

CJEU: Confiscation of Illegal Assets via Civil Proceedings Possible



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News

EU law does not preclude national legislation, which provides that a court may order the confiscation of illegally obtained assets following proceedings that were not subject either to a finding of a criminal offence or, *a fortiori*, the conviction of the persons accused of committing such an offence. The CJEU drew this conclusion in [Case C-234/18 \("ARGO IN 2001"\)](#), following a reference for preliminary ruling by the Sofia City Court, Bulgaria. The Bulgarian court is conducting civil proceedings against BP and others for the confiscation of illegally obtained assets. BP, the chair of the supervisory board of a Bulgarian bank, allegedly incited others to misappropriate funds belonging to that bank in the sum of approximately €105 million. The criminal proceedings against him have not been finally concluded and are still pending. Independent of these criminal proceedings, the Bulgarian Commission responsible for combatting corruption and for confiscating assets brought civil proceedings before said civil court in Sofia. The Bulgarian Commission requested ordering the confiscation of assets from BP and members of his family, because it found that they had acquired assets of considerable value whose origin could not be established. The Bulgarian court asked the CJEU whether such legislation is in line with Council [Framework Decision 2005/212/JHA](#) of 24 February 2005 on Confiscation of Crime-Related Proceeds, Instrumentalities and Property, i.e., whether civil confiscation procedures can be concluded without first establishing the commission of a criminal offence.

In its [judgment of 19 March 2020](#), the CJEU confirmed the Bulgarian legislation. The CJEU pointed out the purpose of the Framework Decision. It aims at obliging Member States to establish common minimum rules for the confiscation of crime-related instrumentalities and proceeds in order to facilitate the mutual recognition of judicial confiscation decisions adopted in criminal proceedings. This does not preclude Member States from providing other means of confiscation, such as the ones in the case at issue, which are civil in nature. Coexistence with a confiscation regime under criminal law is possible.

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