



The confiscation of a building, as an additional penalty, was not a disproportionate measure in fighting organised crime

In its decision in the case of [Djordjević v. France](#) (application no. 15572/17) the European Court of Human Rights has unanimously declared the application inadmissible.

The case concerned the confiscation of a building belonging to the applicant, who had been convicted of a repeat offence of criminal conspiracy, in application of an additional penalty allowing property to be confiscated in blanket fashion.

The Court noted that the confiscation had an accessible and foreseeable legal basis, aimed at fighting organised crime by penalising participation in criminal conspiracy through a dissuasive pecuniary penalty. It also noted that the confiscation of criminal assets now played an important role, both in the legal system of several contracting States and on an international level, and that it was currently used not only for the purpose of producing evidence of criminal activity, but also as a separate penalty for an offence. Having regard to the highly reprehensible nature of the applicant's conduct and the profits made by the criminal organisation headed by him, the Court concluded that the confiscation had not been disproportionate. Lastly, the Court noted that the applicant had been able to present his case sufficiently before three levels of jurisdiction.

The decision is final.

Principal facts

The applicant, Zlatimir Djordjević, is a Yugoslav national who was born in 1961 and lives in Bondy (France).

A judicial investigation, opened in April 2010, established that about ten young women had committed a series of burglaries in Switzerland and Germany between September 2009 and May 2010. It was shown that these thefts had been carried out on the instructions and to the benefit of men belonging to a single criminal organisation, controlled from the Paris region by Mr Djordjević.

On 22 November 2010 the investigating judge ordered the seizure of two residential properties located in Bondy. Building A, acquired by Mr Djordjević and his companion in their joint names in 1990 and in which the couple lived, was valued at 350,000 euros (EUR). Building B, of which Mr Djordjević had been the sole owner since 1998, was valued at EUR 817,000. On 2 April 2013 Mr Djordjević was committed to stand trial before the criminal court for the repeat offence of criminal conspiracy.

In a judgment of 9 May 2014, the Colmar Criminal Court convicted him. It ordered, among other penalties, the confiscation of Building A. Having regard to the applicant's state of health, the criminal court did not issue a warrant of commitment.

Mr Djordjević and his companion lodged appeals only against the confiscations of property.

By a judgment of 6 October 2015, the Colmar Court of Appeal set aside the confiscation of Building A and ordered the confiscation of Building B. Their appeal on points of law was dismissed.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 21 February 2017.

Relying on Article 1 of Protocol No. 1 (protection of property), the applicant maintained that the confiscation of the building had constituted a disproportionate interference with his property rights. He pointed out that the property had been acquired lawfully long before the commission of the offences for which he was sentenced by the criminal courts. Relying on Article 8 (right to respect for private and family life), the applicant alleged there had been a breach of his right to his home and to his private and family life.

The decision was given by a Committee of three judges, composed as follows:

Stéphanie **Mourou-Vikström** (Monaco), *President*,
Jovan **Ilievski** (North Macedonia),
Arnfinn **Bårdsen** (Norway),

and also Martina **Keller**, *Deputy Registrar*.

Decision of the Court

Article 1 of Protocol No. 1

The Court noted that the confiscation had been ordered pursuant to Article 450-1 of the Criminal Code. This accessible, precise and foreseeable legal basis was aimed at fighting organised crime by penalising participation in criminal conspiracy through a dissuasive pecuniary penalty. The Court had no doubt that the fight against organised crime was an aim which served the public interest.

With regard to proportionality, the Court noted that the confiscation of criminal assets now played an important role, both in the legal system of several contracting States and on an international level, and that it was currently used not only for the purpose of providing evidence of criminal activity, but also as a separate penalty for an offence. The Court had already acknowledged that confiscation could involve some of an individual's assets, without the confiscated property necessarily being the object of the offence, the means of committing it, or a direct profit from it. The Court pointed out that the disputed confiscation had been imposed as a penalty for particularly serious offences, committed as a repeat offence. In the present case, the Court noted that the national courts had ordered only a partial confiscation of the applicant's immovable property and had had regard to the scale of the profits earned by the criminal organisation which the applicant led.

The Court noted that the applicant had been able to present his case sufficiently before three levels of jurisdiction as part of an adversarial trial, during which he had been assisted by a lawyer and had been able to put forward all his arguments.

In view of the foregoing and the respondent State's considerable discretion, particularly in connection with a crime-prevention policy, the Court considered that the disputed confiscation had not been disproportionate in relation to the public-interest aim pursued.

This part of the application was manifestly ill-founded and had to be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

Article 8

The Court noted that there was no evidence that the applicant had been living in the confiscated property when the present case had been determined by the domestic courts. Furthermore, like the Court of Appeal, the Court noted that the applicant was the owner of another property, located in the immediate vicinity of the confiscated property, in which he could provide accommodation for his relatives. The Court found no appearance of a violation of Article 8 of the Convention. The complaint was manifestly ill-founded and had to be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

The decision is available only in French.

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