



Moratorium on former Bulgarian royals' commercial use of their forestland violated their rights

In today's **Chamber judgment**¹ in the case of [Sakskoburggotski and Chrobok v. Bulgaria](#) (application no. 38948/10) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 1 of Protocol No. 1 (protection of property) of the European Convention on Human Rights on account of the ban on any commercial exploitation of their forestland, and

a violation of Article 6 § 1 (right to a fair trial), and

reserved the question of just satisfaction under Article 41 (just satisfaction)

The case concerned the attempts by the former King of Bulgaria, Simeon II, and his sister, a former princess, to have property that had been under the Crown restored to them, and a moratorium on the transfer and on the commercial exploitation of former Crown property imposed in 2009.

The Court found in particular that the actions by the Bulgarian authorities had placed a disproportionate individual burden on the applicants. The measures had been extraordinary, given that legislation providing for the conservation of forests had already been in place, had lasted too long, and had not been amenable to judicial review, leading to a violation.

Principal facts

The applicants, Simeon Borisov Sakskoburggotski and Maria-Luisa Borisova Chrobok, are Bulgarian nationals who were born in 1937 and 1933 and live in Sofia and the United States of America respectively. They are siblings.

In 1943 Mr Sakskoburggotski was crowned Simeon II, King of Bulgaria. Ms Chrobok was a royal princess. In 1946 the monarchy was abolished by the communist regime, with the royal family leaving the country. In 2001 Mr Sakskoburggotski formed a political party and became prime minister of Bulgaria until 2005, with his party remaining in a governing coalition until 2009.

In 1947 all crown properties were transferred to the State pursuant to an Act introduced at that time. In 1998 that Act was found to be contrary to the right of property and the prohibition of discrimination set down in the Constitution, leading the applicants to seek the restitution of former properties of the Crown.

The applicants claimed, among other property, the following: their aunt, Princess Evdokia's house on a property in Sofia measuring 7,185 sq. m; six large estates around the country, which also contained buildings including palaces (for example, the estate in Vrana measured 992,672 sq. m and also contained a palace and annexes; that in Krichim measured 371,500 sq. m and again contained a palace and other buildings); and forestland measuring 2,150 hectares in total. They were able to obtain possession of most of the properties, although there remained issues around the forestland.

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.

In 2009, Parliament imposed a moratorium on transfer or commercial exploitation by the applicants of property considered to have been restituted to them, which is still in force.

Separate court proceedings were commenced afterwards by either the State or the applicants concerning five of the estates and the forestland, which went through several levels of jurisdiction. The courts confirmed the applicants' ownership of the estate in Bistritsa. However, to date they have been unable to get satisfaction in the other cases, with the cases concerning the forestland and the Vrana estate still pending. In particular, concerning the estates in Saragyol and Sitnyakovo the courts found that the applicants could not be considered the owners as their ancestors – the former kings – had not owned the properties in a private capacity, and that even if they had, there were no grounds to consider the properties subject to restitution..

Complaints, procedure and composition of the Court

Relying on Articles 1 of Protocol No. 1 (protection of property), 13 (right to an effective remedy), 6 § 1 (right to a fair trial) and 14 (prohibition of discrimination) of the Convention, the applicants complained, in particular, of the domestic courts' findings in respect of the Saragyol and Sitnyakovo estates, of the legal moratorium on any transfer of property and on the commercial exploitation of the properties in their possession, and of discrimination against them on the basis of origin and social position.

The applications were lodged with the European Court of Human Rights on 16 June 2010 and 13 January 2017.

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

Tim Eicke (the United Kingdom), *President*,
Armen Harutyunyan (Armenia),
Gabriele Kucsko-Stadlmayer (Austria),
Pere Pastor Vilanova (Andorra),
Jolien Schukking (the Netherlands),
Ana Maria Guerra Martins (Portugal) and,
Maiia Petrova Rousseva (Bulgaria), *ad hoc Judge*,

and also Andrea Tamietti, *Deputy Section Registrar*.

Decision of the Court

Articles 1 of Protocol No. 1 and 6 § 1

The Court rejected as inadmissible some of the applicants' complaints under Article 1 of Protocol No. 1, including those concerning the restitution of the Saragyol and Sitnyakovo estates, only finding admissible the complaint concerning the ban on the commercial exploitation of the forestland. It noted that prior to 2009 the applicants had had a forestry plan approved. That had been scotched by the moratorium imposed that year, constituting an "interference" with the applicants' "possessions". The Court was satisfied that the interference had been prescribed by law and had had the aim of protecting forests in the public interest.

Concerning the proportionality of the measures, however, the Court found that the Government had failed to justify the broad measures it had instituted to protect the forestland, rather than using the legislation already in place; that the Property Act had provided, in principle, sufficient protection to the State's claimed property rights; that the duration of the interference with the applicants' property rights had been overlong – especially considering it had been intended to be temporary –

causing uncertainty for the applicants; and that the applicants had had no possibility to contest the restrictions imposed on them.

The Court found that the ban on commercial exploitation of the applicants' forestland had been disproportionate and had imposed an excessive individual burden on them.

Accordingly, there had been a violation the applicants' rights under Article 1 of Protocol No. 1.

The Court reaffirmed that Article 6 § 1 secured to everyone the right to have a claim relating to his or her civil rights and obligations brought before a court. That right of access to a court had to be practical and effective.

The moratorium of 2009 had not been open to judicial review. The Court considered that the judicial proceedings concerning their title to property had not provided adequate access to a court. The Court thus found a violation of the applicants' rights under Article 6 § 1 owing to the denial to them of access to a court.

Other articles

The Court did not consider it necessary to examine the claims under Article 13.

Just satisfaction (Article 41)

The Court reserved the question of just satisfaction owing to the possibility of an agreement being reached between the parties. The Court held that Bulgaria was to pay the applicant 5,000 euros (EUR) in respect of costs and expenses.

The judgment is available only in English.

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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.