



## Inaction of State in response to squatting of hotel by migrants: violation of property rights under Convention

In today's Chamber judgment<sup>1</sup> in the case of **Papachela and Amazon S.A. v. Greece** (application no. 12929/18) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 1 of Protocol No. 1 (protection of property)** to the European Convention on Human Rights.

The case concerned the occupation of a hotel for over three years by migrants and a group acting out of solidarity with them. The hotel belongs to Ms Papachela and to a limited company, of which she is the sole shareholder.

The applicants complained that the authorities had remained inactive when asked to evict the squatters, who had remained in the hotel from April 2016 until July 2019, at which point they left the premises of their own accord. In the meantime, the applicants had lodged a number of complaints, which were either adjourned or not examined at all. A decision given by a Justice of the Peace, ordering the eviction and recovery of possession of the hotel, was never enforced. During that period Ms Papachela was forced to sell her house to cover the debts incurred as a result of the squatters' occupation (taxes, water and electricity bills) in order to avoid criminal proceedings.

The Court found in particular that, in view of the applicants' interests, the authorities should have taken the necessary measures to secure their right to peaceful enjoyment of their property, while allowing for a reasonable period of time to find a satisfactory solution. By remaining inactive for over three years, faced with a situation which had significant repercussions for the applicants' property rights, the national authorities had failed to strike a fair balance between the demands of the general interest of the community and the requirements of protecting individual rights.

### Principal facts

The application was lodged by Aliko-Maria Papachela (a Greek national who was born in 1961 and lives in Athens) and by a limited company, of which Ms Papachela is the sole shareholder.

In April 2016 Ms Papachela noticed that a group of people acting out of solidarity with refugees were squatting in her hotel, which had been empty since March 2010, in the city centre of Athens. She informed the police, but the officers present at the scene simply observed the squatters' movements. Ms Papachela repeatedly filed complaints against different people. The applicants' lawyer subsequently wrote to the public prosecutor complaining that no action had been taken to evict the squatters. The prosecutor ordered a preliminary investigation.

In the meantime the solidarity group occupying the hotel illegally reconnected the electricity and water. Ms Papachela's company wrote to the State electricity and water boards to inform them of the situation, but neither responded. However, in March 2017, Ms Papachela's company was ordered to pay a bill for 81,500 euros (EUR), a sum which had risen to EUR 141,990 by 12 February 2018.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

In April 2017 Ms Papachela's company lodged an interim-measure application with the Athens Justice of the Peace seeking to have the squatters evicted from its hotel.

In May 2017 Ms Papachela was informed that an eviction order had been issued by the prosecutor, but that it had not been enforced.

In July 2017 the Justice of the Peace (decision no. 1023/2017 of 26 July 2017) upheld the application for an interim measure and ordered the "network for civil and political rights" to vacate the hotel, on pain of a fine of EUR 1,000 and a two-month prison term for the group's representative. The Justice of the Peace noted in particular that in spite of Ms Papachela's request of 22 April 2016 asking the police to clear the hotel, no action had been taken. The judge also noted that, even though the applicant had written in June 2016 to the chief of police and the Deputy Minister of the Interior, the State had not provided her with any assistance, as a result of which she had filed a complaint against them on 3 March 2017.

In August 2017 a bailiff notified the decision of the Athens Justice of the Peace to the Aghios Panteleïmonas police station, requesting police intervention to clear the hotel of its occupants in accordance with this decision. The bailiff subsequently renewed this request, unsuccessfully, on 6 and 18 September 2019, then again on 2 October 2019. Later on the applicants also appealed to the State Legal Counsel's office, which did not respond.

According to the applicants, their debt to the State for various taxes up to June 2017 amounted to EUR 101,885.35, and the unpaid water bills, up to 12 February 2018, to EUR 141,990; in addition to electricity bills; and the hotel's net worth since its occupation had allegedly fallen from nine million to four million euros.

In January 2018 Ms Papachela received a notice of confiscation in respect of her personal home as a result of her debts to the State. She was forced to sell it to pay off her debts and avoid criminal prosecution.

In January 2018 Ms Papachela's company appealed to the Athens Justice of the Peace seeking the eviction of the squatters. In August 2018 the national chief of police informed the Secretary General of the Ministry of Migration Policy that the eviction decision would not be easy to enforce and that it would first be necessary to identify places where they could be housed after leaving the hotel.

Ultimately, the occupation, which had begun in April 2016, ended in July 2019 when the squatters left the hotel of their own accord.

## Complaints, procedure and composition of the Court

Relying on Article 1 of Protocol No. 1 (protection of property) to the Convention, the applicants complained of the illegal occupation of their hotel and of the State's inaction in failing to resolve the matter. They also complained that the authorities had refused to compensate them. They alleged that they had had to pay taxes to the State as the legal proprietors of the hotel during that time.

The application was lodged with the European Court of Human Rights on 9 March 2018.

Judgment was given by a Chamber of seven judges, composed as follows:

Ksenija **Turković** (Croatia), *President*,  
Linos-Alexandre **Sicilianos** (Greece),  
Alena **Poláčková** (Slovakia),  
Péter **Paczolay** (Hungary),  
Gilberto **Felici** (San Marino),  
Erik **Wennerström** (Sweden),  
Lorraine **Schembri Orland** (Malta),

and also Renata Degener, *Deputy Section Registrar*.

## Decision of the Court

### Article 1 of Protocol No. 1 (protection of property)

The Court observed that the authorities' failure to take steps to clear the applicants' hotel of its unlawful occupants, even though an eviction order had been issued by the public prosecutor, had resulted in the property being unusable for several years, thus increasing the hotel's financial burden as a result of a significant accumulation of the building's energy costs.

The Government justified the authorities' inaction on public policy grounds, seeking in particular to avoid the risk of a breach of the peace if forcibly removing dozens of people and clearing out a building that had been squatted as part of a campaign by activists, but also on welfare grounds, particularly bearing in mind that, at a time when the migration crisis had peaked, there were no alternative housing solutions for the migrants in question.

The Court acknowledged that the fears caused by the above-mentioned considerations could justify to some extent the authorities' reluctance to carry out a rapid and sudden clearance of the building. However, this could not justify such total and prolonged inaction on their part. In spite of the applicants' complaint in which they had requested immediate police assistance in evicting the squatters from the hotel, the procedure had been delayed. Moreover, two complaints by the applicants against the person responsible for the situation had never been examined.

Furthermore, the national electricity and water boards, which had agreed to resume their supply to the hotel, even though the applicants had in the past cut off both electricity and water, had not responded to the applicants' appeal not to be held liable for any consumption generated by the squatters. In spite of that, one year after the start of the hotel's occupation, the national water board had summoned Ms Papachela's company to pay a bill of EUR 81,000 on pain of confiscation of the hotel, a sum which had reached EUR 141,990 by 12 February 2018. The debt owed to the tax authorities for various taxes reached EUR 101,885.35 in June 2017, of which EUR 22,000 per annum corresponded to property tax.

In addition, the applicants had sought to reach an agreement with the State for the payment of taxes and the water and electricity bills that had accumulated in respect of their property. They had thus written to the State Legal Counsel, which was the only body empowered to negotiate such an agreement, but had not received any reply. In January 2018 Ms Papachela received notice that her personal home would be confiscated to cover debts owed to the State.

Lastly and importantly, decision no. 1023/2017 by which the Justice of the Peace, while noting the inaction of the police authorities, had ordered, by way of an interim measure, the clearing of the premises and the recovery of the hotel by the applicants, was never enforced. The police had failed to respond to the four requests by which the bailiff mandated by the applicants had asked for police assistance in enforcing the decision. Proceedings for the squatters' eviction, brought by Ms Papachela's company in January 2018 before the Justice of the Peace, had not been dealt with by July 2019, when they vacated the hotel of their own accord.

In view of the applicants' interests, the authorities should have taken the necessary measures to secure their right to peaceful enjoyment of their property, while allowing for a reasonable period of time to find a satisfactory solution. By remaining inactive for over three years, faced with a situation which had significant repercussions for the applicants' property rights, the national authorities had failed to strike a fair balance between the demands of the general interest of the community and the requirements of protecting individual rights. **There had therefore been a violation of Article 1 of Protocol No. 1.**

### Just satisfaction (Article 41)

The Court held that Greece had to pay the applicants EUR 300,000 for loss of business (pecuniary damage), EUR 2,500 in respect of costs and expenses. It also had to pay Ms Papachela EUR 10,000 for non-pecuniary damage.

*The judgment is available only in French.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.