



HORIZONTAL FACILITY FOR THE WESTERN BALKANS AND TURKEY 2019-2022

*FOR YOUR RIGHTS:
TOWARDS
EUROPEAN STANDARDS*

Protection of property: ECtHR and national case-law in the Western Balkans

The Macedonian perspectives

Online conference, 9 December 2020

Presented by: Darko Pavlovski

Funded
by the European Union
and the Council of Europe



COUNCIL OF EUROPE



Implemented
by the Council of Europe



HORIZONTAL FACILITY FOR THE WESTERN BALKANS AND TURKEY 2019-2022

FOR YOUR RIGHTS: TOWARDS EUROPEAN STANDARDS

- ECtHR cases against North Macedonia under Article 1 of Protocol No. 1
- Recent property-related cases under Article 6
- Execution of cases

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe



HORIZONTAL FACILITY FOR THE WESTERN BALKANS AND TURKEY 2019-2022

FOR YOUR RIGHTS: TOWARDS EUROPEAN STANDARDS

Art. 1 of Prot. No. 1 cases against North Macedonia (I)

- Non-enforcement – simultaneous violation of the of Art. 6 and Art. 1 of Protocol No. 1 (Jankulovski)
- Restitution cases – problems caused due to revocation of final restitution decisions or inconsistent administrative practice (Vikentijevic, Tolevski, Spiridonovski – no violation, Krstanoski – mif, Stojanovski – violation)
- Quashing of final decision – Prosecutor’s intervention (legality supervision) amounting to violation of the rule of law principle inherent to all articles (Bocvarska)
- Expropriation – insufficient compensation (Arsovski)
- Pension case – revocation of granted pension, disproportionate burden for the applicant (Romeva)



HORIZONTAL FACILITY FOR THE WESTERN BALKANS AND TURKEY 2019-2022

FOR YOUR RIGHTS: TOWARDS EUROPEAN STANDARDS

Art. 1 of Prot. No. 1 cases against North Macedonia (II)

- Taxation – VAT return and failure of third parties to pay VAT, attributed to the applicant companies (Avto Atom, Euromak Metal)
- Confiscation – legislative provisions mandating confiscation as penalty (Andonoski, Vasilevski, Jakimovski and Kari Prevoz, Anev and Najdovski, Atanasov)
- Payment of charges – imposition of fees to citizens disconnected from the central heating system (Strezovski and others)
- Housing right – privatization of social (State) apartments under discounted prices (Veselinski, Djidrov)

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe



HORIZONTAL FACILITY FOR THE WESTERN BALKANS AND TURKEY 2019-2022

FOR YOUR RIGHTS: TOWARDS EUROPEAN STANDARDS

Article 6 case-law in property cases

- Inconsistent judicial practice (ASP DOOEL)
- Legal certainty (Balazovski)
- Access to court (Adilovska, Centre for Development of Analytical Psychology)



HORIZONTAL FACILITY FOR THE WESTERN BALKANS AND TURKEY 2019-2022

FOR YOUR RIGHTS: TOWARDS EUROPEAN STANDARDS

Execution of judgments

- Individual measures – payment of just satisfaction (non-pecuniary and pecuniary) and possibly, reopening of domestic proceedings
- General measures – obviously, legislative and policy changes are lacking. New/different provisions required in the Criminal Code, Customs Act, Energy Act etc.
- Efforts to disseminate ECHR knowledge and understanding of the jurisprudence – supported by various stakeholders (Judicial Academy, international organizations/projects)

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe