



An order to demolish two houses illegally constructed on agricultural land did not breach the Convention

In its decision in the case of [Kvyatkovskiy v. Russia](#) (application no. 6390/18) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned the domestic courts' decision to order the demolition of two buildings belonging to the applicant.

The Court considered that the judicial order to demolish the buildings was intended to control the use of property in accordance with the general interest, since the aim was to ensure compliance with urban planning and construction rules and to ensure that land was used in accordance with the purpose identified in the land-use plan.

In registering a title to immovable property on the basis of a system which was closer to a reporting procedure than to an authorisation procedure, the authorities had not provided the applicant with assurances that he would be safe from prosecution. In addition, as a result of their prompt response, the authorities had done nothing to prolong any uncertainty which the applicant might have experienced as to the lawfulness of the construction.

Principal facts

The applicant, Viktor Bronislavovich Kvyatkovskiy, is a Russian national who was born in 1971 and lives in Moscow.

In 2009 the Leninskiy district authorities (Moscow Region) issued two building permits for the construction of individual houses on two plots of agricultural land which had been joined within a cooperative farming association. In November 2012 Mr Kvyatkovskiy purchased the two plots and registered his title to them in the unified register of immovable property. In 2013 he had two three-floor buildings constructed on the land and registered his title to them. In 2016 the authorities noted that the buildings constructed by the applicant were made up of several dwellings, although the building permits had been issued for the construction of individual houses, and that no agricultural activity was being carried out on the plots of land.

In November 2016 the authorities brought proceedings against Mr Kvyatkovskiy. On 20 February 2016 the court found that the building permits had been issued for the construction of individual houses, whereas the buildings had been erected as hotel-type constructions comprising several apartments. It added that the buildings had been constructed on plots of agricultural land that were not intended for dwellings of that type, in flagrant violation of the land-use and planning regulations. The court held that the buildings were illegal constructions and ordered that they be demolished at the applicant's expense. The Moscow Regional Court upheld the judgment, and an appeal on points of law by Mr Kvyatkovskiy was dismissed.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 25 January 2018.

Relying on Article 6 § 1 (right to a fair hearing) and Article 1 of Protocol No. 1 (protection of property), the applicant complained about the domestic courts ordering him to demolish his buildings.

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

Vincent A. **De Gaetano** (Malta), *President*,
 Branko **Lubarda** (Serbia),
 Dmitry **Dedov** (Russia),
 Pere **Pastor Vilanova** (Andorra),
 Alena **Poláčková** (Slovakia),
 Georgios A. **Serghides** (Cyprus),
 Jolien **Schukking** (the Netherlands),

and also Fatoş **Aracı**, *Deputy Section Registrar*.

Decision of the Court

Article 1 of Protocol No. 1

The Court considered that Mr Kvyatkovskiy had raised a single complaint concerning the obligation imposed on him to destroy his buildings, which related solely to Article 1 of Protocol No. 1 (protection of property).

The Court noted at the outset that the judicial order to demolish the buildings constituted an interference with the applicant's right to the peaceful enjoyment of his possessions. That measure had been intended to control the use of property in accordance with the general interest, since the aim was to ensure compliance with urban planning and construction rules and to ensure that land was used in accordance with the purpose identified in the land-use plan.

The Court then observed that the domestic court had classified the buildings constructed by Mr Kvyatkovskiy as "illegal" and had dismissed the argument that they had been built in line with the building permits. The domestic court had found that the buildings did not meet the criteria for individual houses but were in fact hotel-type buildings made up of several flats. For this reason, the Court considered that the interference, based on Article 222 of the Civil Code, had indeed been "subject to the conditions provided for by law".

The Court considered that Mr Kvyatkovskiy could not legitimately have believed, in the absence of the necessary permits, that the hotel-type buildings had been lawfully constructed and that he was safe from any proceedings. Mr Kvyatkovskiy had applied to register his ownership of the buildings by submitting to the authorities only the contracts for the sale of the plots of land on which they had been constructed. In the context of this simplified registration procedure, the only check that the authorities could conduct was to verify the documents submitted as proof of title and the applicant's identity papers.

The Court considered that in proceeding with the registration of Mr Kvyatkovskiy's title to immovable property on the basis of a system which was closer to a reporting procedure than to an authorisation procedure, the authorities had not provided assurances that he would be safe from prosecution. In addition, the Court noted that by responding relatively quickly – less than a year after the ownership title had been registered – the authorities had not contributed to prolonging any uncertainty which Mr Kvyatkovskiy might have experienced.

Lastly, as the construction of buildings made up of several dwellings was prohibited on these plots of land, which were intended for agricultural use, no measure to regularise the situation other than their demolition seemed to be open to the authorities. In consequence, it did not seem that Mr Kvyatkovskiy had had to bear a disproportionate and excessive burden that was incompatible with the right to the peaceful enjoyment of his possessions.

The application was manifestly ill-founded and had to be rejected.

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.