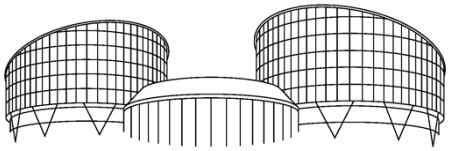

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF KHACHATURYAN v. ARMENIA

(Application no. 22662/10)

JUDGMENT

STRASBOURG

19 March 2020

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

In the case of Khachaturyan v. Armenia,

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

Krzysztof Wojtyczek, *President,*
Armen Harutyunyan,
Pere Pastor Vilanova, *judges,*
and Renata Degener, *Deputy Section Registrar,*

Having deliberated in private on 25 February 2020,

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

PROCEDURE

1. The case originated in an application (no. 22662/10) against the Republic of Armenia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Russian national, Ms Karine Khachaturyan ("the applicant"), on 19 February 2010.

2. The applicant was represented by Mr V. Grigoryan, a lawyer practising in Yerevan at the relevant time. The Armenian Government ("the Government") were represented by their Agent, Mr G. Kostanyan, and subsequently by Mr Y. Kirakosyan, Representative of the Republic of Armenia before the European Court of Human Rights.

3. On 19 May 2014 the Government were given notice of the complaints concerning the expropriation of the applicant's property and the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

4. The Russian Government did not make use of their right to intervene in the proceedings (Article 36 § 1 of the Convention).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1958 and lives in Moscow.

6. Since 1995 the applicant had owned a flat measuring 42.7 sq. m. situated on the second floor of a block of flats at 85 Byuzand Street in the centre of Yerevan (hereinafter - "the first flat"). She also co-owned with her daughters a flat measuring 46.3 sq. m. situated on the first floor of the same building (hereinafter - "the second flat").

7. On 25 January 2007 the Government adopted Decree no. 108-N (hereinafter - "the Decree") approving the expropriation zones of territories situated within the administrative boundaries of Yerevan to be taken for State needs and approving the procedure for recording the description of property situated in those territories and the format of the description record.

The building at 85 Byuzand Street was not included in the list of addresses of property to be taken for State needs which was appended to the Decree.

8. On 5 October 2007 H.B., a private entrepreneur authorised by the Mayor of Yerevan to acquire property to be taken for State needs located at, *inter alia*, Byuzand Street, lodged two claims with the Kentron and Nork-Marash District Court of Yerevan ("District Court"). In particular, H.B. lodged one claim against the applicant seeking to deprive her of ownership of the first flat and another claim against the applicant and her daughters seeking to deprive them of ownership of the second flat. In his claims H.B. relied, *inter alia*, on the Decree to state that he had the right to acquire the given property.

9. On 29 December 2007 the District Court granted both above-mentioned claims. In the judgment concerning the first flat, the District Court found that it was included in the Decree as property to be taken for State needs and that it should become H.B.'s property against compensation of AMD 9,556,500 (approximately EUR 17,400).

As regards the judgment in respect of the second flat, the District Court stated therein that the second flat was included in the Decree as property to be taken for State needs and should be alienated to H.B. This judgment entered into force and became final.

10. On 11 April 2008 H.B. lodged another claim against the applicant and her daughters seeking to terminate their right to ownership, recognise his own title in respect of the second flat and evict them.

11. On 26 May 2008 the District Court granted H.B.'s claim of 11 April 2008. The relevant parts of the District Court's judgment read as follows:

> "... The [District Court], having examined the civil case upon [H.B.'s] claim ... against [the applicant], [the applicant's daughters] seeking termination of their right to ownership, recognition of ownership rights and eviction ...
>
> The [District Court] finds it established that by the judgments ... of 29.12.2007 the [District Court] granted [H.B.'s] claims against [the applicant] and [the applicant's daughters] ... and obliged [the applicant] and [her daughters] to alienate to [H.B.]the residential house situated at 85 Byuzand Street and measuring 46.3 sq. m. which was owned by them.
>
> This judgment has entered into force.
>
> Considerable time has elapsed after the judgment but the respondents have not handed over the property to [H.B.].
>
> ... the court decides
>
> To grant the claim;
>
> Terminate the ownership rights of [the applicant], [the applicant's daughters] in respect of the address 85 Byuzand Street;
>
> To recognise [H.B.'s] ownership in respect of the address 85 Byuzand Street;
>
> To evict [the applicant], [the applicant's daughters] from the address 85 Byuzand Street.

...”

12. On 20 June 2008 the applicant lodged an appeal against the judgment of 29 December 2007 concerning the first flat. She complained, in particular, that the District Court had failed duly to notify her about the proceedings and that the Decree referred to in the judgment did not concern her property.

13. On 29 July 2008 the Mayor of Yerevan granted H.B. permission to demolish the first flat and this was done shortly thereafter.

14. On 6 November 2008 the Civil Court of Appeal quashed the judgment of 29 December 2007 concerning the first flat and remitted the case for a fresh examination on the ground that the applicant had not been duly notified about the proceedings. The Court of Appeal did not address the arguments raised in the appeal as to the merits.

15. On 22 April 2009 the District Court rejected H.B.’s claim of 5 October 2007 on the ground that the first flat was not listed in the Decree as a unit of property to be taken for State needs. At the same time, the District Court ruled that the compensation of AMD 9,556,500 transferred to its deposit account by H.B. was to be returned to him.

16. H.B. lodged an appeal stating, *inter alia*, that the absence of a mention of the exact address of property to be taken for State needs could not *per se* be an obstacle for its expropriation. He further argued that, according to the scheme of the description of the given property which was drawn up after the Decree came into force, the building at 85 Byuzand Street fell within the territory surrounding the property that he had a right to acquire according to the Decree.

17. In reply to H.B.’s submissions the applicant insisted that the address of the first flat had not been expressly mentioned in Appendix 1 to the Decree which contained an exhaustive list of addresses of various property units to be taken for State needs. She further argued that the Decree could not be supplemented by the scheme referred to by the plaintiff since it did not constitute its integral part, had not been officially published and in any event it could not contain an address which was not included in Appendix 1 to the Decree.

18. In the course of the proceedings before the Court of Appeal H.B made attempts to reach a friendly settlement with the applicant, offering her a flat in the new building to be constructed, but she rejected his offers.

19. On 15 October 2009 H.B. made written submissions to the Court of Appeal stating that the applicant was not willing to reach a friendly settlement and asked for the judgment of 22 April 2009 to be quashed and his claim of 5 October 2007 granted. He further stated that the applicant’s ownership in respect of the first flat had already been terminated by the District Court judgment of 26 May 2008 and therefore the applicant’s argument that it was not mentioned in the Decree as property to be taken for State needs was groundless.

20. On 20 October 2009 the Civil Court of Appeal upheld the judgment of 22 April 2009. In doing so, however, the Court of Appeal referred, *inter alia*, to the District Court's judgments of 29 December 2007 and 26 May 2008 concerning the second flat. The Court of Appeal concluded that these final and binding judgments were to be regarded as *res judicata* for the dispute concerning the first flat and therefore it would not address the arguments raised in the appeal.

21. On 16 November 2009 the applicant lodged an appeal against the District Court's judgment of 26 May 2008 complaining in particular about the fact that the applicant had not been duly notified of the date and time of the hearing. The applicant also requested that the missed time-limits for lodging the appeal be restored, taking into account that the existence of the judgment had come to her knowledge only at the hearing before the Court of Appeal of 16 October 2009.

22. On 20 November 2009 the applicant lodged an appeal on points of law against the decision of 20 October 2009 reiterating that she had been deprived of ownership in respect of the first flat in violation of the law. She submitted that the District Court's judgments of 29 December 2007 and 26 May 2008 referred to by the Court of Appeal concerned another flat measuring 46.3 sq. m. in the same building, the second flat, and that these judgments had no connection whatsoever to the first flat, which she solely owned according to a distinct certificate of ownership and which was the subject of dispute in the proceedings.

23. On 23 November 2009 the Civil Court of Appeal declared the appeal inadmissible and refused to restore the missed time-limits. It stated in this regard that the case file did not contain any information on the applicant's place of registration or residence and that the District Court had summoned the defendants, including the applicant, several times at the address mentioned in the case file, which was 85 Byuzand Street, but the postal receipts had been returned. This decision was subject to appeal to the Court of Cassation within two weeks. The applicant did not lodge an appeal on points of law.

24. On 28 December 2009 the Court of Cassation declared the appeal on points of law dated 20 November 2009 inadmissible for lack of merit. In doing so, the Court of Cassation reinstated the reasoning of the Court of Appeal reflected in its decision of 20 October 2009 as regards the existence of a final and binding judgment between the same parties over the same dispute. The Court of Cassation did not address the above arguments submitted by the applicant in her appeal on points of law.

II. RELEVANT DOMESTIC LAW

A. The Constitution of 1995 (following the amendments introduced on 27 November 2005 with effect from 6 December 2005)

25. According to Article 31, everyone shall have the right to dispose of, use, manage and bequeath his property in the way he sees fit. No one can be deprived of his property, save by a court in cases prescribed by law. Property can be expropriated for the needs of society and the State only in exceptional cases of paramount public interest, in a procedure prescribed by law and with prior equivalent compensation.

B. The Law on Alienation of Property for the needs of Society and the State (in force from 30 December 2006)

26. According to Article 3 § 1, the constitutional basis for alienation of property for the needs of society and the State is the prevailing public interest.

27. According to Article 3 § 2, the constitutional requirements for alienation of property for the needs of society and the State are the following:

a) alienation must be carried out in accordance with a procedure prescribed by the law,

b) prior adequate compensation should be provided for property subject to alienation.

According to Article 7 § 1, alienation of property for the needs of society and the State is carried out in case of recognition by the Government of the existence of a prevailing public interest.

28. According to Article 7 § 2 (a), (b) and (c), the government decree on recognition of prevailing public interest should mention the prevailing public interest for which the property is to be alienated, the acquirer of the property and the units of property subject to alienation (the addresses or location or other information which identifies the given property).

29. According to Article 11 § 1, adequate compensation should be paid to the owner of property subject to alienation. The market value of the property plus an additional 15% is considered to be an adequate amount of compensation.

C. Government Decree No. 108-N of 25 January 2007 approving the expropriation zones of territories situated within the administrative boundaries of Yerevan to be taken for State needs and approving the procedure of recording the description of property situated in those territories and the format of the description record (*ՀՀ Կառավարության 2007 թ. հունվարի 25-ի թիվ 108-Ն որոշումը Երևան քաղաքի վարչական սահմաններում որոշ տարածքներում բացառիկ՝ գերակա հանրային շահ ճանաչելու, գերակա հանրային շահ ճանաչված տարածքներում առկա սեփականության օբյեկտների նկարագրության արձանագրության կազմման կարգը և նկարագրության արձանագրության օրինակելի ձևը հաստատելու մասին*)

30. The Decree acknowledges that there is a prevailing public interest in the implementation of town-planning projects in the territories mentioned in its Appendix 1.

Appendix 1 to the Decree sets out the list of units of property and addresses within the administrative boundaries of Yerevan to be taken for State needs.

THE LAW

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

31. The applicant complained that the deprivation of her property was unlawful and did not pursue any public interest. Furthermore, she was deprived of her property without any compensation. She relied on Article 1 of Protocol No. 1, 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

32. The Government submitted that the applicant had failed to exhaust the available domestic remedies. They argued, in particular, that the

applicant was deprived of the first flat by virtue of the District Court's judgment of 26 May 2008 whereby the applicant's and her daughters' ownership rights in respect of the entire property at 85 Byuzand Street were terminated. By the decision of 23 November 2009 the Court of Appeal declared the applicant's out-of-time appeal against that judgment inadmissible, having refused to restore the time-limits for lodging an appeal. This decision was subject to appeal to the Court of Cassation but the applicant failed to lodge an appeal on points of law.

33. The applicant submitted that she could not claim compensation for her demolished flat until the determination of the dispute between her and H.B. concerning the lawfulness of the deprivation of property, whereas the proceedings in that regard were still pending when the first flat was demolished. The applicant pointed out that the Government had failed to indicate any effective remedies whereby she could have claimed compensation for her unlawfully-demolished flat. As regards the Government's argument that she had failed to lodge an appeal on points of law against the decision of the Court of Appeal of 23 November 2009, that judgment concerned the second flat.

34. The Court reiterates that the rule of exhaustion of domestic remedies referred to in Article 35 § 1 of the Convention obliges those seeking to bring a case against the State before an international judicial body to use first the remedies provided by the national legal system, thus dispensing States from answering before an international body for their acts before they have had an opportunity to put matters rights through their own legal systems. In order to comply with the rule, normal recourse should be had by an applicant to remedies which are available and sufficient to afford redress in respect of the breaches alleged (see, among other authorities, *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 70 and 71, 25 March 2014).

35. The only remedies to be exhausted are those which are effective. It is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy was an effective one, available in theory and in practice at the relevant time, that is to say, that it was accessible, was one which was capable of providing redress in respect of the applicant's complaints and offered reasonable prospects of success. Once this burden of proof has been satisfied, it falls to the applicant to establish that the remedy advanced by the Government was in fact exhausted, or was for some reason inadequate and ineffective in the particular circumstances of the case, or that special circumstances existed which absolved him or her from this requirement (see *Kalashnikov v. Russia* (dec.), no. 47095/99, ECHR 2001-XI (extracts)).

36. The Court notes that the Government did not point out any allegedly effective domestic remedy whereby the applicant could have potentially sought compensation for her expropriated and demolished flat in the circumstances where the courts had not definitively concluded that the

expropriation had been unlawful. Therefore, it does not seem unreasonable for the applicant to try to obtain judicial acknowledgement of the unlawful nature of the expropriation of the first flat, which had been demolished in the meantime, in order to acquire an enforceable right to claim compensation for its value – an avenue which was reasonable and justified in the circumstances.

37. As regards the argument put forward by the Government that the applicant had in reality been deprived of the first flat by virtue of the judgment of 26 May 2008 whereas she failed to lodge an appeal on points of law against the decision of the Court of Appeal of 23 November 2009 (see paragraph 23 above), the Court notes that the judgment in question, notwithstanding the general reference to the address at 85 Byuzand Street in the operative part, indeed concerned the second flat. In particular, not only was that judgment based on H.B.'s claim concerning the second flat but the reasoning part of the judgment itself made reference to the flat measuring 46.3 sq. m., that is the second flat (see paragraphs 10 and 11 above). In any event, as noted above, the applicant had properly raised her Convention complaint that her deprivation of the first flat had not been in accordance with the law in the proceedings concerning the expropriation of the first flat. The Court is therefore satisfied that the applicant made her Convention complaints within the framework of the appropriate procedure prior to raising them in Strasbourg. Accordingly, the Court rejects the Government's objection as to the failure to exhaust domestic remedies.

38. The Court notes that this complaint 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

39. The applicant submitted that the first flat was not subject to expropriation for the needs of the State by virtue of the Decree since its address was not listed therein. Article 7 § 2 of the Law on Alienation of Property for the needs of Society and the State (hereinafter - "the Law") required that the units of property subject to alienation be identified in the relevant government decree recognising the existence of prevailing public interest in alienating that property. However, the Decree did not contain any such indication in respect of her property, which was nevertheless alienated on the basis of that decree. The applicant further submitted that she did not receive any compensation for the first flat.

40. The Government submitted that the expropriation of the applicant's property had been in accordance with the law. In particular, it was based on the relevant provisions of the Law and the Decree which complied with the

requirements of the Law. The building at 85 Byuzand Street was included in the plans attached to the contract concluded between H.B. and the Mayor of Yerevan, as well as in the scheme of the description of the property set out in Annex 1 to the Decree. The Government further submitted that the impugned expropriation had been "in the public interest" and struck a fair balance between the applicant's rights and the interests of the community.

2. The Court's assessment

41. In the present case, it is not in dispute that there has been "deprivation of possessions" within the meaning of the second sentence of Article 1 of Protocol No. 1. The Court must therefore ascertain whether the impugned deprivation was justified under that provision.

42. The Court reiterates that to be compatible with Article 1 of Protocol No. 1, an expropriation measure must fulfil three conditions: it must be carried out "subject to the conditions provided for by law", which rules out any arbitrary action on the part of the national authorities, must be "in the public interest", and must strike a fair balance between the owner's rights and the interests of the community (see, among other authorities, *Vistiņš and Perepjolkins v. Latvia* [GC], no. 71243/01, § 94, 25 October 2012).

43. The Court further reiterates that the phrase "subject to the conditions provided for by law" requires in the first place the existence of and compliance with adequately accessible and sufficiently precise domestic legal provisions (see *Lithgow and Others v. the United Kingdom*, 8 July 1986, § 110, Series A no. 102).

44. The Court observes that the applicant was the owner of a flat which measured 42.7 sq. m. and was part of a building situated at 85 Byuzand Street in the centre of Yerevan, the first flat. It is not in dispute that the expropriation of the first flat was carried out on the basis of the Law. The Court further observes that the applicant did not argue that the relevant provisions of the Law were not accessible or foreseeable for her, but complained that she was deprived of the first flat in breach of those provisions.

45. The Court notes that Article 7 § 2 of the Law requires that the government decree on recognition of prevailing public interest in respect of certain property should mention the addresses or location or other information which identifies the units of property subject to alienation (see paragraph 28 above). The Court further notes that on 25 January 2007 the Government adopted the Decree deciding to expropriate the immovable property listed in its Annex 1 for the needs of the State for the purpose of carrying out construction projects in the centre of Yerevan (see paragraph 30 above). The Court also notes that the building situated at 85 Byuzand Street was not mentioned in Annex 1 to the Decree. Despite

this, however, the first flat situated at 85 Byuzand Street was expropriated for the needs of the State on the basis of the Decree.

46. The Government argued that the expropriation of the first flat had nevertheless been lawful since the address at 85 Byuzand Street was included in the plans attached to the contract concluded between H.B. and the Mayor of Yerevan as well as in the scheme of the description of the property set out in Annex 1 to the Decree. The Court does not find it necessary to address these arguments since, in its judgment of 22 April 2009, the District Court conclusively found that the first flat was not subject to expropriation on the basis of the Decree since the house situated at 85 Byuzand Street was not included in the exhaustive list of units of property to be taken for State needs set out in Annex 1 to the Decree (see paragraph 15 above). This judgment was upheld by the Court of Appeal and later the Court of Cassation (see paragraphs 20 and 24 above). Having regard to the fact that the domestic courts are better placed to interpret and apply the domestic law, the Court does not see any reason to conduct a separate examination of the question of whether under the domestic law the documents referred to by the Government could be regarded as complementing the Decree to the extent to justify the expropriation of the first flat.

47. As mentioned above, the judgment of 22 April 2009 found unequivocally that the first flat was not subject to expropriation by virtue of the Decree. Strikingly, although the Court of Appeal upheld this judgment, thereby presumably endorsing the findings expressed therein, in its decision of 20 October 2009 it made reference to the judgments of 29 December 2007 and 26 May 2008, both of which concerned the expropriation of the second flat (see paragraphs 9, 11 and 37 above), to state that those judgments were to be regarded as *res judicata* for the dispute concerning the first flat (see paragraph 20 above). As a result, on the one hand the judgment of 22 April 2009 recognising the unlawfulness of the expropriation of the first flat remained in force but on the other hand, the Court of Appeal, without providing any further reasoning, stated that the questions relating to the lawfulness of the expropriation of the first flat had already been determined in the final and binding judgments of 29 December 2007 and 26 May 2008 which, as already mentioned above, concerned the expropriation of different property, namely the second flat owned by the applicant and her daughters in the same building. The applicant raised these issues in a rather detailed manner in her appeal on points of law but she was eventually not granted leave to appeal (see paragraphs 22 and 24 above).

48. In view of the foregoing, the Court finds that the deprivation of the applicant's property was not carried out in compliance with "conditions provided for by law". In view of this finding, it is unnecessary to examine whether the interference in question pursued a legitimate aim and was proportionate to that aim (see, for example, *Vijatović v. Croatia*,

no. 50200/13, § 58, 16 February 2016; and *Gubiyev v. Russia*, no. 29309/03, § 83, 19 July 2011).

49. There has accordingly been a violation of Article 1 of Protocol No. 1 to the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

50. 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. Pecuniary damage

51. The applicant claimed 71,595 euros (EUR) in total in respect of pecuniary damage. This sum was comprised of the market value of the first flat prior to its demolition together with the 15% surplus prescribed by Article 11 of the Law (see paragraph 29 above) amounting to EUR 49,817 and the value of the applicant's share in the land underlying the block of flats together with the 15% surplus which amounted to EUR 21,778.

In support of her claim as regards the value of the first flat, the applicant submitted an expert report dated 19 November 2014 assessing the probable market value of the first land as of 15 July 2008 at 19,085,000 Armenian Drams (AMD) (approximately EUR 40,000 at the relevant time).

As regards the claims concerning her share in the underlying plot of land, the applicant submitted a letter from a real estate evaluator stating that the probable market value of one square metre of land at the address in question amounted to AMD 420,000 at the relevant time.

52. The Government contested the validity of the expert report of 19 November 2014 and considered it not reliable. They stated that neither the real estate evaluation company nor the relevant expert possessed a licence to carry out real estate evaluation activity in July 2008. The Government had requested a professional committee acting under the State Real Estate Registry to examine the valuation report of 19 November 2014 in order to find out whether it complied with the relevant requirements of domestic law. In its conclusion the committee pointed out a number of shortcomings in the report showing non-compliance with the relevant standards applicable in real estate evaluation activity.

In so far as the applicant's claims in respect of the value of her share in the underlying plot of land were concerned, the Government submitted that the relevant letter of the real estate evaluator could not be taken as a valid basis for the assessment, since this was not a proper expert report.

53. The Court has held on a number of occasions 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). If the nature of the violation allows of *restitutio in integrum* it is the duty of the State held liable to effect it, the Court having neither the power nor the practical possibility of doing so itself. If, however, 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, among other authorities, *Brumărescu v. Romania* (just satisfaction) [GC], no. 28342/95, § 20, ECHR 2001-I).

54. The Court notes that no *restitutio in integrum* as regards the applicant's flat is possible, since it has been demolished. Consequently, the Court considers that an award for pecuniary damage must be made.

55. In view of the fact that the first flat was demolished while the court proceedings in its respect were pending, the Court considers that the level of compensation should be determined with reference to the period of time when the actual demolition took place, that is at the end of July or beginning of August 2008 (see paragraph 13 above).

56. The Court observes that in support of her claims in respect of pecuniary damage suffered as a result of the loss of the first flat the applicant submitted an expert report which estimated its market value at the material time, that is, as at July 2008 (see paragraph 51 above).

Although the Government contested the validity of that report and questioned its reliability, they failed to commission their own report for the Court to have a basis for comparison. Instead, the Government submitted a "Specialist opinion" issued by a specialist commission acting under the authority of the State Real Estate Registry which pointed out several shortcomings in the relevant report, namely as to non-compliance with relevant standards applicable in real estate valuation activity. In its opinion, however, the commission did not indicate that the shortcomings in question had rendered the report invalid nor did it question the final value determined therein. In those circumstances, and having regard to the information available to it on purchase prices on the Armenian property market during the relevant period, the Court sees no reason to question the accuracy of the market value as determined in the expert report produced by the applicant.

57. According to the expert report of 19 November 2014, the market value of the first flat as at 15 July 2008 constituted AMD 19,085,000 (approximately EUR 40,000 at the relevant time). Had the first flat been expropriated in accordance with the relevant domestic procedure, the applicant would have been entitled to a 15% surplus on this amount by virtue of Article 11 of the Law. Therefore, in the Court's opinion the 15%

should be added to the value of the first flat. Having regard to the principles established in its case-law, the resulting amount should then be converted to current value to offset the effects of inflation (see *Minasyan and Semerjyan v. Armenia* (just satisfaction), no. 27651/05, § 20, 7 June 2011; and *Vardanyan v. Armenia* (just satisfaction), 8001/07, § 37, 25 July 2019).

58. Having regard to the above factors, the Court estimates the pecuniary damage suffered by the applicant as a result of the loss of the first flat at EUR 68,000.

59. Lastly, the applicant made claims in respect of her share in the land underlying the block of flats. However, there is nothing to indicate that under domestic law a person's share in common ownership of land underlying a block of flats can be the subject of an independent transaction. The Court considers, therefore, that the applicant's claim in this respect is not substantiated and does not give rise to any separate compensable loss.

2. Non-pecuniary damage

60. The applicant claimed EUR 15,000 in respect of non-pecuniary damage.

61. The Government considered that the applicant's claim under this head was excessive.

62. The Court considers that the feelings of powerlessness and frustration arising from the unlawful deprivation of her possessions has caused the applicant non-pecuniary damage that should be compensated in an appropriate manner. Ruling on an equitable basis, as required by Article 41 of the Convention, it decides to award EUR 3,000 to the applicant under this head.

B. Costs and expenses

63. The applicant made no claim for costs and expenses.

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*

(a) that the respondent State is to pay the applicant, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 68,000 (sixty-eight thousand euros), plus any tax that may be chargeable, in respect of pecuniary damage;

(ii) EUR 3,000 (three thousand euros), plus any tax that may be chargeable, 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 amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 19 March 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Renata Degener	Krzysztof Wojtyczek
Deputy Registrar	President