



Grand Chamber to examine cases concerning confiscations of assets in the absence of criminal convictions

On 5 May 2026, the Chamber of the European Court of Human Rights to which the cases of **Macagnino and Marzo v. Italy** (applications nos. 61799/15 and 62690/15) and **Cavallotti and Others v. Italy** (applications nos. 29614/16 and 3 others) had been allocated **relinquished jurisdiction in favour of the Grand Chamber of the Court**¹.

The cases concern confiscations of assets, known as “preventive confiscations” in Italian law, which are measures taken in respect of individuals who, on account of their behaviour and lifestyle and on the basis of factual evidence, may be regarded as habitually living, even in part, on the proceeds of crime (on grounds of “ordinary dangerousness”), and in respect of individuals suspected, *inter alia*, of membership of a mafia-type organisation (on grounds of “special dangerousness”).

Macagnino and Marzo v. Italy (applications nos. 61799/15 and 62690/15)

Principal facts and complaints

The applications concern the confiscation of the assets of two Italian nationals (the applicants), who are husband (A.M.) and wife (O.M.).

A.M. was declared “socially dangerous” by the Italian courts on the grounds that he had committed a number of offences (theft, handling stolen goods and illegal possession of weapons) between 1983 and 1999.

In April 2013 the Lecce District Court ordered the confiscation of the assets the couple had acquired between 1980 and 2012 (houses – including the family home – land, companies, bank accounts, etc.), finding that they belonged to A.M. even though they were formally owned by O.M. In particular, the District Court considered that the assets were disproportionate to the couple’s lawful income and that their lawful origin had not been demonstrated.

The applicants challenged the measure, arguing that some of the confiscated assets had been acquired before and after the period in which A.M. had been considered socially dangerous. They alleged that these assets were derived from additional lawful activities and income that had not been declared to the tax authorities.

In August 2015 the Court of Cassation observed that “the vast majority” of the confiscated assets had been purchased during the period in which A.M. had been declared socially dangerous and that, in accordance with its case-law, the measure had to be applied in respect of all unlawfully acquired assets, including those deriving from tax evasion.

Before the Court, the applicants rely on Articles 6 (right to a fair hearing), 8 (right to respect for family life and home) of the Convention, and on Article 1 of Protocol No. 1 (protection of property) to the Convention.

¹ Under Article 30 of the European Convention of Human Rights “Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber.”

Procedure

The applications were lodged with the European Court of Human Rights on 7 and 17 December 2015 respectively. On 6 December 2023 the Italian Government were given notice² of the applications, with questions from the Court. A statement of facts is available only in English on the Court's internet site ([link](#)). The Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber on 5 May 2026.

Cavallotti and Others v. Italy (applications nos. 29614/16 and 3 others)

Principal facts and complaints

The case concerns four applications lodged by seven Italian nationals, falling into two groups.

The first group comprises three applicants who were prosecuted on charges of participation in a mafia-type criminal organisation within the meaning of Article 416 *bis* of the Criminal Code. Two of them were also charged with bid-rigging within the meaning of Article 353 of the Criminal Code, but those proceedings were subsequently declared time-barred. The three applicants were later acquitted of participation in a mafia-type criminal organisation in a final judgment of the Palermo Court of Appeal of 6 December 2010.

In separate proceedings for the application of a preventive confiscation measure, the domestic courts found that these three applicants were "suspected of membership of a mafia-type criminal organisation". On that basis, it ordered the confiscation of the assets formally owned by them, together with those formally owned by members of their family (namely, the four other applicants making up the second group) as in fact being at the disposal of the first group of applicants, on account of the discrepancy between the value of these assets and their owners' lawful income and the inability of the latter to demonstrate their lawful origin. The confiscation became final with a judgment of the Court of Cassation delivered on 2 February 2016.

Before the Court, the applicants rely on Article 6 §§ 1 and 2 (right to a fair hearing/presumption of innocence) of the Convention and on Article 7 (no punishment without law) of the Convention and Article 1 of Protocol No. 1 (protection of property) to the Convention.

Procedure

The applications were lodged with the European Court of Human Rights in May, June and August 2016 respectively. On 10 July 2023 the Italian Government were given notice of the applications, with questions from the Court. A statement of facts is available only in English on the Court's internet site ([link](#)). The Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber on 5 May 2026.

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² In accordance with Rule 54 of the Rules of Court, a Chamber of seven judges or the President of the Section may decide to bring to the attention of a Convention State's Government that an application against that State is pending before the Court (the so-called "communications procedure"). Further information about the procedure after a case is communicated to a Government can be found in the Rules of Court.

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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.