA calculated that figure as GRD 11,332,678,976. This amount was broken down as follows: Tatoi: GRD 10,317,035,084; Polydendri: GRD 308,285,634; Mon Repos: GRD 707,358,258.

(b) Non-pecuniary damage

40. The applicants stressed that they had been deeply hurt and humiliated by the fact and manner of the taking of their property, by the deprivation of property of great sentimental value, and by their continuing exclusion from access to the family graves at Tatoi (see paragraph 41 below). There was nothing political about their claims and they presented no threat to the Greek Republic, which the first applicant had several times acknowledged; yet they had been singled out for adverse and punitive treatment, which would not have been accorded to other Greek nationals. They argued that they should be compensated for such feelings of distress and public humiliation to the same extent as any other applicant whose Convention rights had been violated.

The royal graves

41. The applicants stressed in particular that their ancestors' graves, including those of the first and second applicants' parents, were at Tatoi. Their Greek Orthodox religion imposed on them “the obligation and privilege of honouring the dead by laying flowers on their graves and above all by holding annual religious [commemorations]”. The applicants were deeply religious and it was particularly distressing for them to have been prevented from visiting their ancestors' graves and observing this tradition and obligation. As a matter of Greek law, they were entitled to have access to the graves. They also produced photographs of the area to show that the graves did not remotely resemble a national monument, but were the simple graves of a “family buried together”.

2. Submissions by the Government in their observations dated 21 May 2001, 30 November 2001 and 16 April 2002

42. The Government submitted that “the finding of a violation by the Court or, alternatively, the award of a symbolic sum” could reasonably be considered just satisfaction for the applicants. In their view, the nature of the violation found by the Court in the present case was of paramount importance. In fact, the transfer of the properties at stake was closely linked with the change of the regime in Greece and the establishment of the Republic. It could not therefore be equated with an arbitrary infringement of property rights or a trivial interference with the peaceful enjoyment of an individual's possessions.

43. In view of the above, the Government first submitted that the claim for the return of the contested properties to the applicants was unsubstantiated. Nor could the applicants claim full compensation for the taking of their properties.

44. In that connection, the Government wished to remind the Court of the known European precedents in this field during the 20th century, that is regime changes from monarchies to the republican form of parliamentary government, namely in Portugal (1910), in Germany and Austria (1919), in Greece (1924), in Spain (1931) and in Italy (1946). Although there had been differences between these changes of regime, there was nevertheless a common feature that characterised the fate of the possessions of the members of the former royal families: with the exception of the private property of King Manuel II of Portugal, the private possessions of all former European monarchs or emperors had in one way or another been expropriated without compensation or without full compensation. Such long established practice, justified not by reasons of political expediency but in view of the privileges afforded in the past to the former royal families and the necessity to ensure the enforcement of radical constitutional changes (the abolition of monarchies), should be taken into account in the award of just satisfaction. The Court should not deny the right of the Greek State “to resolve an issue which it considered to be prejudicial for its status as a republic” (see paragraph 88 of the principal judgment), through the award of excessive compensation, the payment of which was likely to have very serious financial implications for the Hellenic Republic.

45. Should the Court consider, however, that compensation was owed for the damage allegedly suffered by the applicants, the Government made the following submissions.

(a) Pecuniary damage*(i) The scope of the applicants' claim as regards the Tatoï estate*

46. The Government contended that the applicants' claim for just satisfaction in relation to the Tatoï estate should exclude that part of the property which the first applicant had donated to the National Forest of Tatoï Foundation in 1992 (see paragraphs 37-39 of the principal judgment). More specifically, they argued that in their observations dated 13 April 2000 the applicants had stated that they made "no claim to the property of the National Forest of Tatoï Foundation". Therefore, the applicants' claim for just satisfaction was limited to 3,962,710 square metres, namely to that part of Tatoï that was neither sold nor donated by the first applicant under the 1992 agreement; as a result, a claim for the whole of Tatoï would be outside the scope of the application (*ultra petita*).

47. Further, the Government argued that it should be taken into account when assessing just satisfaction that a substantial part of the Tatoï property, namely the Bafi area, was not purchased by King George I but was conceded to him for a symbolic sum. The same applied to the Mon Repos estate, 97% of which had been donated to King George I by the Provincial Council of the island of Corfu in 1864.

(ii) Valuation

48. The Government emphasised from the outset that the only purpose of the preparation of the Lambert Smith Hampton report was to make possible the calculation of the hypothetical tax burdens on the properties at a time when the system of the objective value did not exist. In other words, the Government's intention had been to evaluate the precise amount of the tax exemptions enjoyed by the applicants throughout the reign of their family and, in particular, the inheritance tax that the applicants and their ancestors would have been called upon to pay if they had been treated as ordinary citizens, a status that the applicants claimed for themselves "whenever it [suited] them". In order to do so, the Government had first to assess the value of the contested estates at the relevant dates. The Lambert Smith Hampton report was in no way meant to be used for the purpose of the application of Article 41.

(a) Market value

49. The Government argued that a market valuation of the properties was not an appropriate method on which to base the Court's assessment of just satisfaction, for the following reasons.

– Substantial portions of the properties were forest lands, namely lands which had always been strictly protected under the Greek Constitution and,

as such, could not be exploited for urban development or other real estate purposes. More specifically, 90% of the Tatoí estate and 100% of the Polydendri estate were excluded from any commercial exploitation, since they had always been designated as forests. Moreover, the agricultural portions of Tatoí exceeded 250,000 square metres; therefore, according to the existing legislation (Law no. 2148/1952), they could not be freely transferred without the authorities' permission. Lastly, the Mon Repos estate was strictly protected as an archaeological area and the residence on it had been completely refurbished by the State and now accommodated a museum.

– The estates were so huge that it was impossible to find transactions of a comparable value in Greece, if not in Europe, which could be used as an appropriate reference for the purpose of calculating market value. In that connection, the Government submitted an appraisal report by American Appraisal (Hellas) Ltd., according to which the “open market value” of the contested estates amounted to the rounded sum of EUR 346,426,578, a considerably lower sum than the values suggested in the other experts' reports.

50. The Government further submitted that the inherent fluidity and uncertainty of market criteria was obviously the reason why the applicants themselves had made, over the years, profoundly diverging assessments of the estates' real value.

51. The Government concluded that, in view of the particular nature of the properties, the market value system of assessment was inappropriate to serve as a basis for the purposes of applying Article 41. Instead of elusive market criteria, more objective standards should be used as the starting point for the award of just satisfaction in the present case.

(b) Objective value

52. The Government argued that the system of “objective” values was far the more appropriate, provided that it was applied correctly. They pointed out that this system had first been introduced in Greece in 1982. Under the “objective” value system, taxable values for the purpose of transfers, donations and inheritances were calculated on the basis of a unit price; this price, which was fixed by the State upon proposals by independent experts' committees, was readjusted every two years at the latest to reflect the market value of estates and was also subject to judicial review. In 1990 the system of “objective” values had been extended to cover expropriations also; as from 1998 it also applied to properties located outside the existing town plans. The Government stressed that the State was bound by that system even when the method of calculation conflicted with its own interests.

53. The Government further observed that the applicants, although they now endorsed the market-value method, had initially stated in their

memorial dated 13 April 2000: “The Court may consider that it is convenient to use these values as the basis for assessing compensation so as to avoid the need for complex and lengthy proceedings in relation to the Article 41 claim for just satisfaction”. They had accordingly submitted a first report by Moore Stephens SA estimating the “objective” value of their estates at GRD 165,562,391,740. However, that assessment contained miscalculations and factual errors for each one of the properties.

54. In particular, the Government estimated the objective value of the estates as follows: Tatoi: GRD 7,429,746,426; Polydendri: GRD 10,683,544,050; Mon Repos: GRD 5,970,792,755.

55. They therefore contended that the calculation of the “objective” value of the estates contained in the second report by Moore Stephens SA produced by the applicants (i.e. GRD 92,762,992,030 – see paragraph 15 above) was closer to the accurate objective value of the estates; they observed however that the applicants persisted in taking into account the whole of the Tatoi property. In that connection the Government reiterated their argument that the Court could not admit this belated claim since it was bound by the requirement to avoid adjudicating *ultra petita*.

56. In sum, the Government submitted that, according to the “objective value” system of calculation, the aggregate value of the properties was GRD 24,084,083,231.

(iii) Past privileges and tax exemptions

57. The Government submitted that the pecuniary damage allegedly suffered by the applicants should be adjusted downwards in view of the privileges and other benefits awarded to the contested estates throughout the reign of the applicants' family in Greece. These privileges and tax exemptions afforded in the past to the royal family should be taken into account in order to make an accurate assessment of the applicants' claims for just satisfaction (see paragraph 98 of the principal judgment).

58. In particular, the Government observed that in the instant case the Court ruled that, prior to the 1994 law, the properties at stake were private properties owned by the applicants (see paragraphs 72, 73 and 77 of the principal judgment). However, under all legal systems, private properties were subject to taxation. More specifically, whenever a succession from generation to generation or a transfer from person to person occurred, private properties were subject to inheritance tax or transfer tax respectively, which were calculated in relation to the properties' size and value.

59. Therefore, the Government submitted that for the assessment of pecuniary damage, the Court could not ignore the fact that during the reign of the applicants' family their properties were fully exempted from inheritance tax. That was the case in each of the four successions to the Greek crown which had occurred since the death of the founder of the

dynasty, King George I, in 1913. The Government emphasised that two of these successions had not been successions from father to son, but from son to father (in 1920) and from brother to brother (in 1947). These successions would normally have been subject to substantially higher tax rates under Greek law.

60. The Government observed that prior to the hearing on the merits of the case of 14 June 2000, they had produced a preliminary report by Deloitte & Touche containing an estimation of the hypothetical burden relating to inheritance and property transfer tax pertaining to each one of the three estates. Calculated on the basis of the historical market value of the properties (which was assessed by Lambert Smith Hampton) and of the tax provisions in force at the time of each transfer, the report concluded with two alternative estimates.

61. According to the first estimate, the above-mentioned hypothetical burden amounted to GRD 197,500,000,000 on 31 December 1999. Deloitte & Touche had arrived at that conclusion by taking as the starting point the amount of the aggregate inheritance and transfer tax (i.e. the tax burden associated with the successive transfers of the properties from 1872 to 1964) that the applicants would have been asked to pay in the year of the last transfer, namely 1964, had they been treated as ordinary Greek citizens (i.e. GRD 251,000,000). Further, Deloitte & Touche's calculation had been based on annual compound interest and referred to the prevailing interest rate that was in force in Greece during the period 1964-1999 (namely the interest burden in a given year, computed on the amount of capital and interest accumulated as of the end of the previous year).

62. The Government noted that the applicants' experts, Moore Stephens SA, contested the method used by Deloitte & Touche for the calculation of these figures and estimated the amount of the hypothetical tax burden at GRD 11,300,000,000 approximately (see paragraph 39 above). However, as observed by Deloitte & Touche, the method used by the applicants' experts was not a proper method for calculating the applicants' hypothetical burden in real terms, because instead of taking into consideration the annual compound interest, they referred to the income that a normal bank account would yield.

63. For their second estimate, Deloitte & Touche had produced, instead of the aggregate amount of the applicants' hypothetical tax burden, the portion of the contested estates that the applicants would have had to sell in order to pay the corresponding taxes at the date of each transfer, if they had not been exempted from the payment of inheritance and property taxes. According to that method of calculation (which was confirmed by a final report prepared by Deloitte & Touche), the area of the three estates would have been reduced as follows: Tatoi: 73.15%; Mon Repos: 73.08%; Polydendri: 45.96%.

64. The Government noted that the applicants, though contesting the above figures, appeared to endorse the method used for their calculation. According to the applicants' experts (see page 3 of the Moore Stephens SA report of 16 November 2001), Tatoi would hypothetically have been reduced by 55.10%, Mon Repos by 66.74% and Polydendri by 33.66%. The Government observed that the applicants' most important deviation from their percentages concerned the estate of Tatoi. That deviation, however, was due to the fact that the applicants had erroneously based their calculation on the entire estate (see paragraphs 46 and 55 above).

65. For the other substantial privileges connected with the status of the properties during the reign of the applicants' family, including income tax exemptions, payment of maintenance and security costs and the like, the Government referred to their previous submissions to the Commission and the Court.

(iv) Movable property

66. The Government stated that in 1991 they had allowed the first applicant to remove from the Tatoi and Mon Repos residences the chattels stored therein. The first applicant had removed only a certain number of items in February 1991. The Greek State could not therefore be held responsible for any chattels that the first applicant did not want and did not remove although he was free to do so.

67. Moreover, the Government had compared the list of the chattels allegedly found by Christie's in Tatoi and Mon Repos in 1991 with the official permission granted by the National Gallery of Greece for the export of the applicants' paintings. From this comparison it appeared that numerous items actually claimed by the applicants had in fact been removed by them from Greece long ago.

68. Lastly, the Government submitted that, for the most part, these chattels did not constitute personal belongings but gifts offered to the first applicant and his ancestors in their capacity as Heads of State. They could not, therefore, be considered "possessions" within the meaning of Article 1 of Protocol No. 1.

(b) Non-pecuniary damage

69. The Government considered that the gravity of the prejudice caused to the applicants under the circumstances of the case was an important criterion for the award of just satisfaction, especially as regards the non-pecuniary damage allegedly suffered by them. They noted that the applicants' allegations that they were the victims of political persecution had been rejected by the Commission, which had also found that there had been no violation of the applicants' rights under Articles 3, 6 and 8 of the Convention (see the Commission's decision as to the admissibility of the application of 21 April 1998, unpublished), observing, on that point: "the

applicants' claims to the opposite appear most unfortunate taking into consideration the unconstitutional role played by the first applicant in the politics of Greece prior to his departure from the country in 1967: by appointing the colonels' government after the military coup of 21 April 1967, the former king undermined...the very foundations of parliamentary democracy and of the rule of law, that is the pillars of democratic government, whose protection constitutes the *raison d'être* of the Council of Europe”.

70. In view of the above, the Government submitted that “not a single Greek drachma could possibly be granted by the Hellenic Republic to the former monarch”, in view of the “highly political character of the applicants' claims”.

The royal graves

71. As regards in particular the problem of access to the royal graves, the Government considered it inappropriate to enter into a discussion with the applicants on the legal nature of the graves. Both under Greek and European law, royal graves were considered historical monuments, and as such they belonged to the State. In any event, the applicants were not prevented from visiting the graves of their ancestors whenever they wished. They should, however, comply with Law no. 2215/1994, whose provisions², “pertaining to the award of travel documents to the applicants as well as to the recognition of their citizenship by the Hellenic Republic”, had been found by the Commission to be in conformity with the Convention (see the Commission's decision as to the admissibility of the application, *op. cit.*).

3. The Court's assessment

(a) Pecuniary damage

72. The Court reiterates that a judgment in which it finds a breach imposes on the respondent State a legal obligation to put an end to the breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach (see *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 32, ECHR 2000-XI).

73. The Contracting States that are parties to a case are in principle free to choose the means whereby they will comply with a judgment in which the Court has found a breach. This discretion as to the manner of execution of a judgment reflects the freedom of choice attaching to the primary obligation of the Contracting States under the Convention to secure the rights and freedoms guaranteed (Article 1). If the nature of the breach allows of *restitutio in integrum*, it is for the respondent State to effect it, the Court having neither the power nor the practical possibility of doing so itself. If, on the other hand, national law does not allow - or allows only

partial - reparation to be made for the consequences of the breach, Article 41 empowers the Court to afford the injured party such satisfaction as appears to it to be appropriate (see *Brumărescu v. Romania* (just satisfaction) [GC], no. 28342/95, § 20, ECHR 2001-I).

74. In the principal judgment the Court held that the interference in question satisfied the requirement of lawfulness and was not arbitrary (see paragraphs 82, 88 and 90 of the principal judgment). The act of the Greek Government which the Court held to be contrary to the Convention was an expropriation that would have been legitimate but for the failure to pay any compensation (see paragraph 99 of the principal judgment).

75. The lawfulness of such a dispossession inevitably affects the criteria to be used for determining the reparation owed by the respondent State, since the pecuniary consequences of a lawful taking cannot be assimilated to those of an unlawful dispossession. In this connection, international case-law, of courts or arbitration tribunals, gives the Court valuable guidance; although that case-law concerns more particularly the expropriation of industrial and commercial undertakings, the principles identified in that field are valid for situations such as the one in the instant case. In the *Amoco International Finance Corporation* case the Iran-United States Claims Tribunal stated, referring to the judgment of the Permanent Court of International Justice in the *Case Concerning the Factory at Chorzów*³, that:

“a clear distinction must be made between lawful and unlawful expropriations, since the rules applicable to the compensation to be paid by the expropriating State differ according to the legal characterisation of the taking.” (*Amoco International Finance Corporation v. Iran*, Interlocutory Award of 14 July 1987, Iran–U.S. Claims Tribunal Reports (1987–II), § 192)

76. A very similar stand was taken by the Court in the case of *Papamichalopoulos and Others v. Greece*. In that case the Court found a violation on the basis of an irregular *de facto* expropriation (occupation of land by the Greek Navy since 1967) which had lasted more than twenty-five years by the date of the principal judgment of 24 June 1993. In its judgment on just satisfaction, the Court held:

“...the unlawfulness of such a dispossession inevitably affects the criteria to be used for determining the reparation owed by the respondent State, since the pecuniary consequences of a lawful expropriation cannot be assimilated to those of an unlawful dispossession.”

Consequently, the Court ordered the Greek State to pay the applicants “for damage and loss of enjoyment since the authorities took the possession of the land in 1967, the current value of the land, increased by the appreciation brought about by the existence” of certain buildings which had been erected on the land since the occupation, as well as the construction costs of those buildings (*Papamichalopoulos and Others v. Greece* (Article 50), judgment of 31 October 1995, Series A no. 330-B, p. 59, §§ 36 and 39).

77. In view of the above, the Court is of the opinion that in the present case the nature of the breach found in the principal judgment does not allow the Court to proceed on the basis of the principle of *restitutio in integrum* (see, *a contrario*, the *Papamichalopoulos and Others v. Greece* (Article 50) judgment, *op. cit.*). That said, the Government are of course free to decide on their own initiative to return all or part of the properties to the applicants.

78. However, in case of non-restitution, the compensation to be fixed in the present case need not, unlike in the above-mentioned cases concerning *per se* illegal dispossessions, reflect the idea of wiping out all the consequences of the interference in question. As the lack of any compensation, rather than the inherent illegality of the taking, was the basis of the violation found, the compensation need not necessarily reflect the full value of the properties. In its search for appropriate compensation the Court must seek guidance in the general standards expressed in its case-law on Article 1 of Protocol No. 1, according to which a taking of property without payment of an amount reasonably related to its value would normally constitute a disproportionate interference which could not be considered justifiable under Article 1 of Protocol No. 1 (see the *James and Others v. the United Kingdom* judgment of 21 February 1986, Series A no. 98, p. 36, § 54). However, while it is true that even in many cases of lawful expropriation, such as a distinct taking of land for road construction or other public purposes, only full compensation may be regarded as reasonably related to the value of the property, this rule is not without exceptions. As stated in the *James v. the United Kingdom* case cited above, legitimate objectives of “public interest”, such as pursued in measures of economic reform or measures designed to achieve greater social justice, may call for less than reimbursement of the full market value (*ibid.*). The Court considers that less than full compensation may be equally, if not *a fortiori*, called for where the taking of property is resorted to with a view to completing “such fundamental changes of a country's constitutional system as the transition from monarchy to republic” (see paragraph 87 of the principal judgment).

79. In conclusion, unless the Government decide on their own initiative to return the properties to the applicants, the Court deems it appropriate to fix a lump sum based, as far as possible, on an amount “reasonably related” to the value of the property taken, i.e. an amount which the Court would have found acceptable under Article 1 of Protocol No. 1, had the Greek State compensated the applicants. In determining this amount the Court will take into account the claims of each applicant, the question of the movable property, the valuations submitted by the parties and the possible options for calculating the pecuniary damage, as well as the lapse of time between the dispossession and the present judgment. The Court considers that in the unique circumstances of the present case resort to equitable considerations is particularly called for.

(i) The claims of each applicant

80. For the purposes of assessing the pecuniary damage suffered, the applicants asked the Court to have regard to the position of each individual applicant. The Court has taken note of the applicants' situation. It is clear that the compensation for the pecuniary damage suffered mainly concerns the first applicant. Although it would be possible to fix an overall sum which the applicants would have to share among themselves on the basis of their respective ownership rights, the Court considers that it is preferable, given the circumstances of the case, to fix separate awards for each applicant.

As regards in particular the claim in respect of the Tatoï estate

81. The Court accepts the applicants' submission that the whole of Tatoï should be taken into account for the assessment of just satisfaction. In its principal judgment it found that Law no. 2215/1994 was valid and that the land which had been donated to the Foundation in 1992 remained with the first applicant when the 1994 law was passed (see paragraphs 71-72 of the principal judgment). It would therefore be inconsistent to suggest that, although the 1992 agreement was repealed by a later law, its legal consequences were still valid and should be taken into account for the assessment of just satisfaction. The Court will therefore take into account the whole of the Tatoï estate.

As regards the ways in which Tatoï and Mon Repos were acquired

82. The Court notes the Government's submission that it should bear in mind when assessing just satisfaction that a substantial part of the Tatoï property, namely the Bafi area, was not purchased by King George I but was conceded to him for a token sum and that the same should apply to the Mon Repos estate, 97% of which had been donated to King George I by the Provincial Council of the island of Corfu in 1864.

83. In the principal judgment, the Court held that, notwithstanding the manner of acquisition of the lands in question, the Tatoï and Mon Repos estates belonged to the first applicant before the entry into force of Law no. 2215/1994 (see paragraphs 70, 76, 77 and 78 of the principal judgment). Therefore, it considers that the manner of acquisition of the properties cannot deprive the first applicant of his right to compensation; it may, though, be taken into account for the determination of the level of compensation.

(ii) The movable property

84. The Court notes that the parties are in disagreement as regards both the nature of the chattels and the number of items which remain at Tatoi. As a matter of principle, the Court considers that the first applicant should be compensated for his personal belongings that are still in Greece. However, it is not its task to make an itemised assessment of their value. The Court notes in this respect that it is intended that a special committee will be formed to perform that work. Nonetheless, the Court does not consider it necessary to postpone the determination of just satisfaction in relation to the chattels until after completion of the proposed exercise. The lump sum to be fixed to compensate on an equitable basis the pecuniary damage sustained will also cover the question of the chattels.

(iii) The possible options for calculating the pecuniary damage

85. In calculating the pecuniary damage, the Court considers that two basic questions must be posed: (a) Which method to choose? and (b) Should the amounts arrived at be adjusted downwards in view of the privileges and other benefits afforded in the past to the royal family?

(a) The method for calculating the pecuniary damage

86. To start with, the Court must choose its method of calculation, namely whether it will base its assessment on the market or the “objective” value of the properties. In the Court's view, the valuation method to be chosen must be one that, had it been applied by the Greek State when the 1994 law was enacted, would have produced compensation that met the standards identified by the Court.

87. It is useful to recall at this point the various amounts arrived at by the parties when using the above methods of calculation.

The market value

88. The Court notes that the experts' reports as regards the market value of the estates arrive at the following amounts.

<u>Lambert Smith Hampton</u> (submitted on behalf of the Government):	GRD 187,592,000,000	EUR 550,526,779.16
<u>FPD Savills</u> (submitted on behalf of the applicants):	GRD 161,100,000,000	EUR 472,780,630.96
<u>American Appraisal Hellas Ltd.</u> (submitted on behalf of the	—	EUR 346,426,578

Government)		
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89. The Court is unable to accept this method of valuation. To start with, it notes the wide gaps between the parties' calculations and even between the estimates of the Government's own valuers. In fact, the Court has become aware of the difficulties in calculating the market value of the properties; for example, a degree of artificiality would be involved in the assumption that there would be a willing buyer for the estates concerned (see the *Lithgow and Others v. the United Kingdom* judgment of 8 July 1986, Series A no. 102, p. 54, § 129). The Court is persuaded that the three properties, and in particular Tatoi and Mon Repos, are wholly unsuitable for any commercial exploitation.

90. Moreover, the Court recalls that full compensation is not the standard applicable in the circumstances of the present case (see paragraphs 78 and 79 above). Further, the Court cannot make an award which would exceed the amount that would have been acceptable in terms of Article 1 of Protocol No. 1, had the Greek State compensated the applicants.

The “objective” value

91. The Court notes that the parties' estimates as regards the “objective” value of the estates may be recapitulated as follows.

Government:	GRD 24,084,083,231	EUR 70,679,627.97
Applicants:	GRD 92,762,992,030	EUR 272,231,818.14

92. These amounts are broken down as follows.

	<u>Tatoi</u>	
Government:	GRD 7,429,746,426	EUR 21,804,098.10
Applicants:	GRD 67,555,055,225	EUR 198,254,013.87

	<u>Polydendri</u>	
Government:	GRD 10,683,544,050	EUR 31,353,027.99
Applicants:	GRD 19,237,144,050	EUR 56,455,301.69

	<u>Mon Repos</u>	
Government:	GRD 5,970,792,755	EUR 17,522,502.58
Applicants:	GRD 5,970,792,755	EUR 17,522,502.58

93. Though at first view there is a great disparity in the parties' estimates as regards the “objective” value also, the Court observes that these differences are mainly due to the fact that the Government took into account only 3,962,710 square metres of the Tatoi estate whereas the applicants calculated on the basis of the whole of Tatoi (which is approximately 41,000,000 square metres – see paragraphs 68-72 of the principal judgment). Had the Government calculated on the basis of the whole of Tatoi, they would have arrived at an amount very close to that proposed by the applicants. There is also a difference of GRD 8,553,600,000 (EUR 25,102,274.39) as regards the Polydendri estate, which the applicants' valuers, Moore Stephens SA, sought to justify in extensive submissions. Lastly, the Court notes that the parties agree on the value of Mon Repos.

94. In view of the above considerations, and also of the fact that this system is based on more objective standards and that the parties seem to endorse similar methods of calculation, the Court proposes to take as the starting point the parties' estimates as to the “objective” value of the estates.

- (b) Downwards adjustment of the amounts arrived at in view of the privileges and other benefits afforded in the past to the royal family

95. The Court recalls that in paragraph 98 of its principal judgment it held:

“...as regards the Government's argument that the issue of compensation was indirectly covered, the Court notes first that compensation provided for by Legislative Decree No. 225/1973 is irrelevant to the instant case, Law No. 2215/1994 being the sole legal basis of the interference of which the applicants complain. Nor can the circumstances to which the Government refer be regarded as payment of compensation. In this respect the Court agrees with the applicants when they argue that in the context of the expropriation in question there are no reciprocal or mutual debts to be set off against each other. The privileges afforded in the past to the royal

family or the tax exemptions and the writing-off of all the debited taxes owed by the former royal family, have no direct relevance to the issue of proportionality, but could possibly be taken into account in order to make an accurate assessment of the applicants' claims for just satisfaction under Article 41 of the Convention".

96. In view of that ruling, the Court agrees with the Government when they argue that the pecuniary damage allegedly suffered by the applicants should be adjusted downwards in view of the privileges and other benefits awarded in the past to the properties in question.

97. However, the Court considers that the pecuniary loss cannot be calculated as merely the arithmetical difference between the "objective" value of the properties and the present monetary value of the hypothetical tax burden, since that would be tantamount to the retrospective imposition of taxes on the former royal family by the Court.

98. In particular, it is true that in order to make an accurate assessment of the applicants' claims for just satisfaction, the Court cannot ignore the special circumstances surrounding the abolition of the monarchy; however, the "hypothetical tax burden" and the privileges afforded in the past to the applicants' family can only serve as indications for the reduction of the amounts awarded. It is useful to recall the parties' submissions on that issue.

<u>Government:</u>	GRD 197,500,000,000	EUR 579,603,815.11
<u>Applicants:</u>	GRD 11,332,678,976	EUR 33,258,045.42

99. It is clear that at this point there is a great disparity in the parties' estimates. The Court agrees with the applicants' valuers when they argue that the figures put forward by the Government are "grossly exaggerated". To accept these figures would mean that the applicants owe the Greek State a sum (GRD 197,500,000,000 – EUR 579,603,815.11) which is even higher than the market value of the properties (GRD 187,592,000,000 – EUR 550,526,779.16) as calculated by the Government's own valuers, Lambert Smith Hampton. The Court is not prepared to accept that conclusion.

100. In view of all the above considerations, the Court awards the applicants on an equitable basis, as required by Article 41 of the Convention, the following amounts in compensation for the pecuniary damage sustained: to the first applicant EUR 12,000,000; to the second applicant EUR 900,000; to the third applicant EUR 300,000.

(b) Non-pecuniary damage

101. The Court wishes to emphasise that it is not its task to examine either the role played by the first applicant in the politics of Greece prior to his departure from the country in 1967 or the reasons that led up to the abolition of the monarchy in 1974. Although the Court cannot ignore the political features of the case, and has not done so, it is certainly not its role to enter into a discussion with the parties as to who is to be blamed for the dispute between them.

102. That said, the Court considers that, having regard to what is at stake in the case and all its special features, no special issue arises in relation to non-pecuniary damage, including the question of access to the royal graves.

B. Costs and expenses

103. The applicants claimed GBP 983,851.47 for the costs and expenses incurred by them in vindicating their Convention rights. They submitted detailed schedules setting out the costs and expenses incurred in the proceedings before the Commission and the Court.

104. The Government submitted that the amounts claimed were exorbitant and insufficiently substantiated; in any event, the fees were much higher than those normally necessary for the handling of a case before the Convention institutions.

105. According to the Court's established case-law, costs and expenses will not be awarded under Article 41 unless it is established that they were actually incurred, were necessarily incurred and were also reasonable as to quantum (see *Iatridis v. Greece* (just satisfaction), *op. cit.*, § 54). Furthermore, legal costs are only recoverable in so far as they relate to the violation found (see *Beyeler v. Italy* (just satisfaction) [GC], no. 33202/96, § 27, 28 May 2002).

106. The Court does not doubt that the fees claimed were actually incurred. However, it agrees with the Government that the total costs claimed under that head appear excessive. Moreover, the Court notes that the Commission dismissed an important part of the applicants' complaints.

107. The Court therefore considers that the costs incurred by the applicants before the Convention institutions should be reimbursed to them only in part. Having regard to the circumstances of the case, the rates applied in the United Kingdom and the special complexity of the question of the application of Article 41, the Court considers it reasonable to award the applicants jointly EUR 500,000, including value added tax.

C. Default interest

108. The Court considers that the default interest should be fixed at an annual rate equal to the marginal lending rate of the European Central Bank plus three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY**1. Holds**

(a) that the respondent State is to pay the applicants, within three months, the following amounts:

(i) to the first applicant EUR 12,000,000 (twelve million euros) in respect of pecuniary damage;

(ii) to the second applicant EUR 900,000 (nine hundred thousand euros) in respect of pecuniary damage;

(iii) to the third applicant EUR 300,000 (three hundred thousand euros) in respect of pecuniary damage;

(iv) to the three applicants jointly EUR 500,000 (five hundred thousand euros) in respect of costs and expenses, including value added tax;

(b) that simple interest at an annual rate equal to the marginal lending rate of the European Central Bank plus three percentage points shall be payable from the expiry of the above-mentioned three months until settlement;

2. Dismisses the remainder of the applicants' claim for just satisfaction.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 28 November 2002.

Luzius WILDHABER
President

Paul MAHONEY
Registrar

NOTES

1. Article 5 § 1 of Law no. 2215/1994 provided that taxes already assessed were written off. All legal proceedings pending before the administrative courts or the Supreme Administrative Court in respect of inheritance and other taxes, surcharges and penalties were discontinued. Amounts paid by the former King and other members of the royal family in respect of tax might be claimed back from the Greek State, but the State might oppose any set-off of such a claim against any claim of the State against the royal family.

2. Law no. 2215/1994 imposed preconditions for the continued recognition of the Greek nationality of the former King and the royal family, and for the retention of their Greek passports:

- A declaration had to be submitted to the Registrar of Births, Marriages and Deaths of Athens to the effect that the former King and the royal family unreservedly respected the 1975 Constitution and accepted and recognised the Greek Republic.
- A further declaration had to be submitted to the Registrar to the effect that the former King and the royal family unreservedly waived any claim relating to the past holding of any office or possession of any official title.
- The former King and the members of the royal family had to register in the Municipal Register of Citizens under a name and a surname.

3. In that case, the Permanent Court of International Justice held that “...reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed. Restitution in kind, or, if this is not possible, payment of a sum corresponding to the value which a restitution in kind would bear; the award, if need be, of damages for loss sustained which would not be covered by restitution in kind or payment in place of it – such are the principles which should serve to determine the amount of compensation due for an act contrary to international law.” (judgment of 13 September 1928, Collection of Judgments, Series A no. 17, p. 47)