Public–Private Law Intersections in Cultural Property Restitution: Legal Challenges in Hungarian Public Collections

Balázs Horváth[1] & Katalin Fekete[2]
[1]Department of Civil Law, Eötvös Loránd University, Budapest, Hungary
[2]Institute for Constitutional and Human Rights Studies, University of Szeged, Hungary
Corresponding Author: Balázs Horváth

Abstract
The restitution of cultural property held in public collections presents complex legal challenges, particularly in jurisdictions shaped by extensive state appropriation of private assets during the twentieth century. In Hungary, the Second World War and the subsequent socialist period resulted in the large-scale transfer of privately owned works of art and cultural objects into state possession. While post-war efforts sought to address ownership issues, many claims remained unresolved, and restitution measures introduced after the political transition of 1989 frequently relied on partial compensation rather than the return of property. This article critically examines the contemporary shortcomings of the Hungarian restitution framework as it applies to cultural property held in public collections. The analysis begins with a brief overview of restitution approaches adopted in Central and Eastern Europe, situating Hungary within a broader regional context. It then provides a detailed examination of the Hungarian legal environment governing restitution, with particular emphasis on legislative and regulatory developments introduced during the 2010s that were intended to clarify the legal status of cultural objects in public collections. The article highlights how these measures have generated constitutional concerns arising from the intersection of private law ownership rights and public law mechanisms of cultural heritage protection. Through an examination of civil law disputes concerning ownership claims over protected cultural property, the article identifies structural weaknesses in the Hungarian regulatory framework, including inconsistencies in legal guarantees and limitations on effective remedies. The analysis further engages with the jurisprudence of the European Court of Human Rights concerning the protection of property rights, assessing how Hungarian restitution practices have been evaluated before the Court. It is argued that uncertainty and limited predictability in judicial outcomes, both at the domestic and supranational levels, risk undermining legal certainty and may give rise to human rights concerns. The article concludes by emphasizing the need for clearer legal standards and a more coherent balance between public interest objectives and private property rights in the restitution of cultural property.
Keywords: cultural property restitution; public collections; Hungarian law; public and private law; Central and Eastern Europe; human rights protection.

Introduction

As Dariusz Stola put it, the issue of property is intertwined with the tumultuous narrative of the 20th century and deeply entangled with the character of totalitarian regimes, thus persisting as a formidable aspect of their enduring legacy and providing significant challenges to surmount. During the Second World War and after, until the end of the

communist regime in 1989, a massive amount of privately owned works of art came into the possession of the state. Some of this cultural property was deposited by its owners to protect it, but in most cases, the transfer of ownership was against the owner's will. Initially, the works of art of the Jewish population were subject to declaration, and later their property was locked away and became state property. The ownership of the property thus collected was only partially clarified after the war. After the fall of communism, nationalized cultural property was subject to restitution law, but restitution typically did not result in the return of the latter but rather in partial compensation. Nazi-looted art held in private and public collections is a subject of heated debate in legal literature, as are the cultural goods relocated during the socialist period. Hungary is deeply affected with respect to both situations.

The aim of this article is to highlight the shortcomings that still characterize the restitution of cultural property held in public collections. After a brief summary of the historical-legal situation pertaining to restitution measures in Central and Eastern Europe (CEE), we provide a comprehensive overview of the Hungarian legal environment in terms of restitution. The focus is on the restitution rules adopted in the 2010s, which were intended to settle the possession of cultural property held in public collections. The roots of constitutional issues arising from the rules and regulations are seen in the intermingling of private law and public law characteristics and guarantees. In our presentation of civil law disputes concerning the ownership rights of property held in public collections, we outline the characteristics of the Hungarian regulatory framework regarding protected cultural property and the issues arising from its application. Finally, we provide an overview of the European Court of Human Rights' (ECtHR) jurisprudence on the protection of property rights and an assessment of Hungarian regulations before the Court.

Historical Background: Restitution in CEE and Hungary

An examination of the illicit movement of cultural artefacts across Europe from 1939 to 1990 reveals two distinct categories of movements. First, the unprecedented scale of looting perpetrated by the Nazis during the Second World War impacted nations in both Western and Eastern Europe. Since the 1990s, considerable attention has been directed to this phenomenon in the legal scholarship relating to the framework of predominantly soft law instruments. Conversely, another category of incidents that involved such illicit movements unfolded in the CEE countries assimilated into the Soviet Union — a category which has been relatively overlooked. We concur with Gaudenzi and Niemeyer's assertion that the restitution of cultural heritage post-1945 predominantly constitutes a Central European narrative.

The variance in German wartime strategies and occupation policies in Western and Eastern Europe significantly influenced property dynamics. Additionally, the war catalyzed the USSR's expansion and the spread of communism into CEE, profoundly shaping property relations over the ensuing half-century. The nationalization laws enacted by the communist regime resulted in the confiscation of property from all individuals, irrespective of race, religion, and ethnicity. Following the fall of the Iron Curtain in 1989, all the states in the post-Soviet bloc have had to deal with the issue of reparations. The transition from authoritarian communist rule to a democratic system commenced with deliberations on suitable policies, given the dearth of established models

to guide the political, economic, and social transformations during that period. As a result, various post-Soviet countries adopted different approaches in this regard.

Under the socialist system, the goal of nationalizations was the transformation of property relations, thus serving a general socio-political objective. In Hungary, legislators were unprepared for the regime change, as until then questioning the legality of the state order was inconceivable. At the same time, the democratic transition was peaceful and gradual. Following the first free elections, the National Assembly (rather than a constitutional legislature) was formed, which refrained from deeming the system established after 1945 illegal. The 1949 Hungarian Constitution was not repealed; albeit its content was extensively modified. The issue of restitution was addressed by Act XXV of 1991, which aimed to settle property relations and partially compensate former owners for the injustices caused by the state's unjust expropriation of citizens' property. Insofar as concerns this legislation — as was later determined by the Hungarian Constitutional Court (CC) — the regulations did not concern compensation based on civil law but instead established the rules of compensation as a political decision based on the state's political responsibility, determined according to the principle of fairness. Thus, the latter did not involve the restitution of property, but focused on partial redress for unjustly caused damage. The amount of compensation was to be determined in relation to the country's economic capacity. As such, it was typically very low and paid in the form of compensation notes.

The Constitutional Court played a key role in the democratic transformation of the legal system. From the political standpoint, the CC approached the laws of the Hungarian People's Republic with the presumption that they were lawful products of an illegitimate regime. Thus, the protection of legal certainty, an element of the rule of law, extended to the legal relationships established on these grounds as well. The CC addressed the issue of restitution on multiple occasions in the early 1990s. It determined that, measured against the standards of the new rule of law, there was no requirement derived from the Constitution for the state to return property unlawfully expropriated under previous regimes to the original owner.

In 2011, the Fundamental Law was adopted, replacing the 1949 Constitution. Article U) (9) of the Fundamental Law concludes the following about the process of restitution: "No law may establish new legal grounds for compensation providing financial or any other pecuniary payment to individuals who were unlawfully deprived of their lives or freedom for political reasons and who suffered undue property damage by the state [...] before 2 May 1990".

Restitution of Debated Artifacts in Public Collections

While the restitution laws were aimed at settling the "ghosts" of history, problems still arise in practice. The issue of the legal status of cultural assets held in public collections came to public attention in 2002. The ownership rights of four Munkácsy paintings that had been securely held under deposit in several Hungarian museums for decades sparked public debate. The heirs (the Vida family) argued that since these paintings were never transferred to state ownership — i.e., never officially recognized by the state — they remained the rightful owners. The case dragged on for years due to the lack of a formal procedure. Finally, due to an ex gratia gesture of the state, the paintings were removed from the Hungarian National Gallery's inventory with the permission of the then Minister

of National Cultural Heritage, although no administrative decision or court decision was issued. The Vida case was investigated by the State Audit Office of Hungary (SAO), which pointed out that the procedure for returning these assets was not properly regulated. It recommended establishing a transparent set of rules for the ownership and management of works of art held in collections.

In 2013, after prolonged silence from the authorities, the Hungarian Parliament adopted Act CXCV of 2013 Amending Certain Acts Related to the Restitution of Disputed Cultural Property Held in Public Collections. The focus of the amending act was on supplementing the rules of Act CXL of 1997 on Museums, Public Libraries and Public Culture ("the Cult. Act"). According to Article 4/A of the Cult. Act:

"Cultural property kept in a public collection maintained by the state or local government, the state ownership of which cannot be proven beyond reasonable doubt, shall be released free of charge, as a result of the procedure laid down in the government decree issued on the basis of this Act, to the person who has established a reasonable presumption of ownership of the cultural property in question."

Detailed rules concerning the procedure were set out in Government Decree no. 449/2013. (XI. 28.) on the Procedure for the Return of Disputed Cultural Property in Public Collections ("Decree 1"), according to which the claim to the property should be assessed by State Property Exerciser; and the investigation conducted by the latter can be divided into two phases. The first stage, a necessary procedural stage, focused on determining whether it could be proved beyond reasonable doubt that the state ownership of the property was lawful at the time of the claim. If the investigation established that the property did not legitimately come under state ownership, or state ownership could not be legitimately proven, the State Property Exerciser established the absence of state ownership of the property. However, if the examination established that state ownership was lawfully created and existed at the time of the claim, the State Property Exerciser rejected the claim for restitution. In the second stage of the procedure, the claimant was expected to confirm probable ownership and, if successful, would obtain the right of possession of the object.

With the enactment of Article 4/A of the Cult. Act and the entry into force of the rules of the relevant government decree, the legislator created a procedure for the restitution — the possession — of disputed cultural property. This signalled a fundamental change in approach. With the entry into force of the amendment, a fundamental shift in principle was that the burden of proof now fell upon the state.

A significant change came in 2019, when the Act LXIV of 2019 Amending Certain Acts Related to the Protection of the Built and Natural Environment and the Protection of Cultural Heritage came into force. As a result of the amendment, Article 4/A of the Cult. Act was replaced by the following provision: "The return of cultural property from the core collection (public collection or museum) maintained by the state or local government may be carried out in the case of a declared claim, provided that the claimant proves ownership beyond reasonable doubt". Under this provision, the state no longer has to prove beyond reasonable doubt that its ownership is legitimate, but the owner or heir concerned must prove their ownership to obtain possession of the artefact.

The amending law inserted rules on the procedure for the restitution of cultural property as a new item in the Cult. Act, which also institutionalized a sui generis review procedure. The amended part of the Cult. Act enabled the Minister to review and revoke decisions

issued according to earlier legislation within five years, subject to certain conditions, and no more than once. The reasons for introducing the review procedure were explained in detail by the legislator in the explanatory memorandum of the amending act. The sui generis review procedure complements the remedies system of Act CL of 2016 on the General Administrative Procedure. During 2018, the administrative courts on several occasions ruled on the quality of the rules governing the procedure for the return of disputed cultural property in public collections. This made it necessary to amend the rules of the formal legal instrument and to adopt new procedural rules in accordance with the interpretation of the law by the courts because the latter differed from the legislature's original intention.

The sui generis review procedure is only possible under precisely defined conditions. i.e.: 1) if more than one claimant has made a claim but not all of these have been granted, or the decision does not make provision for all claimants; 2) either a new claimant has lodged a claim for a property by 25 February 2019 following the decision to return the property to the claimant, or 3) if, subsequent to the issuance of a decision, new circumstances, data, or evidence relevant to the case have come to light which were not considered in the previous proceedings which, if considered, would have had a material impact on the decision.

The deadline for filing a new claim giving rise to the review procedure was aligned with the entry into force of Government Decree no. 22/2019. (II. 25.) ("Decree 2"), which repealed Government Decree no. 449/2013. (XI. 28.) and institutionalized the detailed rules of the new procedure. As in the first version, the third iteration of the review procedure allows for the ex-post re-consideration of evidence relevant to the assessment and the ex-post re-consideration of relevant circumstances and data. Based on the evidence that is gathered, the Minister may decide to repeat the procedure if he or she considers that the previous decision needs to be reviewed on its merits. In the course of the retrial, the Minister may, in light of the facts that have subsequently come to light, amend or revoke the previous decision or make a new decision based on such evidence. The legislator not only fundamentally changed the rules of the procedure but also made it possible to review decisions made under the previous rules. The burden of proving the existence of ownership was shifted from the state to the claimant.

The practice of the Constitutional Court

The first decision of the CC regarding the rules of procedure for the return of disputed cultural property kept in public collections was Decision no. 3042/2021. (II. 19.) ("Decision 1"). The procedure was initiated by the Supreme Court of Hungary ("Curia"). In the case described below, the applicant submitted a request for the return of nine works of art in 2017. As the member of the government responsible for the protection of cultural heritage, the Minister in charge of the Prime Minister's Office ordered the return of three works of art according to the rules encapsulated in Decree 1. As a result of the decision, the museum relinquished the possession of the three works of art to the applicant. In 2019, the changed rules made it possible for the Minister to review ownership decisions issued under the previous rules, and the Minister withdrew his previous decision through the review procedure. The Curia referred the matter to the CC and initiated a procedure to declare the sui generis review procedure unconstitutional. According to the Curia, the sui

generis review procedure rules violate the principle of separation of powers according to the Fundamental Law of Hungary.

The CC was able to examine the statutory provisions actually applied in the main case, and that was the first decision in the procedure, namely: "[...] the Minister responsible for the protection of cultural heritage shall revoke the previous decision if the conditions laid down [...] are fulfilled". The CC dismissed the petition and pointed out that the initiation of sui generis review proceedings and the revocation of the previous decision are not in themselves unconstitutional, since relevant data could have come up later that would have had a material impact on the decision.

Decision 1 also details the prohibition of retroactive legislation, which infringes the requirement of legal certainty arising from the principle of the rule of law according to the Fundamental Law of Hungary. To assess the constitutionality of the amendment, which entered into force in 2019, the panel applied a test developed in relation to the prohibition of retroactive legislation. This limits the prohibition of retroactive legislation exclusively to regulations that burden the situation of legal entities. In the unanimous view of the CC, the provisions of the Cult. Act under scrutiny do not constitute a burden on the legal position of the person concerned. In the first stage of the sui generis review procedure, the possession of the object does not change as a result of the decision. This can only happen in the second stage of the procedure, which was not an object of examination by the CC.

In the second case the CC examined — in its Decision no. 23/2022. (X. 19.) ("Decision 2") — whether the new legislation had resulted in a more burdensome situation for the claimant. It ruled that whether the adverse consequences of a possible failure to prove the case should be borne by the state or the claimant was of decisive importance for the outcome of the case. The Court pointed out in its reasoning underlying the Decision that in the case before it the temporal element of the test developed in the case law of the CC in relation to the prohibition of retroactive legislation may have been infringed, since proceedings between the state and the claimant were pending on the basis of an application. Certain provisions of Decree 2 were found to violate the provisions of the Fundamental Law, and the CC ordered its annulment. Finally, in Decision no. 10/2023. (VI. 20.), the CC declared a general prohibition of application of these provisions of Decree 2, based on the same arguments as Decision 2.

A review of the CC's practice in relation to the procedure for the return of disputed cultural property held in public collections shows that the CC has so far not taken a substantive position on the constitutionality of the sui generis review procedure. While it has found that the application of the changed procedural rules to pending and repeated proceedings runs counter to the prohibition of retroactive legislation, it has not examined the constitutionality of the rules of the sui generis review procedure per se.

Dogmatic problems with the new ruling

Disputed cultural property in the public collection may be returned according to current procedural rules through administrative proceedings. The legislative rationale for incorporating a sui generis review procedure into law was due to the courts interpreting the nature of the restitution act differently from the original legislative intent. Administrative courts in 2018 determined multiple times that the process of returning disputed cultural property held in a public collection is an administrative procedure, and

that the Minister of the Prime Minister's Office exercises administrative authority by his or her decision in the course of their procedural duties. Therefore, the original legislative intent presumably regarded decisions about restitution acts as private law, but the legislature took a contrasting stance due to the divergent practical interpretations.

According to Decision 1's motion, it is not clear to the legislator whether the legislation is administrative or private law, and therefore, it is not clear which of the typical principles of law should be considered when applying the law. According to the applicant, this results in a violation of the Fundamental Law of Hungary, which contains the rule-of-law clause. According to the applicant, the relevant provisions of the Cult. Act not only fail to comply with the requirement of legislative clarity, but also allow the Minister to intervene in civil law relationships using public authority — i.e. administrative means.

According to the CC, the constitutional significance of the provisions in the motion lies in whether the state, in the possession of public authority, may intervene in legal relations in which it has previously participated as a subordinate party. The CC reviewed its previous practice to determine whether the action was de iure imperii or de iure gestionis. Decision no. 11/2013. (V. 9.) of the CC examines in detail the problems arising from merging the state's powers of public authority and ownership. According to the reasoning of that Decision, if the state acts in legal property relationships as one of the economic actors, it cannot exercise the public authority function that belongs to the state as an organization. In private law relationships, the state appearing as a party is equal to the other party and is in a relationship of co-equality with them. Therefore, in co-equal legal relationships, the public authority status vested in the state as an organization is indifferent. In the decision, the CC also pointed out that the state of Hungary's capacity as a public authority and as a proprietor would merge, and the former could act both as a legislator with public authority and as a subordinate legal entity in the same civil law relationship in the specific case of the contract referred to in the judgment. Such a duality is not only conceptually impossible in a civil law relationship based on co-delegation and equality, but is also prejudicial to the requirement of legal certainty.

In accordance with the jurisprudence of the CC, in assessing the constitutionality of state intervention, the first question to be examined is whether the act in question falls within the scope of public law. The public-law nature of the act in question leads to a further criterion of analysis: determining whether the state is interfering in a civil law relationship by a decision of a public authority. In the case of an affirmative answer to this criterion, the legal effect of the intervention on the counterparty in the legal relationship must be examined. An interference which causes serious damage to private property or interests constitutes a violation of the Fundamental Law.

There are arguments in favour of both the public and private nature of an act providing for the return of disputed cultural property held in a public collection. As a starting point, it should be noted that in determining whether an act is public or private, the content of the decision is of primary importance, not its formal appearance. Public law is primarily concerned with the rules governing the organization and functioning of the state and the exercise of public power. In public law relationships, the state exercises public authority by asserting a hierarchical subordination, whereas private law relationships are, regardless of the parties' identities, based on equality. The procedure for the return of cultural property undeniably represents a property law relationship. The decision of the exerciser of state ownership — although it does not pertain to the ownership of the asset

— affects the property right entitlement related to possession. The regulation of the property and personal relations of the parties is well known to be a matter of private law. Insofar as regards the examination of the creation of the legal relationship, it can be said that the cultural property in dispute could have come into the possession of the state either through the free will of the owners or by state coercion. Some of the assets were deposited by their owners for safeguarding, thus creating a contractual relationship. The civil-law nature of the legal relationship between the state and the depositor may also indirectly impact the substantive characteristics of the decision regarding return. In the majority of cases, however, the change in the status of the property was not the result of the owner's disposition, or at least not of their free will. In refuting the claim that the property relationship is private in nature, property rights can also be said to exist when the state has taken property or the possession of property away from the owner by a variety of repressive (legal) means. The state has acted in possession of, or at least under the threat of, public authority when it has acquired ownership or possession of property using quasi-civil law instruments such as the offer or renunciation of property, which are imbued with coercion and violence. It can thus be seen that an examination of the creation of the legal relationship is insufficient to determine whether the content of the Ministerial decision is public or private.

A further argument in favour of the state acting as a private entity could be the content of the implementing regulation. According to Decree 1, in the course of the procedure the Minister responsible for the supervision of state property shall — acting on the authorization issued pursuant to Section 3:405(2) of Act V of 2013 on the Civil Code ("Civil Code") — decide on whether the property shall be returned to the claimant. In turn, Decree 2 refers unchanged to the provisions of the Civil Code, which read as follows: "[t]he state shall be represented in civil law relations by the Minister responsible for the supervision of state property". Thus, the legislation expressly considers the act of restitution to be of a civil law nature.

Turning to the arguments in favour of the public-law nature of the decision regarding return, it is essential to highlight first of all that according to the CC, the narrower review procedure is situated within the field of public law. In the CC's view, the public nature of a judgment to revoke a decision is apparent from the wording of the legislation, the legislative reasoning, and the case law, as can be seen from the Curia's application. Acceptance of the CC's position also determines the nature of the decision taken due to the second stage of the procedure, which now determines the possession of the property. It is difficult to imagine that, following an act of public authority which closes the first stage of a single procedure, the same body should decide on the substance of the case as acta iure gestionis, with private law content. Based on the public nature of the decision taken in a sui generis review procedure, it is reasonable to conclude that the subject matter of the review is an earlier decision, and also one of a public authority. It would be problematic from the view of legal certainty if the Minister were to override a decision of private law with a decision of public authority to the detriment of the opposing party.

In the case in point, the rebuttal could be that a judgment by the Minister in a sui generis review procedure to revoke a decision of the public authority in the capacity of a public authority only means that the Minister does not claim that the existence of the public ownership of the property in question cannot be proven beyond reasonable doubt. As the implementing regulation in force points out, the decision on the status of the property is,

in fact, a civil-law relationship which is subsequently settled by an act of public authority. However, intervention with a public authority act in a fundamentally civil law relationship — in which the state originally participated as a party in a subordinate position — may only be done without violating the requirement of legal certainty if the public authority decision does not result in serious financial harm or harm to the interests of the other party. The de facto infringement of the possessory position, i.e., a decision regarding the non-return of assets previously given to the claimant, may be capable of causing harm to the party's interests. However, when assessing its severity it must be considered that the procedure does not result in the determination of ownership rights. Therefore, a decision about the non-return of the assets does not preclude a claimant from enforcing their ownership claim through a judicial process.

Moving away from the problem of the public or private nature of the decision to return or not, the problem of the conflation of the public and private nature of the state and thus of the possible illegality of the constitution can be examined from another perspective. If it is accepted that the existing legal relationship is essentially civil law, as the implementing regulations also refer to it, then it is difficult to reconcile the role of the Hungarian state as a private party in the legal relationship — the requirement of co-determination and equality and the public law requirement of legal certainty — with the fact that the Hungarian state, as legislator, establishes a review procedure which allows its previous decision to be revoked and to be judged according to different rules. This is particularly the case because the rules of the new procedure are, in any event, more burdensome for the claimant from the point of view of the burden of proof.

Another Means of Restitution: Private Law Procedures

As Capote Pérez has stated, cultural heritage exemplifies the public-private law dichotomy. On the one hand, there is the idea of collective ownership; while on the other hand the question of "property" comes to the fore. The history of Hungarian litigation concerning cultural goods held in public collections is proof of this. In the absence of special civil law rules, the operation of the public law instruments associated with cultural goods influences the outcome of lawsuits.

In the absence of adequate restitution measures, since the beginning of the 1990s claimants have often turned to civil law courts with their claims. In the majority of cases concerning the ownership of cultural goods held in public collections, due to the characteristics of Hungary's restitution policy claimants' demands have been rejected if nationalization can be established. The De Csepel case is a good example of this, in which the fate of the Herzog Collection was decided by a Hungarian court. The collection is valued at over $100 million and originally consisted of more than 2,500 artworks assembled by Baron Mór Lipót Herzog and his wife. During the Second World War, the Herzog family, being of Jewish descent, fled persecution by moving abroad (to the United States and Italy), and the collection was dispersed. Some pieces were acquired by museums and universities in Hungary, while others surfaced overseas. In the early 1990s, the Herzog heirs attempted to negotiate with the Hungarian government to secure the return of pieces of the collection found in Hungarian museums. After this failed, civil court proceedings were instituted in 1999, resulting in a final judgment in 2008. However, as Marie Claire Foblets has noted, courts are not often the best place to deal with culture.

Ownership of cultural property is established under the Civil Code in the same way as in the case of any other movable property. The regulations do not consider the burdensome evidential challenges the original owners face in such litigation. The documentation needed to establish ownership and inheritance is stringent, and frequently not accessible to claimants decades after the initial takeover. It is also the claimant's responsibility to prove the error in the state acquisition of property, which entails similar difficulties. And due to historical peculiarities, records from 70–80 years ago are not easily searchable. As time passes, the feasibility of restitution claims diminishes.

In the De Csepel case, the courts examined the plaintiffs' claims item by item. The main question was whether state acquisition had occurred for each artwork. Due to historical circumstances, this generally meant assessing whether the items had been nationalized. If a piece of artwork had been nationalized, its owner was entitled to partial financial compensation as redress for the damage caused by the state. However, if the cultural property had never been under state ownership — for example, if it had been in the state's possession for decades solely as a deposit — then the state had not caused damage to the owners. In the absence of harm, no legal basis for compensation could be identified, and despite the asset's inclusion in the inventory of public collections, it could not be considered state property, and its release could be lawfully claimed by the heirs. The final judgment dismissed the claimant's action and declared the acquisition of ownership by the state.

The effect of public law protection of cultural goods

Not only does restitution policy influence the outcome of property disputes in this area, but underlying public law instruments such as Act LXIV of 2001 on the Protection of Cultural Heritage ("Cult. Heritage Act") define the concept of cultural property and the conditions defined by the state for their protection. The notion of "cultural heritage" in Hungarian law concerns tangible items, including archaeological heritage, built heritage values, cultural goods, and elements of the military heritage researchable using archaeological methods. "Cultural goods" are "outstanding and characteristic tangible, pictorial, audio-recorded, written memories and other evidence of the origin and development of inanimate and living nature, humanity, the Hungarian nation, the history of Hungary — with the exception of real estate — as well as works of art". The authorities declare those irreplaceable and outstandingly significant cultural heritage assets and collections protected for their preservation. The procedure for declaring cultural goods protected is initiated ex officio. The cultural goods brought under the scope of this law are temporarily protected, and the regulations applicable to declared protected cultural assets must be applied to them. Cultural property registered to the core collection of public collections is automatically protected by law. The protection can be declared as a result of an official procedure, which may also affect private property.

Certain restrictions apply to the ownership of protected cultural property. Ownership rights can only be transferred through a written agreement, and the state has a pre-emption right. The authority's prior approval is required for the alienation of these goods or any change in their storage location exceeding 90 days, if they are part of a protected collection. Authority must be informed of any circumstances affecting the ownership rights of the objects. The possessor of a protected property is obliged to maintain it in good condition and ensure its proper storage, handling, and preservation. The authority is

entitled to conduct on-site inspections to check the fulfilment of the latter. The owners are entitled to certain forms of support and benefits associated with their obligations. Protected goods must be made accessible to the public and for research purposes. Protected cultural goods may be temporarily taken out of the country only with export permission and are subject to the obligation of return. As a result, some freedoms and rights usually held by owners are restricted.

The functioning of the above-described rules can be exemplified in a renowned case concerning Munkácsy's *Golgota*. Created in 1884, *Golgota* was barely 3 years old when it left the country, and only returned home in 1991 when its foreign owner deposited it in the Hungarian National Museum. In 2003, the work's new owner was an American citizen who signed a free deposit contract with the Directorate of Museums of Hajdu-Bihar County for the painting, the last one in 2012, the one-year term of which expired without renewal. In the meantime, negotiations between the owner and representatives of the state began regarding the purchase of the painting, but they stalled in 2015. The owner declared his intention to sell the painting abroad, and not much later was notified that an ex officio procedure had begun to declare the painting protected. The owner was also informed that *Golgota* was temporarily protected until the procedure was completed, so it could not be taken outside the country. At the same time, the Prime Minister's Office issued a statement that read as follows: "The Government's aim in the protection procedure is to ensure that the outstanding work of our national painting remains in Hungarian ownership".

The authority empowered to implement the declaration of protected status procedure made its decision and declared protection, thereby establishing the state's right of pre-emption and export restriction. After an unsuccessful appeal, the owner challenged the authority's decision before the Administrative and Labour Court of Budapest. The limitation of the applicant's property rights was held to be proportionate on the basis of the social responsibility that comes with the ownership of cultural property, as declared in the Fundamental Law.

The applicant brought an application for review before the Curia. First and foremost, the Curia explained that the argument presented by the defendant authority regarding the timing of the initiation of the declaration of protected status procedure was unfounded. The argument suggested that items held in the public collection — in this case, a painting held in deposit — were ex lege protected according to the wording of the law: "[...] cultural property preserved in museums, archives, image and sound archives functioning as public collections, and libraries as museum documents are protected". The owner's intent to terminate the deposit would have jeopardized the protection of the object from the authority's point of view. The Curia considered that protection can only apply to cultural property in the core collection of the institute.

The Curia then explained the meaning of the "obligation to return" in the context of the case, since two types of obligation to return emerged in the procedure. One is based on the Cult. Heritage Act, which states that cultural objects imported into the country associated with a duty to return cannot be subject to the protected declaration procedure. The purpose of this measure is to ensure the smoothness of the loaning of artworks. The other stems from the obligation to return arising from free deposit agreements concluded by owners with museums. The Curia emphasized the importance of distinguishing the legal terms, locating the former in the conceptual system of public law and the latter in that of

private law. This distinction was not made properly by the lower court, so on this basis the Curia ordered a reopening of the proceedings and issued a new decision, stressing that the court must be mindful of legal certainty when interpreting the law and must distinguish between the public and private nature of the state: an act of public authority by the state cannot result in a significant shift in the private law relationship between the parties.

Per the guidelines, the authority's decision was nullified in a repeal procedure in the spring of 2018. In its reasoning, the proceeding court pointed out that since the protection procedure and the deadlock in the negotiations about the sale of *Golgota* were closely linked, the principle of the rule of law had been violated in the course of the procedure, in addition to the owner's right to a fair trial. Moreover, the obligation to return the painting was not established. Two weeks after the court's judgment, the authority announced that it would re-initiate the process of declaring the *Golgota* protected. In December 2018, the story came to an end when a statement appeared in the press about the purchase of the picture by the state at a third of the price the owner had sought.

Restitution of debated artifacts in public collections and civil proceedings

In 2013, with the introduction of Decree 1, another public law instrument was enacted to help resolve the situation with respect to property of doubtful provenance. The case of the Esterházy Treasure is a good illustration of the intertwining of public and private law measures in this area and of the problems that may emerge from this phenomenon.

The Esterházy Private Foundation ("Foundation") is a family fund of Austrian nationality with great economic potential, created in 1994 by the widow of Prince Pál Esterházy. The subject of the proceedings is the Esterházy Treasure, the collective name for the most important Baroque aristocratic treasures in Central Europe. The Treasure consists of 347 works of art collected by the Esterházy family from the 17th century onwards; works that are deposited in the Esterházy Castle Treasury in Frakno. In 1919, the Governing Council, after the proclamation of the Soviet Republic, decided to place the privately-owned treasures under public ownership. The Esterházy Treasure was transferred to Budapest — to the Museum of Applied Arts — along with the treasuries of several noble families. With the fall of the Soviet Union, the Museum returned the artworks to their rightful owners, but the Esterházy Treasure remained in the Museum's custody, at the discretion of the owner. Some of the artefacts were stolen and later found near Kapuvár, then moved to Austria, only to reappear in 1985 as a part of the collection seated in Hungary.

In December 2016, the Foundation submitted a claim for the treasure held in the public collection, referring to Decree 1. In the summer of 2017, the claim was rejected, due to the claimant's lack of identification, in the form of an information letter from the Prime Minister's Office. The Foundation applied to the courts to have this act reviewed. Proceedings were ongoing when Decree 2 annulled the former government decree on which the applicant had based its claim. As Decree 2 ordered that the pending and repeated proceedings should be conducted based on the new government decree, the burden of proof was reversed.

In the meantime, the Foundation initiated civil proceedings to obtain ownership of the objects. In 2019, the civil court decided that since the administrative procedure would examine the same circumstances as the action, the decision of the administrative

procedure would be a preliminary question in the civil proceedings. This decision was modified by the higher forum: the restitution decision would not affect the claimant's right to assert their claim to ownership of the property and to bring an action before the court for the delivery of the property. The decision taken in the administrative procedure was therefore not binding on the civil court. However, the Prime Minister's Office suspended the proceedings pending a final decision, arguing that if the administrative procedure resulted in a decision in favour of the Foundation, the civil action could become devoid of purpose.

In the administrative procedure, the court annulled the 2017 information letter and ordered the Prime Minister's Office to make a formal decision. The legally binding decision was adopted in the summer of 2020. The Minister clearly stated that he does not intend to release the possession of the artworks to the Foundation. This decision to reject the restitution claim cannot be reversed in a judicial review.

The civil lawsuit continued, in which the plaintiffs' claim was rejected in its entirety. According to the judgment, since the trustees of the Esterházy Trust had chosen Hungary as the location for the works of art, their status had changed Hungarian law was thus applied to them instead of Austrian law. According to Hungarian law, the property of the Esterházy Trust became the property of the Hungarian state ex-lege on 2 April 1949 due to nationalization. Only the status of the Kapuvár Treasure remained in question, since it is not listed in the supporting records, considering that its location was unknown when the law ordering its nationalization was enacted. In this case, the Curia ordered the courts to implement a new procedure since they had failed to explain the specific situation of these artefacts in their reasoning.

Hungarian Rulings and Procedures and the ECHR

The law concerning cultural goods is unquestionably intertwined with human rights law. While the right to culture is not explicitly articulated in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the ECtHR has amassed substantial case law in this domain. Given that plaintiffs often turn to the ECtHR after unsuccessful attempts before national courts, it may be interesting to compare the Hungarian regulations and case law with the practice of this international judicial forum. In light of the cases examined above, Article 1 of Protocol No. 1 (Protection of Property) of ECHR forms the legal basis. As Jakubowski stated, the right to the protection of one's property contains three distinct components under this regime, which should not be viewed as isolated but rather as forming one concept of property protection. The first component establishes the protection of property through declaring the right to the peaceful enjoyment of one's possessions. The second concerns the deprivation of property and its guarantees, which include the public interest and the lawfulness of the expropriation. The third component concerns the rule about control of the use of property, based on general interest so that the state can ensure its operation. This condition appears in practice as a proportionality test, in which the Court allows for a certain margin of appreciation that the state may exercise in specific cases. In accordance with its three components, the ECtHR has developed three categories of encroachments on the right to property: expropriations; measures controlling the use of property; and other infringements on property rights.

Expropriations and other interferences with the right to property

With regard to the Esterházy case, the evaluation of the repeatedly amended 2013 Hungarian restitution provisions is in question; and the first and third categories of encroachments are relevant. First, it must be noted that while significant international documents — i.e. the Universal Declaration of Human Rights; the Protocol to the European Convention on Human Rights; and the European Union's Charter of Fundamental Rights — acknowledge the right to property, none of them explicitly recognize a right to restitution. Since the ECHR and its Protocol lack retroactive force, the fact that there is no obligation to return follows from them when applied to the expropriations that took place before the ratification of the ECHR.

The situation is different when a Contracting State enacts legislation providing for the restoration of property confiscated under a previous regime; such legislation may be regarded as generating a new property right protected by Article 1 of Protocol No. 1. The adoption of a new retroactive law that regulates the impugned situation while proceedings concerning a proprietary interest of the applicant are pending, and poses an excessive burden on the applicant may, according to the case law, constitute a violation of the Protocol. In the case of the Esterházy Trust, the imposition of Decree 2 may exacerbate the situation for the Foundation, especially considering that their proceedings were already underway, leading to the scenario outlined above. To avoid a violation, the adoption of the law must be justified by compelling reasons of general interest and lawfulness. The ECHR leaves a lot of room for states to manoeuvre when protecting their cultural heritage. It seems difficult to foresee if it meets the criterion of a "fair balance" between the protection of property and the requirements of general interest. Besides, a person who asserts a violation of their right to property must first of all demonstrate that such a right exists or existed. The restitution rules established in 2013 were never about ownership, but rather about settling the possession of an object. Since the concept of possession has an autonomous, independent meaning, and this is not limited to ownership, the regulation may still be relevant. "Possession" can include legitimate expectations of obtaining a property right based on domestic law. The ECtHR has repeatedly stated that the former have to be more than a mere "hope" and must be based on a legislative act or court decision.

The applicants of the Esterházy case had a legitimate expectation of having their property's possession restored to them under the substantive provisions of domestic law. This law was later amended in such a way that it was able to adversely affect the applicant's situation with retroactive effect. In *Broniowski v. Poland*, the ECtHR declared that:

"[t]he rule of law underlying the Convention and the principle of lawfulness in Article 1 of Protocol No. 1 require States not only to respect and apply, in a foreseeable and consistent manner, the laws they have enacted, but also, as a corollary of this duty, to ensure the legal and practical conditions for their implementation."

The lawfulness thus remains questionable, as this requirement means not only compliance with the relevant provisions of domestic law, but also compatibility with the rule of law.

Measures controlling property use

The examination of the second category of encroachments — measures governing the use of property — is focused on the *Golgota* case. An established right to peaceful enjoyment of property is not absolute. Insofar as regards the verifiability of restrictions regarding one's use of property, the ECtHR applies two principles: the measure in question must have a legitimate aim; and the measures for achieving such an aim must be proportionate. These principles can be compared to one of the landmark decisions of the ECtHR, the renowned *Beyeler* decision, since the primary issue, in this case, revolved around delineating the actions a state can permissibly undertake to regulate art sales domestically, specifically addressing the scope of its pre-emption rights.

The subject of the underlying proceedings in *Beyeler* was a Van Gogh painting purchased by an intermediary representing a Swiss citizen, Ernst Beyeler, in Rome in 1977. The painting was deemed to be a work of historical and artistic interest by the Italian authorities. Six years later, when Beyeler wanted to sell the painting in Venice, the Italian state announced that it intended to exercise its right of pre-emption and took it into custody. Two years later, at a price calculated based on the 1977 contract, which was much lower than the market value of the painting (€600,000 instead of €8 million), the exercise of the pre-emption right was declared. The authority explained the years of delay by stating that due to the purchase through an intermediary and the lack of a proper declaration, they could not ascertain the owner's identity. The exercise of the right of pre-emption by the state thus created an interference with the applicant's right to the peaceful enjoyment of his possessions. Thus two rights recognized by the ECHR were in tension; and the question turned on proportionality. As the Italian authorities announced the exercise of their right to pre-emption with a significant delay, enabling them to buy the painting well below market price, the fair balance between the two protected rights was not assured. However, the Court found that the state's oversight of the art market served the legitimate objective of safeguarding a nation's cultural and artistic legacy. While there was no direct connection between Italy and Van Gogh's painting, created in France, the Court acknowledged the legitimacy of a state's efforts to enable broad public access to artworks lawfully present within its borders. These are deemed part of the cultural heritage shared by all nations.

In the *Beyeler* case, the ECtHR affirmed that limiting the art market to safeguard cultural and artistic heritage constitutes a legitimate objective in the public interest. However, the principle of proportionality necessitates that national public authorities strike a fair balance between the conflicting public and private interests that are involved. It appears challenging for a prospective applicant to predict the outcome of the proportionality assessment and, consequently, the outcome of proceedings before the Court.

Conclusions

Decades after the conclusion of the Second World War, the repercussions associated with displaced and destroyed cultural treasures still haunt those who were involved. As part of the democratic transitions in CEE, numerous governments have enacted laws enabling the restitution of property seized during or after the war. Discussions in 1990 merged privatization talks with property restitution, viewing it as a just remedy for redressing the injustices remaining after the communist era.

Due to the unique nature of cultural property, deploying the mechanism of compensation may be problematic. Victims may have various connections to pieces of art, as the latter may reflect the atrocities and confiscations they endured. Thus, it seems that only restitution solutions tied to the specific art objects in question can serve as adequate reparation.

Taking all this into account, the resolution of the situation of disputed cultural goods held in public collections was an appropriate objective for the Hungarian government. The manifestation of this intention in legislative solutions, however, has proved challenging in practice. Some of the problems arise from the mixture of private law and public law elements in the established restitution procedure, blending its guarantee conditions, which led the Hungarian Constitutional Court to address the matter on several occasions, resulting in the identification of the unconstitutionality of certain elements of the procedure. It is worth noting that the entire procedure has not yet been subject to an overall examination.

Since "restitution is a complex phenomenon that involves the interaction of multiple factors, such as provenance, ownership, balancing of interests, and the historicity of the cultural item in question", the lack of success in reclaiming cultural property, even in civil courts, often leads claimants to choose international judicial forums, in particular the ECtHR. Since the latter Forum is not integrated into a particular legal system, unlike national constitutional courts its very nature is flexibility. It has become evident that the ECtHR grants states significant discretion in determining the protection of cultural goods. When the ECtHR found violations of Article 1 of Protocol No. 1, it was not because of the illegitimate objectives pursued by the states but rather due to the inappropriate methods they employed to attain these objectives.

The regulatory framework for cultural property in Hungary does not involve a separate branch of law, but various public and private instruments. The unique category of protected cultural goods imposes strong limitations on the exercise of property rights. Due to the broad interpretation of the public interest, the unpredictability and uncertainty of the authority's proceedings may give rise to a human rights issue, such as in the *Munkácsy* case. Going beyond this specific case, it can be clearly asserted that the implemented administrative practices in Hungary may hinder the intentions of foreign depositors.

Newly adopted decrees on cultural goods preserved in public collections affect the possession of disputed objects and, as such, create legitimate expectations of ownership for claimants in accordance with the framework of the autonomous interpretation of the ECHR. In the *Esterházy* case, it can be seen that the retroactive modification created a more burdensome situation for the applicant. Since such a sui generis procedure cannot be initiated under current regulations, the main issue, according to the relevant case law of the ECtHR, is the uncertain legal environment created by frequent amendments to restitution regulations.

References

évi XXV. törvény a tulajdonviszonyok rendezése érdekében, az állam által az állampolgárok tulajdonában igazságtalanul okozott károk részleges kárpótlásáról [Act XXV of 1991 on the Partial Compensation for Damages Unjustly Caused by the

State to Private Property Owners in Order to Settle Ownership Relations], Magyar Közlöny, 11 July 1991.

évi CXL. törvény a muzeális intézményekről, a nyilvános könyvtári ellátásról és a közművelődésről [Act CXL of 1997 on Museums, Public Libraries and Public Culture], Magyar Közlöny, 15 December 1997.

évi LXIV. törvény a kulturális örökség védelméről [Act LXIV of 2001 on the Protection of Cultural Heritage], Magyar Közlöny, 10 July 2001.

évi CXCV. törvény egyes törvényeknek a közgyűjteményekben őrzött, vitatott tulajdonú kulturális javak visszaadásával összefüggő módosításáról [Act CXCV of 2013 Amending Certain Acts Related to the Restitution of Disputed Cultural Property Held in Public Collections], Magyar Közlöny, 22 November 2013.

évi V. törvény a Polgári Törvénykönyvről [Act V of 2013 on the Civil Code], Magyar Közlöny, 26 February 2013.

évi CL. törvény az általános közigazgatási rendtartásról [Act CL of 2016 on the General Administrative Procedure], Magyar Közlöny, 14 December 2016.

évi LXIV. törvény egyes törvényeknek az épített és a természeti környezet védelmével, valamint a kulturális örökségvédelemmel összefüggő módosításáról [Act LXIV of 2019 Amending Certain Acts Related to the Protection of the Built and Natural Environment and the Protection of Cultural Heritage], Magyar Közlöny, 8 July 2019.

22/2019. (II. 25.) Korm. rendelet a közgyűjteményekben őrzött vitatott tulajdonú kulturális javak visszaadásának rendjéről szóló 449/2013. (XI. 28.) Korm. rendelet hatályon kívül helyezéséről és az azzal összefüggő átmeneti rendelkezésekről [Government Decree no. 22/2019 (25.02) repealing Government Decree 449/2013 (28.11) on the Procedure for the Return of Disputed Cultural Property in Public Collections], Magyar Közlöny, 25 February 2019.

449/2013. (XI. 28.) Korm. rendelet a közgyűjteményekben őrzött vitatott tulajdonú kulturális javak visszaadásának rendjéről [Government Decree no. 449/2013 (28.11) on the Procedure for the Return of Disputed Cultural Property in Public Collections], Magyar Közlöny, 28 November 2013.

Adewumi A.A., Adenekan V.O., Making the Case for the Restitution of Illicitly Acquired Cultural Objects under the Rules of Jus Cogens, "Santander Art and Culture Law Review" 2023, Vol. 2(9).

Administrative and Labour Court of Budapest, 10.K.31.473/2016/11.

Bandle A.L., Contel R., Reparation Art: Finding Common Ground in the Resolution of Disputes on Russian War Spoils and Nazi-Looted Art, in: V. Vadi, H.E.G.S. Schneider (eds.), *Art, Cultural Heritage and the Market. Ethical and Legal Issues*, Springer, Berlin 2014.

Bazyler J. et al. (eds.), *Searching for Justice after the Holocaust. Fulfilling the Terezin Declaration and Immovable Property Restitution*, Oxford University Press, Oxford 2019.

Beate R., European Court of Human Rights Regulation of Cultural Property: Preemptive Right of State to Acquire Works of Art Compensation for Deprivation of Possessions. UNESCO Convention on Cultural Property: Beyeler v. Italy, "American Journal of International Law" 2000, Vol. 94.

Bidault M., Bouchard J., Carril B.B., The Meaning of Culture from a Human Rights Approach: The Mandate of the UN Special Rapporteur in the Field of Cultural Rights, "Santander Art and Culture Law Review" 2019, Vol. 2(5).

Campfens E. et al., Protecting Cultural Heritage from Armed Conflicts in Ukraine and Beyond, European Union, Policy Department for Structural and Cohesion Policies, Directorate-General for Internal Policies, PE 733.120, March 2023.

Capote Pérez L.J., Cultural Heritage and Spanish Private Law, "Santander Art and Culture Law Review" 2017, Vol. 2(3).

Constitutional Court (Hungary), Decision no. 10/2023 (VI. 20.).

Constitutional Court (Hungary), Decision no. 11/2013 (V. 9.).

Constitutional Court (Hungary), Decision no. 15/1993. (III. 12.).

Constitutional Court (Hungary), Decision no. 16/1991. (IV. 20.).

Constitutional Court (Hungary), Decision no. 21/1990. (X. 4.).

Constitutional Court (Hungary), Decision no. 23/2022. (X. 19.).

Constitutional Court (Hungary), Decision no. 27/1991. (V. 20.).

Constitutional Court (Hungary), Decision no. 28/1991. (VI. 3.).

Constitutional Court (Hungary), Decision no. 3042/2021. (II. 19.).

Constitutional Court (Hungary), Decision no. 59/1991. (XI. 19.).

Court of Appeal of Budapest, 4.P.22.219/2020/5.

De Csepel v. Republic of Hungary, 714 F.3d 591, 593 (D.C. Cir. 2013).

ECtHR Research Division, *Guide on Article 1 of Protocol No. 1 to the European Convention on Human Rights – Protection of Property*, 2022.

Edwards M.A., The Paradoxes of Restitution, "West Virginia University Law Review" 2013, Vol. 116.

European Court of Human Rights, *Béláné Nagy v. Hungary*, Application no. 53080/13, Judgment of 13 December 2016.

European Court of Human Rights, *Beyeler v. Italy*, Application no. 33202/96, Judgment of 5 January 2000.

European Court of Human Rights, *Broniowski v. Poland*, Application no. 31443/96, Judgment of 22 June 2004.

European Court of Human Rights, *Kopecký v. Slovakia*, Application no. 44912/98, Judgment of 28 September 2004.

European Court of Human Rights, *Parvanov and Others v. Bulgaria*, Application no. 74787/01, Judgment of 7 January 2010.

European Court of Human Rights, *Prince Hans-Adam II of Liechtenstein v. Germany*, Application no. 42527/98, Judgment of 12 July 2001.

European Court of Human Rights, *Tudor Tudor v. Romania*, Application no. 21911/03, Judgment of 24 March 2009.

Forder C., The Bredius Museum Case: Public Interest and Private International Law, "International Journal of Cultural Property" 1993, Vol. 2.

Gaudenzi B., Niemeyer L., Between Material Culture and "Living Room Art": Historicizing the Restitution of Fascist-Looted Art, "International Journal of Cultural Property" 2021, Vol. 28.

Gerstenblith P., Acquisition and Deacquisition of Museum Collections and the Fiduciary Obligations of Museums to the Public, "Cardozo International & Comparative Law Review" 2003, Vol. 11.

Gerstenblith P., Protecting Cultural Heritage in Armed Conflict: Looking Back, Looking Forward, "Cardozo Public Law, Policy, and Ethics Journal" 2009, Vol. 7.

Gwoździewicz-Matan P., Jakubowski A., Enhancing the Mobility of Collections and Access to Cultural Heritage: Immunity of Cultural Objects from Seizure in Poland, "International Journal of Cultural Policy" 2019, Vol. 25.

Jakab A., *European Constitutional Language*, Cambridge University Press, Cambridge 2016.

Jakubowski A., Cultural Heritage and the Collective Dimension of Cultural Rights in the Jurisprudence of the European Court of Human Rights, in: A.J. Wiesand et al. (eds.), *Culture and Human Rights: The Wroclaw Commentaries*, De Gruyter, Berlin-Boston 2016.

Jakubowski A., Territoriality and State Succession in Cultural Heritage, "International Journal of Cultural Property" 2014, Vol. 21.

Kowalski W.W., The Machinery of Nazi Art Looting: The Nazi Law on the Confiscation of Cultural Property – Poland: A Case Study, "Art, Antiquity and Law" 2000, Vol. 5.

Kuklik J., Restitution of Jewish Property in the Czech Republic, "Loyola of Los Angeles International and Comparative Law Review" 2019, Vol. 41.

Kuti C., Post-Communist Property Reparations: Fulfilling the Promises of the Rule of Law? "Acta Juridica Hungarica" 2007, Vol. 2.

Magyarország Alaptörvénye [Fundamental Law of Hungary], Magyar Közlöny, 25 April 2011.

Manikowska E., The Washington Principles à rebours: Explaining Poland's Current Restitution Policy, "International Journal of Cultural Property" 2023, Vol. 30.

Merryman J., Cultural Property Ethics, "International Journal of Cultural Property" 1998, Vol. 7.

Michl F., The Protection of Cultural Goods and the Right to Property under the ECHR, in: E. Lagrange, S. Oeter, R. Uerpmann-Wittzack (eds.), *Cultural Heritage and International Law. Objects, Means and Ends of International Protection*, Springer, Cham 2018.

Minister of the Prime Minister's Office, Decision no. MHF/469/2 (2020).

Minister of the Prime Minister's Office, Information letter KTHÁT/428/2/2017, 4 July 2017.

Niec H., Legislative Models of Protection of Cultural Property, "Hastings Law Journal" 1976, Vol. 27.

Pavoni R., Cultural Heritage and State Immunity, in: A.F. Vrdoljak (ed.), *The Oxford Handbook of International Cultural Heritage Law*, Oxford University Press, Oxford 2020.

Pomeisl A.J., A Legfelsőbb Bíróság/Kúria államosítással kapcsolatos gyakorlata, különös tekintettel az 1945 és 1957 közötti időszakra [The Supreme Court's Practice Regarding Nationalization, with Special Attention to the Period Between 1945 and 1957], "Kúriai Döntések" 2023.

Rikon M., Property Rights as Defined and Protected by International Courts, "Brigham-Kanner Property Rights Conference Journal" 2017.

Selter E., Returning the Gods to the People: Heritage Restitution in Nepal, "Santander Art and Culture Law Review" 2022, Vol. 2(8).

Sperka K., A Golgotát járt Golgota [The Golgota that Went Through Golgotha], in: K. Erdei (ed.), *Tanulmánykötet a Kúria Közigazgatási Szakágában 2019-ben ítélkező bírák tollából* [Study Volume from the Judges of the Supreme Court's Administrative Division Adjudicating in 2019], Curia, Budapest 2019.

Stola D., The Polish Debate on the Holocaust and the Restitution of Property, in: M. Dean, C. Goschler, P. Ther (eds.), *Robbery and Restitution. The Conflict over Jewish Property in Europe*, Berghahn Books, New York 2007.

Supreme Court (Hungary), Decision no. Kfv.II.37.112/2020/8.

Supreme Court (Hungary), Decision no. Kfv.VI.38.158/2016.

Supreme Court (Hungary), Decision no. Pfv.II.20.909/2021/9.

Supreme Court (Hungary), Motion no. III/01335/2020.

Szabados T., Right to Property and Cultural Heritage Protection in the Light of the Practice of the European Court of Human Rights, "Central European Journal of Comparative Law" 2022, Vol. 3.

Trykhlib K., The Principle of Proportionality in the Jurisprudence of the European Court of Human Rights, in: D. Duić, T. Petrašević (eds.), *EU and Comparative Law Issues and Challenges Series (ECLIC), Issue 4. EU 2020: Lessons from the Past and Solutions for the Future*, University Josip Juraj Strossmayer of Osijek, Osijek 2020.

Zweig R.W., The Hungarian Gold Train. Fantasies of Wealth and the Madness of Genocide, in: M. Dean, C. Goschler, P. Ther (eds.), *Robbery and Restitution. The Conflict over Jewish Property in Europe*, Berghahn Books, New York 2007