



COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

THIRD SECTION

CASE OF BAUMANN v. FRANCE

(Application no. 33592/96)

JUDGMENT

STRASBOURG

22 May 2001

FINAL

22/08/2001

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Baumann v. France,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Mr L. LOUCAIDES, *President*,
Mr J.-P. COSTA,
Mr P. KÜRIS,
Mrs F. TULKENS,
Mr K. JUNGWIERT,
Sir Nicolas BRATZA,
Mrs H.S. GREVE, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 14 March 2000 and 3 May 2001,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 33592/96) against France lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a German national, Mr Bernd Karl Baumann (“the applicant”), on 21 July 1995.

2. The applicant was represented by Mr F. Jemoli, a lawyer practising in Strasbourg. The French Government (“the Government”) were represented by their Agent, Mr Ronny Abraham, Director of Legal Affairs at the Ministry of Foreign Affairs.

3. The applicant complained that he had been denied access to a tribunal, within the meaning of Article 6 § 1 of the Convention, or an effective remedy, within the meaning of Article 13 of the Convention, by which to assert his right of ownership of seized property which had subsequently been confiscated pursuant to a judgment of 13 June 1994. He also alleged a breach of Article 1 of Protocol No. 1 to the Convention on the ground that he had been the victim of a breach of his right to peaceful enjoyment of his possessions. Lastly, relying on Article 2 of Protocol No. 4 to the Convention, the applicant complained of an infringement of his right to freedom of movement as a result of the seizure and subsequent confiscation of his passport.

4. On 14 January 1998 the Commission (Second Chamber) decided to give notice to the Government of the complaints under Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1 and Article 2 of Protocol No. 4 to the Convention and to request them to submit their written

observations on the admissibility and merits of those complaints. The Government submitted their observations on 2 June and 25 August 1998 after an extension of the time-limit fixed for that purpose. The applicant replied on 13 July and 13 October 1998.

5. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

6. The application was allocated to the Third Section of the Court (Rule 52 § 1 of the Rules of Court).

7. On 14 March 2000 the Chamber declared the application admissible.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

8. On 27 November 1993 Strasbourg police officers spotted an occupied vehicle parked in a car park. It turned out that the vehicle had been stolen the previous day in Strasbourg. The investigators proceeded to arrest O.H., who had come to take delivery of the stolen vehicle, and S.B., who had handled it. The on-the-spot investigation established that other transactions had taken place and that the two arrested men used to meet in a hotel in Brumath (Bas-Rhin). The police officers went to the hotel where they arrested O.H.'s wife and Miss C.E. while the latter was about to get into a vehicle belonging to the applicant.

9. When questioned at the hotel C.E. stated that her boyfriend, the applicant, had been staying at the hotel for some time, but had been taken into hospital in Germany on 26 November 1993 because his health had given cause for alarm.

10. Their hotel room was searched. The investigators seized a German passport in the applicant's name, 7,700 German marks (DEM) and 2,150 French francs (FRF) found in C.E.'s handbag, bank documents, a vehicle registration certificate and various hand-written documents. Those items were sealed and deposited at the consignment of exhibits department at the Strasbourg *tribunal de grande instance*.

11. After her release from police custody no court proceedings were brought against C.E. None were brought against the applicant either.

12. On 30 November 1993 O.H. and S.B. were charged by an investigating judge of the Strasbourg *tribunal de grande instance*.

13. The applicant's lawyer lodged an application under Article 99 of the Code of Criminal Procedure on 6 December 1993, registered at the investigating judge's office on 8 December 1993, requesting the investigating judge to return the money and other seized items, including the passport. He received no reply from the investigating judge.

14. On 5 January 1994 the applicant was arrested by the criminal police of Pirmasens (Germany) and convicted by a criminal court in Landau. Since then he has since been imprisoned in Zweibrücken Prison, where he is due to remain until 4 March 2006.

15. O.H. and S.B. were committed for trial at the Strasbourg Criminal Court where they were tried and convicted on 13 June 1994 without the applicant or his girlfriend having been informed. The applicant could not therefore lodge an application for the return of his possessions with the criminal court trying the case.

16. On 14 September 1994 the applicant's lawyer renewed his request to the investigating judge of 6 December 1993. He received no reply.

17. On 28 October 1994 the applicant's lawyer lodged an application with the public prosecutor under Article 41-1 of the Code of Criminal Procedure for the return of the DEM 7,700, the bank statements and a rechargeable mobile-telephone battery.

18. On 7 November 1994 the public prosecutor refused his application on the ground that the items had been confiscated by order of the Criminal Court in its judgment of 13 June 1994 in the proceedings against O.H. and S.B. In his reply the public prosecutor referred to the application lodged with the investigating judge on 6 December 1993 and renewed on 14 September 1994.

19. On 6 January 1995 the applicant's lawyer lodged an application with the Sixth Criminal Division of the Strasbourg *tribunal de grande instance* under Article 710 of the Code of Criminal Procedure for the return of the seized items. The application, which just bore the stamp of the Strasbourg public prosecutor's office, dated 6 January 1995, concerned the applicant's passport, the DEM 7,700, the bank statements and the rechargeable mobile-telephone battery.

20. On 6 February 1995 the public prosecutor replied to that application as follows:

“Despite my letter of 7 November 1994 advising you that nothing could be returned to Mr Baumann on any grounds whatsoever because the court had ordered confiscation of the sealed items, you persist in wishing to obtain a hearing in connection with the sealed items in question.

I regret to have to repeat myself in pointing out that the judgment dated 9 May 1994 has become *res judicata* and that Article 710 of the Code of Criminal Procedure does not provide for the reopening of proceedings terminated by a confiscation decision which has become final.

Article 710 of the Code of Criminal Procedure is reserved for interlocutory applications relating to the execution of a decision and not disputes about the penalties imposed. The court in question did not have any power to reconsider a measure which had become *res judicata*. ...”

21. In a letter of 12 February 1996 C.E. requested the public prosecutor to return the seized DEM 7,700 and FRF 2,150 on the ground that the money belonged to her and that she was not in any way involved in the criminal proceedings. In a letter of 29 April 1996 she renewed her request, stating among other things: “my ex-boyfriend has put me in a difficult position which has seriously changed my life ... I have incurred debts because of him ... it is very important for me to recover my money...”

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Code of Criminal Procedure

22. The relevant provisions of the Code of Criminal Procedure provide:

...

Article 56

“Where the nature of the crime is such that it can be proved by seizing papers, documents or other objects in the possession of persons who appear to have participated in the crime or to hold documents or objects relating to the offence, a senior police officer shall immediately go to their place of residence where he shall search the premises and draw up a search report.

He alone, together with the persons listed in Article 57 and those to whom he may refer under Article 60, shall have power to examine papers or documents before seizing them.

However, he must first take all measures necessary to ensure that professional confidentiality and the rights of the defence are respected.

An inventory shall be made immediately of all seized objects and documents which shall then be placed under seal. Where an on-the-spot inventory presents difficulties, the items shall be provisionally sealed until an inventory of them can be made and they can be definitively sealed, which shall be done in the presence of the persons present during the search in accordance with the conditions laid down in Article 57.

With the agreement of the public prosecutor, the senior police officer shall retain only those objects and documents necessary for establishing the truth.”

...

THE LAW

...

IV. ALLEGED VIOLATION OF ARTICLE 2 OF PROTOCOL No. 4 TO THE CONVENTION

57. The applicant submitted that his right to freedom of movement had been infringed as a result of the seizure and subsequent confiscation of his passport. He relied on Article 2 of Protocol No. 4 to the Convention, which provides:

“1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of *ordre public*, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society.”

(a) Submissions of those appearing before the Court

58. The applicant submitted that the Government had implicitly acknowledged that the items in question had been unlawfully confiscated. He had therefore been unable to put forward any ground of defence or use any remedy. As he had been in lawful possession of his passport he should have had the benefit of a procedure to safeguard his rights.

59. The Government submitted that the seizure of the passport had been entirely compatible with the relevant statutory requirements and had been justified during the investigation phase by the requirements of that investigation. The public prosecutor's office had, moreover, expressly referred to this on 20 December 1993 in its submissions, appearing at the bottom of the investigating judge's order of 17 December 1993, that the passport should not be returned. The Government argued that although those requirements had ceased by 13 June 1994 at the latest, which was the date of the Strasbourg Criminal Court's judgment, the applicant had been arrested on 5 January 1994 and placed in detention by the German authorities; the Government therefore considered that the seizure of the passport could not be considered to be a restriction on the applicant's freedom of movement because the first request for its return had been

lodged by the applicant's lawyer on 8 December 1993 and the applicant had been arrested on 5 January 1994.

(b) The Court's assessment

60. The Court does not accept the Government's argument that the seizure of the passport cannot be considered to be a restriction on the applicant's freedom of movement because he requested its return on 8 December 1993 and was arrested on 5 January 1994.

It stresses that Article 2 of Protocol No. 4 does not provide for any restriction on freedom of movement based on the length of deprivation of that right. For the purposes of that Article, only reasons relating to the aims referred to in the third paragraph constitute, where applicable, lawful grounds for the adoption by the relevant authorities on the territory concerned of measures restricting freedom of movement, albeit temporarily.

In the instant case the Court notes that the national authorities' decision to seize the passport was made pursuant to a power which is territorially limited to the place where the offences were committed and in the context of an investigation on the national territory, the requirements of which, the Government argued, justified the seizure.

It therefore considers that the Government cannot rely on circumstances posterior and external to the decision taken *ab initio* by the authorities, which gave rise to the impugned measure, to justify its consequences with regard to the complaint lodged by the applicant under Article 2 of Protocol No. 4 to the Convention.

Furthermore, having regard to the fact that there was no judicial co-operation with the German authorities in the instant case, the Court cannot take into consideration the applicant's arrest by those authorities in assessing the legitimacy of the impugned restriction on the applicant's freedom of movement.

In any event, assuming that the French authorities had known of the applicant's arrest as early as 5 January 1994, which is not established, neither the length of time which elapsed between 8 December 1993 and 5 January 1994, nor the circumstances of the case, and in particular the requirements of the investigation on which the Government wished to rely until the judgment of 13 June 1994, can rule out the possibility that the applicant was effectively the victim of an infringement of the exercise of his right of freedom of movement.

Accordingly, the Court must examine whether seizing the passport and keeping it under seal until the Criminal Court's judgment of 13 June 1994 could be considered to be a measure which was "necessary in a democratic society".

I. Principles established by Article 2 of Protocol No. 4 to the Convention and the case-law of the Convention institutions

61. The Court reiterates that the right of freedom of movement as guaranteed by paragraphs 1 and 2 of Article 2 of Protocol No. 4 is intended to secure to any person a right to liberty of movement within a territory and to leave that territory, which implies a right to leave for such country of the person's choice to which he may be admitted (see, *mutatis mutandis*, Peltonen v. Finland, Commission decision of 20 February 1995, Decisions and Reports (DR) 80-A, p. 43, § 31). It follows that liberty of movement prohibits any measure liable to infringe that right or to restrict the exercise thereof which does not satisfy the requirement of a measure which can be considered as “necessary in a democratic society” in the pursuit of the legitimate aims referred to in the third paragraph of the above-mentioned Article.

62. Accordingly, the Court considers that a measure by means of which an individual is dispossessed of an identity document such as, for example, a passport, undoubtedly amounts to an interference with the exercise of liberty of movement (see, *mutatis mutandis*, M. v. Germany, application no. 10307/83, Commission decision of 6 March 1984, DR 37, p. 113).

63. In the instant case the Court finds that as a result of the seizure of the objects in question, the applicant was deprived of his passport and could not, at the very least from the date of his application for its return on 8 December 1993, retrieve it. Accordingly, it observes that he was denied the use of that identity document, which, had he wished, would have permitted him to leave the country and to go to any other country of the European Union or to a non-European Union country. It therefore finds that the applicant's right to liberty of movement was restricted in a manner amounting to an interference within the meaning of Article 2 of Protocol No. 4 to the Convention (see, *a contrario*, the Piermont v. France judgment of 27 April 1995, Series A no. 314, p. 20, § 44, and, *mutatis mutandis*, the Guzzardi v. Italy judgment of 6 November 1980, Series A no. 39, p. 33, § 92; the Raimondo v. Italy judgment of 22 February 1994, Series A no. 281-1, p. 19, § 39; and *Labita v. Italy* [GC], no. 26772/95, 6.4.2000, pp. 38 to 39, § 193).

It remains to be determined whether that restriction was “in accordance with the law” and was a “necessary measure in a democratic society”.

II. Requirement of a measure “in accordance with the law”.

64. The Court notes that the passport was seized and placed under seal by a senior police officer on 27 November 1993 in the context of an on-the-spot investigation governed by Article 56 of the Code of Criminal Procedure. Consequently, the Court finds that the applicant's liberty of movement was restricted in accordance with the law.

III. Necessity of the measure “in a democratic society” in the pursuit of legitimate aims.

65. The Court must examine the question whether the seizure and placing under seal of the passport, which were initially “in accordance with the law” but produced ongoing effects, could continue, as the investigation progressed, to be considered a measure which was “necessary in a democratic society” within the meaning of the third paragraph.

The Court notes, firstly, that only O.H. and S.B. were charged on 30 November 1993. The applicant received no reply to his application to the investigating judge on 8 December 1993 for the return of the seized objects and was therefore unable to ascertain the grounds justifying the deprivation of his passport.

The Court also notes that in respect of the reference in the investigating judge's order to the application for return of sealed exhibit no. 14 the public prosecutor argued, in his submissions of 20 December 1993, that he could not grant the application because it was “premature at this stage of the current investigations”. The Court notes at the outset that the inventory of documents placed under seal lists only the amounts of money seized and makes no mention of the passport. Consequently, the Court is of the opinion that since the public prosecutor's decision could not have referred to the passport (which did not appear among the listed sealed items), the Government cannot rely on that decision to justify failing to return that document on grounds of the requirements of the investigation, particularly as, in his application for return lodged on 8 December 1993, the applicant expressly referred to his passport among the objects which had been seized.

66. Having regard to the development of the case and the outcome of the investigation, the Court notes that the applicant was neither prosecuted nor considered to be a witness and remained uninvolved in the proceedings in the Criminal Court. In that connection it does not find any ground, from 8 December 1993 (when the first application was lodged) onwards, to justify prolonging a measure which had initially been taken as part of the on-the-spot investigation and resulted in the deprivation of the applicant's passport and the continuing interference with his right to liberty of movement.

Consequently, having regard to the foregoing and, further, to the fact that a passport is a strictly personal document, the Court does not see any reason to accept that the requirements of the investigation underway, on which the Government relied until the judgment of the Criminal Court of 13 June 1994, could validly justify the decision not to return the applicant's passport.

67. In conclusion, the Court finds that from 8 December 1993 onwards the interference with the applicant's liberty of movement was not a measure “necessary in a democratic society” proportionate to the aims pursued (see,

mutatis mutandis, the above-mentioned Raimondo v. Italy judgment, and *Labita v. Italy* [GC], no. 26772/95, § 197, ECHR 2000-IV).

Accordingly, there has been a violation of Article 2 of Protocol No. 4.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

68. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

69. The applicant claimed an aggregate sum of DEM 57,000 in compensation for the damage sustained as a result of the deprivation of his passport and of various other items and for the irrecoverable costs incurred in the domestic proceedings.

70. The Government noted that the applicant claimed payment of an amount corresponding to the money which had been confiscated and the expenses incurred in the domestic proceedings. They submitted that there was no evidence from which to conclude that if the court had ruled on the application for return of the seized objects, it would have granted it. They stressed that serious doubts had arisen as to who owned the seized money. Accordingly, they submitted that the applicant could not claim compensation for loss in respect of which it had not been established that he was the victim. Moreover, according to the Government, any loss sustained as a result of failure to return the passport was entirely symbolic since the applicant had been imprisoned since January 1994 and was not due to be released until 2006. He had not therefore had any opportunity to use his passport. In the Government's opinion, a finding of a violation would in itself constitute sufficient compensation for non-pecuniary damage.

71. The Court notes that the ground for awarding just satisfaction is that the applicant did not have effective access to a tribunal within the meaning of Article 6 § 1. The Court cannot of course speculate as to what the outcome of the proceedings for the return of the seized objects would have been if the applicant had had effective access to a tribunal, but considers that the applicant sustained non-pecuniary damage as a result both of the investigating judge's failure to rule on his application and the decision taken in error by the public prosecutor's office; the mere finding of a breach of Article 6 of the Convention in the present judgment cannot remedy that damage. In addition, the Court accepts that the applicant must have sustained some non-pecuniary damage as a result of the breach of Article 2

of Protocol No. 4, which is not sufficiently compensated by a finding of a breach. Having regard to the facts of the case and ruling on an equitable basis, as required by Article 41 of the Convention, the Court decides to award the applicant FRF 20,000 for all heads of damage.

B. Costs and expenses

72. The applicant claimed FRF 13,639 for legal fees and expenses incurred in the domestic proceedings. He produced details of the invoices for the procedural steps taken in the proceedings, which he broke down as follows:-

(a) FRF 3,558 for the application for return of the seized objects, lodged with the investigating judge on 6 December 1993 under Article 99 of the CCP;

(b) FRF 4,032.40 for the application for return of the seized objects, lodged with the public prosecutor on 28 October 1994 under Article 41-1, paragraph 1 of the CCP;

(c) FRF 4,032.40 for the application for return of the seized objects, lodged by his lawyer with the Criminal Court on 6 January 1995 under Article 710 of the CCP.

However, those invoices amount to a total of only FRF 11,622.80

He also claimed FRF 53,064 for costs incurred in the proceedings before the Convention institutions.

73. The Government submitted that the costs of the domestic proceedings could not be taken into account in the instant case. They submitted further that the amount of FRF 53,064, claimed for the costs of the proceedings before the European Court, greatly exceeded the sums awarded by the Court in similar cases and proposed, for their part, FRF 10,000.

74. The Court reiterates that under Article 41 of the Convention expenses may be reimbursed only in so far as it has been established that they were actually and necessarily incurred and were reasonable as to quantum. The Court is satisfied that this was the case here because the invoices submitted by the applicant correspond to the costs necessarily incurred in the domestic proceedings for the applications for the return of his passport, among other things, and hence to remedy the infringements of Article 6 § 1 of the Convention and Article 2 of Protocol No. 4 of the Convention found by the Court.

With regard to the expenses incurred before the Convention institutions, the Court agrees with the Government that the amount claimed is excessive.

Ruling on an equitable basis, it awards an aggregate sum of FRF 30,000.

C. Default interest

75. According to the information available to the Court, the statutory rate of interest applicable in France at the date of adoption of the present judgment is 4.26% per annum.

FOR THESE REASONS, THE COURT

1. *Joins* unanimously *to the merits* the Government's preliminary objection and dismisses it;
2. *Holds* unanimously that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* unanimously that it is not necessary to examine the complaint based on Article 1 of Protocol No. 1 to the Convention;
4. *Holds*, by four votes to three, that there has been a violation of Article 2 of Protocol No. 4 to the Convention;
5. *Holds* unanimously
 - (a) that the respondent State is to pay the applicant, within three months of the date on which the judgment becomes final according to Article 44 § 2 of the Convention, 20,000 (twenty thousand) French francs for non-pecuniary damage and 30,000 (thirty thousand) French francs for costs and expenses,
 - (b) that simple interest at an annual rate of 4.26% shall be payable from the expiry of the above-mentioned three months until settlement;
6. *Dismisses* unanimously the remainder of the claim for just satisfaction.

Done in French, and notified in writing on 22 May 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

L. LOUCAIDES
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the joint partly dissenting opinion of Mr Costa, Sir Nicolas Bratza and Mrs Greve is annexed to this judgment.

L.L.
S.D.

JOINT PARTLY DISSENTING OPINION OF JUDGES COSTA,
BRATZA AND GREVE

Unlike the majority of our colleagues, we have not found an infringement by France of Article 2 of Protocol No. 4.

The provisions of that Article appear to us to be clear and, furthermore, supported by the preparatory documents: they allow everyone lawfully within the territory of a State the right to liberty of movement and freedom to choose their residence, and everyone to leave any country, including his own. Restrictions, whether general or limited, may be placed on those rights if they are in accordance with the law, pursue a legitimate aim and are proportionate, but, in our opinion, the issue does not even arise in this case.

The issue of an infringement can arise only in the light of the applicant's arguments and the facts of the case. According to Mr Baumann, the cause of the infringement was the seizure and subsequent confiscation of his passport (see paragraph 57 of the judgment). Those measures must also have actually interfered with his right to liberty of movement in France or his right to choose to reside there or, alternatively, to leave any country including his own.

However, the facts, as related in paragraphs 8 to 14, are as follows: the applicant, of German nationality, had resided in France, in a hotel in Brumath (Bas-Rhin) to be precise, but had been taken into hospital in Germany on 26 November 1993. It was the following day that, during an on-the-spot investigation, the investigators searched the hotel room of Mr Baumann and his girlfriend and seized a number of objects, including a German passport in the applicant's name, which they placed under seal and deposited with the consignment of exhibits department at the Strasbourg *tribunal de grande instance*. The applicant's lawyer, in an application registered on 8 December, requested the investigating judge, who had in the meantime charged two other persons, to return the seized objects, including the passport. Before any reply from the judge the applicant was arrested in Germany on 5 January 1994 (four weeks after that application for return of the seized objects), convicted by a German criminal court and imprisoned.

It therefore transpires that the seizure of Mr Baumann's passport did not deprive him of the right to leave France, since his passport was in France at the time of the seizure and he was in Germany. Could the impugned measure have prevented him from leaving Germany? That has never been alleged and, moreover, the applicant, who had "forgotten" the passport in France could have made a declaration to the German authorities that he had lost it and applied for a new one. Lastly, we fail to see how the seizure of a passport could interfere with a person's freedom of movement in France or

prevent them from residing there if they were in Germany and had left the seized document in France!

Indeed, there is no causal link, in our view, between the impugned seizure - wholly unlawful as it may have been, which is an entirely separate matter - and the applicant's freedom of movement. Admittedly, in many cases the withdrawal of a person's passport (which is hardly an anodyne measure) has the effect (and generally the aim) of restricting their freedom of movement. In such cases it has to be determined whether the restriction is compatible with Article 2 of Protocol No. 4.

That was the situation in a case giving rise to a decision of the Commission, to which the majority of the Court refer in paragraph 61 of the judgment (*Peltonen v. Finland*, application no. 19583/92, Commission decision of 20 February 1995, DR 80-A, p. 38), in which the applicant, who was a Finnish national living in Sweden, was refused a passport by the Finnish authorities on the ground that he had not attended the call-up for military service. The Commission considered that the refusal to issue him with a passport constituted an interference with the right guaranteed by Article 2 of Protocol No. 4 even though the refusal in question had not prevented the applicant from leaving Finland or from leaving one Nordic country for another. However, it is clear from the circumstances of that case that the restriction on the applicant's freedom of movement was intended not only to penalise his refusal to do military service, but also materially and continuously affected his freedom to leave the region for the purposes, among other things, of seeking employment. Nothing of that kind was in issue here, which is why we really do not see any way, other than a contrived one, of linking the seizure with the applicant's actual freedom.