



ROMANIA
Ministry of Foreign Affairs



COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

WORKSHOP 2

**ROUND-TABLE:
PROPERTY RESTITUTION/COMPENSATION:
GENERAL MEASURES TO COMPLY WITH THE
EUROPEAN COURT'S JUDGMENTS**

organised with financial support from the Human Rights Trust Fund under the project "Removing obstacles to the enforcement of domestic court judgments/Ensuring an effective implementation of domestic court judgments"

Bucharest, Howard Johnson Hotel,
5-7 Calea Dorobantilor Dist. 1, Bucharest, 010551 Romania

**Report from the roundtable discussions prepared
by Ms Štefica Stažnik, Croatia**

The views expressed are those of the author only

The participants of the round table 2 considered the challenges relating to the implementation of the legislation and difficulties encountered in the process of property restitution/compensation. In this context, experience of a number of countries in this field was shared with the participants of the round table.

This report draws on the discussion at the round table as well as upon the input generated by the introductory presentations. In particular, the modalities of awarding compensation and appropriate funds were considered by the participants. An institutional set-up relevant for the restitution/compensation process and competences of such bodies were also addressed. The participants also shared their relevant experience of the interpretation of the legislation relating to property restitution/compensation by the administration and domestic courts. The relevant experience of the execution of the European Court's judgments was also tackled.

This report does not seek to present an exhaustive record of the discussion at the round table. This report merely highlights points raised by the participants and views that emerged during the debate. Taking into account the case-law of the European Court of Human Rights, the participants stressed that:

- There is no legal obligation to restitute properties transferred to the State prior to the ratification of the Convention.
- States have a large margin of appreciation as to the scope of the right to restitution of and/or compensation for properties nationalised before 1989.
- It is difficult to find a moral balance between the expectations and the possibilities at the disposal of states in the field of property restitution/compensation. There is a need to strike a fair balance between the various interests at stake.
- It is important to establish effective domestic remedies in conformity with the case-law of the European Court of Human Rights.

The following examples of good practices were identified by the participants in the course of the debate:

- The need to ensure a uniform national jurisprudence in the field of restitution of and/or compensation for properties nationalised before 1989.
- The adoption of a clear, foreseeable and stable legal framework shall be envisaged from the outset in order to avoid legal uncertainty in the process.
- Better coordination between different authorities involved in the restitution/compensation process.
- Proper registration of property before starting the restitution process.

- Transparent mechanism for calculating the compensation when restitution is not foreseen.
- Evaluating the financial implications of planned restitution.
- Provide the sufficient financial means and human resources for the procedures for restitution and set deadlines for the different stages of the procedures.
- Alternative means for compensation shall be explored in addition to cash payments: bonds shares, pension funds or other similar solutions.
- Interaction between the Convention organs and the state authorities could be encouraged in the process of finding solutions.
- Last but not least, the importance of having a genuine political will on the envisaged solutions should be highlighted in this respect.

The rapporteur expressed her gratitude to the speakers who presented their national experiences in the field of restitution of and/or compensation for properties and to the participants who contributed to the discussion without which this report could not be drawn.