

HELP free online course on Property Rights and the ECHR

Background and key concepts

Property Rights are everywhere and it is very common to see States interfere with these rights. Still, not all interferences are a breach of the right to property, which is enshrined in Article 1 of Protocol No. 1 to the European Convention on Human Rights (ECHR). Interferences may be legitimate if they pursue the general or public interest; however, they must not be arbitrary. This is why it is important for legal professionals to also become familiar with the case law of the European Court of Human Rights (ECtHR) on this matter.

Article 1 of Protocol No. 1 is as important as other Articles of the ECHR because it allows the individual to be independent. It is not possible to be a free person in the absence of property rights. Moreover, not only natural persons but also corporate bodies may invoke Article 1 of the Protocol.

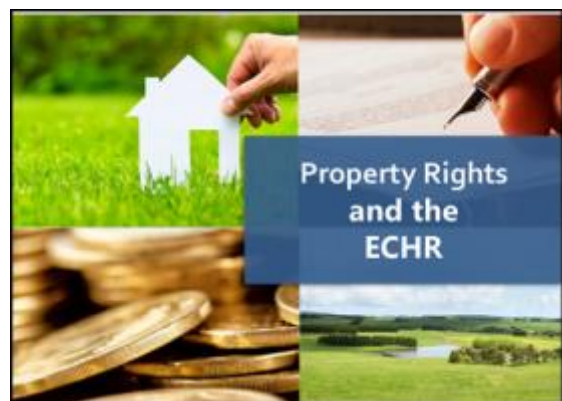
The right to property is an autonomous concept, this means that we do not have to rely on national definitions of property. The ECtHR has given a broad interpretation of what should be considered a possession, which is not limited to ownership of physical goods. It covers a range of economic interests 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: 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 can be split in 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.

The Council of Europe Handbook on the right to property, whose update is currently ongoing, is a key reference material of the course. In the course, which is designed to be completed online, the participant will find information to read, interactive elements, questions, videos and animated slides.

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



After completing the introduction and legal framework first, you can navigate freely throughout the course.



Development of the course under HELP

The course has been developed by HELP, the European Programme for 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 national 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”.

The course will be pilot tested in Bosnia and Herzegovina. National Training Institutions or Bar Association’s interested in developing national adaptations of the course can contact the HELP Secretariat at DGI-Help-Programme@coe.int.

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 law enforcement authorities, equality bodies personnel and other persons working in the field of non-discrimination.

Starting 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>