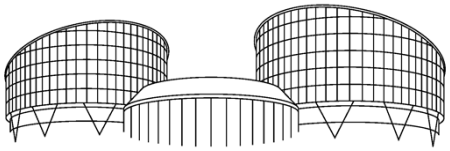

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF GEGLIS v. LITHUANIA

(Application no. 52815/15)

JUDGMENT
(*Merits*)

STRASBOURG

18 December 2018

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

In the case of Geglis v. Lithuania,

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

Paulo Pinto de Albuquerque, *President,*
Egidijus Kūris,
Iulia Antoanella Motoc, *judges,*
and Andrea Tamietti, *Deputy Section Registrar,*

Having deliberated in private on 27 November 2018,

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

PROCEDURE

1. The case originated in an application (no. 52815/15) against the Republic of Lithuania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Lithuanian national, Ms Danuta Geglis ("the applicant"), on 19 October 2015.

2. The applicant was represented by Ms A. Saulėnienė, a lawyer practising in Vilnius. The Lithuanian Government ("the Government") were represented by their Agent, Ms K. Bubnytė-Širmenė.

3. The applicant alleged that her property rights to part of her father's land had not been restored and that the restitution process had been unreasonably lengthy, in breach of Article 1 of Protocol No. 1 to the Convention.

4. On 1 December 2017 the above complaints were communicated to the Government and the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1953 and lives in Vilnius.

A. Decisions on restoration of the applicant's property rights

6. On 30 October 1991 the applicant's sister applied for the restoration of her property rights to her late father's land, which was located in Pylimėliai village, city of Vilnius. She indicated that the applicant was also a successor to the same plot of land.

7. It appears that the applicant's father had owned some land in Pylimėliai village. According to the most recent information available to the Court, the exact plot of land he had owned was 6.0961 hectares. It appears that the applicant's restitution process took two directions: at first she agreed to receive part of the land in the Vilnius region and then she asked to receive another 0.32 hectares in the Vilnius region, and she wanted to receive some land in the city of Vilnius (see paragraphs 8-22 below).

1. Restoration of the applicant's property rights in the Vilnius region

8. On 26 May 2000 the applicant asked the authorities to restore her property rights to her father's land by giving her plots of land of equivalent value in the Vilnius region.

9. By a decision of 6 April 2001, the applicant's property rights were restored in respect of 0.2420 hectares of her father's land by attributing to the applicant a plot measuring 0.5124 hectares in the Vilnius region.

10. On 19 May 2006 the authorities established that the applicant had a right to restore her title to 0.32 hectares of her father's land. It appears that they did so following an application lodged by the applicant to have her right to a plot of land of 0.32 hectares transferred from Vilnius to the Vilnius region.

11. On 17 November 2014 the applicant was informed that she could have her property rights restored to her father's land by receiving a plot of forest in a rural area. She had to apply before 1 March 2015. On 27 February 2015 the applicant informed the authorities that she wanted her property rights restored by receiving a plot of forest in Didžioji Riešė.

12. On 30 July 2015 the National Land Service ("the NLS") decided to restore the applicant's property rights to 0.0315 hectares of her father's land by transferring her right to a plot of land of 0.1599 hectares. It was indicated in the decision that her rights to the remaining 0.2884 hectares would be restored later.

13. On 30 August 2016 the NLS held a meeting to consider the location where the applicant had chosen two plots of land.

14. On 26 February 2018 the NLS held a meeting to consider the location where the applicant had chosen four plots of land. It appears that no decision as to the restoration of the remaining land was adopted.

15. It appears that at the date of the latest information available to the Court (17 September 2018), the applicant's property rights to 0.2884 hectares of her father's land had not yet been restored.

2. Restoration of the applicant's property rights in the city of Vilnius

16. On 27 December 2001 the applicant applied for the restoration of her property rights to her father's land by returning to her 0.2 hectares of land in Vilnius, either in the former Pylimėliai village or in Antakalnis. It appears

that this request was the change of her initial wish as regards the form of restitution (see paragraph 8 above).

17. On 20 March 2003 the applicant asked the authorities to return to her in kind the remaining part of her father's land in Pylimėliai, Vilnius. It appears that this request was another change of her wish as regards the form of restitution (see paragraph 16 above).

18. On 27 June 2005 the Vilnius County Administration ("the VCA") restored the applicant's property rights to 0.0973 hectares of her father's land by transferring to her a plot of land in Vilnius for the construction of an individual house. On 10 February 2006 the VCA restored the applicant's property rights to 0.0544 hectares of her father's land by transferring to her eleven plots of land in the former Pylimėliai village.

19. On 2 May 2012 the applicant informed the authorities that she would not accept monetary compensation as a form of restitution and that she wanted to restore her property rights to her father's land *in natura*. She also asked what actions she had to take in order to receive the land.

20. On 23 April 2013 the NLS restored the applicant's property rights to 0.0005 hectares of her father's land.

21. On 19 July 2016 the NLS restored the applicant's property rights to 0.0042 hectares of land by returning to her *in natura* four plots of land measuring 0.0042 hectares in total.

22. On 5 January 2018 the NLS restored the applicant's rights to 0.0078 hectares of land by returning to her *in natura* two plots of land measuring 0.0078 hectares in total. It was indicated that the applicant's property rights to the remaining 0.2898 hectares would be restored later. It appears that at the date of the latest information available to the Court (17 September 2018), the applicant had not yet received those 0.2898 hectares of land.

B. Court proceedings on the restoration of the applicant's property rights

23. On 4 November 2004 the Vilnius Regional Administrative Court examined a claim lodged by the applicant that the VCA had been protracting the adoption of a decision on the restoration of her property rights in Vilnius. The court found that the authorities had asked the applicant to provide a document which she had in fact already provided and held that the authorities had failed to act in due time in the process of restoring her property rights. The court ordered the authorities to act in accordance with domestic law and to proceed with the restitution process.

24. On 3 June 2005 the Vilnius Regional Administrative Court examined another claim lodged by the applicant that the VCA had been protracting the adoption of a decision on the restoration of her property rights. She asked the court to oblige the VCA to return to her

0.7730 hectares of land. The court held that the authorities had been inactive and ordered them to issue a decision restoring the applicant's property rights within three months of the date on which the aforementioned court decision had become final (see paragraph 36 below).

25. The VCA appealed against that decision. On 11 October 2005 the Supreme Administrative Court upheld the first-instance decision.

26. On 10 April 2009 the Vilnius Regional Administrative Court examined a third complaint lodged by the applicant regarding the inactivity of the authorities in the process of restoration of her property rights. The applicant asked the court to oblige the VCA to restore her property rights to 0.3013 hectares of land in Vilnius and to 1.72 hectares in the Vilnius region, as well as to award her 10,000 Lithuanian litai (LTL, approximately 2,896 euros (EUR)) in respect of non-pecuniary damage. The court held that the applicant had submitted several requests in 2006 asking the VCA to proceed with the restoration of her property rights; however, the latter had refused to act. Moreover, the authorities' decision of 19 May 2006 (see paragraph 10 above) had remained unenforced. It was explained to the applicant that several measures had yet to be carried out in order to proceed. The court held that the applicant had to be included on the list of citizens wishing to receive land in Didžioji Riešė, but that due to the authorities' inactivity, she had not been included on the list. The court also found that she still had a right to the restoration of her title to 0.6223 hectares of land and that the restitution process in her case had been going on for more than eighteen years. The court ordered the VCA to issue a decision restoring the applicant's property rights to 0.6223 hectares of land within three months of the date on which the aforementioned court decision became final. As regards compensation, the court awarded the applicant EUR 579 in respect of non-pecuniary damage.

27. The authorities appealed. On 14 June 2010 the Supreme Administrative Court found that the first-instance court had made some mistakes in calculating the time-limits for submission of a claim, and remitted the case for fresh examination.

28. On 8 December 2011 the Vilnius Regional Administrative Court carried out a fresh examination of the applicant's complaint (see paragraph 26 above). The court stated that 5.44 ares of land had been returned to the applicant *in natura* in total and that the applicant's property rights to 0.6223 hectares of her father's land had not been restored. The court held that it could not order the VCA to transfer her rights to a plot of land measuring 0.3013 hectares in Vilnius because the largest plot that could be transferred in Vilnius was 0.12 hectares. Nor could it order the VCA to transfer 1.72 hectares of land in the Vilnius region because the plot of land the applicant had indicated belonged to someone else. The court awarded the applicant EUR 869 in respect of non-pecuniary damage.

29. The applicant and the NLS appealed. On 16 April 2012 the Supreme Administrative Court dismissed the appeals. The court held that the decision regarding the applicant's right to the restitution of 0.32 hectares of land had not yet been adopted and that the applicant had been offered the option of monetary compensation.

30. In 2014 the applicant instituted court proceedings seeking compensation amounting to EUR 133,848 in respect of pecuniary damage and EUR 28,962 in respect of non-pecuniary damage. She claimed that the authorities had failed to issue decisions restoring her property rights in due time and that her property rights had not yet been restored. She also claimed that she had lost the right to the restoration of her title to 0.2 hectares of land in the city of Vilnius because – after a change in the domestic regulations – the maximum plot size that could be restored for the construction of an individual house was now fixed at 0.12 hectares (see paragraphs 28 above and 37 below). However, she had received a plot of land measuring 0.0973 hectares.

31. On 26 May 2014 the Vilnius Regional Administrative Court dismissed the applicant's compensation claim. It held that in 2000 she had applied to the authorities for the restitution of 2 hectares of her father's land in the Vilnius region instead of the original plot her father had owned in Vilnius County (see paragraph 8 above). She had received 0.5124 hectares in 2001 (see paragraph 9 above). In 2001 she had applied for the restoration of her property rights to 0.2 hectares of land in Vilnius (see paragraph 16 above), and in 2003 she had asked for the remaining land to be returned in kind (see paragraph 17 above). In 2005 and 2006 the applicant's property rights to 0.0973 and 0.0544 hectares of land had been restored (see paragraph 18 above). In 2012 the applicant had informed the authorities that she would not accept monetary compensation and still wanted to receive the remaining land *in natura* (see paragraph 19 above). In 2013 her property rights had been restored to 0.0005 hectares of land (see paragraph 20 above). The court also indicated that before 1 April 2003 the applicant had changed her mind as to the form of restitution and had claimed that she wanted to receive the land *in natura*. The court noted that the process of restoration of the applicant's property rights had been carried out in several stages: in 2005 she had received a plot of 0.0937 hectares in Pašilaičiai, Vilnius (see paragraph 18 above); in 2006 a document confirming that she had a right to receive 0.32 hectares of State redeemable land had been drawn up; and in 2006 and 2013 her property rights had been restored to 0.0544 hectares and 0.0005 hectares respectively (see paragraphs 18 and 20 above). As regards the plot for the construction of an individual house, the court held that a decision to restore the applicant's property rights to 0.0937 hectares of land had been issued in 2005 and had not been challenged. The court also ruled that the restitution process was not over and would be

continued. In the court's opinion, the authorities had not acted unlawfully and there were no grounds for awarding the applicant compensation.

32. The applicant appealed against the first-instance decision and on 7 April 2015 the Supreme Administrative Court decided to reopen the case for examination on the merits in order to receive some additional documents.

33. On 19 June 2015 the Supreme Administrative Court upheld the first-instance decision. It held that although the applicant claimed that the authorities had failed to execute the decisions of the courts to restore her property rights, she had never challenged the authorities' decisions to restore her property rights to certain plots of land. The court also held that the restitution process had been carried out and suspended for objective reasons. The authorities had confirmed that the process would recommence as soon as the municipality had delineated the plots of land.

II. RELEVANT DOMESTIC LAW

34. For relevant domestic law, see *Grigolovič v. Lithuania* (no. 54882/10, §§ 25-26, 10 October 2017),

35. Article 21 of the Law on the Restoration of Citizens' Ownership Rights to Existing Real Property (*Piliečių nuosavybės teisių į išlikusį nekilnojamąjį turtą atkūrimo įstatymas* – hereinafter "the Law on Restitution") of 1997 currently provides that in cases where citizens have not expressed their intentions as to their preferred form of restitution within the time-limits laid down in the law, or where they have chosen a form not provided for by law, or where it is impossible to restore their property rights in the form chosen, property rights are restored by means of monetary compensation.

36. Government Resolution no. 1057, setting out the "Order for Execution of the Law on the Restoration of Citizens' Ownership Rights to Existing Real Property" (*Lietuvos Respublikos piliečių nuosavybės teisių į išlikusį nekilnojamąjį turtą atkūrimo įstatymo įgyvendinimo tvarka*), in force between 31 August 2004 and 10 April 2005, provided that county administrations had to examine citizens' requests and adopt decisions regarding restitution within three months of the date of approval of the plans in respect of the land if the land had been within the boundaries of a city before 1 June 1995 (Point 111).

37. Government Resolution no. 920, setting out the "Sizes of New Plots of Land in Cities" (*Dėl naujų žemės sklypų dydžių miestuose patvirtinimo)* – which was in force between 12 October 2000 and 6 June 2007 – provided that new plots of land that could be transferred to citizens of the city of Vilnius (excluding the city centre) could be between 0.09 and 0.2 hectares in size. After 9 April 2010, the maximum size of a plot in the city of Vilnius was 0.12 hectares.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

38. The applicant complained that that her property rights to some of her father's land had not been entirely restored. She was also dissatisfied with the overall length of the restitution process in her case.

She invoked Article 1 of Protocol No. 1 to the Convention, which reads as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Admissibility

39. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

40. The applicant claimed that Pylimėliai had never been classified as an "open-field village" (*rėžinis kaimas*) and that there were no particularities in the process of restoring her property rights. She further submitted that although she had applied for the restoration of her property rights in 1991, the authorities had not taken the first decision until 2005. There had been several court decisions in which it had been confirmed that the authorities had been protracting the restitution process. Nevertheless, those decisions had either been partly enforced or not enforced at all, and part of her property rights had not yet been restored on the date of her observations in reply before the Court (27 June 2018).

(b) The Government

41. The Government submitted that the property that had belonged to the applicant's father was in an "open-field village" which implied that there were certain stipulations attached to the restitution process. In such villages the land was divided in strips, there were no partitions between the different plots and the land was in shared ownership. The size of the plots of land to be restored to citizens who wanted their property rights restored in kind had to be calculated in proportion to the part they had had in the village. The authorities had a difficult task in delineating the boundaries of such villages and measuring the land because there was not enough land to be transferred in kind, especially in the cities. Moreover, the applicant's father's land was located in Antakalnis, one of the most prestigious districts in Vilnius, where the majority of land had been used for private housing as early as 1990, making it difficult to restore citizens' property rights in kind.

42. As to the length of the restitution process, the Government claimed that the applicant had applied for the restoration of her property rights in the Vilnius region in 2000 (see paragraph 8 above). In 2001 the authorities had adopted a decision to restore her property rights to only 0.2420 hectares of land (see paragraph 9 above) because she had requested land in Vilnius (see paragraph 16 above). In 2003 the applicant had expressed the wish to have her property rights restored in kind in Pylimėliai, Vilnius (see paragraph 17 above). The authorities had then proceeded with drawing up maps of the area. Moreover, the applicant's property rights, with her approval, had been restored to 0.0973 hectares of land in Pašilaičiai, Vilnius, by giving her a plot for the construction of an individual house. Later on, in 2006, her property rights had been restored to 0.0544 hectares of land in Pylimėliai, Vilnius (see paragraph 18 above).

43. The Government submitted that when the applicant asked to have her property rights to 0.32 hectares of land restored by receiving a plot of land in the Vilnius region (see paragraph 10 above), the authorities had asked her to choose the location of the land. She had been dissatisfied with the restitution process and had instituted court proceedings, which had prevented the authorities from taking actions until the court proceedings were over. Only after the final decision of 2015 (see paragraph 33 above) had the authorities been able to proceed with the restoration of the applicant's rights to 0.32 hectares of land, and they had acted with undue delay. Out of those 0.32 hectares, the applicant's property rights still had to be restored to the remaining 0.2884 hectares of land in the Vilnius region (see paragraph 12 above). The plans of the plots of land the applicant had chosen were being prepared and a decision on the restitution would be adopted before the end of 2018.

44. As regards the remaining land to be restored, the Government submitted that the amount of land in Vilnius was very limited and citizens could either wait for restoration *in natura* or opt for other means of

restitution. The applicant had partially used that right and had received a plot of land of equivalent value in the Vilnius region in 2001 (see paragraph 9 above), a plot of land for the construction of an individual house in Vilnius in 2005 (see paragraph 18 above), and plots of land in the Vilnius region (see paragraph 12 above); she would receive other plots in due course. The remaining plot to be restored to her in Pylimėliai, Vilnius was 0.2898 hectares (see paragraph 22 above) and the authorities were planning to finalise the restitution process in Vilnius by 2020. If the applicant's property rights to the remaining land could not be restored in kind, she would be paid monetary compensation (see paragraph 35 above).

45. In that connection, the Government noted that the applicant had not applied for other alternative forms of restitution, which could have ended the restitution process earlier. Even when the authorities had offered such alternatives, for example, monetary compensation, she had refused (see paragraph 19 above). She had also been offered a plot of forest, but had submitted her request after the date indicated by the authority (see paragraph 11 above).

2. The Court's assessment

46. The Court notes that the applicant complained about several different aspects of the domestic proceedings. Firstly, she complained that her property rights to her father's land had not been fully restored. Secondly, she complained of delays in the restitution process overall. Because those complaints are closely related, the Court will examine them together.

47. The Court notes that the applicant's right to have her property rights to her father's land restored was never disputed. She therefore had a "possession" within the meaning of Article 1 of Protocol No. 1 and the Court considers that the way in which the restoration at issue was implemented amounted to an interference with her right to the peaceful enjoyment of her possessions.

48. For the purposes of the above-mentioned provision, the Court must determine whether a fair balance was struck between the demands of the general interest of the community and the protection of the individual's fundamental rights. The requisite balance will not be struck where the person concerned bears an individual and excessive burden (see *Grigolovič v. Lithuania*, no. 54882/10, § 42, 10 October 2017 and the references therein).

49. In the context of property rights, particular importance must be attached to the principle of good governance (see *Nekvedavičius v. Lithuania*, no. 1471/05, § 87, 10 December 2013). It requires that where an issue in the general interest is at stake, in particular when the matter affects fundamental human rights such as those involving property, the public authorities must act in good time and in an appropriate and above all

consistent manner (see *Beinarovič and Others v. Lithuania*, nos. 70520/10 and 2 others, § 139, 12 June 2018 and the references therein).

50. The Court takes cognisance of the fact that the present case concerns the restitution of property and is mindful of the complexity of the legal and factual issues that a State faces when resolving such questions. It follows that certain impediments to the realisation of an applicant's right to the peaceful enjoyment of his possessions are not in themselves open to criticism (see *Aleksa v. Lithuania*, no. 27576/05, § 86, 21 July 2009; *Igarienė and Petrauskienė v. Lithuania*, no. 26892/05, § 58, 21 July 2009; *Paukštis v. Lithuania*, no. 17467/07, § 84, 24 November 2015; *Šimaitienė v. Lithuania*, no. 55056/10, § 45, 21 February 2017; and *Grigolovič*, cited above, § 44). Even so, the Court has held that the state of uncertainty in which applicants might find themselves as a result of delays attributable to the authorities is a factor to be taken into account in assessing the State's conduct (see *Broniowski v. Poland* [GC] (merits), no. 31443/96, §§ 151 and 185, ECHR 2004-V; *Igarienė and Petrauskienė*, cited above, § 58; and *Paukštis*, cited above, § 84).

51. The Court notes that the restoration of the applicant's property rights took two directions: the applicant was willing to accept land of equivalent value in the Vilnius region (see paragraph 8 above), she was later entitled to receive 0.32 hectares of land in the Vilnius region (see paragraphs 10-14 above), and she wanted the remaining land to be restored to her in kind in the city of Vilnius (see paragraphs 16-22 above). At the time of the last information available to the Court (17 September 2018), none of those processes had been finalised. The applicant's property rights to 0.2898 hectares in Vilnius (see paragraph 22 above) and to 0.2884 hectares in the Vilnius region (see paragraph 12 above) had still not been restored.

52. The Court notes that as early as 1991 the authorities ought to have known that the applicant was eligible for the restoration of her property rights to her late father's land (see paragraph 6 above). Even assuming that the authorities had been under an obligation to act only since 2000 (see paragraph 8 above), as soon as the applicant herself had applied for the restoration of her property rights, taking into account the request submitted by the applicant's sister in 1991, the authorities should have acted promptly in the process of restitution. The Court notes that the applicant's right to restore her property rights to her late father's land was never contested by the authorities and that after 1991 she had a legitimate expectation to have her property rights restored (see, *mutatis mutandis*, *Valančienė v. Lithuania*, no. 2657/10, § 46, 18 April 2017).

53. The Court notes that in the present case the applicant cooperated with the authorities. Bearing in mind that the amount of land in Vilnius was very limited and that the applicant's property rights could not be fully restored in kind, she opted for plots of land of equivalent value in the Vilnius region (see paragraphs 8 and 10 above) and a plot of land for the

construction of an individual house in Vilnius (see paragraph 18 above). She also requested a plot of forest in a rural area as an alternative form of restitution (see paragraph 11 above). The Government submitted that she had done so after the deadline indicated by the authority (see paragraph 45 above), but the Court notes that the Government's submission is completely opposite to what the documents in the Court's possession state. The deadline indicated by the authority was 1 March 2015 and the applicant submitted her request on 27 February 2015 (see paragraph 11 above), thus she submitted her request on time. Moreover, she participated in the meetings to which she had been invited and she chose several plots of land (see paragraphs 13 and 14 above). The only proposal she refused was monetary compensation (see paragraph 19 above), but she was not under any obligation to accept it under domestic law (see paragraph 34 above). The Court observes that the court proceedings instituted by the applicant undoubtedly protracted the restitution process; however, she instituted them in order to protect her rights. The authorities also exercised their right of appeal and it also prolonged the proceedings (see paragraph 25 and 29 above); and finally the courts acknowledged the inactivity on the part of the authorities (see paragraphs 23, 24, 26 and 28 above). The Court thus holds that the fact that the court proceedings were ongoing did not absolve the authorities from their duty to complete the restitution process in the applicant's case.

54. In these circumstances, the Court finds that the applicant was only partly responsible for the fact that at the time of the last information available to the Court (17 September 2018) her property rights have not yet been totally restored (see paragraph 51 above).

55. Even though the domestic authorities were not completely inactive, the Court considers that they did not display due diligence in their attempts to restore the applicant's property rights. Although the Government indicated that the applicant's property rights to 0.2884 hectares of land would be restored by the end of 2018 (see paragraph 43 above), it is still not clear when and how her property rights will be restored to 0.2898 hectares of land (see paragraph 44 above).

56. Having regard to the circumstances of the case, the Court concludes that although the domestic authorities were not completely inactive, they did not act in line with the principle of good governance to ensure that the applicant's property rights were protected and protraction of the restitution process was mostly on their part. Moreover, the applicant's legitimate expectation to have her property rights restored was unjustifiably affected by the authorities' failure to act. As a result, the balance which had to be struck between the general interest and the applicant's personal interest was upset, and she has had to bear an individual and excessive burden, which is incompatible with Article 1 of Protocol No. 1 to the Convention.

57. Accordingly, there has been a violation of that provision in the present case.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. 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

59. The applicant claimed 133,510 euros (EUR) in respect of pecuniary damage and EUR 29,962 in respect of non-pecuniary damage.

60. The Government submitted that no documents substantiating the amount claimed in respect of pecuniary damage had been provided and that the applicant's claim in respect of non-pecuniary damage was excessive, unreasoned and unsubstantiated.

61. In the circumstances of the case, the Court considers that the question of the application of Article 41 in respect of pecuniary damage is not ready for decision. It is therefore necessary to reserve the matter, due regard being had to the possibility of an agreement between the respondent State and the applicant (Rule 75 §§ 1 and 4 of the Rules of Court).

62. The Court considers that the applicant undoubtedly suffered distress and frustration in view of the prolonged inability to have her property rights restored. However, it considers the amounts claimed by her excessive. Making its assessment on an equitable basis, the Court awards the applicant EUR 3,000 in respect of non-pecuniary damage.

B. Costs and expenses

63. The applicant did not submit any claim in respect of costs and expenses. The Court therefore makes no award under this head.

C. Default interest

64. 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 application admissible;

2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;

3. *Holds* that the question of the application of Article 41 is not ready for decision in so far as pecuniary damage is concerned, and accordingly:
   (a) *reserves* the said question;
   (b) *invites* the Government and the applicant to submit, within six months, 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 the power to fix the same if need be;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, EUR 3,000 (three thousand euros) in respect of non-pecuniary damage;
   (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;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 18 December 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti	Paulo Pinto de Albuquerque
Deputy Registrar	President