

Council of Europe HELP online course on Property Rights and the ECHR

Background and key concepts

The right to peaceful enjoyment of property is enshrined in Article 1 of Protocol No. 1 to the European Convention on Human Rights (ECHR). But it is very common to see States interfere with this right. Still, not all interferences are a breach of the right to property. Interferences may be justified if they pursue the general or public interest and are proportionate to the aim sought to be achieved; they must not be arbitrary. This is why it is important for legal professionals to become familiar with the extensive case law of the European Court of Human Rights (ECtHR) under Article 1 Protocol No. 1.

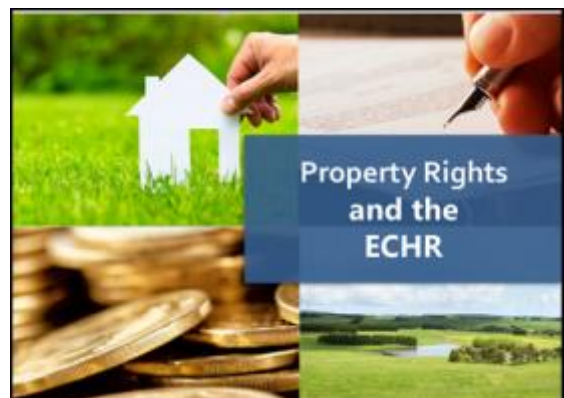
The notion of '*possession*' is an autonomous concept developed in the ECtHR's case law. This means that the ECtHR is not bound by domestic law definitions of property. It has given a broad interpretation of what should be considered a possession, which is not limited to ownership of physical goods. It covers a range of economic interests and can vary from intellectual property rights, licences, money deposited in a bank, assets or shares, the entitlement to a pension, an enforceable judgment, etc. However, the right to property does not guarantee the right to acquire it, like for instance the potential right to inherit or mere expectations. On the other hand, *legitimate expectations*, which must be more concrete than just a hope, may qualify as possessions.

States have negative and positive obligations under Article 1 Protocol No. 1: they must refrain from interfering with possession without justification and must adopt the necessary measures to ensure that the protection granted in Article 1 of Protocol No. 1 is effective.

The Article encompasses 3 separate rules: 1) the rule of peaceful enjoyment of possession, 2) the deprivation of property and 3) the control of the use of property.

Course outline (7 modules):

1. Introduction
2. Legal framework and scope
3. The three rules
4. Permissible restrictions and proportionality
5. Specific areas of interest
6. Interaction between Article 1 of Protocol No. 1 and other ECHR Articles
7. Compensation and restitution





Development of the course

The course has been developed by the Council of Europe HELP Programme (Human Rights Education for Legal Professionals) that supports the Council of Europe (CoE) member states in implementing the European Convention on Human Rights (ECHR) at the domestic level.

It has been funded by the Kingdom of Norway in the framework of the project “Reinforcing the capacities of the judiciary to apply European Human Rights Standards at the national level in Bosnia and Herzegovina”.

Target audience

This free on-line course is primarily addressed to legal professionals (judges, prosecutors, lawyers or senior court staff), but can be also useful for other state authorities, including solicitors or attorneys general, national human rights institutions, as well as civil society organizations and law students.

Access the course

To access the course, first you need to open yourself an account at HELP if you have not yet done so (<http://help.elearning.ext.coe.int/login/>) (2 min) and then you click here to access directly the course <http://help.elearning.ext.coe.int/course/view.php?id=812>.