

ARTICLE 1 OF PROTOCOL NO. 1 TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS, WITH A SPECIAL FOCUS ON THE PRACTICE OF THE EUROPEAN COURT OF HUMAN RIGHTS IN CASES AGAINST THE REPUBLIC OF NORTH MACEDONIA

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Abstract

With the entry into force of Protocol No. 1 to the European Convention on Human Rights (1954), several key rights were added to the original Convention, such as the Right to Property (Article 1), the Right to Education (Article 2) and the Right to Free Elections (Article 3). These “additional articles” to the Convention extended the scope of human rights protection under the ECHR to include economic and social rights (property and education) and fundamental political rights (free elections), thus strengthening the overall impact of the Convention. Article 1 of Protocol No. 1 is structured in such a way that it provides three rules, one general rule and two specific rules, i.e. two specific types of interference by the State within someone’s possessions. Of particular importance, however, is the need for a “legitimate expectation” that something will constitute possessions. Regarding the violations found in the cases against North Macedonia, it can be concluded that they cover a wide range of property rights - from traditional ownership of immovable property and vehicles, to “legitimate expectations” of financial claims and the right to peaceful enjoyment of possessions free from disproportionate burden. In this context, the common denominator is that state measures or actions (or lack thereof) have imposed a disproportionate and unjustified burden on individuals, disrupting the necessary balance between the public interest and the protection of private property. And these are precisely the main areas where North Macedonia needs to improve its practices in order to bring them into line with the standards of the European Court of Human Rights (ECtHR).

Keywords: Protocol No. 1 of the European Convention on Human Rights, property, peaceful enjoyment, legitimate expectations, fair balance, public interest, private property, (dis)proportional burden, standards of the European Court of Human Rights

1. Introduction

Adopted in Paris on March 20, 1952, and entering into force on May 18, 1954, Protocol No. 1 to the European Convention on Human Rights (hereinafter the Convention or ECHR) marks a significant expansion of rights protection. It incorporated three fundamental rights into the original text of the Convention: the right to property (Article 1), the right to education (Article 2), and the right to free elections (Article 3). Being considered “**additional articles**”, they benefit from the full application of all provisions of the Convention. This Protocol is vital, as it extends the scope of the ECHR by including economic and social rights (property and education) as well as an essential political right (free elections), giving new strength to the overall impact of the Convention.

Article 1 of Protocol No. 1 to the ECHR enshrines the right of every natural or legal person to the peaceful enjoyment of his possessions. According to the first paragraph, the deprivation of property is allowed only for reasons of public interest and subject to the conditions provided

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for by law and international law. However, the second paragraph reserves the right of states to adopt laws regulating the use of property in accordance with the general interest, or to secure the payment of taxes and penalties. From this wording, the case-law of the European Court of Human Rights (hereinafter the Court or ECtHR) has identified three distinct rules (one general and two specific):²

1. The general rule: The right to peaceful enjoyment of possessions (Paragraph 1, first sentence). This rule guarantees the use and disposal of property without arbitrary interference.

2. The rule on deprivation of property: Interference that removes the title of ownership (Paragraph 1, second sentence). This includes nationalization or expropriation, where the individual completely loses control over the property.

3. The rule on control of use: Restriction of the manner of property use without removing ownership (Paragraph 2). This includes urban planning, environmental, or fiscal regulations.

The ECtHR treats the term "possession" as an autonomous concept, independent of narrow national definitions. It includes both **immovable property** (land, buildings) and **movable property** (shares, patents, copyrights). A key element is "**legitimate expectation**"; for example, the right to a legally recognized pension is considered a possession, whereas the hope for a future inheritance is not.

Regardless of the type of interference (deprivation or regulation), the fundamental test applied by the Court is that of "**fair balance**". This requires that any state interference does not impose an excessive and disproportionate burden on the individual.

In the context of the Republic of North Macedonia,³ this protocol, along with other protocols (Protocol No. 4, Protocol No. 6, Protocol No. 7 and Protocol No. 11), was ratified by a law adopted by the Parliament of the Republic of Macedonia in a session held on February 27, 1997, and the decree proclaiming the law is dated March 11, 1997.⁴ Otherwise, the Republic of North Macedonia ratified Protocol No. 1 to the European Convention on Human Rights on June 6, 1997.⁵

Consequently, the selection of case law for this study was conducted through a multi-stage filtering process designed to ensure both legal relevance and geographical specificity. Primary data was retrieved from the HUDOC database, the official repository for the case-law of the European Court of Human Rights. The search was limited to cases where the respondent State was the Republic of North Macedonia. Queries were refined to include only judgments addressing Article 1 of Protocol No. 1 (Protection of Property). This included cases involving the peaceful enjoyment of possessions, deprivation of property, and the control of use of property. The research was restricted to the period between 2006 and 2024,⁶ covering the era of significant domestic legal transitions and the evolution of the Court's "Living Instrument" doctrine within the regional context. Only merits judgments in which the Court found at least one violation of Article 1 of Protocol No. 1 were included. This ensures the analysis focuses on established breaches of international standards rather than inadmissible applications or cases resulting in no violation.

² Toolkit - Protocol No. 1 to the Convention, <https://www.coe.int/en/web/echr-toolkit/protocole-1>

³ On February 12, 2019, the constitutional name of the country was officially changed from the Republic of Macedonia (known as the Former Yugoslav Republic of Macedonia) to the Republic of North Macedonia.

⁴ <http://88.85.126.176/PregledNaZakon.aspx?id=4649>

⁵ https://www.pravda.gov.mk/mp_instrumenti

⁶ <https://jpacademy.gov.mk/presudi-odluki/>

2. Practice Of The European Court Of Human Rights In Cases Against The Republic Of North Macedonia

From the analysis of the cases against the Republic of North Macedonia (a total of 13 cases)⁷, it is evident that violations of Article 1 of Protocol No. 1 cover a broad spectrum of interests—extending from traditional ownership of immovable property and motor vehicles to the 'legitimate expectations' of financial claims. The common denominator across these judgments is that state actions, or indeed administrative omissions, have imposed a 'disproportionate and unjustified burden' on individuals. This consistently upsets the requisite 'fair balance' between the demands of the general interest and the protection of fundamental private property rights. This critical gap indicates that while the Republic of North Macedonia has formally integrated the Convention into its constitutional hierarchy, the practical application of its principles remains inconsistent. To mitigate future violations, domestic courts must move beyond a narrow focus on formal legality. There is a pressing need for a more substantive judicial assessment that scrutinizes whether state interference—even if lawful—places an excessive individual burden that outweighs the purported public interest, thereby ensuring that the protection of property is practical and effective rather than theoretical and illusory.

2.1. *The case of Arsovski v. the Republic of Macedonia*:⁸ Violation of the right to property

The applicants in the *Arsovski v. the Republic of Macedonia* case complained about the deprivation of their property, following the expropriation of their land plot in favor of a company. The ECtHR examined whether this deprivation was justified, focusing on the three key criteria of Article 1 of Protocol No. 1: "legal basis," "public interest," and the "proportionality" of the measure.

The ECtHR, reaffirming its doctrine of three rules (peaceful enjoyment, deprivation, regulation of use), found that there had clearly been an interference with the applicants' right to peaceful enjoyment of their property in this case. The Court accepted that: 1) there was a legal basis, as the expropriation was carried out on the basis of a national law on the exploitation of mineral resources, and 2) there was a public interest, as the purpose (exploitation of mineral water as a public good) was legitimate.

However, regarding proportionality, the ECtHR concluded that the interference had not achieved the fair balance between the demands of the general interest and the protection of individual rights. The Court assessed that the expropriation imposed an excessive and disproportionate burden on the applicants in relation to the aim pursued. Consequently, the ECtHR unanimously ruled that there had been a violation of Article 1 of Protocol No. 1 to the Convention.

2.2. *The case of Stojanovski and Others v. the Republic of Macedonia*:⁹ Legitimate expectation and violation of property

In the case of *Stojanovski and Others v. the Republic of Macedonia*, the applicants contested the refusal of the domestic authorities to transfer to them the ownership of a land plot, which they sought to regain through denationalization. To assess the complaint, the European Court of Human Rights (ECtHR) had to determine whether the applicants' claim constituted a "possession" within the meaning of Article 1 of Protocol No. 1.

The Court reaffirmed that this provision does not merely guarantee the right to acquire property, but protects either existing possessions, or a "legitimate expectation" of acquiring the effective

⁷ [presudi-odluki.xls](#)

⁸ ECtHR, case of *Arsovski v. the Former Yugoslav Republic of Macedonia*, application no. [30206/06](#), 15 January 2013.

⁹ ECtHR, case of *Stojanovski and Others v. the Former Yugoslav Republic of Macedonia*, application no. [14174/09](#), 23 October 2014.

enjoyment of a property right. A simple hope, or a conditional claim that is extinguished, is not enough to constitute "possession".

The ECtHR found that, by refusing the request for ownership on the basis of circumstances that were contrary to established regulations and case-law, the domestic authorities had acted in violation of the principle of lawfulness. This action harmed the applicants' property interests and made it incompatible with their right to peaceful enjoyment of possessions. For this reason, the Court unanimously ruled that there had been a violation of Article 1 of Protocol No. 1 to the Convention.

2.3. *The case of Andonoski v. the Republic of Macedonia:*¹⁰ *Disproportionate confiscation of a vehicle*

In the case of *Andonoski v. the Republic of Macedonia*, the applicant complained about the confiscation of his vehicle, used by a third party for transporting migrants, despite the fact that he was not convicted of any criminal offence. The ECtHR, having found that the permanent seizure of the vehicle (which involved transfer of ownership) constituted an interference under Article 1 of Protocol No. 1, examined the legitimacy and proportionality of the measure. The Court accepted that the confiscation was based on Law (Article 418-b of the Criminal Code), but focused on the balance between the public purpose and the applicant's rights.

The Court's reasoning focused on three main factors: 1) Failure of proportionality (automatic nature), 2) Lack of individual review, and 3) Lack of effective compensation.

Regarding the first factor, Article 418-b provided for mandatory and automatic confiscation of the means of transport, allowing no exception. This measure applied regardless of whether the vehicle belonged to the perpetrator of the crime or a third party, and without regard to the owner's conduct or knowledge.

Concerning the second factor, the automatic confiscation deprived the applicant of the opportunity to argue his case and denied the domestic courts the opportunity to take into account mitigating factors, such as the fact that the applicant was a taxi driver, had no criminal record, and was unaware of the unlawful use of the vehicle.

Finally, the Court found that the confiscation law (Article 418-b) did not provide for compensation, and the Government did not demonstrate that a claim for compensation under other legal provisions would have been an effective remedy in such circumstances. Considering these procedural and substantive shortcomings, the ECtHR ruled that the confiscation decision imposed an excessive and disproportionate burden on the applicant. Consequently, a unanimous violation of Article 1 of Protocol No. 1 to the Convention was found.

2.4. *The case of Vasilevski v. the Republic of Macedonia:*¹¹ *Confiscation after transfer of ownership*

In the case of *Vasilevski v. the Republic of Macedonia*, the applicant complained about the deprivation of his vehicle (truck) as a result of the implementation of a confiscation decision taken years earlier against a previous owner. The European Court of Human Rights (ECtHR) found that the implementation of the confiscation decision in 2006, after the applicant had acquired ownership of the truck from the legal entity M., constituted a *de facto* deprivation of his property and an interference with its peaceful enjoyment. The ECtHR considered the measure as a control of use (under paragraph 2 of Article 1) and accepted that its pursuit aimed at fighting crime, a legitimate objective in the general interest.

The essence of the violation lay in the proportionality. Despite the **wide margin of appreciation** enjoyed by states, the ECtHR concluded that the execution of the confiscation order, which deprived the applicant of possession of the truck, had imposed an excessive burden on him.

¹⁰ ECtHR, case of *Andonoski v. the Former Yugoslav Republic of Macedonia*, application no. [16225/08](#), 17 September 2015.

¹¹ ECtHR, case of *Vasilevski v. the Former Yugoslav Republic of Macedonia*, application no. [22653/08](#), 28 April 2016.

Consequently, the Court unanimously ruled that there had been a violation of Article 1 of Protocol No. 1 to the Convention.

2.5. *The case of EUROMAK METAL DOO v. the Republic of Macedonia:*¹² *Unfair penalty for suppliers' obligations*

The applicant company, EUROMAK METAL DOO, addressed the ECtHR claiming that it had been deprived of its right to the peaceful enjoyment of its possessions, after the tax authorities refused to deduct the VAT (Value Added Tax) paid for purchases, on the grounds that its suppliers had not fulfilled their VAT obligations. As a result, the company was not only refused the deduction, but was ordered to pay the VAT, plus interest, thus being penalized for the errors of third parties.

The ECtHR examined the case under the second paragraph of Article 1 of Protocol No. 1, which regulates the control of property use to secure the payment of taxes. Even though states enjoy a **"wide margin of appreciation"** in fiscal matters, the Court reiterated that the interference must achieve a **"fair balance"** between the public interest and the protection of individual rights.

Relying on the principles established in the similar case of *BULVES AD v. Bulgaria*,¹³ the Court found that the contested tax assessment had violated the company's property rights. The fact that EUROMAK METAL DOO's bank account was blocked (which made the payment of obligations objectively impossible) was not decisive, as the violation of property rights was already clear. Furthermore, the Court noted that the Government had not demonstrated any effective and accessible legal remedy (such as a civil lawsuit or joining criminal proceedings) that would alleviate the burden on the company. In these circumstances, the Court unanimously ruled that the interference had imposed a disproportionate burden on the applicant company, finding a violation of Article 1 of Protocol No. 1 to the Convention.

2.6. *The case of Anastasov v. North Macedonia:*¹⁴ *Mandatory confiscation for tax obligations*

The applicant in the case of *Anastasov v. North Macedonia* complained about the violation of his property rights (Article 1 of Protocol No. 1) as a result of the seizure and confiscation of his car, due to non-payment of import duties. During the examination of the applicant's complaint, the Court noted that the relevant general principles for the case in question had been set out, *inter alia*, in the case of *G.I.E.M.S.R.L. and others v. Italy [GC]*.¹⁵

The ECtHR found that the confiscation of the car constituted an interference with the applicant's possessions. The Court accepted that this interference had a legal basis (Article 100-A of the Criminal Code) and pursued a legitimate aim – the collection of taxes and duties (public interest). However, the main focus was on the proportionality of the measure. The ECtHR noted that, despite the fact that the misdemeanor proceedings against the applicant had been discontinued, the law provided for a mandatory confiscation of the vehicle. This automatism: 1) deprived the applicant of the opportunity to effectively challenge the confiscation and to argue the extent of his responsibility, and, 2) the confiscation was accompanied by the lack of a realistic opportunity to receive compensation for the loss of property. In these circumstances, the ECtHR concluded that the mandatory confiscation of the car imposed an excessive burden on Anastasov that could not be justified by the state's legitimate aim. Consequently, the Court unanimously ruled a violation of Article 1 of Protocol No. 1 to the Convention.

¹² ECtHR, case of EUROMAK METAL DOO v. the Former Yugoslav Republic of Macedonia, application no. [68039/14](#), 14 June 2018.

¹³ ECtHR, case of "BULVES" AD v. Bulgaria, application no. [3991/03](#), 22 January 2009.

¹⁴ ECtHR, case of Anastasov v. North Macedonia, application no. [46082/14](#), 26 September 2019.

¹⁵ ECtHR, case of G.I.E.M. S.R.L. and Others v. Italy, applications nos. [1828/06](#) and 2 others, 28 June 2018.

2.7. *The case of Jakimovski and KARI PREVOZ v. North Macedonia:*¹⁶ *Disproportionate customs sanction*

In the case of *Jakimovski and KARI PREVOZ v. North Macedonia*, the applicants contested the seizure and confiscation of their truck and goods following a misdemeanor procedure for customs violations (failure to present goods for inspection). The ECtHR considered the confiscation measure, although it involved deprivation of possession, as a control over the use of property (Paragraph 2 of Article 1), following the approach established in the *Vasilevski* case.¹⁷ The Court accepted that the interference was lawful and aimed at deterring customs violations.

The essential point of the violation was the lack of proportionality. The ECtHR emphasized that the confiscation measure had to correspond to the seriousness of the established violation. The Court distinguished this case from more serious cases (such as human trafficking or import of prohibited goods). In the present case, the first applicant had already been fined and the goods had been confiscated. The ECtHR concluded that it had not been convincingly demonstrated that the imposed sanctions (fine and confiscation of goods) would not have been sufficient to achieve the deterrent purpose. Consequently, the confiscation of the truck as an additional sanction was considered disproportionate, imposing an excessive burden on the applicants. As a result, the Court unanimously ruled a violation of Article 1 of Protocol No. 1.

2.8. *The case of Strezovski and Others v. North Macedonia:*¹⁸ *Mandatory payment for disconnected heating*

In the case of *Strezovski and Others v. North Macedonia*, the applicants, apartment owners disconnected from the central heating system, contested the legal obligation to pay a compensation fee for the "contracted capacity" to private heat suppliers. They claimed a violation of the right to peaceful enjoyment of possessions (Article 1 of Protocol No. 1). The ECtHR noted that, regardless of whether the matter was treated as a positive obligation of the state to protect property, or as an interference by a public authority, the principles of assessment remained essentially the same: maintaining a "**fair balance**" between the interests of the individual and those of the community as a whole.

The ECtHR accepted that the interference was based on law. The obligation pursued a legitimate aim: ensuring a safe and efficient supply of heat energy (by maintaining the central system). Although the public purpose was accepted, the Court emphasized that there was a clear private/commercial interest of the heat suppliers. In these circumstances, the State should have been careful not to allow this measure to create an imbalance, by imposing an excessive burden on the owners of disconnected apartments while simultaneously allowing private suppliers to make potentially unjustified profits. The Court concluded that the Defendant State, by exceeding its **margin of appreciation**, failed to strike a fair balance and did not provide adequate procedural protection for the applicants' property rights. This significant interference led to the Court's unanimous decision of a violation of Article 1 of Protocol No. 1.

2.9. *The case of AVTO ATOM DOO Kochani v. North Macedonia:*¹⁹ *Denial of VAT deduction for third-party error*

In the case of *AVTO ATOM DOO Kochani v. North Macedonia*, the applicant company complained of a violation of the right to property (Article 1 of Protocol No. 1) due to the refusal of the domestic authorities to deduct the VAT (Value Added Tax) paid, as a result of an error (or fraud) committed by its supplier.

¹⁶ ECtHR, case of Jakimovski and Kari Prevoz v. North Macedonia, application no. [51599/11](#), 14 November 2019.

¹⁷ Ibid, see 11.

¹⁸ ECtHR, case of Strezovski and Others v. North Macedonia, applications nos. [14460/16](#) and 7 others, 27 February 2020.

¹⁹ ECtHR, case of AVTO ATOM DOO KOCHANI v. North Macedonia, application no. [21954/16](#), 28 May 2020.

The ECtHR found that the applicant company's right to claim the VAT deduction constituted a "legitimate expectation" of effective enjoyment of property rights, making Article 1 of Protocol No. 1 applicable. The Court noted that AVTO ATOM had paid the VAT, was not accused of any criminal offense, and had fulfilled its obligations.

The main issue was whether the applicant company had acted with "due diligence". The Court rejected the Government's argument that the company should have checked the supplier's VAT status through the Public Revenue Directorate (DAP) system, as such a practice was not supported by domestic legislation or practice. The applicant had placed its trust in the invoices issued by the supplier. The Court questioned why the State had not sought the full amount of VAT from the owner of the supplying company, who was convicted of tax fraud for the exact same period, according to the applicant's request. Also, it was found that the Government's suggestion to bring a civil lawsuit against the supplier was impossible, as the supplier had been removed from the company register.

In these circumstances, the ECtHR concluded that the interference imposed an excessive and disproportionate burden on the applicant company. Consequently, the Court unanimously ruled a violation of Article 1 of Protocol No. 1 to the Convention.

2.10. The case of Anev and Najdovski v. North Macedonia:²⁰ Disproportionate confiscation of trucks

In the case of *Anev and Najdovski v. North Macedonia*, the applicants were convicted of a criminal offence (non-possession of the necessary documentation for wood) and, in addition to the fine, their trucks were also confiscated. The applicants claimed a violation of the right to property (Article 1 of Protocol No. 1). The ECtHR found that the confiscation of the trucks constituted a deprivation of the applicants' possessions. The Court accepted that the measure was lawful (based on the Law on Forests, the Law on Misdemeanors and the Criminal Code). However, the Court emphasized that the imposed confiscation was mandatory and automatic under domestic law. This automatism deprived the applicants of the opportunity to effectively challenge the confiscation measure, and prevented the review of the extent of their responsibility or conduct. The ECtHR noted that the applicants had already been fined and the wood itself (the items being transported) had been confiscated. The Court considered that the Government did not convincingly demonstrate that these sanctions would not have been sufficient to achieve the desired effect of deterrence and prevention of similar acts in the future. Consequently, the confiscation of the trucks, as an additional sanction, was judged disproportionate and imposed an excessive burden on the applicants. The Court unanimously ruled a violation of Article 1 of Protocol No. 1 to the Convention.

2.11. The case of RADIKA PREVOZ DOO Ljubljana v. North Macedonia:²¹ Failure of compensation and excessive formalism

In the case of *RADIKA PREVOZ DOO Ljubljana v. North Macedonia*, the applicant company complained of a violation of the right to property (Article 1 of Protocol No. 1) due to uncompensated damage caused by the temporary seizure (2 years and 5 months) of its vehicle. The seizure was carried out in the context of proceedings against a third party (Mr. F.).

The ECtHR found that the temporary seizure constituted control over the use of property (paragraph 2 of Article 1). Furthermore, the Court accepted that the lawfulness of the measure was not in dispute, shifting the full focus to proportionality.

The failure in the proportionality criterion lies in the state's failure in the way the domestic courts handled the applicant company's compensation claim. The domestic courts examined the company's claim (under the Law on Obligations) in a very formalistic and limited manner. They

²⁰ ECtHR, case of Anev and Najdovski v. North Macedonia, applications nos. [17807/15](#) and [17893/15](#), 3 September 2020.

²¹ ECtHR, case of Radika Prevozi DOO Ljubljana v. North Macedonia, application no. [52003/18](#), 21 March 2023.

rejected the state's responsibility on the grounds that the seizure was carried out based on law, ignoring the consequences. The courts did not pay due attention to the fact that the seized vehicle was an essential source of income for the company and its seizure for almost two and a half years had a potentially very large impact on proportionality. The courts failed to address the company's argument about lost profits, leading to the entire procedure failing to find a balance between the interests at stake.

Consequently, the Court unanimously ruled that the failure to provide adequate protection of property rights in the context of compensation proceedings led to a violation of Article 1 of Protocol No. 1.

2.12. The case of Kitanovska and Trajkovski v. North Macedonia:²² Fixed fee, violation of property

In the case of *Kitanovska and Trajkovski v. North Macedonia*, the applicants, who were apartment owners, contested the obligation imposed by the State to pay a fixed fee to a private heat energy supplier, claiming a violation of the right to peaceful enjoyment of possessions (Article 1 of Protocol No. 1). The ECtHR referred to the principles established in the *Strezovski and Others* case,²³ confirming that the contested measure was provided for by law and pursued the legitimate aim of ensuring a safe and efficient supply of heat energy.

The essence of the violation lay in the failure of the domestic courts to find the **fair balance** between the interests of the community and individual rights. The ECtHR found that the domestic courts had applied the same general and formalistic approach, which the ECtHR had previously considered incompatible with the Convention. They failed to objectively assess all relevant factors of the case, including the applicants' specific arguments and evidence regarding the details of their apartments. This failure to provide sufficient protection of the applicants' property rights and to balance the interests involved constituted a disproportionate interference. For this reason, the Court unanimously ruled a violation of Article 1 of Protocol No. 1.

2.13. The case of Naskov and Others v. North Macedonia:²⁴ Annulment of a final denationalization decision

In the case of *Naskov and Others v. North Macedonia*, the applicants contested the *proprio motu* (on its own initiative) annulment of a final denationalization decision from 2002, which recognized their ownership over a land plot. The annulment was made due to the impossibility of implementation, as third parties had built structures on that land. The ECtHR found that the denationalization decision had created a property right for the applicants, which was also registered in the property register. The Court emphasized that the revocation of these rights constituted an interference with their "possession" under Article 1 of Protocol No. 1.

To assess the interference, the Court analyzed whether it was lawful and foreseeable. The ECtHR concluded that the annulment of a final denationalization decision, initiated by the implementation procedures, had prevented the applicants from relying on a binding decision, and had deprived them of the opportunity to acquire possession of the property they had legitimately expected. For this reason, the Court found that the interference with the applicants' property interests was contrary to the principle of lawfulness and could not be considered foreseeable. This finding made the proportionality analysis unnecessary. The Court unanimously ruled a violation of Article 1 of Protocol No. 1 to the Convention.

²² ECtHR, case of *Kitanovska and Trajkovski v. North Macedonia*, applications nos. [71657/17](#) and nine others, 14 November 2023.

²³ *Ibid*, see 18.

²⁴ ECtHR, case of *Naskov and Others v. North Macedonia*, applications nos. [31620/15](#) and 2 others, 12 December 2023.

3. Conclusions

The analysis of the case-law of the European Court of Human Rights (ECtHR) regarding Article 1 of Protocol No. 1 to the ECHR in cases against North Macedonia reveals consistent patterns of violations and high expectations from the state. The specific conclusions that emerge are:

3.1. Insufficient assessment of individual circumstances: One of the most common problems leading to violations is the failure of domestic authorities to take into account the individual circumstances of each case. This is particularly evident in cases of mandatory (automatic) measures and lack of discretion. As demonstrated in the cases of *Andonoski v. the Republic of Macedonia* and *Anastasov v. North Macedonia*, the mandatory seizure or confiscation of property (e.g., vehicles) with automatism, regardless of the owner's innocence or connection to the criminal act, is in direct conflict with the requirement of proportionality. The State cannot apply a "one-size-fits-all" approach when property rights are affected. Domestic courts and authorities often lack or fail to exercise discretion to assess whether a measure is excessively severe for the individual, even when provided for by law.

3.2. Lack of effective remedies for compensation: While the State may argue that domestic legal remedies exist, the ECtHR has consistently found that these remedies are ineffective or unavailable. Examples of this include difficulties with collection and the lack of a real opportunity for appeal. In the cases of *EUROMAK METAL DOO v. the Republic of Macedonia* and *AVTO ATOM DOO Kochani v. North Macedonia*, the companies were deprived of the right to deduct VAT due to errors by their suppliers. Although the Government suggested a civil lawsuit against the supplier, the ECtHR noted that this was not feasible if the supplier did not exist or had been removed from the registers. In some cases, the Court found that the applicants had no real opportunity to contest the seizure of property or to seek compensation in an effective manner.

3.3. Balance between public and private interests, especially when a commercial aspect is involved: The ECtHR is particularly careful when state interference, although justified by a "public interest," also involves private commercial interests. The case of *Strezovski and Others v. North Macedonia* is an example of this. In this case, although the imposition of fees for energy used in central heating may be in the general interest of system maintenance, the Court emphasized that the State must ensure that this does not lead to unjustified profits for private suppliers at the expense of the owners. Furthermore, this requires the State to be very careful in finding a fair balance and providing appropriate procedural safeguards to protect individual rights.

3.4. Need for consistent application of the law and respect for legitimate expectations: The case of *Stojanovski and Others v. the Republic of Macedonia* highlights the importance of consistent application of domestic law and respect for the legitimate expectations of citizens. The refusal of a denationalization request contrary to existing regulations and case-law directly violates property rights. Citizens must be confident that their property rights will be treated in accordance with the laws in force and established case-law.

3.5. Broader implications for the rule of law: Violations of Article 1 of Protocol No. 1 are not just isolated incidents, but indicate broader systemic problems in the functioning of domestic authorities and courts. The frequent violations undermine legal certainty and confidence in the legal system of the Republic of North Macedonia. Therefore, the implementation of ECtHR

judgments requires not only individual compensation, but also systemic reforms to prevent future violations and strengthen the protection of property rights.

3.6. Ultimately, the synthesis of these five points reveals a profound and systemic failure by domestic authorities to protect property rights under Article 1 of Protocol No. 1. The recurring violations identified by the ECtHR are not isolated administrative errors or occasional judicial missteps; rather, they are symptoms of a rigid, formalistic legal culture that consistently prioritizes state mechanics and private commercial monopolies over individual constitutional rights.

By enforcing mandatory punitive measures without individual proportionality assessments, providing illusory legal remedies, and adjudicating arbitrarily, the State continuously breaches the "fair balance" required by the Convention. This structural dysfunction effectively strips citizens of their legitimate expectations and hollows out the fundamental guarantee of legal certainty.

Consequently, ensuring future compliance with ECtHR jurisprudence cannot be achieved through reactive, individual financial redress alone. The State must fundamentally overhaul its approach to property rights by implementing substantive legislative and judicial reforms. This requires embedding the principle of proportionality into domestic law, dismantling inflexible statutory mandates, and empowering domestic courts to act as a genuine, effective first line of defense against arbitrary state interference. Without such structural intervention, the Rule of Law in North Macedonia remains significantly compromised.

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