



ROMANIA
Ministry of Foreign Affairs



COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

WORKSHOP 1

**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"

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**Report from the roundtable discussions prepared
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The views expressed are those of the author only

The law-making process in the field property restitution/compensation prompted preliminary discussions among the participants of the round table 1, in particular as regards the options the states have when it comes to deciding on restitution/compensation. In this context, a number of participants shared their national experiences in this field.

The participants agreed that in the context of the properties nationalised by the former communist regimes, the States are not bound to proceed to restitution or compensation under the European Convention on Human Rights.

However, if they decide to do so, the participants concurred that it is important to carry out an assessment of the scope of the restitution/compensation measures and to carefully examine the possible financial implications thereof prior to enacting relevant legislation.

In the ensuing presentations, the speakers shared their valuable expertise and the experience of their respective States in the preparation and drafting of such legislation. The manner in which the German, Polish, Slovenian, Hungarian and Montenegrin authorities have dealt with the various aspects of the law-making process was presented. The Constitutional Courts' and/or European Court's assessment of the compliance of the choices made in this context with the requirements for the protection of the fundamental rights likely to be affected in this process were also addressed.

The participants' interventions further disclosed the importance of adopting clear and simple legal solutions in this field, which, if achieved from the very beginning of the process, would avoid frequent changes of the legislation and thus legal uncertainty.

As regards the compensation schemes which can be envisaged, it emerged that when restitutio in integrum was deemed impossible, setting a cap on compensation awards and paying them in instalments over a longer periods could be envisaged as solutions.

The rapporteur expressed his thanks 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.