



Restrictions on the use of a car repair workshop pending an evaluation of the building's cultural heritage were protracted and unreasonable

In today's **Chamber** judgment¹ in the case of [Petar Matas v. Croatia](#) (application no. 40581/12) the European Court of Human Rights held, by five votes to two, that there had been:

a violation of Article 1 of Protocol No. 1 (protection of property) of the European Convention on Human Rights.

The case concerned the Croatian authorities' decision to restrict Mr Matas' use of a building he owned and used as a car repair workshop pending an evaluation of its cultural value.

The Court came to the conclusion that the Croatian authorities had failed to protect Mr Matas' property rights and to resolve the status of his building in a timely manner. Indeed, it had reservations about the authorities' conduct in Mr Matas' case: firstly, two measures of preventive protection had been applied to Mr Matas' building over a period of six years, without any assessment as to the value of its cultural heritage having apparently been taken by the authorities during that time; secondly, the authorities had neither informed him of the necessity to order those measures, nor transmitted their decisions to him; and finally even though Mr Matas, on becoming aware of the second measure, had clearly outlined in an administrative action the impact of the restrictions on his commercial projects for the workshop, no assessment was made as to whether the protracted application of the measures had disproportionately affected his property rights.

Principal facts

The applicant, Peter Matas, is a Croatian national who was born in 1953 and lives in Split (Croatia).

Mr Matas bought a State-owned building in the city of Split in 2001, which he then turned into a car repair workshop.

In March 2003 the Department for the Conservation of Cultural Heritage of Split ("the Split Department") ordered a three-year preventive protection measure on his building, which appeared to be a rare example of early industrial architecture, pending the final evaluation of its cultural value. In January 2007 the Split Department decided that it was necessary to extend the measure for another three years because it had been unable to obtain an excerpt from the land registry of the Split Municipal Court concerning the building. Both decisions ordering preventive protection were registered in the land registry but Mr Matas was never informed of them.

In October 2007, on becoming aware of the second measure of preventive protection, Mr Matas decided to challenge the extended application of the measure before the Ministry of Culture. He claimed that under the Cultural Heritage Act of Croatia the duration of such a measure was limited to only three years. His appeal was however dismissed as unfounded in January 2008.

Mr Matas thus lodged an administrative action two months later, challenging the lawfulness of the measure and requesting 200,000 euros compensation for being prevented from selling his building

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

or setting up another business. His request was refused in May 2011, on the ground that the measure had been justified given the need to carry out further assessments as to the importance of the building's cultural heritage.

In the meantime, the Split Department decided that the building should not be registered as an object of cultural heritage. Mr Matas' subsequent constitutional complaint was also unsuccessful.

Complaints, procedure and composition of the Court

Relying on Article 1 of Protocol No. 1 (protection of property) to the Convention, Mr Matas complained that the restriction on the use of his car repair workshop had been unlawful and unreasonable.

The application was lodged with the European Court of Human Rights on 14 June 2012.

Judgment was given by a Chamber of seven judges, composed as follows:

Işıl Karakaş (Turkey), *President*,
Nebojša Vučinić (Montenegro),
Paul Lemmens (Belgium),
Valeriu Griţco (the Republic of Moldova),
Ksenija Turković (Croatia),
Stéphanie Mourou-Vikström (Monaco),
Georges Ravarani (Luxembourg),

and also Stanley Naismith, *Section Registrar*.

Decision of the Court

[Article 1 of Protocol No. 1 \(protection of property\)](#)

The Court noted that the authorities had been aware that Mr Matas had bought the building for commercial use and that, at the time he had purchased it, there had been nothing to indicate that measures of protection for cultural heritage purposes would be applied.

Furthermore, although the preventive protection measures had not deprived Mr Matas of his workshop, they had entailed a number of significant restrictions on the use of his property, including its commercial use as he saw fit. That measure of control, based on section 10 of the Cultural Heritage Act, had been prescribed by law and pursued the legitimate aim of protecting and promoting the historical, cultural and artistic roots of a region and its inhabitants.

However, the Court found that such an interference with Mr Matas' property rights for cultural heritage reasons had fallen short of the requirements under the European Convention of the protection of his right to property. It pointed out in particular reservations it had about two aspects of the authorities' conduct in Mr Matas' case.

Firstly, although two measures of preventive protection had been applied to Mr Matas's building over a period of six years, no measurements, assessments or studies as to the value of its cultural heritage had apparently been taken by the authorities during that time. The Court could not accept the justification for such a protracted application of the preventive measures – namely, the alleged inability to obtain an excerpt concerning the building from the land registry of the Split Municipal Court. Indeed, land registry data are public information which are readily obtainable via Internet and other means.

Secondly, there were several procedural omissions relating to the manner in which the domestic authorities had conducted the proceedings in Mr Matas' case. When ordering the measures of

preventive protection in March 2003 and January 2007, the local authorities had not informed Mr Matas of the necessity to order those measures, nor had they transmitted their decisions to him. They had therefore failed to take into account his views on the matter and the impact that those measures would have on his property rights. Furthermore, despite his clear arguments regarding the impact of the restrictions on his commercial projects for the workshop, the Administrative Court had failed to assess whether the protracted application of the measures of preventive protection had disproportionately affected his property rights. Nor had any omissions by the Administrative Court then been remedied by the Constitutional Court.

The Court therefore concluded that there had been a violation of Article 1 of Protocol No. 1 to the Convention.

Article 41 (just satisfaction)

The Court held that no compensation was to be awarded to Mr Matas as he had failed to submit and specify his just satisfaction claim within the fixed time-limit.

Separate opinion

Judges Lemmens and Ravarani expressed a joint dissenting opinion which is annexed to the judgment.

The judgment is available only in English.

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Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

George Stafford (tel: + 33 3 90 21 41 71)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.