

No.	Adjudicating entity	Type of ruling	Date	Ref. number	Parties
1.	ECHR	judgement	22.02.1994	12954/87	Raimondo v. Italy
2.	ECHR	judgement	09.02.1995	17440/90	Welch v. The United Kingdom
3.	ECHR	judgement	05.07.2001	41087/98	Phillips v. The United Kingdom
4.	ECHR	decision	05.07.2001	52024/99	Arcuri and three others v. Italy

5.	ECHR	decision	04.09.2001	52439/99	Riela v. Italy
6.	ECHR		25.03.2003	55927/00	Madonia v. Italy
7.	ECHR	decision	05.07.2005	19581/04	Van Offeren v. the Netherlands
8.	ECHR	judgement	01.06.2007	30810/03	Geerings v. The Netherlands

9.	ECHR	decision	10.07.2007	696/2005	Dassa Foundation v. Liechtenstein
10.	ECHR	judgement	13.11.2007	399/02	Bocellari and Rizza v. Italy
11.	ECHR	judgement	23.09.2008	app. nos. (joined cases) 19955/05 & 15085/06	Grayson and Barnham v. the United Kingdom
12.	ECHR		25.09.2008	42132/06	Paraponiaris v. Greece
13.	ECHR		05.01.2010	4514/07	Bongiorno and others v. Italy

14.	ECHR	judgement	01.04.2010	16903/03	Denisova and Moiseyeva v. Russia
15.	ECHR	judgement	12.05.2014	6219/08	Paulet v. The United Kingdom
16.	ECHR	decision	04.11.2014	28457/10	Aboufadda v. France
17.	ECHR	judgement	03.03.2015	12655/09	Dimitriovi v. Bulgaria

18.	ECHR	judgement	12.05.2015	36862/05	Gogitidze and others v. Georgia
19.	ECHR	judgement	17.05.2016	38359/13	Džinić v. Croatia
20.	ECHR	judgement	28.06.2018	1828/06	G.I.E.M. S.R.L. and others v. Italy
21.	ECHR	judgement	13.07.2021	50705/11	Todorov and others v. Bulgaria
22.	European Comission of Human Rights	decision	15.04.1991	12386/86	M. v. Italy

23.	CJEU	decision	14.01.2021	C-393/19	OM, Okrazhna prokuratura Haskovo, Apelativna prokuratura Plovdiv
24.	CJEU	judgement	21.10.2021	joined cases C-845/19 and C-863/19	DR, TS, Okrazhna prokuratura – Varna
25.	CJEU	judgement	28.10.2021	C-319/19	Komisia za protivodeystvie na koruptsiyata i za otnemane na nezakonno pridobitoto imushtestvo v. ZV, AX, „Meditinski tsentar po dermatologia i estetichna meditsina PRIMA DERM” OOD

26.	CJEU	judgement	12.05.2022	C-505/20	RR, JG, Spetsializirana prokuratura
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Examined regulations	Outcome	Additional info.
Art. 1 of the Protocol no. 1 to the ECHR	no violation/violation	No violation in respect of seizure, confiscation and the damage to property occasioned by those measures; violation inasmuch as the confiscation of some assets remained entered in the relevant registers after the decision of the Court of Appeal to return confiscated assets.
Art. 7 § 1 of the ECHR	violation	Confiscation order amounted to a penalty - the applicant faced more far-reaching detriment as a result of the order than that to which he was exposed at the time of the commission of the offences. Imposing a confiscation order retrospectively following conviction for offences is a violation.
Art. 6 § 1 of the ECHR, art. 1 of the Protocol no. 1 to the ECHR	no violation	ECHR had to decide whether the way of application of the presumption of the illegal origin of assets was in compliance with art. 6 § 1 of ECHR. The other issue revolved around proportionality of interference with the right to respect for property (art. 1 of the protocol no. 1 to ECHR).
Art. 6 § 1 and § 3, Art. 1 of the Protocol no. 1 to the ECHR	no violation	The interference with the applicant's right to peaceful enjoyment of his possessions was not disproportionate to the legitimate aim pursued; confiscation was based on "sufficient circumstantial evidence" which was not assessed arbitrarily; the proceedings for the application of preventive measures were conducted in the presence of both parties and with respect for the rights of the defence; reversing the burden of proof did not prevent the applicants from proving that their property had been lawfully acquired.

Art. 6 § 1 of the ECHR and Art. 1 of the Protocol no. 1 to the ECHR	no violation	Non-conviction based confiscation was a preventive measure and pursued a legitimate aim; it constituted control of the use of property within the meaning of the second paragraph of Art. 1 of the Protocol
		NOT AVAILABLE IN ENGLISH
Art. 6 § 2 of the ECHR	no violation	The applicant complains that the confiscation order imposed on him infringed his right to be presumed innocent under Article 6 § 2 of the Convention since it was based on a judicial finding that he had committed an offence of which he had been acquitted in the criminal proceedings that had been brought against him. According to the ECHR confiscation order procedure is directly linked to a criminal procedure and does not include bringing of any new charge within the meaning of art. 6 § 2 of the ECHR even if rules of criminal procedure do not apply to it.
Art. 6 § 2 of the ECHR	violation	Confiscation is not an appropriate measure to assets which are not known to have been in the possession of the person affected, especially if it is related to the crimes of which the defendant had been acquitted. Voicing of suspicions regarding accused's innocence is not admissible after the final acquittal; deprivation of assets in such situation is not compliant with the presumption of innocence.

<p>Art. 6 § 1 and 2, art. 7 § 1 of the ECHR, art. 1 of the Protocol no. 1 to the ECHR</p>	<p>Art. 6 and 7 not applicable, Art. 1 of the Protocol no. 1 (in this particular case) not applicable</p>	<p>Art. 6 of the ECHR was not applicable due to provisional and safeguarding (although long-lasting) character of the confiscation; the confiscation order did not determine guilt and was not reflected in any criminal record. Art. 7 was not applicable as forfeiture of assets did not amount to a penalty - it is not an additional punishment but a civil law consequence of a fact, that a person had obtained assets originating from an unlawful act; it is more comparable to a restitution of unjustified enrichment than to a punishment. Art 1 of the Protocol was not applicable due to non-exhaustion of domestic remedies.</p>
<p>Art. 6 § 1 of the ECHR</p>	<p>violation</p>	<p>The applicants had no possibility of requesting or obtaining a public hearing at both instances. Procedures before the courts were aimed at confiscation of assets and could therefore directly and significantly affect a person's financial situation. Procedures required public scrutiny in order to ensure the rights of the interested parties; the parties should be offered at least the opportunity to request a public hearing before the specialised sections of the ordinary and appeal courts.</p>
<p>Art. 6 § 1 of the ECHR, art. 1 of the Protocol no. 1 to the ECHR</p>	<p>no violation</p>	<p>Reversal of the burden of proof does not violate the right to a fair trial. Imposing an obligation to pay money under a confiscation order does not constitute a disproportionate interference with one's right to peaceful enjoyment of possessions.</p>
		<p>NOT AVAILABLE IN ENGLISH</p>
<p>Art. 6 § 1 of the ECHR, art. 1 of the Protocol no. 1 to the ECHR</p>		<p>NOT AVAILABLE IN ENGLISH</p>

<p>Art. 1 of the Protocol no. 1 to the ECHR</p>	<p>violation</p>	<p>The national courts failed to give their attention to the possibility that the confiscated property items could have belonged to family members rather than to Mr Moiseyev himself (husband and father of the applicants). The applicants, given that they did not have the opportunity to challenge effectively the confiscation measure imposed in the criminal proceedings to which they were not parties, “bore an individual and excessive burden”.</p>
<p>Art. 1 of the Protocol no. 1 to the ECHR</p>	<p>violation</p>	<p>The applicant, while not challenging the legitimacy of the confiscation, submitted, that the confiscation order made in the present case was not proportionate to the offence committed. According to the ECHR the scope of the review carried out by the domestic courts was too narrow to satisfy the requirement of seeking the “fair balance” inherent in the second paragraph of Article 1 of Protocol No. 1., thus the confiscation order was disproportionate.</p>
<p>Art. 8 of the ECHR, Art. 1 of the Protocol no. 1 to the ECHR</p>	<p>application inadmissible</p>	<p>Given the wide margin of discretion the state has, the confiscation order was not disproportionate to the legitimate aim pursued. The reversed burden of proof, connected with presumption of illegitimate origin of the assets, do not violate the Convention as the applicants were granted the possibility of rebutting the presumption.</p>
<p>Art. 1 of the Protocol no. 1 to the ECHR</p>	<p>violation</p>	<p>Disproportionate burden of proof was placed on the defendants; no time limits for the forfeiture proceedings; confiscation without conviction of the defendants.</p>

Art. 1 of the Protocol no. 1 to the ECHR	no violation	Confiscation measures can be applied not only to persons directly accused of offences but also to close relatives presumed to possess and manage the ill-gotten property informally or otherwise lacking the necessary <i>bona fides</i> . ECHR found, by analogy, that the civil proceedings <i>in rem</i> in the instant case could not be considered arbitrary or to have upset the proportionality test under Article 1 of Protocol No. 1.
Art. 13 of the ECHR, art. 1 of the protocol no. 1 to the ECHR	violation	Gross disproportionality between the alleged pecuniary gain obtained by the commission of the offences referred to in the indictment and the value of the seized property, which imposed on the defendant an excessive individual burden.
Art. 7 § 1 of the ECHR, art. 1 of the Protocol no. 1 to the ECHR	violation	Non-conviction based confiscation is incompatible with art. 7 of the ECHR; confiscation order was disproportionate and incompatible with art. 1 of the Protocol no. 1
Art. 1 of the protocol no. 1 to the ECHR	violation in respect of some applicants; no violation in respect of other applicants	The interference had pursued a legitimate aim and the Court had to determine the proportionality of it; the Court decided, that only all of the factors of the case at hand could render the forfeiture measures disproportionate although separately they do not have such an effect; the establishment of a causal link, direct or indirect, between the assets to be forfeited and the criminal activity has to be “logically justified” and based on the individual circumstances of each case.
Art. 6 § 1 and 2, Art. 7 § 1 of the ECHR, Art. 1 of the Protocol no. 1 to the ECHR	no violation	Confiscation of property whose lawful origin the applicant is unable to prove constitutes a control of the use of property and is only a preventive measure; art. 6 and 7 of the ECHR are not applicable as the preventive measure does not involve a finding of guilt subsequent to a criminal charge (does not constitute a penalty)

<p>Art. 17(1) and 47 of the Charter of Fundamental Rights, art. 2(1) of Framework Decision 2005/212, rec. 33 of Directive 2014/42</p>	<p>National law cannot extend confiscation on third parties acting in good faith. National law cannot allow for confiscation of assets belonging to a person other than the perpetrator without the former being afforded an effective remedy.</p>	<p>Main issues: confiscation of assets belonging to a third party acting in good faith, effective remedies for person (other than the one who committed an offence) whose property is being confiscated. The right to property may be subject to limitations as long as these limitations genuinely correspond to objectives of public interest pursued by the European Union and do not constitute, in relation to the aim pursued, a disproportionate and intolerable interference, impairing the very substance of the right so guaranteed.</p>
<p>Art. 47 of the Charter of Fundamental Rights, art. 2(1), art 6, art. 8(1),(7) and (9) of Directive 2014/42/EU</p>	<p>Directive 2014/42/EU and the European Charter of Fundamental rights are applicable to a criminal offence related to the possession of narcotics even if all the elements inherent in the commission of that offence are confined within a single Member State. The Directive provides for confiscation of property constituting benefit derived from the criminal offence in respect of which the perpetrator has been convicted, but also from other criminal conduct if the court is satisfied and the offence is liable to give rise to economic benefit - directly or not. National legislation, which allows for confiscation of property belonging to a third party without prior hearing of this party violates art. 8(1), (7) and (9) of the Directive as well as art. 47 of the Charter.</p>	<p>The case mostly revolves around safeguards related to confiscation of property belonging to third party as well as procedural aspects connected with this issue.</p>
<p>art. 17 and art. 48 of the Charter of Fundamental Rights of the EU</p>	<p>Directive not applicable</p>	<p>Directive does not apply to legislation of a Member State which provides that confiscation of illegally obtained assets is to be ordered by a national court in the context of or following proceedings which do not relate to a finding of one or more criminal offences.</p>

<p>art. 17 of the Charter of Fundamental Rights of the EU, art. 4(1), art. 2(3), art. 8 of the Directive 2014/42/EU</p>	<p>Art. 8(1) precludes national legislation from depriving a <i>bona fide</i> third party of the right to request the return of property at the stage of judicial proceedings; the Directive allows national legislation to exclude the confiscation of an item belonging to a <i>bona fide</i> third party and used as an instrument in the commission of an offence, including situations where the item has been placed by that third party at the disposal of the accused on a permanent basis.</p>	<p>The applicants complain that they were deprived of the right to request the return of seized property because of the stage of the proceedings - they could file a request at preparatory stage but not on judicial stage which the Court found unacceptable.</p>
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Notes
unanimously
unanimously
2 dissenting opinions
unanimously

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unanimously

unanimously

unanimously

unanimously

unanimously

1 dissenting opinion
1 separate opinion - joined by another judge; 1 concurring opinion; 1 dissenting opinion
unanimously

unanimously

unanimously

joint partly
dissenting
opinions of 7
judges

unanimously



