The Court:	District Court Poprad
File mark:	17C/15/2019
Court file identification number:	8719202152
Date of the decision:	22. 09. 2020
Name and surname of the judge, VSU:	JUDr. Markéta Marečková
ECLI:	ECLI:SK:OSPP:2020:8719202152.8

JUDGMENT ON BEHALF OF THE SLOVAK REPUBLIC

District Court Poprad in the proceedings before Judge JUDr. Markéta Marečková in the legal case of the plaintiff M. A., born. XX.XX.XXXX, residing in Q. V. L. L.A. XX/X, XXXX Z., P. P., legally represented by STANĚK VETRÁK & PARTNERS, s.r.o. with registered office at Dunajská 15, 811 08 Bratislava, ID No: 36 795 038, against the defendants: 1./ AUTONOVA, s.r.o. with registered office at Priemyselná areál Východ, súp. 3406, 058 01 Poprad, ID No.: 31 649 513, legally represented by JUDr. Juraj Lukáč, attorney at law, with registered office at Námestie sv. Egídia 11/6, 058,01 Poprad, ID No.: 42 421 152, 2./ Slovak Republic, represented by Štátne lesy Tatranského nacionalného parku Tatranská Lomnica, with registered office Tatranská Lomnica No. 66, 059 60 Vysoké Tatry, ID No.: 31 966 977, legally represented by JUDr. Marek Radačovský, attorney-at-law, with registered office Žriedlová 3, 040 01 Košice, ID No.: 35 553 961, on the determination that the immovable property belongs to the inheritance, as follows

d e c i d e d :

I. The action is hereby dismissed.

II. It awards the defendants in the 1st and 2nd instance full reimbursement of litigation costs against the plaintiff, the amount of which will be determined by the court in a separate ruling after this judgment becomes final.

r e a s o n i n g :

1. On 12.04.2019, a statement of claim was filed with the local court under case No. 17C 15/2019 by the plaintiff M. A., born on 12.04.2019. XX.XX.XXXX, residing in Q. XX/X, XXXX Z., P. P., against the defendant Slovak Republic, represented by the State Forests of the Tatra National Park Tatranská Lomnica, with its registered office at Tatranská Lomnica No. 66, 059 60 Vysoké Tatry, ID No.: 31 966 977, for a declaration that the immovable property registered on the ownership certificate No. 119, located in the district of Poprad, municipality of Vysoké Tatry, cadastral territory of Tatranská Lomnica, maintained by the District Office Poprad, Cadastral Department, namely:

- land parcel of the register "R." No. XXX/X, with an area of 11.880 m2, type of land: other area,
- land parcel of the register "R." No. XXX, with an area of 1.239 m2, type of land: forest land,- land of the parcel of the register "R." No XXX, with an area of 11,589 m2, type of land: forest land, belong to the inheritance of the late G. A., nee. Q., born in. XX.XX.XXXX, deceased XX.XX.XXXX, last residing at K., M., in the share of 1/1.

The plaintiff justified the application on the grounds that the testator was the sole owner of the immovable property registered in the land registry XXX, in the original land registry XXX, in the original land registry XXX. Z. L., district O. (hereinafter referred to as 'PKV XXX'). On PKV XXX, the parcels in the sole ownership of the testator were identified as follows: - parcel No XXXX, type of land: forest, area: 7 548 m2, parcel of the 'N.' register,

- parcel no. XXXX, type of land: forest, area: 5.209 m2, parcel of the register "N.";- parcel no. XXXX, type of land: house, area: 919 m2, parcel of the register "N.";
- parcel no. XXXX, type of land: garden, area: 20.823 m2, parcel of the register "N.".

The detailed identification of the parcels shows that the original parcels of land registered at PKV XXX have been subdivided into a number of parcels and are now registered as R-register parcels. C... Part of the subdivided parcels are registered on LV XXX and the Slovak Republic is registered as the owner of part of the subdivided parcels on LV XXX. The parcels separated from the original parcels owned by the Slovak Republic are currently registered at LV XXX as:

- land parcel of the register "R." No. XXX/X, with an area of 11.880 m2, type of land: other area,
- land parcel of the register "R." No. XXX, with an area of 1.239 m2, type of land: forest land,- land of the parcel of the register "R." No XXX, with an area of 11.589 m2, type of land: forest land. By the present action, the applicant seeks a declaration that the immovable property belongs to the testator's inheritance on the ground that the ownership of the aforementioned present land was never transferred by the testator to the Slovak Republic and that the Slovak Republic did not acquire the present land in a lawful manner. The Slovak Republic derives its right of ownership from the confiscation pursuant to Slovak National Council Presidential Decree No. 104 of 23 August 1945 on the confiscation and expeditious distribution of the agricultural property of Germans, Hungarians and traitors and enemies of the Slovak nation (hereinafter referred to as 'Decree 104/1945'), which, however, apparently never took place, since it is apparent from the documents referred to below that the State was aware that the conditions for confiscation pursuant to Decree 104/1945 were not fulfilled. In fact, the State illegally appropriated ownership of the testator's property on the basis of the decision of the District National Committee - Land and Economy in Poprad No 2672/1962-Dr.Jk. of 13 April 1962, which allocated the testator's real estate registered at PKV XXX to the Czechoslovak State, in the administration of the Tatra National Park in its entirety on the basis of Article 104 104.104(4) of the Protocol of 104.104. 23(3)(b) of Decree No 205/1958 Ú.v. The above procedure presupposed that there had previously been a lawful confiscation of the property in question, which, as indicated below, had not taken place, i.e. at the time of the transfer pursuant to Article 23(3)(b) of Decree No 205/1958 Ú.v. the District National Committee - Land Economy in Poprad was not the owner, and so could not transfer ownership either. Finally, this fact is also apparent from PKV XXX itself, since the District National Committee - Land Economy in Poprad was never registered as the owner of the original properties, which means that it could not have transferred those original properties to the Czechoslovak State either. By letter No. 54/45-II dated 01.05.1945, the Local National Committee Tatranská Lomnica notified the Slovak National Council for Land Management and Land Reform, for the Košice region, about the villa A.É. and recommended it for "seizure", as it "could very usefully serve as a convalescent home for the members of the Commissariat". The Slovak National Council for Land Management and Land Reform, for the Košice area, issued Opinion No 1149/1945-VIII of 30 May 1945 for the Local National Committee in Tatranská Lomnica, in which it stated that 'Villa A. in Tatranská Lomnica is not a land management property within the meaning of § 2 of Slovak National Council Decree No 4 of 27 February 1945, and therefore, according to § 1 of the above-mentioned Decree No 4 of 27 February 1945, it is not a land management property'. It is not subject to confiscation'. Despite the fact that the conditions for confiscation under Regulation 108/1945 Coll. were not met, the State attempted confiscation despite the fact that its other authorities had clearly declared that the conditions for the transfer of ownership from the testator to the State were not met. However, the Czechoslovak State Forests, a national enterprise in Piešťany, addressed letter No 182/207-1950 of 12.06.1950 to the Regional National Committee and stated in the letter that: 'Since the District Court in Kežmarok, according to its decision of 24.04.1950 No 948/1950, insists that confiscation pursuant to Presidential Decree No 108/1945 Coll. No. 8304/1948 on the immovable property, registered in the land register file No. XXX of the municipality of Z. L.." By letter No 4158-Tr-50 of 23.08.1950, the Regional National Committee in Košice asked the District Court in Kežmarok, Land Registry Department, to delete the note "confiscated pursuant to Presidential Decree No 108/45 Coll." The District Court in Kežmarok, under No 1538/50, deleted the remark 'confiscated pursuant to Presidential Decree No 108/1945 Sb.'. It is clear from the above evidence that the State repeatedly attempted to confiscate the original properties in a situation where it had already failed once to confiscate under Decree No. 104/1945 because it did not meet the conditions of agricultural property, and never even issued a decision of the confiscation commission on this ground, while in the following second case the State itself revoked the confiscation under Decree No. 108/1945 (District Court in Kežmarok under no.d. 1538/50 made the deletion of the

note "confiscated pursuant to Presidential Decree No. 108/1945 Coll.". By letter No 43/25-D/1962 of 02.02.1962, the administration of the Tatra National Park in Tatranská Lomnica asked the District National Committee, Agricultural Department in Poprad to issue the decision necessary for the land-book transfer. The District National Committee - Land and Agriculture in Poprad issued Decision No 2672/1962-Dr.Jk. on 13.04.1962 (hereinafter referred to as "Decision 2672/62"), which allocated the testator's real estate registered on PKV 565 to the Czechoslovak State, in the administration of the Tatra National Park in its entirety on the basis of Art. 23(3)(b) of Decree No 205/1958 Coll. on the ground that the properties had been, as stated, "confiscated pursuant to SNR Decree No 104/1945 Coll. as amended by Decree No 64/1946 Coll." despite the fact that the confiscation decision was not issued for the reasons set out above. It is clear that if confiscation had taken place under Regulation 104/1945 in 1945 or 1946, the State would not have repeatedly and unsuccessfully sought confiscation under Regulation 108/1945, nor would it have sought transfer under Decision 2672/62, since the original properties would have been in the possession of the State for a long time. According to Art. 10 of Regulation 104/1945 by a decision of the Confiscation Commission established by the District National Committee under whose jurisdiction the original properties fell or by a decision of the Board of Commissioners (last sentence of paragraph 8), the property of such a person is deemed to have been confiscated pursuant to paragraph 1, 2 or 3 on the date of entry into force of Regulation 104/1945. No complaint could be lodged with the Supreme Administrative Court against this decision. The decision of the Commission was a necessary condition for confiscation. The issue of confiscation of property was dealt with by the Constitutional Court of the Slovak Republic in its ruling I. ÚS 379/2016-27, where it stated: "The confiscation of property could only take place if the statutory conditions were met, which included a legally effective (final and enforceable) administrative decision." The State repeatedly attempted to seize the original properties for the first time by way of confiscation under Regulation 104/1945, but the conditions for issuing a decision were not met because: The Local National Committee in Tatranská Lomnica, stated that "the villa A.G. in Tatranská Lomnica is not a land property within the meaning of § 2 of the Slovak National Council Decree No. 4 of 27.02.1945, and therefore, according to § 1 of the cited Decree No. 4 of 27.02.1945, it is not a land property. It is not subject to confiscation'. The second time by way of confiscation pursuant to Regulation 108/1945, however, again the conditions for a valid confiscation were not fulfilled, and the State itself, through the competent court, subsequently deleted the confiscation note from PKV XXX in section K. - it is thus obvious and it was obvious to all that there was no legal title to the change of ownership. For the third time, he obtained a land-book transfer with reference to the non-existent confiscation under Regulation 104/1945, and on top of that the District National Committee had clearly acted beyond the scope of its competence under Article 23(3) of the Regional National Committee's Urgent legal interest in the proposed determination is given by the fact that, despite the absence of a legal act or title by virtue of which the applicant's predecessor in title lost ownership of the original plots, the defendant is registered as the owner of the current plots and it is not possible to achieve a change of ownership without a determination of ownership by means of a declaratory action.

2. On 21.06.2019, a statement of claim was filed with the local court under case No. 11C 25/2019 by the plaintiff M.L. A., born in. XX.XX.XXXX, domiciled in Q. XX/X, XXXX Z., P. P., 1./ AUTONOVA, s.r.o., with registered office at Priemyselná areál Východ, súp. no. 3406, 058 01 Poprad, ID No.: 31 649 513, 2./ Slovak Republic, represented by Štátne lesy Tatranského nacionalného parku Tatranská Lomnica, with registered office at Tatranská Lomnica no. 66, 059 60 Vysoké Tatry, ID No.: 31 966 977, for the determination that the real estate registered on the ownership certificate No. 960, located in the district of Poprad, municipality of Vysoké Tatry, cadastral territory E. L., kept by the District Office Poprad, Cadastral Department, namely:

- land parcel of the register "R.", parc. no XXX/X, with an area of 134 m2, type of land: built-up area and courtyard,
- land parcel of the register "R.", parc. no XXX/X, with an area of 3.700 m2, type of land: built-up area and courtyard,
- land parcel of the register "R.", parc. no XXX/X, with an area of 797 m2, type of land: built-up area and courtyard,
- building with registration no. XX, type of construction - Building for culture and public entertainment (museum, library and gallery), description of the building - old museum, type of protected immovable property - Immovable cultural monument (national cultural monument) built on

the land of the parcel of the register "R.", parc. no XXX/X, with an area of 797 m2, type of land: Built-up area and courtyard, belonging to the inheritance of the late G. A., nee. Q., born in. XX.XX.XXXX, deceased XX.XX.XXXX, last residing at K., M., in the share of 1/1 to the whole.

The claimant justified the application on the grounds that the testator was the sole owner of the immovable property registered in the land registry XXX, in the original land registry XXX, in the original land registry XXX. Z. L., Poprad district (hereinafter referred to as 'PKV XXX'). On PKV XXX, the parcels in the sole ownership of the testator were identified as follows:

- parcel no. XXXX, type of land: forest, area: 7.548 m2, parcel of the register "N.",
- parcel no. XXXX, type of land: forest, area: 5.209 m2, parcel of the register "N.";- parcel no. XXXX, type of land: house, area: 919 m2, parcel of the register "N.";
- parcel no. XXXX, type of land: garden, area: 20.823 m2, parcel of the register "N.".

The detailed identification of the parcels shows that the original parcels of land registered at PKV XXX have been subdivided into a number of parcels and are now registered as R-register parcels. KN. Part of the subdivided parcels are registered on LV XXX and the owner of part of the subdivided parcels is registered on LV XXX as AUTONOVA, s.r.o., with its registered office at Priemyselný areál Východ, súp. č. 3406, 058 01 Poprad, ID No: 31 649 513 (hereinafter also referred to as 'the Respondent'). The parcels separated from the original parcels owned by the defendant 1/ are currently registered on LV XXX as:

- land parcel of the register "R.", parc. no XXX/X, with an area of 134 m2, type of land: built-uparea and courtyard,
- land parcel of the register "R.", parc. no XXX/X, with an area of 3.700 m2, type of land: built-up area and courtyard,
- land parcel of the register "R.", parc. no XXX/X, with an area of 797 m2, type of land: built-up area and courtyard.

By the present action, the applicant seeks a declaration that the immovable property belongs to the testator's inheritance on the ground that the ownership of the aforementioned present land was never transferred by the testator to the Slovak Republic and that the Slovak Republic did not acquire the land in a lawful manner. The Slovak Republic derives its ownership right from the confiscation pursuant to Slovak National Council Presidential Decree No 104 of 23 August 1945 on the confiscation and expeditious distribution of the agricultural property of Germans, Hungarians and traitors and enemies of the Slovak nation (hereinafter referred to as 'Decree 104/1945'), which, however, apparently never took place, since it is apparent from the documents referred to below that the State was aware that the conditions for confiscation pursuant to Decree 104/1945 were not fulfilled. In fact, the State illegally appropriated ownership of the testator's property on the basis of the decision of the District National Committee - Land and Economy in Poprad No 2672/1962-Dr.Jk. of 13 April 1962, which allocated the testator's real estate registered at PKV XXX to the Czechoslovak State, in the administration of the Tatra National Park in its entirety on the basis of Article 23(3)(b) of the Law of the Republic of Tatras, as amended by Article 23(3)(b) of the Law of the Republic of Tatras, and the decision of the District National Committee - Land and Economy in Poprad No 2672/1962-Dr.Jk. However, the above procedure presupposed that there had been a prior legal confiscation of the property in question, which, however, did not take place, as indicated below, i.e. at the time of the transfer pursuant to Article 23(3)(b) of Decree No 205/1958 Ú.v., the District National Committee - Land Economy in Poprad was not the owner and so could not transfer ownership. Finally, this fact is also apparent from PKV XXX itself, since the District National Committee - Land Economy in Poprad was never registered as the owner of the original immovable property, which means that it could not have transferred the original immovable property to the Czechoslovak State, since it was not the owner of it. By letter No. 54/45-II of 01.05.1945, the Local National Committee of Tatranská Lomnica drew the attention of the Slovak National Council for Land Management and Land Reform, for the Košice region, to Villa A. and recommended that it be "seized", as it "could very usefully serve as a convalescent home for the members of the Commission". The Slovak National Council for Land Management and Land Reform, Košice Region, issued Opinion No 1149/1945-VIII of 30 May 1945 to the Local National Committee in Tatranská Lomnica, in which it stated that 'Villa A. in Tatranská Lomnica is not a land management property within the meaning of § 2 of Slovak National Council Regulation No 4 of 27 February 1945 and therefore, according to § 1 of the above-mentioned Regulation, it is not a land management property'. It is not subject to confiscation'. Despite the fact that the conditions for confiscation under Regulation 108/1945 Coll. were not met, the State attempted confiscation despite the fact that its other authorities had clearly declared that the conditions

for the transfer of ownership from the testator to the State were not met. However, the Czechoslovak State Forests, a national enterprise in Piešťany, addressed letter No 182/207-1950 of 12.06.1950 to the Regional National Committee and stated in the letter that: 'Since the District Court in Kežmarok, according to its decision of 24.04.1950 No 948/1950, insists that confiscation pursuant to Presidential Decree No 108/1945 Coll. No. 8304/1948 on the immovable property, registered in the land register file No. XXX of the municipality of Z. L.." By letter No 4158-Tr-50 of 23.08.1950, the Regional National Committee in Košice asked the District Court in Kežmarok, Land Registry Department, to delete the note "confiscated pursuant to Presidential Decree No 108/45 Coll." The District Court in Kežmarok, under No 1538/50, deleted the remark 'confiscated pursuant to Presidential Decree No 108/1945 Coll.'. It is clear from the above evidence that the State repeatedly attempted to confiscate the original properties in a situation where it had already failed once to confiscate under Decree 104/1945 because it did not meet the conditions of agricultural property, and never issued a decision of the confiscation commission on this ground, while in the following second case the State itself revoked the confiscation under Decree 108/1945 (District Court in Kežmarok under no.d. 1538/50 made the deletion of the note "confiscated pursuant to Presidential Decree No. 108/1945 Coll.". By letter No 43/25D/1962 of 02.02.1962, the administration of the Tatra National Park in Tatranská Lomnica asked the District National Committee, Agricultural Department in Poprad to issue the decision necessary for the land-book transfer. The District National Committee - Land and Agriculture in Poprad issued Decision No. 2672/1962-Dr.Jk. on 13.04.1962 (hereinafter referred to as "Decision 2672/62"), by which it allocated the testator's real estate registered at PKV XXX to the Czechoslovak State, under the administration of the Tatra National Park in its entirety on the basis of Art. 23(3)(b) of Decree No 205/1958 Coll. on the ground that the properties were, as stated, "confiscated pursuant to Decree No 104/1945 Coll. of the National Council of the Slovak Republic, as amended by Decree No 64/1946 Coll." despite the fact that the confiscation decision was not issued for the reasons set out above. It is clear that if confiscation had taken place under Regulation 104/1945 in 1945 or 1946, the State would not have made repeated unsuccessful attempts to confiscate under Regulation 108/1945, nor would it have attempted to transfer under Decision 2672/62, since the original properties would have been in the possession of the State for a long time. Pursuant to Regulation 104/1945, by a decision of the Confiscation Commission set up by the District National Committee under whose jurisdiction the original immovable property fell or by a decision of the Board of Commissioners, the property of such a person was deemed to have been confiscated on the date on which Regulation 104/1945 entered into force. It was not possible to lodge a complaint with the Supreme Administrative Court against that decision. However, the decision of the Commission was a necessary condition for confiscation. The issue of confiscation of property was dealt with by the Constitutional Court of the Slovak Republic, in Ruling No. I. ÚS 379/2016-27, where it stated: "The confiscation of property could occur only if the conditions set by law were met, which included a legally effective (final and enforceable) administrative decision." The State repeatedly attempted to seize the original properties for the first time by way of confiscation under Regulation 104/1945, but the conditions for issuing a decision were not met because: The Local National Committee in Tatranská Lomnica states that "Villa A. in Tatranská Lomnica is not a land property within the meaning of § 2 of the Slovak National Council Regulation No. 4 of 27.02.1945, and therefore, according to § 1 of the cited Decree No. 4 of 27.02.1945, it is not a land property. It is not subject to confiscation'. The second time by way of confiscation pursuant to Regulation 108/1945, however, again the conditions for valid confiscation were not fulfilled, and the State, through the competent court, subsequently deleted the note of confiscation from PKV XXX in section K. - it is thus clear that there is no legal title to the change of ownership. For the third time, the land-book transfer was effected with reference to the non-existent confiscation under Regulation No 104/1945, and on top of that the District National Committee clearly acted beyond the scope of its competence under Article 23(3)(b) of Decree No 205/1958 of the Regional People's Committee.

In the present proceedings, the applicant considers that the decision of the District National Land Committee in Poprad No. 2672/1962-Dr.Jk. dated 13.04.1962 is to be regarded as null and void - a null and void administrative decision, which is also reviewable by a general court, since this administrative act is so defective that the presumption of its correctness cannot be invoked. With reference to the nullity of the administrative act - Decision 2672/62, the ownership of the original real estate could never have been validly transferred from the testator to the Czechoslovak State - in the administration of the Tatra National Park in Tatranská Lomnica in the entirety of 1/1, since, as it is clear from the PKV XXX, the title on the basis of which the ownership right was transferred to the Czechoslovak State was the legally null

and void - null Decision 2672/62, and therefore the conditions for the transfer of the ownership right to the State were not fulfilled.

The defendant in the 1st / row on the basis of the exchange contract No. 411/N/2014 acquired into his ownership: - the land of the parcel of the register "R.", parcel No. XXX/X, with an area of 134 m2, type of land: built-up area and courtyard,

- the land of the parcel of the register "R.", parcel No. XXX/X, with an area of 3.700 m2, type of land: built-up area and courtyard, and on the basis of the exchange contract No. 28/Z/2010 the Defendant 1/ acquired into his ownership:
- land parcel of the register "R.", parc. no. 240/2, with an area of 797 m2, type of land: built-up area and courtyard,
- building with registration No. XX, type of construction - Building for culture and public entertainment (museum, library and gallery), description of the building - old museum, type of protected immovable property - Immovable cultural monument (national cultural monument) built on the land of the parcel of the register "R.", parc. no XXX/X, area 797 m2, type of land: built-up area and courtyard.

Thus, if the ownership acquired by the defendant in the 1st / row to the above-mentioned properties is ownership acquired by contract (in this case, exchange contracts), then one of the basic principles of private law, namely the principle 'nemo ad alium plus iuris transferre potest, quam ipse habet', applies to such contracts. It is common knowledge from publicly available sources that the land and the building which the defendant in the first row acquired from the State by means of the exchange contracts belonged in the past to the testator of the Count A. family, after all, to this day, the aforementioned building is called Villa A.É.. From publicly available sources, information is available that in the 1990s the descendants of the Hungarian Count were interested in the restitution of the villa. It is therefore clear that, in view of the above, the defendant in the first/series did not even exercise the ordinary care which could have been required of him to ascertain the facts as to the manner in which the ownership of the land and the building, which were originally the property of the deceased, was transferred. The fact that the 1st defendant cannot be a bona fide purchaser and enjoy the legal protection of a bona fide purchaser is evidenced by the fact that the 1st defendant did not make the slightest effort to verify the manner in which the State acquired title to the disputed properties, despite the extensive publicity regarding the disputed properties and the fact that they were confiscated property which had passed to the State. No less insignificant is the fact that the defendant's managing director in the 1st / row since 1995 is a natural person with a legal education, namely B. M. B. The transfer of real estate which is protected real estate or cultural monuments is governed by a special regulation, which is Act No 49/2002 Coll. on the Protection of the Monuments Fund (hereinafter referred to as "the MPPF"). As is evident from the exchange contracts, although they contain the consent of the Ministry of Finance of the Slovak Republic pursuant to Section 11(9) of Act No. 278/1993 Coll. on the Administration of State Property, as amended, to the exchange contracts, however, as we will state below, when concluding the above contracts, there was a violation of the legal obligations under the ZoOPF. The application for the pre-emption right of the aforementioned properties was not submitted to the Ministry of Culture of the Slovak Republic in the years 2010 and 2014, and even today the registered owner is listed as the owner of the building. It is therefore undoubted that as regards the transfer of the ownership right to the national cultural monument, namely the building with the registration number XX, by the previous registered owner, there was a fundamental violation of a specific legal regulation, which is the ZoOPF, since the registered owner did not offer the national cultural monument for purchase to the State represented by the Ministry. These facts resulted in a fundamental interference with the protection of cultural heritage guaranteed by the Constitution of the Slovak Republic, while the protection of cultural heritage is a public interest. In the case of contravention of good morals, a legal act which does not conform to the moral principles, or cultural and social norms, which are generally accepted in a particular society and thus form the general opinion of what is acceptable and considered to be honest conduct by that society. A legal act is contrary to good morals if it contravenes rules of conduct which are not in the nature of legal norms.

In the present case, the exchange contract No 28/Z/2010 is invalid for the following reasons:

I. because of its contradiction with the express imperative set out in Article 23(1) of the ZoOPF;

II. this legal act by its content or purpose circumvents the ZoOPF by aiming at consequences, the inadmissibility of which follows directly from the meaning of not only the ZoOPF, but also the

Constitution of the Slovak Republic, which is the public interest in the protection and preservation of cultural heritage;

III. contrary to good morals on the grounds that the failure to comply with the obligation under Section 23(1) of the ZoOPF violated cultural and social norms, one of the objectives of which is the protection of cultural heritage.

Thus, the defendant in the 1st / row, as a party to both exchange contracts, knew, or should have known, that there is no fulfillment of the obligation under the ZoOPF, since it is undoubted that the Ministry of Culture of the Slovak Republic did not receive any requests or offers for the pre-emption right to the real estate acquired by the defendant 1 / on the basis of the exchange contracts. The defendant in the 1st row must also have been aware that there was a mistake on the part of the competent cadastral administration when it authorised the change of ownership despite the fact that there was a violation of the ZoOPF, since there were no documents proving that the conditions under the ZoOPF were fulfilled in the transfer of the national cultural property. The defendant in the 1st / row was apparently satisfied with the above state of affairs, having acquired the ownership of other properties in an almost identical manner from the registered owner by virtue of the exchange contract No. 411/N/2014. Another sign of the defendant's imprudence in the 1st / row is the fact that he has not fulfilled his legal obligation under Section 28(3)(c) of the ZOPF, since the registered owner is still registered as the owner of the building in the Central List of the Monuments Fund even now in the year 2019.

In view of the above, it is undoubted that there have been several violations not only of ZoOPF, but also violations of the Constitution of the Slovak Republic registered owner, as well as violations of the Cadastral Act itself by the District Office Poprad - cadastral department in the transfer of ownership of the building, which results in the above facts absolute invalidity of the legal act - exchange contract No. 28/Z/2010. The claimant's compelling interest in the proposed determination is determined by the fact that, despite the absence of a legal act or title on the basis of which his predecessor in title would have lost ownership of the original plots, the defendant in the 1st row is registered as the owner of the current plots, and it is not possible to achieve a change of ownership without a determination of the right of ownership by means of a declaratory judgment action.

3. The defendant (the present defendant in the 2nd/series) in its statement of defence in the suit in Case No. 17C 15/2019 stated that it does not recognise the plaintiff's claim. He objected to the lack of standing of the plaintiff in the proceedings. It is not clear whether the parties to the dispute are all the heirs of the deceased. G. A., nee. Q., which gives rise to grounds for dismissal of the action on procedural grounds. It is not clear from the application and the annexes to the application that the applicant is the sole heir of the late Mr Q. G. A., nee. Q., i.e. the testatrix. If the testatrix left more than one heir, there is an indissoluble community of all the heirs, all of whom have active or passive standing in the proceedings for a declaration that the immovable property forms part of the testatrix's estate. The defendant referred to the decisions of the Supreme Court of the Slovak Republic R 54/1973 and 5 NCdo 15/2007. In the present case, the immovable property which is the subject of the proceedings was confiscated pursuant to Slovak National Council Regulation No 104/1945 Coll. on the confiscation and expeditious distribution of the agricultural property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation. The defendant's claim is based on a petition of the KNV in Košice under No 3022-IV/1950 of 07.07.1950, requesting the District Court of Kežmarok to delete the note of confiscation under Presidential Decree No 108/45 Sb. in entry No XXX of Act No. XXX of the Commercial Register of the Republic of Slovakia. Z. L. parcel no. XXXX, XXXX, XXXX, XXXX of the testatrix. In the present case, the confiscation was pursuant to Slovak National Council Decree No. 104/1945 Coll., with the entry "confiscated pursuant to Presidential Decree No. 108/1945 Coll. under No. d. 8304/1945" for the above-mentioned parcels of PKV XXX. This record was deleted by the Kežmarok District Court on the basis of a request from the Czechoslovak State Forests Piešt'any dated 12.06.1950 and 17.07.1950. The deletion was made only because the property in question was not confiscated under Presidential Decree No. 108/45 Coll., but under Slovak National Council Decree No. 104/1945 Coll. In the application of the Košice KNV of 23.08.1950 it is stated that the property in question was recognised by the Central Disputes Commission as agricultural property. After the deletion of the confiscation registration under Presidential Decree No 108/1945 Sb., a proposal was to be submitted by the Poverty of Agriculture Working Group in Kežmarok for the registration of a confiscation note under Act No 104/1945 Sb. Building No. XX Vila A. in Tatranská Lomnica, which served as the headquarters of the High Tatras

forestry plant as a replacement for the hunting manor in Javorina, which was placed at the disposal of the Corps of Superintendents. This object was allocated by the resolution of the Council of the Municipal Council of the High Tatras Municipality No. 57/1949 as a confiscate according to the Regulation No. 104/1945 Coll. for the Czechoslovak State. As the transfer was not recorded in the land register in insert no. Z. L., at the suggestion of the regional directorate of the Czechoslovak State Forests, a Disputes Commission was convened, which on 09.12.1949 decided on the spot that it was a confiscation pursuant to Regulation No. 104/1945 Sb. The applicant did not prove, in accordance with Article 1(1) of that regulation, that the testatrix, who was of Hungarian nationality, was a member of the Czechoslovak State on 1 November 1938. In particular, the language used in family relations or the admission of nationality in any census after 1929 is decisive for the assessment of membership of the German or Hungarian nationality. Persons regarded as traitors and enemies of the Slovak nation are to be regarded as unreliable State agents pursuant to Article 4 of Decree No 50/1945 Coll. In a decree issued by the National Council for Industry and Trade in Bratislava on 24 October 1945, a national administration was imposed on the Vila A. Tatranská Lomnica enterprise and it was stated that the owner of the enterprise was state unreliable. The property was the property of a Hungarian woman, i.e. a citizen of Hungarian nationality, who had left the territory of the Czechoslovak Socialist Republic before the newly established state administration. The confiscation was carried out on the basis of the decree No. XXXXX of 17.10.1946 of the ONV with the legal validity of 04.11.1946. The confiscation of the property falls under § 2 of the Slovak National Council Regulation No. 104/1945 Coll., as forests, a garden, a villa - a dwelling house, which according to its nature can be used for agricultural purposes or is suitable for the accommodation of displaced persons during internal colonisation, were confiscated. With regard to the applicant's objection concerning the decision of the Land and Agriculture Department of the Land Office Poprad No. 2672/1962 of 13.04.1962, the defendant stated that the decision was issued in accordance with Act No. 46/1948 Coll. on the new land reform. It referred to the provision of Government Decree No 90/1950 Coll., which provides in Article 6(6) that the regulations on the administration of national property by national committees remained unaffected by the regulations on confiscated and nationalised property and on property acquired for the purposes of land reforms to which it had been entrusted on a temporary basis pending a definitive decision on the matter. Since the property in question was confiscated pursuant to Slovak National Council Decree No 104/1945 Coll. and the properties were handed over to the possession and use of the Czechoslovak State in the administration of TANAP pursuant to Decree No 205/1958 Coll. and the instructions of the Land Management Directorate of the VHPU No. 10-11/1960 ONV Poprad Department of Agriculture allocated these properties for the Czechoslovak State in the administration of TANAP and gave its consent that the ownership right to the properties listed in the decision in insert No. XXX of plot No. XXXX, XXXX, XXXX, XXXX, XXXX was inserted for the Czechoslovak State in the administration of TANAP. In view of the above, the defendant requested that the action be dismissed.

4. The defendant in the 1st / row in the statement of claim under case No. 11C 25/2019 proposed to join the cases filed at the District Court Poprad under case No. 17C 15/2019 and case No. 11C 25/2019, because they are proceedings that were initiated in the same court and are factually related to each other, they concern the same parties. As regards the application itself, he objected to the lack of proof of the applicant's standing to bring the action. The applicant claimed that he was the heir of G. A., nee. Q.. The documentary evidence submitted does not prove the above. The death certificate of G. A. proves only her death in Budapest on XX.XX.XXXX, it is not proof of her predecessors and successors. The extract from the birth register of M. A. of XX.XX.XXXX proves that the latter was born to the father of M. A. and C. A., which does not prove any hereditary connection with the testatrix G. A.. The death certificate of M. A. proves that the latter was the son of G. Q. and Q.Á. A. and does not show that he was a direct relative of the applicant's predecessors in title. From the evidence adduced, it is not possible to establish an unbroken line of succession in time between the applicant and the testatrix. It is not clear from the evidence whether the applicant should be the sole heir entitled to inherit from the deceased. If there are more than one heir, the circle of parties on the applicant's side may not be complete. He referred to the decision of the Supreme Court of the Slovak Republic in Case No 5 MCdo 15/2007. If the testatrix had more than one heir, all the heirs are considered to be the owners of the property until the settlement of the inheritance in respect of the matter in question and are jointly and severally entitled and obliged to the other persons

in respect of legal acts relating to that property. The defendant in the first instance pointed out factual defects and contradictions in the applicant's factual allegations. In relation to Regulations Nos 4 and 104 of 1945, the applicant's misquoting and incomplete quotation of the provisions of Section 2 and, consequently, incorrect conclusions of other factual allegations and legal consequences. He submits that the conclusion of the opinion of the Crown Council was dated 30 April 1945, i.e. when Regulation 4/1945 Sb., not 104/1945 Sb., was in force, and was therefore correct in relation to Villa A. in Tatranská Lomnica at the time it was written, but that it is not possible to draw from it the legal consequence in the form of the applicant's assertion that, in accordance with the cited opinion, there could not have been a confiscation of the property in question, owned by the then Hungarian national, G. G. G. A.R. pursuant to Regulation 104/1945 Coll. The applicant purposely confuses Regulation No 4/1945 Sb. and Regulation No 104/1945 Sb. The applicant's claim that the property formerly owned by G. A. was not confiscated pursuant to Regulation 104/1945 Sb. has not been proved by the applicant, but has been directly refuted. The letter of the SNR Commission of 30.04.1945 is not a decision, merely an opinion, a reply to the MNV's enquiry, which does not create, modify or abrogate any rights or obligations. On the other hand, the decision of the Disputes Commission is final and binding. The real reason for the incorrect entry of the confiscation note is apparent from a letter addressed to the Regional National Committee by the Czechoslovak State Forests on 12.06.1950, which shows that the incorrect entry of confiscation note 108 instead of 104 in PKV XXX was discovered, but the Regional National Committee was competent to submit a proposal for its deletion, and it was the Regional National Committee that was competent to enter the correct confiscation note according to the Regulation 104/1945 Sb., which was the responsibility of the Poveriency of the Land and Work Group in Kežmarok. The above-mentioned defect is merely a formal manifest inaccuracy without any impact on its factual correctness as regards the lawfulness of the confiscation and does not give rise to the legal consequence alleged by the applicant, i.e. that G.Q. did not lose her right of ownership or that the property at issue was not confiscated from her. By the entry into force of Decree No 104/1945 Coll. on 1 March 1945, property in Slovakia owned by persons of Hungarian nationality, irrespective of their nationality, was confiscated with immediate effect and without compensation. The transfer of ownership took place on the basis of the law and the property was deemed to have been confiscated on the date of the entry into force of Decree 104/1945 Sb. The third defect in the description of the facts is the factually incorrect assessment of the existence of two mutually contradictory decrees, namely Decree No 61-61.288 issued by the SNR Commission for Industry and Trade pursuant to Article 7 of Regulation No 50/45 Sb. on national administration appointing as administrator C. A. and Decree No. 2750/1947, which was intended to abolish the national administration imposed, which primarily concern only the usufruct rights of the receiver and not the right of ownership, and are therefore irrelevant to the creation, change or loss of ownership. Moreover, the second decree must be regarded as unfair, having been issued by an unauthorised authority. From the evidence submitted by the applicant itself, it can be shown that there was a loss of ownership, since the letter of the Czechoslovak State Forests n.p. in Piešťany on 12.06.1950 shows that the property PKV XXX is incorrectly entered with a confiscation note pursuant to Presidential Decree No 108/1945 Coll., although it should correctly have been entered with a confiscation note pursuant to Act No 104/1945 Coll. The loss of the property right of the testatrix G. A. can also be proved from other documentary evidence: a letter from the Czechoslovak State Forests n.p. in Piešťany dated 17.08.1950, a request from the Regional National Committee in Košice working group in Poprad dated 07.07.1950, a request from the Regional National Committee in Košice working group in Poprad dated 23.08.1950, a letter from the administration of the Tatra National Park in Tatranská Lomnica dated 02.02.1962. The mere lack of a record of the confiscation note does not result in its non-existence. This is evidenced by Article 5(5) of Regulation No 90/1947 Coll., which states that incorrectly marked confiscations are not detrimental to the persons entitled under the land and book entry. The loss of the right of ownership of G. A. can also be proved by abandonment of the property in question. The abandonment of the property is apparent from the written information document A. vila - Tatranská Lomnica, which states that the owner of G. A. at an unknown location has Slovak nationality and the MNV in Veľká Lomnica filed a petition for confiscation, as it is the property of a Hungarian woman who left the territory of the Czechoslovak Republic before the re-establishment of state administration, and from other documentary evidence which states that after 1946 the residence of G. A. is unknown. G. A. was an unreliable person of Hungarian nationality who had fled from the new laws, and never in her lifetime had shown the

slightest intention of returning to take possession of her property. When she left the Republic and the property and fled abroad, it was an implicit manifestation by the owner not to continue to be the owner of the property in question. G. A. fulfilled the then legal conditions for confiscation under both Decree 108/1945 Coll. and Decree 104/1945 Coll. The entries and deletions of the notes are irrelevant to the merits of the case because of this legal fact. The ownership right of the defendant's predecessor in title in the first row at the time of the conclusion of the exchange contracts is undisputed. Since the confiscation by Decree No. 104/1945 Coll. of 01.03.1945 and the decree of 22.10.1946, the defendant in the 2nd row has used the real estate undisturbed and in good faith. In case the said legal acts were considered invalid by virtue of confiscation, it is a possession by virtue of bona fide possession by virtue of the order of the District Court Poprad No. d. 1081/63/62 dated 24.10.1963 and the decision of the ONV Poprad dated 13.04.1962. The confiscation was carried out on the basis of the ONV decree of 17.10.1946, which confiscated the villa with the surrounding forest units and on 04.11.1946 became final. In addition to the legitimate title itself, the defendant in the 1st/series considers that his predecessor in title fulfilled the prerequisites for the acquisition of the properties in question by possession, whereby for the assessment of the legitimacy of the possession, no existing legal ground is required, but only a presumed legal ground is sufficient. The title of entry into the rightful possession, even in the case of the existence of defects, would undoubtedly have been the decision of the ONV in Poprad of 13.04.1962, which the District Court in Kežmarok entered in the PKV No. XXX. In so far as the applicant refers to the invalidity of the decision of the ONV of 13.04.1962 on the ground that the ONV did not perform the function of a commission, nor did it decide on confiscation, this is an unfounded objection, since the said decision was a deed of deposit for which, pursuant to the provisions of Section 11 of Act 90/1947 Coll. Decree No 108/1945 Coll., other decisions or declarations by the Fund or another competent authority concerning the transfer of confiscated property to another acquirer were also considered to be in addition to the allocation decision issued by the Fund or, in the case of property confiscated pursuant to Decree No 108/1945 Coll., by another competent authority. The legitimacy of the valid acquisition of the defendant's right of ownership in the 1st row is apparent from the valid and effective exchange contracts, which were respected by the Regional Monuments Office, the Ministry of Culture of the Slovak Republic, which recognised the defendant in the 1st row as the rightful owner in the implementation of the conclusions of the comprehensive restoration of the Villa A. building and even provided him with financial contributions for that purpose. The defendant in the 1st row referred to the ruling of the Constitutional Court of the Slovak Republic No I ÚS 549/2015 and to the fact that the plaintiff is seeking the right of ownership from his predecessor in title with a delay of more than 73 years and, moreover, by means of proceedings seeking a review of the legality of the decision on confiscation and the breaking of the Benes Decrees, for which there are lex specialis legal provisions in Slovak law with time-limits for their application. In so far as the applicant disputes the good faith of the defendant in the first/series, it points out that the person who acquired in good faith the rights registered in the land register was protected in his good faith. The defendant in the 1st row did not violate the provisions of Section 23(1) of Act No 41/2002 Coll. when carrying out the exchange of the property. on the Protection of the Monument Fund, because the fulfilment of the offer obligation is linked to the owner's intention to sell the cultural monument or even a part of it, not to transfer it, under which circumstance any form of transfer, i.e. also the exchange of real estate, could be subsumed. The defendant in the 1st / row, referring to the historical interpretation, points to the fact that, as the new owner in the acquisition of the property registered in the Land Registry, acted in good faith in the existence of the State ownership, which was, moreover, confirmed in both cases by the approval opinion of the Ministry of Finance pursuant to Section 11(9) of Act 278/1993 Coll. on the administration of State property.

5. The defendant in the 2nd / row to the statement of claim in file no. 11C 25/2019 stated that it does not fully recognize the claim of the plaintiff, objects to the lack of the plaintiff's active material standing in the proceedings, objects that it is not clear whether all the heirs of the deceased are parties to the dispute, that the plaintiff is not the heir of the deceased, and that the plaintiff is not the heir of the deceased. G. A., nee. Q., which constitutes further grounds for dismissal of the action on procedural grounds. It is not clear from the application lodged and the documentary annexes whether the applicant is the sole heir of the late Mr Q. Q. G. A., nee. Q., i.e. whether the applicant is to have active standing as the sole party to the action. He referred to the decisions of the Supreme Court of the

Slovak Republic R 54/1973 and 5 MCdo 15/2007, in which the Supreme Court stated that if a testator leaves more than one heir, if the inheritance has not been settled between them in respect of a matter which is the subject of civil proceedings brought by a person other than the testator, until the inheritance is settled in respect of that matter, all the heirs are considered to be the owners of that matter and are jointly and severally entitled and obliged to other persons in respect of legal acts relating to that matter. It shall be an indissoluble community of all the heirs. He referred to inconsistencies in the documents submitted by the applicant. In the alleged birth certificate of no. G. A., there is a note that that person was the prior of the parish office in Nagycenko, which Countess Q. was obviously not. In the present case, the properties at issue in the present proceedings were confiscated pursuant to Section 1(4) of Presidential Decree No. 108/1945 Coll. of 25.10.1945 and Decree No. 16865/46 of 07.10.1946 issued by the District National Committee in Kežmarok, which became final on 04.11.1946. The subsequent request of the KNV in Košice and the act of the District Court of Kežmarok are only of a registry nature. The building No. XX, Villa A. in Tatranská Lomnica, served as the headquarters of the High Tatras Forestry Plant as a replacement for the hunting manor in B., which was put at the disposal of the Corps of Superintendents. This building was allocated by Resolution No. 57/1949 of the Council of the Municipal Council of the High Tatras as a confiscate according to Regulation No. 104/1945 Coll. for the Czechoslovak State n. p. plant Tatranská Lomnica. As the transfer was not recorded in the land register in insert No. XXX of the land register of the district of Tatry. Z. L., a Disputes Commission was convened on the proposal of the Regional Directorate of the Czechoslovak State Forests pursuant to Section 2 of Decree 346/48 U.v., which on 04.12.1949 decided on the spot that it was a confiscation pursuant to Decree No. 104/1945 Sb. The language used in family relations or the confession of nationality in any census after 1929 is decisive for the assessment of membership of the German or Hungarian nationality. Persons deemed to be traitors and enemies of the Slovak nation are to be regarded as state unreliable pursuant to Section 4 of Regulation No. 50/1945 Sb. The confiscation was carried out on the basis of the Decree of 17.10.1946 of the ONV with the legal validity of 04.11.1946. The defendant in the 2nd / row pointed to the fact that the Czechoslovak Republic was restored as a unitary state after the liberation, but that uniform legislation was not applied on its territory. Legislation was exercised both by the President and the Government by means of decrees and by the SNR by means of decrees. The SNR began to carry out legislative activity on the territory of Slovakia from 01.04.1944. Decrees had to state that they were issued by the President in agreement with the SNR. The Presidency of the SNR issued Decree No. 4/1945 on the confiscation and speedy distribution of the agricultural property of Germans, Hungarians as well as traitors and enemies of the Slovak nation. The confiscation commissions were to decide which persons were to be regarded as of German or Hungarian nationality or as traitors to the enemies of the Slovak nation and the Czechoslovak Republic. Their work did not end until the end of 1947. As regards the applicant's objection to the decision of the Land and Agriculture Department of Poprad No 2672/1962 of 13 April 1962, he added that the decision was issued pursuant to Act No 46/1948 Coll. on the new land reform. With regard to the objections that the ONV had exceeded its powers in issuing the decision of 13.04.1962, it stated that, pursuant to Article 23(8) of Decree No 205/1958 Coll. of the Ministry of Finance, the value for determining the jurisdiction of the authority under that Article was the acquisition value of the property transferred as recorded in the accounting records. In their opinion, the value of the property in question was less than CZK 1 000 000. The deed from which the applicant inferred that this was not the case was not an accounting document and stated that the value was approximately CZK 1 500 000,-- to 2.000.000, -- CZK, from which it cannot be concluded that the decision of the ONV land management department Poprad from 13.04.1942 is paakt because of exceeding the authority. The applicant does not have a sufficiently compelling legal interest in the examination of the validity - invalidity of the exchange contracts. His legal position will not change even if the exchange contract is invalid. In any event, he considers the exchange contracts concluded between the defendants in the 1st and 2nd rows to be valid, for which he has submitted a guideline of the Ministry of Agriculture dated 06.10.2009, since the property in question was confiscated pursuant to Slovak National Council Decree 104/1945 Coll. and the property was handed over to the Czechoslovak State in the administration of TANAP pursuant to Decree No 205/1958 Coll. ONV Poprad Department of Agriculture allocated these properties for the Czechoslovak State in the administration of TANAP and gave its consent to the ownership right to the properties listed in the decision in insert No. XXX of the

parcel XXXX, XXXX, XXXX, XXXX, XXXX to be inserted for the Czechoslovak State in the administration of TANAP.

6. By the order in the proceedings file no. 17C 15/2019 of 25.03.2019, the court joined for a joint proceeding the legal proceedings filed at the local court under file no. 17C 15/2019 in the legal case of the plaintiff M. A. against the defendant Slovak Republic represented by the State Forests of the Tatra National Park Tatranská Lomnica for the determination that the items belong to the inheritance of the estate of the late M. A. A. G. A. and the proceedings before the local court under case No. 11C 25/2019 in the legal case of the plaintiff M. A. against the defendant in the 1st row AUTONOVA s.r.o. and the defendant in the 2nd row the Slovak Republic represented by the State Forests of the Tatra National Park Tatranská Lomnica for the determination that the items belong to the inheritance of the estate of the late G. A. A. and the defendant in the 2nd row the State Forests of the Tatranská Lomnica National Park Tatranská Lomnica. G. A., so that both proceedings will be conducted under Case No. 17C 15/2019. After joining the case for joint proceedings conducted further under Case No. 17C 15/2019, the defendant in the 1st / row is AUTONOVA s.r.o., the defendant in the 2nd / row is the Slovak Republic represented by the State Forests of the Tatranská Lomnica National Park.

7. The plaintiff, in his reply to the defendant's statement of defence in the 1st/Order, submitted that the defendant's statement that if the bull was not confiscated and by the fact that the G. A. had left the disputed properties there had been dereliction, the plaintiff considers the above to be fanciful. He referred to the finding of the Constitutional Court of the Slovak Republic III. 194/2017 of 12.09.2017, according to which the manifestation of intent to relinquish the right of ownership must therefore be unquestionable and the procedural burden of proof falls on the person who claims to have become the owner. In case of doubt as to whether there has been abandonment and extinction of the right of ownership, the presumption of retention of title must be assumed. The mere non-use of the thing does not in itself mean the extinction of ownership in the manner provided for in Article 132(1) of the Civil Code. No condition for dereliction, namely a written, definite and intelligible expression of intent which is beyond doubt, has ever been fulfilled. Villa A. also served G. A. for the purpose of recreation for approximately 1 month per calendar year. She did not spend the major part of the calendar year in the Slovak Republic. In so far as the defendant claims in the first/series that G. A. was an unreliable person of Hungarian nationality in view of Decree 108/1945 Coll. and also a hostile person, the applicant submits that nationality was determined at that time in a manner which is at least arguable, since G. A. was of a noble family, knew several languages other than Hungarian, and was born in the municipality of O., which, at the time of the decision on the determination of her nationality and, therefore, of her unreliability, was situated in the territory of the Slovak Republic. The aim of the competent State authorities was to seize the property of natural persons without complying with the legislation in force at the time. The declaration of a citizen as a person of Hungarian or German nationality or as an unreliable person was carried out without due verification, as suited the regime of the time. In so far as the defendant in the first row referred to Article 5(5) of Law 90/1947, according to which an incorrectly marked confiscation is not detrimental to the persons entitled under the land register, the applicant does not object to that provision, but draws attention to Article 11 of that law, which deals with deeds of deposit, whereas even in the context of confiscation, in accordance with the principle of intabulation, a deposit had to be made in order for there to be a change of ownership. The confiscation notices under Regulation 108/1945 Coll. were of an informative nature, which is confirmed by the provisions of section 5(4), (5) of Act 90/1947 Coll. According to PKV XXX, it is evident that until 20.09.1960 the owner of the subject properties was G. A. The applicant again pointed out that, although the condition of the consent of the Ministry of Culture of the Slovak Republic is not expressly stated in the case of the exchange contract, it follows from Article 11(1) of the Act on the Administration of State Property that the consent of the Ministry of Culture of the Slovak Republic is also required for the exchange contract, since it concerns the alienation of State property under a special regime. The applicant again referred to the previous legal arguments supported by the relevant case-law. Even if, contrary to the previous submission, the applicant were to accept that the case is one of an indissoluble community on the part of the applicant, it would be a so-called voluntary indissoluble community under the current legislation, where it is not necessary for the procedural success of the action that all the plaintiffs with active rights in rem bring the action, since it is not a compulsory community. He pointed out that it was not for the court, but for the parties to the

proceedings and for them to take the necessary procedural steps to provide evidence in support of their claims.

8. The plaintiff, in his reply to the defendant's statement of defence in 17C 15/2019 (now defendant in the 2nd/series), submitted that the plaintiff's standing to sue is established, as is evident from the documentary evidence produced, from which it is undisputed that the plaintiff is the rightful heir of G. A.. In the present case, the dispute is not one arising out of inheritance proceedings. The court is not competent to assess whether the person who has brought an action for a declaratory judgment is ultimately the heir of the testator. For the purposes of such proceedings, the court assesses, as a preliminary matter, whether the person who has brought the action before the court is an heir, but it examines that circumstance only in the context of an overriding legitimate interest. If the person who has brought the action is a person who is regarded as an heir, he has a compelling interest in the proposed declaration that the property is part of the estate. The applicant has established beyond doubt that he is a heir of the deceased, since he is her grandson. The court cannot evaluate the circle of heirs in the proceedings. The present case cannot be subsumed under an indissoluble community. Since in the present case, the substantive law does not make it impossible for the heir to proceed independently and seek a determination as to whether the testator was the owner at the time of death. There could be an indissoluble community of property if the dispute was triggered by the succession proceedings and was a dispute between the heirs themselves. The applicant considers that his position as a potential heir has been sufficiently established. He referred to the decisions of the Supreme Court of the Czech Republic, Case No 28 Cdo 2375/2012 and Case No 32 Cdo 1675/2011. As regards the defendant's arguments on the facts relating to the confiscation of the property, he disagreed with the defendant's argument. He referred to the ruling of the Constitutional Court of the Slovak Republic I. ÚS 379/2016, according to which confiscation of property could only take place if the conditions laid down by law were met, including a legally effective, final and enforceable administrative decision. According to the decision of the Supreme Administrative Court of 31 December 1946, confiscation proceedings were also subject to the provisions of the Administrative Code pursuant to Article 72(2) of Government Decree 8/1928 Coll. "a decision is rendered, unless otherwise provided for in the administrative regulations, by delivery of a written copy thereof, or, if it has been rendered orally in the presence of the parties, by oral pronouncement". The applicant submits that the confiscation of property could take place only if the conditions laid down by law were fulfilled, which included a legally enforceable administrative decision, which was undoubtedly not issued in the present case, since the Slovak National Council's Custodian Office did not issue a confiscation decision on the property of G.Á. A... Even the SNR Poverenídeniectstvo SNR for Agriculture and Land Reform, in its opinion of 30.05.1945 Sb., states that Villa A. in Tatranská Lomnica is not, within the meaning of § 2 of SNR Regulation 4/1945, an agricultural property and therefore not subject to confiscation. The customary law in force in Slovakia until 31.12.1950 linked the creation of a property right to the registration of the acquisition of ownership in the land or railway register, this was the so-called intabulation principle. The confiscation decision, which in the present case is a necessary condition for confiscation, i.e. for the transfer of the ownership right, was never issued. The property could only have been under temporary administration pursuant to Act No 507/1950 Coll., which means that the ONV - Land Administration in Poprad could not have decided on a change of ownership. The deprivation of the property right of the testatrix G. A. could not have occurred, partly because the National Council of the Slovak Republic itself, in an opinion dated 30.05.1945, stated that Villa A. in Tatranská Lomnica was not a landowner's property and was therefore not subject to confiscation. No properly effective confiscation decision has been issued and the fact that no such decision has been issued is evidenced by the absence of an entry of this deed in the land register. If the State authorities or the State apparatus had considered it beyond doubt that the confiscation had been carried out in accordance with the law, there would have been no further attempts to register the title to the disputed properties in favour of the Czechoslovak State. The confiscation was regulated by Act No 90/1947 Coll., which gave the right to deal with the land-registry arrangement of the confiscated property in accordance with Decree No 104/1945 Coll. only to the Land and Land Reform Board. It is clear that if confiscation had taken place under Regulation 104/1945 Sb., the State would not have unsuccessfully sought confiscation again under Regulation 108/1945 Sb., nor would it have sought the right under Decision No 2672/62, since the original properties would have been in the possession of the State for a long time. The applicant reiterates

the essential fact that the decision of the Commission was a necessary condition for confiscation, whereas the Land Board in Poprad in 1962 did not perform the function of a commission and did not decide on confiscation pursuant to Decree 104/1945 Coll. The ONV Land and Agricultural Committee in Poprad acted illegally and arbitrarily, despite the fact that it did not replace the decision of the confiscation commission, in assessing whether the properties were to be regarded as confiscated pursuant to Regulation 104/1945 Coll. of the National Council of the Slovak Republic (SNR). Furthermore, it acted contrary to Article 23(3)(v) of Decree No 205/1958, since a transfer under that provision of immovable property whose value exceeded CZK 1 000 000 could take place only with the summons of the KNV. The ONV Department of Agriculture in Poprad did not have the power to decide on confiscation. Therefore, Decision No 2672/1962 of 13.04.1962 must be regarded as a null and void decision.

9. The plaintiff in its reply to the 1st and 2nd defendants' pleadings filed on 05.12.2019 stated:

- On the 1st defendant's submission: In so far as the 1st defendant submitted that even if the bull was not confiscated, G. A. had abandoned the disputed properties and dereliction had occurred. The plaintiff considers the aforesaid allegation of the defendant in the 1st row to be fanciful. He referred to the ruling of the Constitutional Court of the Slovak Republic No. III. 194/2017 of 12.09.2017, according to which the mere non-use of a thing does not in itself mean the extinction of ownership in the manner provided for in Section 132(1) of the Civil Code. Thus, the manifestation of intent to relinquish the right of ownership must be unquestionable and the procedural burden of proof is on the one who claims to have become the owner. Tatranská Lomnica was created for tourist purposes, so was Villa A. used for recreation, G. A. stayed there for that purpose for approximately 1 month per calendar year and did not spend the major part of the calendar year in the territory of the Slovak Republic. G. A. did not express a clear wish to leave the property. She had never escaped the new laws and was living permanently abroad. The condition for dereliction was not fulfilled. In so far as the defendant in the first/series claims that G. A. was an unreliable person of Hungarian nationality as well as a hostile person, the applicant points out that nationality was determined at that time in a manner which is at least arguable. G. A. was of a noble family, knew several languages other than Hungarian, was born in the municipality of O., which at that time belonged to the territory of the Slovak Republic. The declaration of a citizen as a person of Hungarian or German nationality or as an unreliable person was carried out without due verification, because it suited the regime of the time. In so far as the defendant in the first/series of the pleading referred to section 5(5) of Act 90/1947 Coll., according to which the incorrect indication of confiscation is not detrimental to the persons entitled under the land and book registration referred to in the provision, the applicant does not object, but attention should be drawn to section 11 of that Act, which speaks of deposit deeds, i.e. there had to be a deposit in order for there to be a change of ownership. According to PKV XXX, it is evident that till 20.09.1963, the owner of the subject properties was G. A. As regards the objections of the invalidity of the exchange contract, the applicant submitted that, although the condition of the consent of the Ministry of Culture of the Slovak Republic is not expressly mentioned in the exchange contract, it is considered that the said requirement results from the provisions of Article 11(1) of the Law on the Administration and Property of the State, since it concerns the alienation of State property under a special regime.
- on the pleading of the defendant in the 2nd row: In the present submission, the applicant stated that the defendant in the 2nd row relies on the old legislation in relation to the plea of standing. If, contrary to its previous submission, the applicant had conceded that there was an indissoluble community in the present case, it would be a so-called voluntary indissoluble community under the current rules, where it is not necessary for the procedural success of the action that all the plaintiffs with active rights in rem bring the action, since it is not a compulsory community. In so far as the defendant in the 2nd/series has prayed the court to secure a decree of inheritance from G. A., the applicant submits that the court is not competent to ascertain the circle of heirs, that is not the task of the court, but of the parties to the proceedings and a matter for their procedural diligence to secure evidence in support of their claims. With regard to the objection concerning confiscation, the applicant notes that the defendant in the second/series never objected in its pleading to the fact that the disputed properties could not be confiscated pursuant to SNR Regulation 104/1945 Coll. because there was no decision of the confiscation commission. On the contrary, the defendant claims that the confiscation was carried out by a decree of 07.10.1946 on the basis of Decree 108/1945 Coll. The applicant reiterates that the aforementioned document proves that the State attempted to confiscate the disputed property pursuant

to Decree No 108/1948 Coll. after it was clear that the confiscation pursuant to Decree No 104/1945 Coll. had not taken place. It cannot be overlooked that the State authorities, e.g. the District National Committee in Poprad in Decision No 2672/62, refer to the fact that the disputed property was confiscated on the basis of Decree No 104/1945 Coll. However, the evidence which should prove the alleged confiscation submitted by the defendant in the first/series is still circumstantial evidence. With regard to the objection concerning the price of the property, the applicant submits that the simple assertion by the defendant in the second row that the price of the property is less than CZK 1 000 000 is unsubstantiated.

10. The defendant in the 1st / row in the rejoinder to the plaintiff's statement of claim, delivered to the court on 24.01.2020, again stated that the mere production of the death certificate of G. A.É. and the plaintiff's birth certificate, it is not possible to prove the plaintiff's claim that he is the grandson of the deceased. On the contrary, the evidence adduced by the applicant in the proceedings raises reasonable doubts as to the veracity of the allegations of relationship, since, on the one hand, the applicant should have been born to a peasant in I. and, on the other hand, his father should have died in K. as a porter. From the death certificate of G. A., it may reasonably be assumed that at least one inheritance proceeding had already taken place after her death. If the applicant had been her grandson, he would undoubtedly have been in possession of the record of the succession proceedings. The defendant in the first and second place reiterated that all the heirs are jointly and severally entitled to legal acts concerning common property or property rights belonging to the estate in respect of other persons. On the issue of dereliction, he argued that G. A. had manifested a genuine intention to abandon the property and to renounce ownership of it. She had never returned to the property since 1945, had not claimed ownership of it during her lifetime, had not cared for it, had not shown any interest in it, not only in the period from 1945 to 1989, the period of the so-called 'non-freedom', but also subsequently. Nor did she show any interest in the property in the context of restitution. In so far as the applicant disputes whether G. A. was a citizen of Hungarian nationality, he himself refutes that doubt by the evidence adduced. G. A. did not seek to be excluded from confiscation, although the legislation allowed her to do so even then, but fled the Republic first, which again demonstrates her interest in leaving the country. In so far as the applicant has referred to the provisions of Section 11 of Act No 90/1947, the above-mentioned assertion that the certificates of deposit are, in addition to the decision on the allocation of the funds issued or on confiscation, pursuant to Decree No 108/1945, by another competent authority, such other decisions or declarations by the funds or another competent authority on the transfer of the confiscated property to another acquirer is of no legal relevance, since the property in question was transferred by confiscation to the State and was not allocated to another acquirer. On the invalidity of the exchange contract within the meaning of Article 23(1) of Act No 49/2002 Coll. it can be established that it cannot be extended and applied extensively to a contract of exchange or a contract of gift, as the applicant wishes. Such an interpretation would contradict Article 152(4) of the Constitution of the Slovak Republic. The applicant has failed to establish locus standi, has not commented on the inconsistencies and contradictions in the factual allegations of the statement of claim, nor on the claim of loss of ownership of G. A. In the statement of the defendant in the 1st / row to the rejoinder to the statement of claim received by the court on 31.01.2020 on the substantive standing of the plaintiff in terms of the form of the procedural community of heirs stated that the court is entitled to examine the urgent legal interest in the action filed. In so far as the applicant argues from the case-law of the Czech court, according to which an action for a declaration that the testator was the owner of the property in question at the time of death may be brought by each heir individually. In the present case, it is not an action for a declaration that the testatrix was the owner of the property in question at the time of her death. In the present case, it is an action for a declaration that the property belongs to the estate, two legally fundamentally different claims with a substantial impact on the scope of the facts to be ascertained, but also on the scope of the parties to the proceedings. He referred to the decision of the Constitutional Court of the Slovak Republic II.ÚS 260/2011 of 09.06.2011, according to which 'Finally, it should be noted that nothing prevents the applicant from bringing a new action for a declaration that the disputed immovable property belongs to the testator's inheritance, so that the parties to the proceedings will be all the heirs of the testator who are to be taken into consideration. Depending on whether any heir takes the same or a different view on the substance of the matter from that of the applicant, he or she may become a plaintiff or a defendant. In any event, however, he must be a party to the proceedings, since the judgment must be binding

on all the heirs." In an action for a declaration that a thing belongs to the estate of the testator, all the heirs must be parties to the action. This is the only way to ensure that their rights are not unlawfully interfered with without their knowledge. It was established in the proceedings that G. A. was a person of Hungarian nationality who was subject to the confiscation decrees. She never availed herself of the legal provisions in force at the time which enabled her to prove that she was not a person of Hungarian nationality subject to the confiscation decrees. G. A. instead fled, leaving Slovakia and the property in question. The property in question was confirmed as agricultural property and confiscated, i.e. taken away from G. A. A. without compensation. G. A. and her successors in title never applied for the property in question to be exempted from confiscation under the rules in force at the time, nor did they apply for restitution of the property even after 1989. G. A. simply abandoned the property because she feared that she would be classed as a person of Hungarian nationality among traitors, collaborators and persecuted. If she still felt that she owned it, it should have been listed as her property in the inventory of her inheritance. The factually identical situation of long-term abandonment of property has also been dealt with in Slovak court practice, e.g. by the decision of the Supreme Court of the Slovak Republic 4Cdo 112/2016, where the plaintiff attempted to circumvent the so-called Benes Decrees in the same way. In the proceedings, the action was dismissed for lack of compelling legal interest, and it was a similar case where the legal relations of the applicant's predecessor in title to the disputed properties were affected by the identified defects several decades ago, more than 60 years ago, and became uncertain. In those cases, therefore, the action for a declaration of invalidity is not an instrument of prevention but is in fact aimed at undermining legal certainty on the part of the current owners. In the present case, the legal relations of the applicant's predecessor in title, G. A. to the properties in question were affected with certain consequences several decades ago, more than 75 years. The action for a declaration of invalidity is not an instrument of prevention, but is aimed at undermining legal certainty on the part of the current owners, who have been occupying the properties for a long time. The absence of those doubts excludes the applicant's overriding interest in having them removed by a preventive action for a declaratory judgment. The undisturbed possession of the use of immovable property for more than 75 years by a person who exercises that possession and use as owner on the basis of authoritative decisions, even if invalid, establishes a state of legal certainty that that person is the owner of that property. Lack of an overriding legitimate interest is a ground for dismissal of the action. The entire action is based on the fact that G. A. has not lost ownership of the properties in question. Even if that were the case, which is denied by the defendant in the first row, that in itself does not, without more, mean that the properties in question belong to her inheritance. Indeed, from the time of her death to the present day, facts have occurred which exclude that possibility, and which are established by the evidence.

11. The defendant in the 2nd / row in the rejoinder to the statement of claim by a submission delivered to the court on 16.01.2020 objected to the lack of substantive standing of the plaintiff. The plaintiff did not produce relevant documents to prove that he is the heir of the late Countess G. The documentary evidence submitted by the applicant raises doubts as to whether the applicant is in fact the legal successor of G. A., since on the PKV No XXX the person named as the countess's husband in the extract in question is a person named K. The applicant's birth certificate indicates that his father, M.A., is a farmer, which, given that he is supposed to be the countess's son, seems more than unlikely. Moreover, at the time of the applicant's birth his father would have been 53 years old. The father of the deceased M.A. is not listed as K. A., the husband of the countess, but a person by the name of Q. A.. On the PKV No. XXX it was indicated that the countess was to acquire the real estate by purchase No. d. XXX/XXXX with the fact that her husband was a person named K. Therefore, the defendant in the 2nd / row argues that the subject of the inheritance from the Countess should be the property in the share of no more than 1 - 1, the other should be settled within the BSM. All the heirs must be parties to the dispute in the proceedings for the determination that some property is to be the subject of an inheritance. Countess G.L. A. was a person of Hungarian nationality, which was not refuted by the applicant. He did not prove that she was born in Parchovany. Even so, that fact is irrelevant for the assessment of whether or not that person was of Hungarian nationality. The confiscation did not take place on the basis of a confiscation order, but ex lege by decree. He referred to the judgment of the Constitutional Court of the Slovak Republic I. ÚS 379/2016 concerning the legal certainty of persons and the question of compelling legitimate

interest. In relation to the assessment of the question of whether there was a conflict between Decree No 108/1945 Coll. and the law of civilised Europe, there could be no presumption of responsibility on the part of persons of Hungarian or German nationality, whereas in the case of other nationalities the burden of proof was, on the contrary, on the part of the authority deciding whether or not the conditions for confiscation had been met, a matter which had been dealt with by the Constitutional Court of the Czech Republic and, similarly, by the European Court of Human Rights and the European Commission of Human Rights. In 2002, the European Parliament produced a legal analysis of the Benes Decrees, according to which the Benes Decrees do not pose a problem from the point of view of European Union law, as they do not have retroactive effect. As to the manner in which the defendant in the 2nd / row, or his legal successor, acquired the right of ownership, he relies on the documents of the MNV in Tatranská Lomnica, when on 01.05.1945 he initiated the seizure of Villa A. in Veľká Lomnica. The National Council of the Slovak Republic responds by letter dated 30.05.1945 that Villa A. is not agricultural property and is not subject to confiscation. Subsequently, by letter dated 30.05.1945, the SNR Poverty Board for Agriculture and Land Reform notified the MNV in Tatranská Lomnica that Villa A. was not subject to confiscation pursuant to Section 2 of Regulation 4/1945 Coll., but pursuant to Regulation 104/1945 Coll. On 30.05.1945, Regulation 104/1945 Sb. of 23.08.1945 did not exist. Whether or not the villa was subject to confiscation under SNR Regulation 4/1945 Sb. is of no significance for the further development of events, since the confiscation was related to Regulation 104/1945 Sb. The property in question was confiscated from the Countess as a Hungarian, rightly and in accordance with the legal situation at the time. Pursuant to Article 1(4) of Presidential Decree 108/1945 Coll. 16865/46 of 07.10.1946, which entered into force on 04.11.1945. ONV Kežmarok was the designated competent authority in terms of subject matter and location. The Czechoslovak State became the owner of the properties in question at the latest on the date of the entry into force of this decree. Pursuant to Article 2 of Decree 346/1948 Coll., the commission decided in disputed cases, i.e. whether the property was agricultural or non-agricultural. On 09.12.1949, according to the minutes, the Disputes Commission decided that Villa A. would be governed by the regime under Decree 104/1945 Coll. and not by Presidential Decree No. 108/1945 Coll. This was the reason for which the motion to delete the remark "confiscated according to Presidential Decree 108/1945" was filed. The deletion of the remark on confiscation under Decree 108/1945 Sb. did not confirm the illegality of the confiscation, but was a legal reconciliation of the conclusions of the Disputes Commission of 09.12.1949. The deletion of the confiscation note pursuant to Presidential Decree 108/1945 Coll. does not in any way imply a retroactive transfer of the property right to the Countess. Title to the confiscated property under Decree 104/1945 Coll. is acquired by the effectiveness of the Decree. The subsequent decision of the ONV Land Department of 13 April 1962, No 2672/62, was issued by a duly authorised body, was not a null and void legal act and was a logical way of completing the administrative process of registering the State as the owner of the properties in question in the land register. The decision in question was reviewed by the court, which confirmed the correctness of the decision issued by the resolution of the District Court of Kežmarok No. d. 1081/3 of 24.10.1963.

12. The defendant in the 2nd / row in the rejoinder to the statement of claim delivered to the court on 30.01.2020 again contradicted all the factual and legal allegations of the plaintiff, objected to the lack of substantive standing of the plaintiff. The applicant did not produce documents proving that he is the heir of Countess G. A.. All heirs must be parties to the proceedings for a declaration that an estate is to be the subject of an inheritance. Countess G. A. was a person of Hungarian nationality, which the applicant did not refute. The fact that she was born in O. was not proved by the applicant. By the decree of the National Council of the Slovak Republic for Industry and Trade of 24 October 1945, it was proved that the national administration was imposed on the villa on the ground that the owner was unreliable for state reasons. Constitutional Court 379/2016, the decisions of the European Court of Human Rights, the European Commission of Human Rights, the 2002 analysis of the European Parliament, according to which confiscation on the basis of the Benes Decrees does not pose a problem from the point of view of European Union law, since it does not have retroactive effect. As regards the manner of acquisition of the defendant's right of ownership, the defendant in the second row again stated that he relied on the documents of the Local Government Board in Tatranská Lomnica when, on 1 May 1945, he initiated the seizure of Villa A. in Veľká Lomnica. In response, the National Council of the Slovak Republic replied by letter dated 30.05.1945

that Villa A. was not agricultural property and was not subject to confiscation. Subsequently, by letter dated 30.05.1945, the SNR Poverty Council for Agriculture and Land Reform notified the MNV in Tatranská Lomnica that Villa A. was not subject to confiscation pursuant to Section 2 of Regulation 4/1945 Coll., but pursuant to Regulation 104/1945 Coll. On 30.05.1945, Regulation 104/1945 Sb. of 23.08.1945 did not exist. Whether or not the villa was subject to confiscation under SNR Regulation 4/1945 Sb. is of no significance for the further development of events, since the confiscation was related to Regulation 104/1945 Sb. The property in question was confiscated from the Countess as a Hungarian, rightly and in accordance with the legal situation at the time. Pursuant to Article 1(4) of Presidential Decree 108/1945 Coll. 16865/46 of 07.10.1946, which entered into force on 04.11.1945. ONV Kežmarok was the designated competent authority in terms of subject matter and location. The Czechoslovak State became the owner of the properties in question at the latest on the date of the entry into force of this decree. Pursuant to Article 2 of Decree 346/1948 Coll., the commission decided in disputed cases, i.e. whether the property was agricultural or non-agricultural. On 09.12.1949, according to the minutes, the Disputes Commission decided that Villa A. would be governed by the regime under Decree 104/1945 Coll. and not by Presidential Decree No. 108/1945 Coll. This was the reason for which the motion to delete the remark "confiscated according to Presidential Decree 108/1945" was filed. The deletion of the remark on confiscation under Decree 108/1945 Sb. did not confirm the illegality of the confiscation, but was a legal reconciliation of the conclusions of the Disputes Commission of 09.12.1949. The deletion of the confiscation note pursuant to Presidential Decree 108/1945 Coll. does not in any way imply a retroactive transfer of the property right to the Countess. Title to the confiscated property under Decree 104/1945 Coll. is acquired by the effectiveness of the Decree. The subsequent decision of the ONV Land Department of 13 April 1962, No 2672/62, was issued by a duly authorised body, was not a null and void legal act and was a logical way of completing the administrative process of registering the State as the owner of the properties in question in the land register. The decision in question was reviewed by the court, which confirmed the correctness of the decision issued by the resolution of the District Court of Kežmarok No. d. 1081/3 of 24.10.1963.

13. By the plaintiff's application dated 31.07.2020, the plaintiff requested the court to admit the defendant in the 3rd / row O. M. A. and the defendant in the 4th / row Y. A.. By order of the hearing on 22.09.2020, the court granted the motion for admission of the defendants as defendants in the 3rd/series O. M. A., G.. XX.XX.XXXX, K. C. XXX, XXXX, Z., P. P., citizen of the Republic of Austria, defendant in the 4th / row Y. A., G.. XX.XX.XXXX, K. C.ß. XXX, XXXX, Z., P. P., citizen of the Republic of Austria, dismissed.

14. The hearing of the case was not attended by the plaintiff, the defendants in the 1st and 2nd rows for whom the court had no record of service of summons. The absence of the parties was excused by their legal representatives, who did not request an adjournment of the hearing. Pursuant to Article 180 of the Civil Procedure Code, the court held the hearing in the absence of the plaintiff, the defendant in the 1st row, the defendant in the 2nd row.

15. At the hearing, counsel for the plaintiff maintained the action and requested that the court uphold the action. On the title of acquisition of the right of ownership by the State, he stated that in the turbulent period from 1945 onwards, an unsuccessful attempt was made by the Czechoslovak State to confiscate the property pursuant to Presidential Decree No 108/1945 Coll., which was later revoked, a fact which is not disputed by the defendants in the 1st and 2nd rows. Since the abolition of confiscation took place only in 1950, it was questionable on what basis the Czechoslovak State derived its ownership title. It is obvious that two titles cannot exist at the same time and that real property can only be validly acquired by one legal title. Since the legal effects of the confiscation carried out on the basis of Presidential Decree No 108/1945 Coll. ceased to exist in 1950, the owner of the properties in question during the relevant period was G. A.. As is clear from the case file, the question of whether Decree No. 4/1945 Coll. of the National Council of the Slovak Republic, 104/1945 Coll. of the National Assembly of the Slovak Republic, and the confiscation of the property in question should be applied to the property in question and to the confiscation of the confiscated property had been a matter of dispute for the State since the beginning of the 1945 period. SNR or Act No. 108/1945 Coll. It was based on the fact that the State was unable to settle the basic question

of whether or not it was agricultural property. The documentation shows that the State carried out confiscation under Law 108/1945 Coll. At that time, it was disputed whether it was an agricultural confiscation or a non-agricultural confiscation. This is evidenced by the statement of the Disputes Commission of 22 August 1949, which decided that it was a non-agricultural confiscation. A few months later, on 09.12.1949, the Disputes Commission decided that it was an agricultural confiscation. The circumstantial evidence shows that the confiscation under Decree No. 104/1945 Coll. SNR was never carried out. It is undisputed that in 1950 the confiscation order under Law No 108/1945 Coll., which was registered under No 16685, was revoked, and it was only in 1949 that the Disputes Commission decided that it was an agricultural property. The competence of the Commission under Decree No. 104/1945 Coll. SNR lasted exclusively until 30.06.1948. After that date, there was no competent authority which could make a decision under Decree No 104/1945 Coll. SNR as to whether or not certain property was subject to confiscation. One of the basic conditions for confiscation, namely a decision of the Commission or the Board of Commissioners, was not fulfilled. The legal title is not the decision of the ONV of 13.04.1962. It should be stressed that without the decision of the confiscation commission or the Corps of Superintendents, the confiscation was not considered to have been completed, legally effective. Since the properties in question were affected by another legal change, the bona fides of the 1st defendant and the validity of the acquisition title of the 1st defendant must also be examined. On the question of compelling interest, the plaintiff's counsel referred to the plaintiff's written statement in its entirety. At the hearing on 23.06.2020, the applicant's counsel referred to the evidence submitted, namely the applicant's affidavit and, in that connection, to the finding of the Constitutional Court of the Slovak Republic I. ÚS 482/2013. It is not the task of the general court to examine the circle of heirs, which is to be examined in non-litigation proceedings. On the questioned legal certainty after several decades, he stated that the legal concept of the word "legal certainty" represents precisely the reliability of the subject on the existence of a certain legal fact, to a degree bordering on certainty. Thus, in a situation where it was obvious to the respondents that the decision of the ONV of 1962, was not a title of acquisition, we cannot speak of legal certainty. He pointed out that one thing can be acquired by only one title. In so far as the defendants in the 1st and 2nd rows have mentioned possession as a possible title of acquisition, the condition of good faith is not satisfied. In relation to dereliction, he referred to the pleadings. It appears from the pleadings that G. A. used Villa A. for only a few weeks of the year. It does not follow from that that she wished to leave the property with the consequence of losing the right of ownership. With regard to the defendants' submissions in the 1st and 2nd rows, he stated that the reference to the information that G. A. was born in O., whether she was of Hungarian, German or other nationality, is completely irrelevant. No one in the hearing room had the right to decide whether the conditions under Regulation 104/1945 Coll. SNR were satisfied or not, in relation to whether she was a citizen of Hungarian nationality or not. With regard to standing, he stated that it had been established that the applicant was the legal successor of the late Mr. G. A... As regards the title of ownership itself, the defendants themselves did not name a clear title from which they derived the right of ownership. Their legal certainty and reliance thus rests on the speculation that they are entitled to any of the possible titles, namely confiscation, in respect of which the applicant considers that the condition for a decision of the confiscation commission confiscating the land property for which that property was recognised has not been satisfied. On the contrary, in the case of confiscation, the defendants derive ownership from confiscation pursuant to Decree No 108/1945 Coll. SNR, which, however, according to the applicant, has been demonstrably abolished. With regard to abandonment, he added that there was not a single piece of evidence in the court file to show the will of G. A. to relinquish the ownership of Villa A. In relation to the abandonment, the Czechoslovak Republic was not a bona fide entity which, in all the circumstances, must have been aware that the conditions for a valid confiscation were not fulfilled. With regard to the validity and nullity of the exchange contracts, the applicant continued to maintain that they were absolutely null and void on the ground of breach of the State's statutory pre-emption right. With regard to the urgent legal interest, he again referred to the ruling of the Constitutional Court of the Slovak Republic I. ÚS 482/2013 and, with regard to active legal standing, he continued to argue that it does not follow from any legal provision that all the heirs should be parties to such proceedings. The proceedings in question are not inheritance proceedings, that is to say, the judge would not even be the statutory judge for ascertaining the circle of heirs.

16. At the hearing, counsel for the defendant in the 1st/series referred to all the pleadings in the subject matter of the case. He stated that the subject-matter of the action is the determination that the property belongs to the estate of the deceased, which implies that under the statutory obligation of factual allegations, it is incumbent on the plaintiff to prove that the deceased acquired the right of ownership of the property which he seeks to be designated as inheritance. He must prove legitimate succession and that there has been no event which would result in loss of the right of ownership. The only proof which emerges from the land register XXX is that the testatrix acquired the right of ownership. With regard to standing, the Court stated that the applicant's affidavit does not constitute evidence to show that the applicant is the true heir of the estate of the deceased. G. A.. He submitted an extract from a website which shows that the heirs of the late A. A. were not the heirs of the deceased. G. A. had several descendants. With regard to the urgent legal interest, he referred to the decision of the Supreme Court of the Slovak Republic 4Cdo 112/2016, which shows that the action for a declaration of title brought by the applicant is intended as a preventive measure but is in fact aimed at undermining the legal certainty of the current owners, since it is undisputed from the factual allegations in the action that the properties in question have not been touched for several decades, with certain consequences. If the title - confiscation is challenged by the plaintiff under the case law on record, it may be a putative title which establishes the original mode of acquisition of title by possession at the expiration of the period of possession during which the defendant in the 2nd / row was in good faith. Moreover, it is undisputed that the testatrix G. A. lost her right of ownership by confiscation pursuant to Decree No. 104/1945 Coll. SNR. He disagreed with the applicant's assertion that the confiscation should have been annulled in 1950, since the mere deletion of the note, as was apparent from the other documentary evidence, was only a reason for the incorrectness of the entry, not for the fact that there had been no such decision. With regard to the alleged invalidity of the exchange contracts, he referred to the provision of Article 23(1) of Act No 278/1993 Coll., in which the word 'sell' is mentioned precisely because it is a circumstance in which a financial value is compensated and the State thus has an interest in its cultural wealth. In the case of an exchange, the provision in question cannot be applied because the State does not receive financial compensation for the monument, but exchanges value for value and thus, instead of a pre-emption right, it renounces one value in favour of the other. He pointed to the contradictory nature of the applicant's claims, where, on the one hand, the applicant claimed that he was the sole heir of the estate of the deceased, and, on the other hand, that he was the sole heir of the estate of the deceased. G. A., on the other hand, he sought to admit other parties to the proceedings on the part of the defendants. In relation to dereliction of duty, he submitted that the 1st defendant never claimed that neb. G. A.R. had left the property in question before 1948, but after 1948 because of the so-called Benes Decrees for fear that, as an unreliable person of Hungarian nationality, she would be exposed to the legal consequences of the legislation of the time. After leaving the property, the Czechoslovak forests were located in Villa A. Neither the Countess nor her successors in title returned to the property even during the imposition of the national administration. In his closing submissions, counsel for the defendant in the first/series reiterated the lack of an overriding legitimate interest, since in the present case there is more than 70 years of legal certainty that the property does not form part of the inheritance of G. A., and that she did not own the property at the date of her death XX.XX.XXXX, nor does she own it to this day. In 1948, on the basis of the Benes Decrees, the State took over the properties in question and used them in good faith as its own, with all that it should have done as owner, i.e. not only taking out loans, but also looking after the properties. The application of the legislation in practice cannot be judged after 70 years with today's formal view, but must be seen practically through the eyes of the times and the people of the time. He referred again to the decision of the Supreme Court of the Slovak Republic 4Cdo 112/2006 and the decision of the District Court of Piešťany, Case No 10C 16/2011. With regard to standing, he stated that the applicant himself had acknowledged in the course of the proceedings that there were several heirs, not only himself. His statement in his affidavit proved to be false and misleading. The applicant had not established the circle of the real heirs in the proceedings. Pursuant to the decision of the Supreme Administrative Court of the Slovak Republic 5MCdo 15/2017 and II. ÚS 260/2011, the question of the circle of parties and active factual standing in relation to this action has been resolved. It is settled court practice that the action must be brought by all heirs. The applicant has failed to prove that he is an heir of the estate of the deceased. G. A.. The evidence he has given to the court does not establish a coherent line of evidence capable of supporting his claim. This is

apparent from the fact that it has not been established that the applicant's father, M.A., is a person identical with the son of the testatrix G. A. of the same name, since on the basis of the evidence adduced by the applicant those persons cannot be identified. On the contrary, the evidence raises doubts as to whether the applicant's father should have been a peasant in the municipality of I. and the son of the testatrix G. A. was supposed to have died as a janitor in K.. The defendant's counsel in the first/terior row argued that the action brought was an attempt to circumvent the Benes Decrees and to call into question confiscation as such. It is undisputed that the confiscation of property took place, which is not disputed even by the applicant himself. Whether the deprivation of property occurred under one or the other of the laws, in the context of the confiscation note, is irrelevant. The aforesaid did not disturb the confiscation as such. It is clear from all the documentary evidence that G. A. was confiscated as a citizen of Hungarian nationality who was not loyal and was in an unknown location in Hungary. In 1948, G. A. abandoned the property and has shown no interest in it since then. He emphasised that the burden of proving that the confiscation had been challenged lay with the applicant. There was no effective denial on his part of either the confiscation or the dereliction or the facts on the basis of which the defendants had retained possession of the property.

17. At the hearing, counsel for the defendant in the 2nd row fully agreed with the written submissions and oral submissions of counsel for the defendant in the 1st row. He stated that he disputed that the decision of the District National Committee dated 07.10.1946 No. 16865/46 had been annulled. This decision had become final on 04.11.1946 and certified that the property of G. A. was subject to confiscation. He drew attention to the question of standing on the ground that all the heirs of the deceased must be parties to the proceedings. G. A.. The fact that G. A. was born in O. did not affect the assessment of whether or not she was of Hungarian nationality. Even according to the legal situation in 1945, G. A. could have applied for a certificate pursuant to Article 1(4) of Presidential Constitutional Decree No 33/1945 on national reliability, which would have meant that she would not have been subject to confiscation. The fact that there was later a problem as to whether the properties were confiscated under Presidential Decree No. 108/1945 Coll. or under Slovak National Council Decree No. 104/1945 Coll. No 346/1948 Coll., the Decree of the Land Administration clearly regulated what was to be determined as land property. In the present case, that procedure has been followed. On 09.12.1949, the Disputes Commission decided that it was confiscation under Decree No. 104/1945 Coll. SNR. This did not disturb the confiscation decision. The State's concern was that the informative note in the PKV should be in accordance with the decision of the Disputes Commission. The request to delete the note did not mean that the State had renounced its right of ownership or that the confiscation decision had been annulled. The State had already acquired the right of ownership directly by the entry into force of Slovak National Council Decree No. 104/1945 Coll. SNR and never ceased to be the owner. Counsel for the defendant in the 2nd / row was of the opinion that there was no urgent legal interest in the action brought on the ground that the parties to the dispute were not all the heirs of the deceased, who were not the heirs of the deceased. G. A.. As regards the decree No. XXXX dated 01.08.1947, he stated that this decree imposed national administration on the property in question on the ground that the owner - Mrs. Countess is state unreliable. It is illogical to impose national administration twice on the same property by two different assessments. It is illogical that the reason for which the national administration was imposed in 1945 should be the reason in 1947 that the property is not subject to confiscation, since both assessments were issued under the same legal provision, Regulation 50/1945 Coll. With regard to Decree No XXXX/XXXX, he stated that he was of the opinion that, in view of the information contained therein, the decree in question had been subsequently amended. In so far as the applicant's counsel is working on the premise that the decision of the District National Committee of 07.10.1945 has been annulled, he has not produced evidence to that effect. The dispute as to whether the confiscation was pursuant to Regulation No 104/1945 Coll. SNR or Presidential Decree No. 108/1945 Coll. was settled by the Disputes Committee pursuant to Decree No. 346/1948 Coll. In conclusion, it emphasised that confiscation pursuant to Decree No. 104/1945 Coll. SNR occurred directly by operation of law. The applicant has not established that G. A. had Czechoslovak nationality on 1 November 1938, which is a further ground on which it follows that the confiscation was justified. He submitted that he doubted whether the applicant was the heir of the Countess for the reasons pointed out by the defendant in the 2nd/series in its written statement of 15.01.2020. It is strange that the plaintiff has not produced the succession order of the Countess. He referred to the provision

of Section 70 of Act No. 162/1995 Coll. on the Land Registry, stating that the land registry data are reliable unless proven otherwise. The defendants are not obliged to prove either to the applicant or to the court that they are the owners. The burden of proof is on the plaintiff.

18. The court took evidence in the case by means of a procedural attack: the examination of the plaintiff's counsel, the plaintiff's statements, documentary evidence: the death certificate of G. Q. A., M. A.'s birth certificate, M. A.'s death certificate, an extract from the plaintiff's birth register, the plaintiff's affidavit, an extract from Land Registry No. XXX Z. L., identification of parcels of land, title deeds No. XXX, No. XXX, other documentary evidence - means of procedural attack, which were to a large extent identical to the documentary evidence - means of procedural defence of the defendants in the 1st / and 2nd / row, namely: a letter of the Local National Committee of Tatranská Lomnica dated 01.05.1945, a letter of the Superintendency of the Slovak National Council for Agriculture and Land Reform dated 30.05.1945, a letter of the Slovak National Council for Land Reform dated 30.05.1945.1945, the notification of the National Administrator to the District Court in Kežmarok and the resolution of the District Court Kežmarok of 06.11.1945, the opinion of the Local National Committee Veľká Lomnica, the decree of the Slovak National Council for Industry and Trade of 24.10.1945, the letter of the Local National Committee Veľká Lomnica of 24.10.1945, the decree of the Slovak National Council for Industry and Trade of 30.30.1945, the letter of the Local National Committee Veľká Lomnica of 30.30.1945.1945, the decree of the National Committee Kežmarok of 07.10.1946, the form of the Dispute Commission of 19.06.1947, the decree of the Local National Committee in Veľká Lomnica of 01.08.1947, the notice of the National Committee of the municipality of Vysoké Tatry of 06.01.1948, the proposal for the land-book registration of 18.10.1947, the notice of the National Committee of the municipality of Vysoké Tatry of 06.01.1948, the proposal for the land-book registration of 18.09.09.1948, resolution of the Disputes Commission of 22.08.1949, minutes of the Disputes Commission of 09.12.1949, letter of the Czechoslovak State Forests of 12.06.1950, registration of the National Restoration Fund of 08.07.1950, letter of the Czechoslovak State Forests of 17.08.1950, letter of the Regional National Committee Košice of 23.08.1950, letter of the TANAP administration Tatranská Lomnica of 02.02.1962, decision of the District National Committee of the Land Management Department in Poprad of 13.04.1962, letter of the District National Committee of the Land Management Department in Poprad of 13.04.1950, letter of the Regional National Committee Košice of 23.08.1950.411/N/2014, exchange contract No. 28/Z/2020, the statement of the Ministry of Culture of the Slovak Republic dated 27.05.2019 and the means of procedural attack: the questioning of the defendant's lawyer in the 1st / row, the defendant's lawyer in the 2nd / row, the statements of the defendants in the 1st / and 2nd / row and other documentary evidence, which form part of the case file, from the implementation of which the court found the facts:

19. In the proceedings, the plaintiff asked the court to declare that the inheritance of the estate of the late Mr. G. A., nee. Q., born in. XX.XX.XXXX,deceased. XX.XX.XXXX in the share of 1/1 belong to the immovable property located in k. ú. E. L.: land parcel of the register "R." No. XXX/X, with an area of 11.880 m2, type of land: other area, land parcel of the register "R." No XXX, with an area of 1.239 m2, type of land: forest land, land parcel of the register "R." No. XXX, with an area of 11.589 m2, type of land: forest land, registered on LV No. XXX at the District Cadastral Office of the Department of Cadastre Poprad and real estate located in k. ú. E. L.: land parcel reg. "R." parc. no. XXX/X with an area of 134 m2 - built-up area and courtyard, land parcel reg. "R." parc. no. XXX/X with an area of 3 700 m2 - built-up area and courtyard, land parcel reg. "R." parc. no. XXX/X with an area of 797 m2 - built-up area and courtyard, building with the registration no. XX - building for culture and public entertainment (museum, library and gallery), description of the building - old museum, type of protected immovable property - Immovable cultural monument (national cultural monument) built on the land of the parcel reg. "R." XXX/ X with an area of 797 m2 - built-up area and courtyard, registered on LV No. XXX at the District Cadastral Office of the Department of Cadastre Poprad.

20. In the proceedings, the applicant produced a death certificate of the daughter of Count M. Q. and W. O., Count A. K., R. É. C. Q., by whom Countess G. A., nee. Q. died XX.XX.XXXX. The death certificate shows the place of birth of O. J. Z. on XX.XX.XXXX, last residence C. Š. county K., note: the deceased died in K., he was a prior of the Roman Catholic parish of G..

21. The birth certificate shows the entry: M. A., born XX.XX.XXXX with place of birth V. A., father Q. A.Z., mother of G. Q. O..

22. The death certificate shows the registration of M. A., born XX.XX.XXXX V. A., occupation janitor, last residence K. T... district Q.Ö. F.. X, place of death K. X.. U., date of death XX.XX.XXXX, father's name and surname Q. A., mother's name and surname G. Q..

23. From the extract from the birth register, the court found the birth of the child M. A., place of birth A., date of birthXX.XX.XXXX, father's name and surname M. A., mother's name and surname C. A., father's occupation farmer, mother's occupation unspecified, father's and mother's residence I..

24. In his affidavit, the applicant stated that he had no knowledge of any other heirs of the testator G. A., nee. Q., b. XX.XX.XXXX, deceased XX.XX.XXXX, in view of all the searches carried out by the competent state authorities of the Slovak Republic at the request of the applicant's lawyer and the searches carried out in the archives of the Capital City of Budapest, which revealed that there is no document registered concerning the succession proceedings of the testator G. A. Q. A..

25. From the land book entry No. XXX k. ú. Z. L., the court found that the land parcel no. XXXX, XXXX,XXXX, XXXX were originally owned by G. A., gen. Q. (man K.) acquired by purchase No. d. XXX/XXXX. According to the decree of the National Council of the Slovak Republic for Industry and Trade in Bratislava dated 24.10.1945, the properties were placed under national administration. According to the legally valid decision of the ONV Land Department of 13.04.1962, the ownership right of the Czechoslovak State in the administration of the Tatra National Park in Tatranská Lomnica is inserted. In the extract from the land register, in part A of the property essence it is stated: confiscated according to the decree of the President of the Republic No. 108/1945 No. d. XXXX/XX. The above information has been crossed out and the remaining entry no. d. XXXX/XX.

26. According to the identification of the original land-book parcels No. XXXX, XXXX, XXXX, XXXX in the land-book insert No. Z.C. L. is parcel originally parcel no. XXXX in land-book insert XXX in the original cadastral territory of Z. L. is identical to the parcels of the current cadastral territory of Tatranská Lomnica parcels according to reg C.-R. XXX/X, XXX/X, XXX/X, XXX/X, XXX, XXX, XXX, XXX/X with the remarks that it is a part occupying only a part of parcel C.-R..

27. From the title deed No. XXX k. ú. E. L. registered at the District Office of the Cadastral Department, the court found that on the land parcel reg. R. parc. no. XXX/X with an area of 11 880 m2 - other area is registered as the owner of the Slovak Republic, as the administrator of the State Forests of the Tatra National Park Tatranská Lomnica, land parcel no. C.-R. parc. no. XXX with an area of 1 261 m2 - forest land is registered as the owner of the Slovak Republic, as the administrator of the State Forests of the Tatra National Park Tatranská Lomnica, land parc. no. XXX with an area of 11 589 m2 - forest land is registered as the owner of the Slovak Republic, as the administrator of the State Forests of the Tatra National Park Tatranská Lomnica.

28. From the title deed No. XXX k. ú. E. L. of the District Cadastral Office, Department of Cadastre Poprad, the court found that the sole owner of the land parcel reg. R. parc. no. XXX/X with an area of 134 m2 - built-up area and courtyard, parc. no. XXX/X with an area of 3 700 m2 - built-up area and courtyard, parc. no. XXX/X with an area of 797 m2 - built-up area and courtyard, parc. no. XXX/X with an area of 6 182 m2 - forest land and the building no. XX on the land parc. no. XXX/X - the old museum is the registered defendant in the 1st / row of AUTONOVA s.r.o.

29. By a letter of the Local National Committee of Tatranská Lomnica dated 01.05.1945 addressed to the Slovak National Council of the Poveriency for Land Management and Land Reform in Košice, the Local National Committee in Tatranská Lomnica announced that at its meeting on 30.04.1945 the Local National Committee in Tatranská Lomnica had decided to.1945 unanimously agreed that it was necessary to draw the attention of the Slovak National Council to Villa A. in Tatranská Lomnica, as it was the property of a Hungarian count family from Hungary, and recommended it for occupation by the Slovak National Council to the Land Management and Land Reform Board.

30. By a letter of the Slovak National Council for Agriculture and Land Reform for the Košice region dated 30.05.1945, the SNR Credentials Committee notified the Local National Committee in Tatranská Lomnica that "Villa A. in Tatranská Lomnica is not an agricultural property within the meaning of § 2 of the SNR Regulation No. 4/1945 and therefore, according to § 1 of the cited regulation, it is not subject to confiscation".

31. National administrator 06.11.1945 to d. no. XXX/XX notified the District Court Kežmarok, that to the enterpriseVilla A. Tatranská Lomnica belong real estate parc. no. XXXX, XXXX, XXXX, XXXX, XXXX in insert no. XXX of the land book of the cadastral territory Z. L. in the name of G. A., nee. Q., on which the national administration is to be noted.

32. The District Court of Kežmarok, by resolution dated 06.11.1945, allowed in the land register of the cadastral territoryZ. L. in insert no. XXX the entry of a note on the real estate parc. no. XXXX, XXXX, XXXX, XXXX - the imposition of national administration.

33. According to the appraisal at the inventory A. villa Tatranská Lomnica in the cadastral territory of Veľká Lomnica enterpriseCentral Administration of State Forests of the High Tatras, as the owner listed G. A. in an unknown place, nationality Hungarian. The MNV in Veľká Lomnica filed a petition for confiscation, as it is the property of a Hungarian woman who left the territory of the Czechoslovak Republic before the re-establishment of the state administration. The confiscation is noted here by a decree of 17.10.1946 'confiscating the villa with the surrounding forest units', legally valid on 04.11.1946.

34. By the decree of the National Council for Industry and Trade of 24.10.1945, the National Council for Industry and Trade in Bratislava imposed national administration on the company Vila A. Tatranská Lomnica, appointing C. A.. The reasons given are: "the owner of the enterprise is state unreliable within the meaning of Section 4(a) of the above-mentioned Decree 50/1945 Coll.".

35. By a decree of the District National Committee in Kežmarok dated 07.10.1946, the District National Committee in Kežmarok decided, pursuant to § 1 paragraph 4 of the Decree of the President of the Republic 108/1945 Coll., that the conditions for the confiscation of the property of G. A. in Veľká Lomnica - Tatranská Lomnica, of Hungarian nationality, "therefore, her property consisting of a villa property with surrounding units, plots of land parc. no. XXXX, XXXX, XXXX, XXXX, XXXX/XXX cadastral area Z. L. with the understanding that G. A. is in an unknown location, she is a Hungarian noblewoman, as such she is considered an enemy of the Slovak nation. She only uses the building for a few weeks a year."

36. The Commission's form apparently dated 19.06.1947 lists G as an enemy person. A., nationality Hungarian, i.e. in an unknown place.

37. By the decree of the Local National Committee of 01.08.1947 the Local National Committee in Veľká Lomnica imposed a national administration on Villa A. in Veľká Lomnica. It appointed C. Reasons.

38. The National Committee of the High Tatras Municipality reported to the National Restoration Fund in Bratislava by a submission dated 06.01.1948 that the decree No. 16865/46 of 07.10.1946 of the National Committee of the High Tatras Municipality in Kežmarok became legally valid on 04.11.1946. There is a note "on the legally valid confiscation, with G.L. as the subject. A., ascertaining the finality of the confiscation order."

39. The Settlement Office of the National Reconstruction Fund in Bratislava addressed to the District Court of the Land Book Division in Kežmarok a land book petition for the entry of a confiscation note in the land book in insert XXX cadastral area Z. L. no. XXXX, XXXX, XXXX, XXXX. By order of the District Court Kežmarok was allowed in the insert no. XXXX, XXXX, XXXX, XXXX/XXX cadastral territory Z. L. on the property G. A. entry: "confiscated according to the Decree of the President of the Republic No. 108/1945 Sb."

40. From the minutes of the meeting of the Dispute Commission of 09.12.1949 in Tatranská Lomnica, the subject of discussion was found: the case of the former owner G. A. Villa A. cadastral area Z. L.. It was unanimously decided that the case was a confiscation according to Regulation 104/1945 Coll. In addition to Villa A., the subject of the Disputes Committee's deliberations was also Villa E. cadastral area Z. L., the Komposesorat of the former Urbarists of Z. L. and Villa E. in E. L. and Villa P. in E. L.

41. In the letter of the Czechoslovak State Forests of the national enterprise in Piešťany from 12.06.1950 addressed to the Regional National Committee in Košice it was stated that the property in question in k. ú. Z. L. in insert XXX land parc. no. XXXX, XXXX, XXXX, XXXX was entered the note of confiscation according to the Decree of the President of the Republic No. 108/1945 Sb., although correctly should have been entered the note of confiscation according to the law 104/1945 Sb. The District Court in Kežmarok insisted that the confiscation under Presidential Decree 108/1945 Sb. be deleted after the application of the Regional National Committee. Subsequently, a note of confiscation under Act 104/1945 Sb. would be entered.

42. In the exposition office of the National Restoration Fund was recorded a submission from the subject Czechoslovak State Forests legal office in Piešťany from 14.06.1950 in the matter of confiscated property of the former owner G. A., nee. Q. Z. L. the deletion of the note on confiscation pursuant to Presidential Decree No. 108/1945 Coll., with it being recorded that the deletion of this note was carried out on 07.06.1950.

43. The Regional National Committee in Košice addressed to the District Court Kežmarok a request dated 07.07.1950,to insert XXX cadastral area Z.C. XXXX, XXXX, XXXX, XXXX, XXXX order the deletion of the note confiscated according to the Decree of the President of the Republic No. 108/1945 Sb. as it is a confiscation according to the Regulation 104/1945 Sb.

44. The Czechoslovak State Forests National Enterprise in Piešťany by letter dated 17.08.1950 addressed to the Regional National Committee in Košice announced that on 13.07.1950 they had asked the Poverenníctvo Pôdohospodárstva to apply for the registration of a note of confiscation on the property in question according to Act 104/1945 Coll., requesting the Regional National Committee in Prešov to report whether the resolution of the District Court in Kežmarok deleting the note of confiscation under Presidential Decree No. 108/1945 Sb. from the land book entry No. XXX village Z. L..

45. The Regional National Committee in Košice, by letter dated 23.08.1950 addressed to the District Court Kežmarok, requested that in insert XXX k. ú. Z. XXXX, XXXX, XXXX, XXXX order the deletion of the note: confiscated according to the Decree of the President of the Republic No. 108/45 Coll. with a note that the properties in question were recognized by the Central Disputes Commission as land-holding property.

46. The Regional National Committee in Košice notified the Czechoslovak State Forests n.p. Piešťany23.08.1950 that on this day they again requested the deletion of the note confiscated according to the Decree of the President of the Republic No.108/1945 Sb.

47. The administration of the Tatra National Park in Tatranská Lomnica, by letter dated 02.02.1962 addressed to the District National Committee of the Land and Economy Department Poprad, announced that by a measure of the Board of Superintendents of 1945, the Vila A. building in Tatranská Lomnica was made available to the Board of Superintendents as a substitute for the hunting manor house in Javorina. The object in question was allocated by Resolution No. 57/1949 of the municipality of Vysoké Tatry as a confiscate according to Regulation 104/1945 Coll. for the Czechoslovak State n. p. plant Tatranská Lomnica. The land-book transfer did not take place, as the confiscation according to the Decree of the President of the Republic 104/1945 Coll. was marked in the insertion. In view of this circumstance, a Disputes Commission was convened, which on 09.12.1949 unanimously decided on the spot that it was a confiscation according to Decree 104/1945 Sb.

48. The District National Committee land economic department in Poprad on 13.04.1962 issued a decision that the real estate located in the. ú. Z. L. in the High Tatras district after the former owner G. A., nee. Q., were confiscated according to the Decree 104/1945 Coll., handed over in 1945 to the Czechoslovak State for use in the administration of the Tatra National Park.

49. Resolution of the District Court of Poprad from 24.10.1963 no. 1081/63/62 was allowed in the land book. ú. Z. L. entry according to the final decision of the ONV land management department of 13.04.1962 in insert no. XXX on parcel no. XXXX, XXXX, XXXX, XXXX, XXXX the entry of the Czechoslovak state property rights in the administration of the Tatra National Park in Tatranská Lomnica.

50. The exchange contract No.411/N/2014 concluded between the Slovak Republic State Forests of the Tatra National Park Tatranská Lomnica and AUTONOVA s.r.o. resulted in the exchange of land so that the land in the exclusive ownership of the Slovak Republic in the administration of the State Forests of TANAP registered on the LV No.XXX in the area of. E. L. parcels C.-R. XXX/X - built-up areas and courtyards with an area of 134 m2, XXX/X built-up areas and courtyards with an area of 3 700 m2 for plots in the share co-ownership of AUTONOVA s.r.o. registered on LV No. XXXX k. ú. A. A. in the share of 1/16-ina namely parcels R.-C. no. XXX/X - forest land with the area of 24 616 m2, R.-C. no. XXX/X - forest land with the area of 24 616 m2, R.-C. Č.. XXX/X - forest land with an area of 806 m2, R.-C. Č.. XXX/X - forest land with an area of 28 346 m2, R.-C. Č.. XXX - forest land with an area of 9 904 m2, R.-C. Č.. XXX/X - forest land with an area of 8 852 m2, R.-C. Č.. XXX/X - forest land with an area of 8 892 m2, R.-C. Č.. XXX/XX - forest land with an area of 66 m2, R.-C. Č.. XXX/X - forest land with an area of 9 378 m2, R.C. Č.. XXXX/X - forest land with an area of 38 997 m2, R.-C. Č.. XXXX/XX - forest land with an area of 226 916 m2, R.-C. Č.. XXXX/XX - forest land with an area of 72 349 m2, R.-C. Č.. XXXX/XX - forest land with an area of 937 m2, R.-C. Č.. XXXX/XX - forest land with an area of 344 m2, R.-C. Č.. XXXX/XX - forest land with an area of 14 797 m2, R.-C. Č.. XXXX/X - forest land with an area of 17 131 m2, N.-C. Č.. XXXX/X - forest land with an area of 334 133 m2, N.-C. Č.. XXXX/XXX - forest land with an area of 14 902 m2, N.-C. Č.. XXXX/XXX - forest land with an area of 30 951 m2, N.-C. Č.. XXXX/X - forest land with an area of 22 990 m2, N.-C. Č.. XXXX/X - forest land with an area of 281 467 m2, N.-C. Č.. XXXX/XXX forest land with an area of 88 266 m2, N.-C. Č.. XXXX/XXX - forest land with an area of 77 m2, N.-C. Č.. XXXX/XXX - forest land with an area of 1 643 m2. The contract was concluded on 06.08.2014.

51. The subject of the exchange contract No. 28/Z/2010 is: The State Forests of the Tatra National Park are the administrator of immovable property owned by the Slovak Republic in the town of High Tatras, part of Tatranská Lomnica. It is a building no. XX, which is built on the land C.-R. parcel No. XXX/X and land parcel No. XXX/X - built-up areas and courtyards with an area of 797 m2. The properties are registered on the ownership sheet No. XXX, cadastral territory E. L., Cadastral Administration Poprad. The building is listed on the title deed as the Old Museum. AUTONOVA s.r.o. is a co-owner and exclusive owner of forest land in the cadastral territory of Tatranská Lomnica in the following extent: C.-N. O. Č. XXXX - forest land with an area of 12 523 m2, C.-N. O. Č.. XXXX - forest land with an area of 38 944 m2,C.-N. O. Č.. XXXX/X - forest land with an area of 937 m2, C.-N. O. Č.. XXXX/X - forest land with an area of 102 m2, C.-N. O. Č.. XXXX/X - forest land with an area of 1 817 m2, C.-N. O. Č.. XXXX/X forest land with an area of 99 m2. The plots are registered on LV No. XXX, cadastral territory E. L., Cadastral Administration Poprad and the other contracting party is a share co-owner on these plots in the size of 48/368-in.

Land C.-N. O. Č.. XXXX - forest land with an area of 6 278 m2, land C.-N. O. Č.. XXXX - forest land with an area of 151 610 m2,land C.-N. O. Č.. XXXX - forest land with an area of 58 367 m2, plot C.-N. O. Č.. XXXX - forest land with an area of 3 158 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 9 512 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 76 325 m2, plot C.-N. O. Č.. XXXX - forest land with an area of 16 683 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 88 986 m2, plot C.-N. O. Č.. XXXX - forest land with an area of 903 m2, plot C.-N. O. Č.. XXXX - forest land with an area of 64 596 m2, plot C.-N. O. Č.. XXXX - forest land with an area of 40 253 m2, plot C.-N. O. Č.. XXXX - forest land with an area of 28 526 m2, plot C.-N. O. Č. XXXX - forest land with an area of 14 614 m2, plot C.-N. O. Č.. XXXX - forest land with an area of 802 739 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 316 139 m2, plot C.N. O. Č. XXXX/X - forest land with an area of 351 337 m2, plot C.-

N. O. Č.. XXXX - forest land with an area of 148 240 m2. These plots are registered on the ownership certificate XXX, cadastral territory E. L. cadastral administration Poprad and the other party is their share co-owner in the size of 42/368-in. The other contracting party is further the sole owner:
plot C.-N. O. Č.. XXX/XXX - forest land with an area of 1 408 m2, plot C.-N. O. Č.. XXX/XXX forest land with an area of 151 m2, plot C.-N. O. Č.. XXX/XXX - forest land with an area of 1 169 m2, plot C.-N. O. Č.. XXXX/XXX - forest land with an area of 3 004 m2, plot C.-N. O. Č.. XXXX forest land with an area of 751 m2, land C.-N. O. Č.. XXXX/XXX - forest land with an area of 492 m2, plot C.-N. O. Č.. XXXX/XXX - forest land with an area of 3 674 m2, plot C.-N. O. Č.. XXXX - forest land with an area of 2 645 m2, plot C.-N. O. Č.. XXXX - forest land with an area of 1 668 m2, plot C.-N. O. Č.. XXXX/XXX - forest land with an area of 256 m2. The land is registered on the ownership certificate No. XXX, cadastral area A. O. E., Spáva katastra Kežmarok. The other contracting party is the owner of the land in 1/1.
Further, the other party is a co-owner of the land:
plot C.-N. O. Č.. XXXX - forest land with an area of 5 760 m2, plot C.-N. O. Č.. XXXX/X forest land with an area of 520 m2, plot C.-N. O. Č.. XXXX/XXX - forest land with an area of 733 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 1 203 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 644 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 647 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 765 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 574 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 868 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 903 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 1 085 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 1 001 m2, plot C.-N. O. Č.. XXXX/XX - forest land with an area of 377 m2, plot C.-N. O. Č.. XXXX/XX - forest land with an area of 426 m2, plot C.-N. O. Č.. XXXX/XX - forest land with an area of 896 m2, plot C.-N. O. Č.. XXXX/XX - forest land with an area of 878 m2, plot C.-N. O. Č.. XXXX/XX - forest land with an area of 502 m2, plot C.-N. O. Č.. XXXX/XX - forest land with an area of 463 m2, plot C.-N. O. Č.. XXXX/XX - forest land with an area of 1 107 m2, plot C.-N. O. Č.. XXXX/XX - forest land with an area of 828 m2, plot C.-N. O. Č.. XXXX/XX - forest land with an area of 55 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 19 759 m2. These plots are registered on the ownership certificate No. XXX, cadastral area A. O. E., Cadastral Administration Kežmarok and the other party is a co-owner in the size of 10/192-in.
Land C.-N. O. Č.. XXXX - forest land with an area of 11 837 m2, land C.-N. O. Č.. XXXX/X forest land with an area of 300 m2, land C.-N. O. Č.. XXXX/X - forest land with an area of 511 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 500 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 511 m2, plot C.-N. O. Č.. XXXX/X - forest land with an area of 638 m2, plot C.-N. O. Č.. XXXX/XXX - forest land with an area of 5 130 m2, plot C.-N. O. Č.. XXXX/XXX - forest land with an area of 8 281 m2, plot C.-N. O. Č.. XXXX/XXX - forest land with an area of 10 355 m2, plot C.-N. O. Č.. XXXX - forest land with an area of 7 103 m2, plot C.-N. O. Č.. XXXX/XXX - forest land with an area of 24 839 m2, plot C.-N. O. Č.. XXXX - forest land with an area of 4 m2, plot C.-N. O. Č.. XXXX/XXX - forest land with an area of 1 522 m2. The land is registered on the ownership certificate No. XXX, cadastral area A. O. E., Cadastral Administration Kežmarok. The other contracting party is a share co-owner of the land in the size of 10/192-in.
Land C.-N. O. Č.. XXXX - forest land with an area of 1 873 m2, land C.-N. O. Č.. XXXX - forest land with an area of 2 724 m2, land C.-N. O. Č.. XXXX - forest land with an area of 1 069 m2. The land is registered on the ownership certificate No. XXX, cadastral area A. O. E., Cadastral Administration Kežmarok. The other contracting party is a share co-owner of the land in the size of 48/368-in.
Land C.-N. O. Č.. XXXX - forest land with an area of 1 291 m2, land C.-N. O. Č.. XXXX - forest land with an area of 6 832 m2. The land is registered on the ownership certificate No. XXXX, cadastral area A. O. E., Cadastral Administration Kežmarok. The other contracting party is a share co-owner of the land in the size of 48/368-in.
Land C.-N. O. Č.. XXX/XXX - forest land with an area of 244 m2, land C.-N. O. XXX - forest land with an area of 1 080 m2 are registered on the ownership certificate No. XXX, cadastral area A. O. E., Cadastral Administration Kežmarok. The other contracting party is a co-owner of the land in the size of 1. The subject of this exchange contract is the exchange of the building no. soup. XX with the aforementioned forest land between the two contracting parties. The first contracting party puts into the exchange immovable property of the state in the town of High Tatras, part of Tatranská Lomnica, namely building no. XX with the land under the building C.-R. O. Č.. XXX/X, which are registered on the ownership sheet No. XXX, cadastral area E. L., Cadastral Administration Poprad. The other party puts into the exchange immovable property in k. ú. E. L. A. O. E., namely the forest land described under No.

X Q. X. It has been agreed by contract that the financial difference in the price of the exchanged real estate of EUR 25 656,40 shall be paid by the other party within 15 days after the entry into force of this contract.

52. The applicant in the proceedings submitted a statement of the Ministry of Culture of the Slovak Republic dated 27.05.2019, according to which the real estate Villa A. located in k. ú. No. XX is registered as an immovable national cultural monument registered in the UZPF under No. XXXX/X. The Cadastral Administration is obliged to authorise a change of ownership concerning an immovable national cultural monument only on the basis of the submission of a written refusal of the State's pre-emptive right to purchase the national cultural monument. Land parcel No. XXX/X, XXX/X have the protection code XXX, which means that the property is located in the monument zone, therefore the Ministry of Culture did not comment on the pre-purchase right for land that is not registered as a national cultural monument. The application - offer for the pre-purchase right for the above mentioned real estate in 2010, 2014 was not submitted to the Ministry of Culture of the Slovak Republic.

53. The District Office Kežmarok Cadastral Department submitted to the court, at the request of the disputing parties, a copy of the land-registry entry XXX cadastral territory Z. L., which relates to the land parcel no. XXXX, XXXX, XXXX, XXXX. G. A., nee. Q. (husband of K.) by the legal title of purchase of 1912-1916. According to the National Council of the Slovak Republic for Industry and Trade, a national administration was imposed on the property. On 20.09.1963 there was a final decision of ONV land management department Poprad, that the ownership right for the Czechoslovak state in the administration of the Tatra National Park in Tatranská Lomnica is inserted.

54. The District Office Poprad Cadastral Department submitted to the court a copy of the documents from LV No. XXX k. ú. E.Á. L. and tolist of ownership no. XXX, proposal for registration of informative note in the cadastre of real estate from 25.06.1919, invitation to remove deficiencies from 08.07.2019, copy of the lawsuits in the case in question, the title deed no. XXX, the decision of the District Office Poprad Cadastral Department V4874/2017 of 16.10.2017 for the entry of the pledge on the basis of the pledge agreement to real estate No. 600/CC/16-ZZS of 19.09.2017 concluded between Slovenská sporiteľňa a.s. and AUTONOVA s.r.o., pledge agreement to real estate from 19.09.2017, the decision of the Cadastre Administration Poprad V 2268/10 from 16.06.2010, which allowed the entry of the ownership right on the basis of the exchange contract concluded between the Slovak Republic State Forests of the Tatra National Park and AUTONOVA s.r.o. no. 28/Z/2010, exchange contract no. 28/Z/2010, request for response to the request for information from the State Nature Protection of the Slovak Republic addressed to the State Forests of TANAP from 07.12.2009 concerning information on the degree of nature protection, determination of the type of forest biotope, determination of the financial value of the forest biotope, determination of the significance of the site from the point of view of the species protection of animals and plants, notification of the Monuments Office of the Slovak Republic addressed to the Poprad Cadastre Administration from 16.12.2010 on the record of protected facts, the regulation of the District Office Poprad from 08.06.1992 on the declaration of the Tatra National Park, the request of the Monument Office of the Slovak Republic addressed to the Administration of the Cadastre Poprad from 28.02.2011 on correction of data related to the conservation zone of Tatranská Lomnica, the decision of the District Office Poprad Cadastral Department V 4177/2017 of 15.08.2017, which allowed the entry of the ownership right on the basis of the purchase contract N 144/2017 NZ 26610/2017 of 02.08.2017 concluded between O. K. and AUTONOVA s.r.o., the decision of the District Office Poprad Cadastral Department V 2393/2015 of 18.06.2015, which allowed the entry of an easement consisting in the obligation of the obligor on the encumbered land to suffer the use by the beneficiaries in favour of AUTONOVA s.r.o. concerning the land parcel C.-R. XXX/X in k. ú. E. L., the contract on the establishment of easement concluded between SR State Forests of the Tatra National Park and AUTONOVA s.r.o. of 31.03.2015, the geometric plan of 10.03.2015, the decision of the District Office Poprad Cadastral Department V 4687/14 of 09.10.2014, which allowed the entry of the ownership right on the basis of the exchange contract No. 411/N/2014, the exchange contract No. 411/N/2014 of 06.08.2014.

55. According to Article 137(c) of the Code of Civil Procedure, an action may be brought for a determination of whether or not there is a right, in particular if there is a compelling legal interest; it is not necessary to prove a compelling legal interest if it arises from a special rule.

56. Pursuant to Article 72(2) of Government Decree No 8/1928 Coll. on proceedings in matters falling within the competence of the political authorities (administrative proceedings), a decision is given, unless otherwise provided in the Administrative Procedure Code, by delivery of a written copy thereof, or, if it was given orally in the presence of the parties, by oral pronouncement.

57. Pursuant to § 2 of Slovak National Council Regulation No. 1/1944 Coll. on the exercise of legislative, governmental and executive power in Slovakia, all laws, regulations and measures shall remain in force unless they contradict the republican-democratic spirit.

58. Pursuant to § 1 of Slovak National Council Regulation No. 40/1944 Coll. n.SNR on temporary powers of attorney to the Slovak National Council Presidium and members of the Slovak National Council Presidium, the competence of the Slovak National Council, as set out in § 1 of Slovak National Council Regulation No. 1/1944 Coll. n.SNR, and the competence of the central offices established pursuant to Slovak National Council Regulations No. 3 and No. 8/1944 Coll. n.SNR, shall be temporarily transferred to the Slovak National Council Presidium.

59. Pursuant to Section 1(1) of the Slovak National Council Presidential Decree No. 4/1945 Coll. of the Slovak National Council on the confiscation and expeditious distribution of the land property of Germans, Hungarians and traitors of the enemies of the Slovak nation, the land property in the territory of Slovakia owned by (a) persons of German nationality shall be confiscated for the purposes of the land reform with immediate effect and without compensation,

b) persons of Hungarian nationality who did not have Czechoslovak state citizenship on 1 November 1938,
c) persons of Hungarian nationality if it exceeds 50 ha,
d) traitors and enemies of the Slovak nation of any nationality.

60. Pursuant to § 2 of the Slovak National Council Presidential Decree No. 4/1945 Coll. of the Slovak National Council on the confiscation and expeditious distribution of the agricultural property of Germans, Hungarians as well as traitors to the enemies of the Slovak nation, according to paragraph 1, the agricultural property of those persons of German nationality (letter (a)) who took an active part in the anti-fascist struggle shall not be confiscated, provided that their agricultural property does not exceed 50 ha of land at all.

61. Pursuant to § 1 (1) of Slovak National Council Regulation No. 104/1945 Coll. on the confiscation and accelerated distribution of the land property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, the land property in the territory of Slovakia owned by: a) persons of German nationality shall be confiscated with immediate effect and without compensation for the purposes of the land reform,

b) persons of Hungarian nationality who did not have Czechoslovak nationality on 1 November 1938,
c) persons of Hungarian nationality if it exceeds 50 ha,
d) traitors and enemies of the Slovak nation of any nationality,
e) shareholdings and other companies and legal persons in which the capital or property was predominantly owned or held on 1 March 1945 by persons of German or Hungarian nationality of any nationality, unless such persons prove that they took an active part in the anti-fascist struggle, or persons falling within the provisions of paragraph 6,
f) Participating and other companies and legal persons whose administration deliberately and actively served the hostile waging of war or fascist and Nazi purposes. Exceptions to this provision shall be authorised by the Board of Commissioners.

62. Pursuant to § 1 (2) of Slovak National Council Regulation No. 104/1945 Coll. SNR on confiscation and accelerated distribution of the agricultural property of Germans, Hungarians, as well as traitors

and enemies of the Slovak nation, shares in the agricultural property (§ 2) owned by the persons referred to in paragraph 1 shall also be subject to confiscation.

63. Pursuant to § 1 (5) of Slovak National Council Regulation No. 104/1945 Coll. SNR on the confiscation and accelerated distribution of the agricultural property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, the language used in family relations, or membership of a Hungarian or German political party after 29 September 1938, or the confession of nationality in any census after 1929, is decisive for the assessment of membership of the German or Hungarian nationality.

64. Pursuant to § 1 (7) of Slovak National Council Regulation No. 104/1945 Coll. 5 on the confiscation and accelerated distribution of the agricultural property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, on which persons are to be regarded as persons of German or Hungarian nationality (par. 5) or as traitors or enemies of the Slovak and Czech nation and of the Czechoslovak Republic (par. 6), whether participatory and other companies and legal persons fall under the provisions of paragraph 1(d) or (e), whether exceptions may be allowed under paragraph 3 or 4, and whether the conditions are met and whether the principle of decency under paragraph 3a has been observed, shall be decided by the Confiscation Commission by 30 June 1948 at the latest.

65. Pursuant to § 1 (10) of Slovak National Council Regulation No. 104/1945 Coll. SNR on the confiscation and accelerated distribution of the agricultural property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, by decision of the Commission or the Board of Supervisors, the property shall be deemed to have been confiscated pursuant to paragraphs 1, 2, 3 or 3a on 1 March 1945. No complaint may be lodged with the Supreme Administrative Court against this decision.

66. Pursuant to § 26 (1) of Slovak National Council Regulation No. 104/1945 Sb. SNR on confiscation and

the accelerated distribution of the land and economic property of the Germans, Hungarians, as well as traitors and enemies of the Slovak nation, the Decree of the Presidium of the Slovak National Council No. 4/1945 Coll. of the Slovak National Council shall be repealed.

67. Pursuant to § 27 of Slovak National Council Regulation No. 104/1945 Coll. SNR on the confiscation and expeditious redistribution of the landed property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, this Regulation shall apply from 1 March 1945; it shall be implemented by the Commissioner of the Slovak National Council for Agriculture and Land Reform with the participating commissioners.

68. Pursuant to Article 1(1) of Presidential Decree No 108/1945 Coll. on the confiscation of enemy property and the National Reconstruction Funds, property, both immovable and movable, and in particular property rights (such as claims, securities, deposits, intangible rights), which was or still was in the possession of the Czechoslovak Republic at the date of the effective end of the German and Hungarian occupation, shall be confiscated for the Czechoslovak Republic without compensation, if it has not already been done so:

1. the German Reich, the Kingdom of Hungary, persons of public law under German or Hungarian law, the German Nazi Party, Hungarian political parties and other departments, organisations, enterprises, establishments, personal associations, funds and special-purpose assets of or connected with these regimes, as well as other German or Hungarian legal persons, or

2. natural persons of German or Hungarian nationality, with the exception of persons who prove that they have remained loyal to the Czechoslovak Republic, have never offended against the Czech and Slovak peoples, and either took an active part in the struggle for its liberation or suffered under Nazi or Fascist terror, or 3. natural and legal persons who have carried out activities against the State sovereignty, independence, integrity, democratic-republican State form, security and defence of the Czechoslovak Republic, who have incited or sought to seduce other persons to such activities, who

have deliberately supported in any way the German or Hungarian occupiers or who, at a time of increased danger to the Republic (§ 18 of the Decree of the President of the Republic of June 19, 1945, No. 16 Coll, on the punishment of Nazi criminals, traitors and their auxiliaries and on extraordinary people's courts) encouraged Germanization or Hungarianization on the territory of the Czechoslovak Republic or behaved in a manner hostile to the Czechoslovak Republic or to the Czech or Slovak nation, as well as natural or legal persons who tolerated such activity in persons administering their property or business.

69. Pursuant to Article 1(3) of Presidential Decree No 108/1945 Coll. on the confiscation of enemy property and the National Reconstruction Funds, the competent district national committee decides whether the conditions for confiscation under this Decree are fulfilled. The decision may be served by public notice, even if the conditions laid down in Article 33 of Government Decree No 8 of 13 January 1928 on proceedings in matters falling within the competence of political authorities (administrative proceedings) are not fulfilled. The decision of the district national committee may be appealed to the provincial national committee (in Slovakia to the competent body of the Slovak National Council). The Minister of the Interior may further regulate the method of decision-making under this paragraph by means of directives.

70. Pursuant to § 1 (1) of the Slovak National Council Regulation No. 64/1946 Coll. of 14 May 1946, which implements the Regulation on the confiscation and expeditious distribution of the land and economic property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, the land and economic property in the territory of Slovakia owned by: a) persons of German nationality, regardless of nationality, shall be confiscated for the purposes of the land reform with immediate effect and without compensation,

b) persons of Hungarian nationality regardless of their nationality,
c) traitors and enemies of the Slovak and Czech nation and the Czechoslovak Republic of any nationality and nationality,
d) shareholdings and other companies and legal persons in which the capital or property was predominantly owned or held on 1 March 1945 by persons of German or Hungarian nationality of any nationality, unless such persons prove that they took an active part in the anti-fascist struggle, or persons falling within the provisions of paragraph 6,
e) Participating or other companies and legal persons whose administration deliberately and actively served the hostile waging of war or fascist purposes. Exceptions to this provision shall be authorised by the Council of Ministers.

71. According to § 1 (5) of Slovak National Council Regulation No. 64/1946 Coll. of 14 May 1946, which amends the Regulation on confiscation and accelerated distribution of land and economic property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, the language used in family relations, or membership of a Hungarian or German political party after 29 May 1946, is decisive for the assessment of belonging to the German or Hungarian nationality, in particular. September 1938, or the recognition of nationality in a census after 1929.

72. Pursuant to § 1 (7) of Slovak National Council Decree No. 64/1946 Coll. of 14 May 1946, laying down the regulation on confiscation and expeditious distribution of the land and economic property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, on which persons should be considered as persons of German or Hungarian nationality (para.1.1). 5) or traitors or enemies of the Slovak and Czech nation and of the Czechoslovak Republic (para. 6), whether shareholding companies and other companies and legal persons fall under the provisions of para. l (d) or (e), as well as whether exceptions may be allowed under para. 3 or 4, shall be decided by the Confiscation Commission by the end of 1946 at the latest.

73. Pursuant to Section 1(10) of Slovak National Council Decree No. 64/1946 Coll. of 14 May 1946, amending the Decree on confiscation and accelerated distribution of the land property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, by decision of the Commission (paragraph 7) or the Committee of Superintendents (paragraph 8, last sentence), the property of such a person shall be deemed to have been confiscated pursuant to paragraphs 1, 2 or 3 on the day of the

entry into force of this Decree. No appeal shall be allowed to the Supreme Administrative Court against this decision.

74. Pursuant to Article 5(5) of Act No 91/1947 Coll. on the implementation of the library regulations of the parties to the confiscated property and on the regulation of certain legal conditions relating to the confiscated property, the incorrect indication of confiscation is not detrimental to the persons entitled under the library records.

75. Pursuant to Article 6(6) of Government Decree No 90/1950 Coll. on the administration of national property by national committees, the provisions of paragraphs 1 and 2 are without prejudice to the regulations on confiscated and nationalised property and property acquired for the purposes of land reforms, which is entrusted to the national committee for temporary administration until a decision is taken on it in accordance with those regulations.

76. Pursuant to § 1 of Decree of the Ministry of Agriculture No. 158/1959 Coll. on the administration of unallocated agricultural property acquired from land reforms, agricultural property acquired by the State under the regulations on confiscation and accelerated distribution of agricultural property or under the regulations on land reforms *) and which has not yet been allocated under these regulations or is not under the administration of State socialist sector organisations, shall be administered by the district national committees in whose district the property is located, in accordance with the regulations on the administration of national property (Government Decree No. 81/1958 Coll. on the administration of national property, Decree No 205/1958 Coll, implementing the Government Decree on the administration of national property).

77. Pursuant to Article 23(3) of Decree No 133/1960 Coll. of the Ministry of Finance implementing the Government Decree on the administration of national property, the regional national committees do not need the consent of (a) regional national committees to transfer or take over the administration of national property from or to the administration of the national committees by agreement or contract,
b) district national committees, if it concerns national property with a value not exceeding CZK 1 000 000,
c) local national committees, if it concerns national property with a value not exceeding CZK 200 000.".

78. Pursuant to § 23 (1) of Act 49/2002 Coll. on the Protection of the Monument Fund, if the owner intends to sell a cultural monument or a part thereof, he is obliged to offer it in writing to the State, represented by the Ministry, for purchase. The offer shall be made by announcing all the conditions.

79. After taking evidence by means of procedural attack and means of procedural defence, which were largely identical, the court assessed the essential factual allegations and legal arguments of the parties and concluded that the action could not be upheld on the grounds of failure to establish a compelling legitimate interest, lack of standing and, lastly, failure to establish that there had been no loss of G's right of ownership. A. by confiscation.

80. Argumentum ad rem legal - compelling interest in establishing that the property belongs to the inheritance of the estate of the deceased.

G. A.

Applying Section 137(c) of the Civil Procedure Code, a plaintiff has a compelling interest in determining whether or not there is a right where the asserted right is uncertain or threatened, provided that a successful declaratory judgment can remove that uncertainty or threat. Urgency is manifested by the fact that the declaratory judgment will be substantially useful. The applicant has justified the urgent interest in the application for a declaratory judgment on the ground that, despite the absence of a legal act or title by virtue of which his predecessor in title lost ownership of the original parcels, the defendant is registered as the owner of the current parcels and it is not possible to obtain a change of ownership without a declaration of title by way of a declaratory judgment. The plaintiff claimed that, as the rightful heir of the abovementioned heir, the plaintiff was not the heir of the predecessor in title. G. A. has a compelling interest in establishing that the immovable properties are part of the inheritance of the estate of the late G. A. G.A. In the present case, the applicant's compelling interest in the determination sought

is whether or not the immovable properties in question are part of the inheritance of the late G.A. A.'s estate and whether or not the immovable properties in question belong to the estate of the late G.A. A. G. A. as testatrix, and whether or not the applicant will inherit from the testatrix G. A. as his claimed heir. A.É.. The Court always examines the question of compelling interest in an action under section 137(c) of the Code of Civil Procedure, taking into account the particular circumstances of the case. The examination of the existence of an overriding legitimate interest is primarily concerned with assessing whether the action brought is an appropriate procedural instrument for protecting the applicant's right, whether it can achieve the elimination of a disputed right, and whether it does not, perhaps, merely unnecessarily provoke proceedings which will be followed by other legal proceedings. In proceedings for a declaration that a thing belongs to the estate of the deceased, even a favourable verdict does not necessarily mean that the defendant (the current owner of the thing registered in the title deed) is not the owner of the thing at the time the verdict is given. This defeats the purpose of a declaratory action, creates uncertainty, creates room for further litigation, whereas the purpose of a declaratory action is to create legal certainty without being unduly disturbed by ongoing litigation.

81. After considering the legal arguments of the parties, the Court concludes that the present action does not satisfy the prerequisite of Section 137(c) of the Civil Procedure Code. In the present case, the fact that the applicant seeks a declaration that his predecessor in title was the owner of the disputed immovable property at the date of his death means that, if the court were to uphold the action, inheritance proceedings would follow and, once the inheritance proceedings had been finally concluded, the heir would become the owner of the disputed immovable property. Neither the 1st defendant nor the 2nd defendant would be a party to the inheritance proceedings, the decision would lead to the registration of another owner of the disputed immovable property in the title deeds, thus giving rise to a further dispute as to the determination of the ownership right. Moreover, the heirs of the heirs of neb. G. A. had the possibility to assert the claim in the framework of the so-called restitution claims under Act No. 229/1991 Coll. on the regulation of ownership relations to land and other agricultural property. By the present action, the applicant seeks to enforce a claim which he could possibly have claimed in the context of restitution proceedings. He could have asserted the claim within the statutory time-limit laid down in Article 13 of that Act. The present action circumvents or is intended to replace a possible restitution claim, which the Court does not consider to be a permissible remedy. In the past, no. G. A. did not demonstrably assert any claim in respect of the immovable property until the time of his death in 1951; on the contrary, neither G. A. nor G. A. demonstrably took any interest in the immovable property until the time of his death in 1951. A., nor her descendants until 12.04.2019, when the lawsuit was filed in proceedings No. 17C 15/2019. The properties in question were in the real possession of the State since the entry into force of Slovak National Council Regulation No. 104/1945 Coll. SNR 01.03.1945, at the latest from the imposition of the national administration 24.10.1945 until the time of transfer of the ownership right to the defendant in the 1st / row. The State ensured the care, maintenance of the property. It is undisputed that the legal relations of the plaintiff's predecessor in title to the disputed properties were affected with certain consequences more than 70 years ago, they did not become uncertain. More than 70 years of legal and factual status in relation to the disputed properties created an objective state of legal certainty. The current reference to possible formal deficiencies in the application of the confiscation legislation of the time (Regulation of the Presidium of the Slovak National Council No. 4/1945 Coll. n.SNR on the confiscation and accelerated distribution of the agricultural property of the Germans, Hungarians and traitors and enemies of the Slovak nation, Slovak National Council Regulation No. 104/1945 Coll. SNR on the confiscation and accelerated distribution of the agricultural property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, Presidential Decree No 108/1945 Coll. on the confiscation of enemy property and the National Reconstruction Funds) does not affect the existing long-term state of legal certainty. These should be seen through the eyes of the times. So far, everyone has respected a certain legal and factual situation. The present action, on the other hand, is liable to upset the legal certainty that has existed for more than 70 years. It creates, not eliminates, legal uncertainty. The action is not an instrument of prevention, but is indeed capable of absolutely undermining legal certainty on the part of the current owners (whether the defendant in the second row or the defendant in the first row). The failure to show any interest in the property, the failure to ensure its care and maintenance for more than 70 years and, at the same time, the

long-term nature of the use, management and care of the property by the State and the defendant in the 1st row, in the Court's view, preclude a state of legal uncertainty on the part of the applicant. In the opinion of the court, it is not even possible to admit the existence of a compelling legal interest in such a suit for determination filed after a long-standing state of legal certainty, which has not been disturbed by anyone, is contested. In view of the principle of legal certainty in a democratic State, it is precisely this long-standing temporal aspect that needs to be emphasised. In that state of affairs, the Court finds that the applicant does not have a compelling interest in the action. Lack of a compelling interest is a ground for dismissal of the action under the procedural rules (Article 137(c) of the Civil Procedure Code).

82. The Court draws attention to the decision of the higher judicial authority of the Supreme Court of the Czech Republic, Case No. 31Cdo 154/2006, according to which "the question of the existence or non-existence of a compelling legal interest in disputes falling under the so-called restitution legislation has been repeatedly dealt with by the Constitutional Court. It also subjected this issue to constitutional review in its opinion of the full court, Pl ÚS 21/2005, published under No 477/2005 Coll., Notice of the Constitutional Court on the adoption of the opinion of the full court of the Constitutional Court of 1 November 2005 in the case of an action for the determination of the right of ownership in relation to the exercise of rights under the restitution legislation, in which it formulated the conclusions - I. The assertion of a right of ownership, in particular that required by the entry in the Land Register, in the absence of legitimate expectations on the part of the claimant, does not fulfil the preventive function of the action under Article 80(c) of the Civil Code and, consequently, the urgency of the interest in bringing the action is not established, and - II. An action for a declaration of title cannot circumvent the meaning and purpose of the restitution legislation. In the reasoning of its opinion, the Constitutional Court expressed the view that a compelling interest can in principle only exist if, without a judicial determination (that a legal relationship or right exists), either the claimant's right would be jeopardised or his legal position would become uncertain, which - in other words - means that the applicant must either have a legal relationship (right) already existing (at least at the time the decision is given) or be in a procedural or substantive situation in which he could objectively be threatened in an already existing legal relationship, or, alternatively, that the applicant's interest in the proceedings must be at stake in a legal relationship (right) already existing at the time the decision is given. due to his precarious position, he could be exposed to a concrete harm (see also, by analogy, the Constitutional Court's ruling of 20 June 1995, Case No. III. ÚS 17/95). Where the applicant's legal relations in respect of the property were affected with certain consequences several decades ago, not today, and have not become insecure now, but precisely by means of an action for the establishment of title and by challenging the acts on the basis of which the applicant's right has ceased to exist, an action for the establishment of title is not an instrument of prevention, but in fact tends to undermine legal certainty on the part of the current owner. It is only by means of restitution rules that it is possible to challenge an administrative act or to determine the consequences of its non-existence'.

83. The legal opinion of the local court also reflects the decision of the Supreme Court of the Slovak Republic No.4Cdo /112/2016 and the decision of the Constitutional Court of the Slovak Republic No. I.ÚS 482/2013 of 11.12.2013.

84. It is clear that the lack of a compelling legal interest is a separate ground for dismissal of the action without the court addressing the merits of the case. The means of procedural attack and the means of procedural defence establish material facts concerning both the plaintiff's standing and the merits of the case. Therefore, in reaching its decision, the Court examined and considered both the issue of standing and the merits of the case.

85. On the defendant's secondary plea that there is a compelling interest in the application for a declaration that the property belongs to the inheritance of the estate of the late Mr. G. A. is not given on the ground that the parties to the dispute are not all potential G. A. The Court notes that the above-mentioned objection relates to the assessment of standing in the proceedings, not of a compelling legal interest.

86. Argumentum ad rem legal - active standing.
Active standing is a substantive legal position from which the subject derives a right asserted by him or derives a procedural right to assert a substantive claim.

87. The applicant's standing was at issue in the proceedings. The applicant claimed that he was the heir of the heirs of the late Mr. G. A.É..The defendants in the 1st / and 2nd / row argued that the plaintiff had not proved by means of a procedural attack that he was the heir of the late G.A. G. A...The defendants in the 1st and 2nd rows pointed to the lack of active standing on the grounds that if the testator left several heirs, they are considered to be the owners of the entire estate belonging to the estate until the final decision of the court, they are entitled to legal acts concerning common property or property rights belonging to the estate against other persons jointly and severally, they have the status of the so-called inseparable partners.

88. In addition to the urgent legal interest, the Court also dealt in detail with the plea of active standing in the proceedings. It concluded that all the heirs of the deceased must be parties to the dispute for the purpose of establishing that the property belongs to the estate. They must appear either as claimants or as defendants. All the heirs are to be regarded as the owners of the property and are jointly and severally entitled and liable to other persons in respect of legal acts relating to that property. All the heirs must be present in the proceedings, otherwise there is a lack of standing.

89. In this regard, the Court also refers to the established judicial practice of the judicial authorities of the Supreme Court of the Slovak Republic in the case 5Cdo 157/2018 of 24.09.2019, in the case 3Cdo 118/2017 of 24.08.2017, in the case 3Cdo 158/20018 of 14.05.2009, in the case 2Cdo 45/2008 of 31.03.2008, in the case 3Cdo 158/20018 of 14.05.2009, in the case 2Cdo 45/2008 of 31.03.2009, in case 3Cdo 222/2010 of 14.03.2011, in case 1Cdo 183/2009 of 30.05.2011, in case 5Mcdo 15/2007 of 22.02.2008, according to which "if the testator left multiple heirs, they are considered owners of the entire property belonging to the inheritance until the final decision of the court. They are jointly and severally entitled to legal acts concerning common property or property rights belonging to the inheritance in respect of other persons. Their share of the inheritance reflects the extent to which they share those rights and obligations with each other and they have the status of 'inseparable partners within the meaning of Article 91(2) of the Code of Civil Procedure', with which the Court here agrees.

90. The issue was also dealt with by the Constitutional Court of the Slovak Republic in its decision II. ÚS 260/2011 of 09.06.2011, which decided on the complaint of the plaintiff, whose action for a determination that the matter belongs to the inheritance was rejected due to lack of active factual legitimacy, when all the heirs of the deceased were not a party to the proceedings. The Constitutional Court dismissed the complaint, stating that 'there is nothing to prevent the applicant from bringing a new action for a declaration that the immovable property at issue belongs to the testator's estate, with all the testator's heirs being parties to the proceedings. Depending on whether a particular heir takes the same or a different view on the substance of the matter as the applicant, he or she may become a plaintiff or a defendant. In any event, however, he must be a party to the proceedings, since the judgment must be binding on all the heirs'.

91. The court did not share the legal opinion of the claimant arising from the judgment of the Supreme Court of the Czech Republic in case No. 28Cdo 2375/2012 of 09.01.2013, according to which "the nature of the subject matter of the proceedings arising from the substantive law is decisive for the assessment of whether it is a separate or indivisible community; an indivisible community is only a community where the substantive law does not allow the claim to be asserted independently by any of the partners. If it does not follow from the substantive law that the subject-matter of the proceedings cannot be discussed separately in relation to any of the partners here, any subsequent heirs, it is a separate community on their part pursuant to the provisions of Section 91(1) of the Civil Code (cf. Resolution of the Supreme Court of 28 June 2011, Case No. 32 Cdo 1675/2011).
The present proceedings were aimed at establishing that the applicant's predecessor in title was the owner of the property in question at the date of her death. Any of the potential heirs is entitled

to bring such an action individually, since it is only a preliminary phase to the subsequent hearing of the succession of the deceased and the outcome of the litigation does not in any way affect the applicant's position in the succession proceedings which will subsequently be conducted in respect of the property in question. In that respect, there is therefore no question of an indissoluble community under Article 91(2) o.S.R.".

92. While the decisions of the judicial authorities referred to by the defendants in the 1st / and 2nd / rows concerned actions for our determination that an object belongs to the inheritance of the testator, the decision of the Supreme Court of the Czech Republic in case No. 28Cdo 2375/2012 concerns an action for determination that the deceased natural person was the owner of the object at the date of his/her death.

93. It is necessary to distinguish between two legally distinct claims with implications for the scope of fact-finding and the assessment of the scope of the parties to the dispute. In proceedings for a declaration that the deceased natural person was the owner of the property at the time of his death, the court ascertains the facts only as at the date of the natural person's death, whereas in proceedings for a declaration that the property belongs to the estate, it ascertains the facts as at the date of the pronouncement of the judgment.

94. Between the time of the death of the testator and the time of the court's decision on the determination that the object belongs to the estate of the testator, legal events may have occurred which preclude the object in question from being included in the estate. It is only by the fact that all the heirs are parties to the dispute in the proceedings for a declaration that an item is part of the succession that it is ensured that there is no unlawful interference with their rights (an heir may claim that an item is not part of the testator's succession, that it is in the possession of an heir or of another person). Therefore, the decision of the Supreme Court of the Czech Republic in case No. 28Cdo 2375/2012 cannot be applied to the present proceedings.

95. If the plaintiff in the written statement of 31.07.2020 also quoted the ruling of the Constitutional Court of the Slovak Republic I. ÚS 482/2013 of 11.12.2013, the plaintiff quoted part of it correctly, but it should be noted that the decision refers to the action, which was dismissed for lack of urgent legal interest in the determination that the real estate belongs to the inheritance from the testator, not for lack of active factual legitimacy.

96. The court adds that it is also disputed whether the plaintiff is the heir of the deceased. G. A... The applicant has submitted in support of his claim a death certificate of G. A., which shows that she died on XX.XX.XXXX, the disputed point being the remark: 'he was the head of the Roman Catholic parish office in Nagycenko', when the deceased had died on XX.XX.XXXX, and the claimant's application for a declaration of death was filed on XX.XX.XXXX. G. A.É. was a countess.

97. The land book entry No. XXX shows that G. A. gen. Q. had a husband, K.. According to the birth certificate of M. A.R.b. XX.XX.XXXX his mother was G.L. Q., born O., father Q. A. born Vienna. From the death certificate of M. A. b. XX.XX.XXXX deceased XX.XX.XXXX shows the occupation "porter", which raises doubts both about M. A.'s father and whether he was a person from a count's family when he performed the work of a porter. The applicant's birth certificate shows that the applicant's father was M.L. A., a farmer by occupation. The above information raises doubts as to whether the applicant is at all a potential heir to the estate of M.A. L. A. G. A. In so far as the defendant in the second/terior row argued that, according to the birth certificate, the applicant's father would have been 53 years old at the time of the applicant's birth, that circumstance does not appear unlikely to the Court, but it is irrelevant to the legal assessment of the case.

98. During the course of the trial, the 1st/Ranking Defendant pointed to a record obtained on the internet of the descendants of the defendant. G.L. A..

99. On the motion to supplement the evidence with the inheritance decisions of the abb. M. W. A., O. W. A., N. M.A.R., M. A., the court finds that the motion is denied as frivolous. It is not for the court

to secure for the plaintiff evidence which, as a means of procedural attack, is to be presented to the court by the plaintiff himself. Moreover, the plaintiff himself states in his submission dated 05.12.2019 that "the court has no jurisdiction to ascertain the class of heirs in the present proceedings". The plaintiff has stated in his affidavit that he has no knowledge of any other heirs of the testator G.L. A..

100. It was neither reasonable nor economical for the trial court, on plaintiff's motion, to allow defendant to intervene as: Defendants in 3rd/Row O. M. A., born. XX.XX.XXXX, residing at C. XXX, XXXX, Z., P. P., citizen of the Republic of Austria, defendant in the 4th / row Y. A., born in. XX.XX.XXXX, residing at C.N. XXX, XXXX, Z., P. P., U. P. P..

101. The plaintiff has not established the circle of descendants - the children of G. A.. It is not clear from which descendant the descendants of O. M. A., Y. A.. Even if the court were to admit these persons into the proceedings, it would not mean that the parties to the litigation, whether as plaintiffs or defendants, are all heirs of Neb. G. The admission of those persons would not remove the dispute as to standing and would not remove the further ground for dismissal of the action - lack of standing. In the light of the foregoing, the admission of those persons would not have been economical, expedient, would not have removed the lack of standing and would therefore not have resolved the question referred in the preliminary ruling in the affirmative for the applicant.

102. The court disagreed with the 1st defendant's contention that by moving to intervene the 3rd and 4th defendants, the plaintiff had demonstrated that the proposed 3rd and 4th defendants did not believe that the case would succeed. The plaintiff has the right to move for the admission of a party to the litigation in the course of the proceedings, whether in the place of the plaintiff or the defendant.

103. Argumentum ad rem legal - loss of title by confiscation of real property.
From the means of procedural attack and the means of procedural defence, the court, after examining all the documents relating to the acquisition and loss of ownership, came to the unequivocal conclusion that in the present case, the original owner of the properties in question, according to the extract from the land book entry No. XXX of the land registry no. Z. L. was G. A. gen. Q.. The land register entry indicates purchase No XXX/XXXX as the title of acquisition of ownership. It is disputed from the land register entry No. XXX whether neb. G. A.É. was the sole owner of the properties, since she was to acquire the properties by purchase in 1916, and there is a notation in land register entry No. XXX (man K.), it is disputed whether the properties were in the sole ownership of G. A. or jointly owned by G. A. and her husband. However, that fact has no bearing on the assessment of the loss of ownership and is therefore not legally relevant in the present case.

104. The essential legal fact is the proven loss of ownership rights by the late G. A. due to confiscation in 1945, which, in the court's opinion, has been undoubtedly established. Despite the plaintiff's claims that the confiscation was not legally valid, the plaintiff failed to meet the burden of proof in this regard. On the contrary, based on the means of procedural attack and defense, which were largely identical, it was proven that the late G. A. lost ownership rights to the disputed real estate through confiscation.

105. If the action for determination (in this case, the action for determination that the item belongs to the inheritance) challenges the confiscation (its process, effects, legality) pursuant to Slovak National Council Presidium Regulation No. 4/1945 Coll., Slovak National Council Regulation No. 104/1945 Coll. SNR, Decree of the President of the Republic No. 108/1945 Coll., the so-called Benes Decrees, it should be emphasised that the burden of proof is on the owner of the confiscated property, or on the descendant who defends against the confiscation, in the sense that it is up to him to prove that the legal conditions for confiscation were not met. The confiscation of property could have occurred on the basis of the Slovak National Council Presidium Decree No. 4/1945 Coll.n.SNR on the confiscation and accelerated distribution of the land property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, Slovak National Council

Regulation No. 104/1945 Coll. No 108/1945 Coll. on the confiscation and accelerated distribution of the agricultural property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, Decree of the President of the Republic No 108/1945 Coll. on the confiscation of enemy property and the National Reconstruction Funds, which are mutually reinforcing. The confiscation of property under that legislation was a legal act which cannot be assessed in the light of the defects attached to it, unless the law expressly permits it. Confiscation took place directly by operation of law, without administrative proceedings, if the owner of the property or the person whose property was subject to confiscation was identified by the public authorities and unless he himself proposed that an administrative decision be taken or the administrative authority itself considered it necessary to take an administrative decision. The allegation of defects in the confiscation proceedings is not in itself capable of calling into question the effects of confiscation, since the legal title of the transfer of ownership is not an administrative act but a legal provision.

106. In the present proceeding, based on the means of procedural attack and the means of procedural defense, he concluded that Neb. G. A.É. had demonstrably lost the right of ownership by confiscation pursuant to Slovak National Council Decree 104/1945 Coll. SNR on the confiscation and expeditious distribution of the agricultural property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, ex lege (by operation of law), i.e. the loss of the right of ownership occurred with the entry into force of the Slovak National Council Decree of 23.08.1945 on 01.03.1945, in view of § 27 of the Decree. This is due to the diction of § 1(1) of Slovak National Council Regulation No. 104/1945 Coll. SNR (with immediate effect and without compensation..... shall be confiscated). If the conditions for confiscation were met, confiscation occurred ipso iure (by force of law, by force of law, by the law itself), regardless of the existence of decisions pronouncing that the conditions for confiscation were met. The Regulation in question repealed Regulation of the Presidium of the Slovak National Council No. 4/1945 Coll. of the Slovak National Council. Section 27 of the regulation states that the regulation applies from 1 March 1945. It follows from Article 1(1)(b) that confiscation applies to 'persons of Hungarian nationality irrespective of nationality', and from Article 1(1)(c) that confiscation applies to 'traitors and enemies of the Slovak and Czech nations and of the Czechoslovak Republic of any nationality and nationality'. Pursuant to Article 1(5) of Slovak National Council Regulation 104/1945 Coll. SNR on the confiscation and accelerated distribution of the landed property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, 'for the assessment of membership of the German or Hungarian nationality, the language used in family relations, or membership of a Hungarian or German political party after 29 September 1938, or the confession of nationality in any census after 1929, shall be decisive'. Pursuant to Article 1(7) of Slovak National Council Regulation No. 104/1945 Coll. SNR on the confiscation and expeditious distribution of the agricultural property of Germans, Hungarians, as well as traitors and enemies of the Slovak nation, on which persons are to be regarded as persons of German or Hungarian nationality (para. 5) or as traitors or enemies of the Slovak and Czech nation and the Czechoslovak Republic (para. 3), whether participatory and other companies and legal persons fall under the provisions of paragraph 1(d) or (e), whether exceptions may be allowed under paragraph 3 or 4, as well as whether the conditions are met and whether the principle of decency under paragraph 3a has been observed, shall be decided by the Confiscation Commission by 30 June 1948 at the latest.

107. It follows from the above that the language used in family relations is decisive for the assessment of nationality, with the confiscation commission deciding which persons are affected by the confiscation by 30 June 1948 at the latest. It follows from Article 1(10) of the Ordinance that, by decision of the Commission or the Board of Commissioners, property is deemed to have been confiscated on 1 March 1945.

108. It is significant that the Regulation makes it clear that confiscation takes place ex lege, not on the basis of a decision of the Commission or the Board of Commissioners or of an administrative or other designated authority. The Commission's task was to assess which persons could be regarded as being of Hungarian nationality. If the conditions for confiscation were fulfilled, as was shown in the present case by the subsequent Commission decision of 09.12.1949, confiscation took place irrespective of the existence of decisions declaring that the conditions had been fulfilled

pursuant to the Regulation. In the Court's view, moreover, the need to rule on whether the conditions for confiscation were met arose only in cases of doubt, either as to the identity of the owner (where it was not certain whether he fell within the category of persons whose property was confiscated) or as to the definition of the property subject to confiscation. From Slovak National Council Regulation No. 104/1945 Coll. SNR does not contain anything confirming the need to issue a decision in each individual case. An administrative decision by the Commission or the Board of Commissioners as to whether a person and his property fell within the confiscation regime was necessary only if there was any doubt. Confiscation occurred ex lege (directly by law) and simultaneously ex tunc (operating from the outset).

109. The documents referred to by the applicant, in particular

- the opinion of the Slovak National Council for Land Management and Land Reform of 30.05.1945, according to which "Villa A. is not a land management property according to the Regulation of the Slovak National Council Presidency 4/1945 Sb. n. SNR', when the property had not been confiscated according to the Slovak National Council Presidium Decree No. 4/1945 Sb. n. 104/1945 Sb. SNR. It should be noted that Regulation No 4/1945 Sb. n.SNR of the Presidium of the Slovak National Council, in Article 2, defined agricultural property as 'a set of agricultural real estate and forests, buildings and equipment belonging to them, serving their own field and forestry, agricultural industry plants owned by the persons referred to in Article 1(1)(a) of Regulation No 4/1945 Sb. n.SNR', and 'the property of the Slovak National Council', in Article 2 of Regulation No 104/1945 Sb. n.SNR. 1, as well as movable accessories (live and dead inventory serving their own field and forestry) and all rights connected with the possession of the confiscated property or part thereof' and Slovak National Council Regulation No 104/1945 Coll. SNR, § 2, defined agricultural property broadly as 'a set of agricultural real estate and forests, buildings and equipment belonging to them, serving their own field and forestry, plants of the agricultural industry owned by the persons referred to in § 1(1)(a) of Act No. 1 of the National Council of the Slovak Republic, which are owned by the persons referred to in § 1(1) of Act No. 1, if they are not legally and economically separate, as well as movable accessories (live and dead inventory serving their own arable and forestry farming, agricultural stocks, money, receivables and securities derived from the operation of the arable farming industry), vineyards, gardens, ponds, building plots forming part of the agricultural unit, such dwellings and other buildings which, by their nature, may be used for agricultural purposes or are suitable for the accommodation of displaced persons in internal colonisation, and all rights in rem, whether separate or appurtenant to the ownership of the confiscated property or part thereof'.
- to the decrees of 24.10.1945 and 01.08.1947, it should be noted that the national administration was imposed on Villa A. in Tatranská Lomnica by the decree No. 61-61.288 of the National Council for Industry and Trade in Bratislava of 24.10.1945 (No. l. 279 of the file). By Decree No 2750/1945 of the Local National Committee in Veľká Lomnica dated 01.08.1947 (No 48 of the file), the national administration was apparently cancelled (the decree also states 'imposes' and 'cancels') on the grounds that 'it was subsequently established that the owner of the business of Villa A. is a citizen and a Hungarian national, on this basis it is not subject to confiscation'. It is significant that both decrees concern the national administration, the appointment and removal of the national administrator respectively. Irrespective of the content of the decrees, they do not affect confiscation. Learned counsel for the 2nd defendant in the 2nd/Order argued that in the word in the assessment 2750/1947 "not subject to" the letters "n, e" have been added, that originally it said "subject to". Acreages relate to national administration, they do not affect the validity of the confiscation, therefore the court also rejected the motion to supplement the evidence by an expert in the field of literary studies as uneconomical. As circumstantial evidence, it appears from Decree No. 61-61.288 that, if the confiscation had not occurred ex lege by Slovak National Council Decree No. 104/1945 Coll. SNR, the imposition of national administration on the property on 24.10.1945 would not have been justified. The measurements in question are not capable of calling into question the loss of ownership by confiscation.
- The only decree confirming that confiscation had taken place was decree No. 16865/46 of the District National Committee of Kežmarok dated 07.10.1946 (No. 381 of the file), which stated that "according to Presidential Decree 108/1945 Coll. the conditions for confiscation are fulfilled, with the owner of the property being a Hungarian noblewoman and therefore an enemy of the Slovak nation". Although the statement referred to confiscation under Presidential Decree 108/1945 Coll., this meant

that the conditions for confiscation were also met under Slovak National Council Decree 104/1945 Coll. SNR, when it was stated that it was "Hungarian nobility".
On 09.12.1949 the Disputes Commission decided that it was a confiscation according to the Slovak National Council Regulation No. 104/1945 Sb. SNR (no. 123 of the file), apparently because the documentary evidence shows that it was disputed whether it was a confiscation under Slovak National Council Regulation No. 104/1945 Sb. The competence of the Commission derives from Article 1(7) of Slovak National Council Regulation No. 104/1945 Coll. SNR. As regards the applicant's counsel's objection that the Commission made its decision after 30.06.1948, the Court is of the opinion that, although the Regulation required the Disputes Commission to make a decision by 30.06.1948, it does not follow from the legislation that failure to make a decision by 30.06.1948 renders the Commission's decision null and void or null and void.
In so far as the applicant's counsel referred to the submission of the Settlement Office of the National Reconstruction Fund dated 22.08.1949 (file no. 374), according to which the Disputes Commission elected pursuant to Decree No. 346/48 of the Office of the Minister of the Interior at a meeting held on 16 August 1949 decided: "Villa A., Tatranská Lomnica: unanimously decided that it is a non-agricultural confiscation", the above submission is not a decision of the Commission and, moreover, the Disputes Commission decided later on 09.12.1949 that it is a confiscation according to the Slovak National Council Decree 104/1945 Coll. SNR.
With regard to the objection of the applicant's counsel that the deletion of the confiscation note proves that the confiscation did not take place, the court notes that the Settlement Office and the National Reconstruction Fund in Bratislava on 18.09.1948 gave the District Court in Kežmarok on 18.09.1948 a proposal for the registration of the confiscation note in the land-book entry No. XXX of the land registry. Z. L. according to the Presidential Decree No. 108/1945 Coll. The District Court of Kežmarok according to the proposal on 24.11.1948 allowed the entry of confiscation according to the Presidential Decree No. 108/1945 Coll. Subsequently, the Exposition of the National Restoration Fund of 08.07. The Court is of the opinion that the deletion of the note was due to the fact that the Disputes Commission decided on 09.12.1949 that it was a confiscation under Decree No. 104/1945 Coll. SNR. The deletion of the confiscation note has no effect on the change of ownership. It does not mean that there was no loss of G. A.'s property right by confiscation.

110. On the issues in dispute between the parties, the Court notes that attention must also be drawn to § 5(5) of Law 90/1947 Coll. on the implementation of the library regulations of the parties to the confiscated enemy property, which implies a solution to the issue of improperly marked confiscation, namely that "the improper marking of confiscation is not prejudicial to the persons entitled according to the library record". Act No 90/1947 Coll. concerned confiscation pursuant to Presidential Decree No 12/1945 Coll., 108/1945 Coll. and Slovak National Council Decree No 104/1945 Coll. SNR and further regulated the library regulations of the parties confiscated enemy property.

111. As regards the applicant's objection that there was no valid confiscation in relation to the letter of the Regional National Committee of Kosice dated 23.08.1950, the Court is of the opinion that it cannot be inferred from the submission in question that there was no confiscation. By the submission of the Regional National Committee in Košice, the Kežmarok District Court requested the deletion of the note of confiscation pursuant to Presidential Decree No 108/1945 Coll., although the correct note should have been that of confiscation pursuant to Slovak National Council Decree No 104/1945 Coll. SNR. In the copy of the submission dated 23.08.1950 submitted by the applicant (no. 51 of the file), the following sentence is struck out: 'The Regional National Committee in Košice - District National Committee in .....' by its Decree No ..... of ..... cancelled the confiscation in question', and this sentence has not been added either. Moreover, it is stated in the submission that "the property in question has been recognised by the Central Disputes Commission as land property." The submission of 23.08.1950, on the contrary, proves the allegations of the defendants in the 1st and 2nd rows about confiscation pursuant to Slovak National Council Decree No. 104/1945 Coll. It should be emphasised that the applicant has not shown that the confiscation declared by the decree of the District National Committee of Kežmarok No. 16865 of 17.10.1946 has been revoked. The Court notes that it is essential that the confiscation pursuant to Slovak National Council Decree No 104/1945 Coll. SNR occurred directly by law - ex lege.

On the contrary, the documentary evidence - the submission of the Regional National Committee in Košice dated 07.07.1950 addressed to the District Court of Kežmarok shows that also by this submission the Regional National Committee requested the cancellation of the note of confiscation according to the Decree of the President of the Republic No. 108/1945 Coll., while it is added there that "it is a confiscation confiscated according to the Decree of the President of the Republic No. 104/1945 Coll.".

112. The fact that the confiscation was carried out pursuant to Slovak National Council Regulation No. 104/1945 Coll. SNR indirectly follows also from the decision of the District Court Kežmarok of 06.11.1945 on the note of the national administration, when the national administration would not have been justified if there had been no confiscation.

113. Based on the above findings, the court unequivocally concluded that the plaintiff failed to meet the burden of proof and did not prove that the late G. A. did not lose ownership rights due to confiscation. On the contrary, based on the means of procedural attack and defense, the court concluded that these proved the loss of ownership rights to the real estate of the late G. A. through confiscation, in accordance with Regulation No. 104/1945 of the Slovak National Council. Therefore, at the time of the death of the late G. A. on XX.XX.XXXX, G. A. was no longer the owner of the disputed real estate. Consequently, the claim for determination that the real estate belongs to the estate of the late G. A. cannot be upheld.

114. The Court draws attention to the Ruling of the Constitutional Court of the Slovak Republic I. ÚS 379/2016 of 29.03.2017, from which it is clear that "if the confiscation of property (its process, effects, legality) is challenged (questioned) in a determination action, the burden of proof in such a case is on the owner of the confiscated property who challenges the confiscation to prove that the legal conditions for confiscation of property are not met." "The mere allegation of defects in the decree rendered in the confiscation proceedings is not in itself capable of defeating the effects of the confiscation, for the legal title of the transfer of 'title' here was not that act, but the decree itself."

115. The confiscation causes the extinction of the property right of the previous owner and at the same time the new original acquisition of ownership of the property by the new owner - in this case the State and subsequently by the title of exchange contracts in relation to the real estate parcels parc. reg. XXX/X, XXX/X, XXX/X, XXX/X, building No. XX in the cad. E. L. to the defendants in the 1st row (the other disputed properties remained the property of the State).

116. Regarding the legitimacy of the legal regulations on confiscation at the time, the court also refers to the finding of the Constitutional Court of the Czech Republic in Case PL. ÚS 14/94, dated 8 March 1995, which establishes the legality and legitimacy of the decrees of the President of the Republic, specifically including Decree No. 108/1945 Coll.

117. The defendant in the 1st / row pointed out in the proceedings that the loss of the right of ownership did not occur. G. A. occurred by irreliction (abandonment of the property), when neb. G. A. after one year showed a genuine wish to leave the properties, never returned to the disputed properties, and neither she nor her descendants showed any interest in the properties until 1989 or thereafter. The defendant in the 1st / row first claimed that the dereliction occurred in 1945, during the course of the proceedings he claimed that it occurred after 1948. The plaintiff argued that dereliction as a title of loss of title does not stand when the testatrix was intestate as owner as early as 1962.

118. Dereliction - the right to leave a thing constitutes one of the attributes of a property right. The right to leave a thing and to renounce its ownership is part of the content of the right of ownership. However, tq1§ .

119. In the present case, it was not disputed between the parties that no. G. A. did not occupy the disputed real estate after 1945. In order to establish the loss of title by dereliction, the Court held that it was necessary for the court to examine, on the basis of the means of procedural attack and the means of procedural defence, whether there had been a clear manifestation of the will of the owner of the property to relinquish ownership by abandoning the property. Since the court, by the means of the means of procedural attack and the means of procedural defence, concluded that no. G. A. had lost title to the

disputed properties by confiscation, it did not address the alleged possible loss of title by dereliction. If dereliction were to be considered, the court would, of course, assess dereliction according to the law in force at the time in the Slovak Republic.

120. The defendants in the 1st and 2nd rows also referred to the preliminary question of the ownership of the disputed immovable property to the possible acquisition of the ownership right by inheritance, since at the latest from the time of the imposition of the national administration on the immovable property by the decree 61-61.288 of 24.10.1945 until the conclusion of the exchange contracts, the defendant in the 2nd row used the immovable property in good faith without being disturbed by the plaintiff or by third parties until the time of the filing of the present action.

121. Similarly to the alleged dereliction, the court did not further address the possible acquisition of ownership rights by retention of title by the defendants in the 1st / and 2nd / rows, since, in the court's opinion, the loss of the ownership right of G. A. by confiscation. However, the defendants in the first and second rows are to be granted the benefit of the doubt that the conditions for the acquisition of the right of ownership by retention of title are clearly met in the present case on the basis of the procedural defences and means of procedural attack put forward.

122. In the proceedings, the plaintiff challenged the validity of the exchange contracts concluded between the defendants in the 1st and 2nd row. Although the parties to the litigation also commented on the objection in question, in the opinion of the court, for the legal assessment of the case for the determination that the immovable property belongs to the inheritance of the estate of the late defendant. G. A., it is not appropriate to assess the validity of the exchange contracts and therefore, in accordance with the principle of economy, it is not appropriate to assess the validity of the exchange contracts. Neither the validity nor the invalidity of the exchange contracts has any bearing on the assessment of whether the immovable property is part of the inheritance of the estate of the late Mr A. A. G. A..

123. On the basis of the above, applying the above-mentioned legal provisions, the Court concludes that, in particular because of the lack of a compelling legal interest in the action for a declaratory judgment, the lack of standing in the proceedings and the proven loss of the right of ownership by confiscation, the action must be dismissed.

124. The court decided on the costs of the proceedings in accordance with Section 255(1) of the Civil Procedure Code, and awarded the successful defendants in the 1st and 2nd rows the full costs of the proceedings. The court shall decide on the amount of the costs by order after the judgment has become final.

Instruction:

An appeal against this judgment may be lodged with the local court within 15 days of service of the judgment. The notice of appeal shall state, in addition to the general particulars of the application, the decision against which it is directed, the extent to which it is contested, the grounds on which the decision is held to be wrong (grounds of appeal) and the relief sought (application for leave to appeal). An appeal may be brought only on the ground that

(a) the procedural requirements have not been met,
b) the court, by an error of procedure, has prevented a party from exercising its procedural rights to such an extent that the right to a fair trial has been violated, a disqualified judge or an improperly staffed court has ruled,
c) the proceedings have another defect which may have resulted in an incorrect decision in the case,
d) the court of first instance failed to carry out the proposed evidence necessary to establish the relevant facts,
e) the court of first instance made erroneous findings of fact on the basis of the evidence adduced,
f) the findings of fact do not stand because other procedural defences or other means of procedural attack are admissible and have not been invoked, or
g) the decision of the Court of First Instance is based on an error of law.

An appeal against a decision on the merits may also be brought on the ground that the final order of the court of first instance which preceded the decision on the merits is vitiated by the defect referred to above, if that defect affected the decision on the merits.

The grounds of appeal and the evidence in support thereof may be amended only until the expiry of the time-limit for lodging an appeal.

If the obligor does not voluntarily comply with what the enforceable decision imposes on him, the creditor may file a petition for enforcement under a special law; if the decision is a decision regulating the care of a minor, contact with a minor or an obligation other than a pecuniary obligation in relation to a minor, the creditor may file a petition for judicial enforcement of the decision.