



Confiscation of cash and property in bribery investigation was a reasonable measure

In today's Chamber judgment¹ in the case of [Telbis and Viziteu v. Romania](#) (application no. 47911/15) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights,
and,

no violation of Article 1 of Protocol No. 1 (protection of property) to the European Convention.

The case concerned the seizure of cash and property from the applicants on the suspicion that they had benefited from bribes taken by a close relative, a doctor who made decisions on work capacity in a pensions office. He later admitted to the charges and was sentenced to three years in prison.

The Court found that all three applicants, the wife, daughter and niece of the man convicted, had been able to argue their case in court that the confiscated property had been gained lawfully. However, after a careful examination, the domestic court had found against them. They had been given a reasonable and sufficient opportunity to protect their interests.

On the alleged violation of property rights, the Court observed that the fight against corruption was a legitimate aim for the Government. It had also been reasonable for the authorities to require the applicants to show the lawful origin of the assets, given their relationship to the convicted man. The interference with the first two applicants' rights over their possessions had not been disproportionate. The third applicant's claim under this provision was declared inadmissible.

Principal facts

The applicants, Luminița Telbis, Laura Andrea Telbis and Maria Agata Viziteu, are Romanian nationals who were born in 1964, 1991 and 1982 respectively. The first two applicants live in Timișoara (Romania) while the third lives in Lantosque (France).

In March 2014 the authorities opened an investigation into bribe-taking by S.T., the first applicant's husband, who is also the second applicant's father and the third applicant's uncle. Various assets were seized during the investigation, including cash, two flats, two garages and two cars. The applicants argued that the assets had been obtained lawfully and had nothing to do with the alleged crimes. S.T. eventually admitted his guilt and was sentenced to three years' imprisonment.

The applicants appealed against the asset seizure order, but they were unsuccessful. The appeal court found in March 2015 that there was a large discrepancy between their income and their spending on the property in question.

It observed that the first applicant and her husband could not have accumulated enough money from their salaries to acquire such a large number of properties and vehicles, that the second applicant was a student with no proof that she had ever had any income, and that there was no

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

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

evidence that the third applicant had ever asked her uncle to look after cash amounting to 40,400 euros, which she had argued was hers.

Complaints, procedure and composition of the Court

The applicants complained under Article 6 § 1 (right to a fair trial) that they had not been able to defend their rights during the proceedings against S.T. and that the confiscation of their property without their being convicted of a criminal act was in breach of Article 1 of Protocol No. 1 (protection of property) to the Convention.

The application was lodged with the European Court of Human Rights on 2 November 2015.

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

Ganna **Yudkivska** (Ukraine), *President*,
Vincent A. **De Gaetano** (Malta),
Faris **Vehabović** (Bosnia and Herzegovina),
Egidijus **Kūris** (Lithuania),
Iulia **Motoc** (Romania),
Georges **Ravarani** (Luxembourg),
Péter **Paczolay** (Hungary),

and also Marialena **Tsirli**, *Section Registrar*.

Decision of the Court

Article 6 § 1

The Court noted that the applicants' argument of unfair proceedings was based on the fact that they had not been summoned to take part in S.T.'s trial at the outset and had not been able to defend their rights related to the confiscation. The appeal court had also refused to admit some evidence.

The Court observed that under domestic law, the trial court had not been obliged to grant them the status of interested parties of its own motion as they had had the right themselves to intervene at any stage. They had exercised that right at the appeal stage and had had a full hearing.

The appeal court, after a thorough analysis, had found that the assets acquired by S.T. and his wife could not have been funded by their salaries alone, while the second applicant had no income at all. The court had also examined the third applicant's arguments and rejected them as lacking proof.

The Court found no reason to disagree with the domestic court's decision to reject the applicants' request to submit fresh evidence, which had come at the end of the appeal and after earlier opportunities for such submissions had passed. The appeal court had found that it had enough evidence to make a decision.

Overall, the Romanian authorities had given the applicants reasonable and sufficient opportunity to protect their interests and there had been no violation of Article 6 § 1.

Article 1 of Protocol No. 1

The Court declared the third applicant's application under this Article inadmissible, agreeing with the domestic courts that there was no proof that the money in question was actually hers. She therefore had no claim or possession within the meaning of the Convention.

Otherwise, the confiscation had been part of a fight against corruption, which was a legitimate aim for the Government to pursue. There were also common European legal standards which encouraged the seizure of property linked to such serious crimes, even without a prior conviction.

It had been reasonable for the authorities to have shifted the burden onto the applicants, who were members of S.T.'s family and might have gained from his activities, to prove that the property had been gained lawfully. Indeed, the authorities had only confiscated part of the assets, showing their caution in following national law and Constitutional Court guidance on such issues.

The Court also took account of the specific circumstances of the confiscation: S.T. had been found guilty of taking 291 bribes over just five weeks, damaging the State and the social security budget. The amount of assets the family had acquired over a fairly short time had clearly not been in proportion to their lawful income.

The Court found that there had been no violation of the applicants' property rights: the domestic courts had assessed the case fairly and the proceedings had not been arbitrary. The authorities' actions had not been disproportionate to the legitimate aim of fighting corruption, an area where the State had wide discretion ("wide margin of appreciation"), and the applicants had had a reasonable opportunity to put their case through adversarial proceedings.

The judgment is available only in English.

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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.