

ECJ Clarifies Scope of and Fundamental Rights Refusal Ground in Confiscation Regulation

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News

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On 17 March 2026, the ECJ, sitting as the Grand Chamber, delivered its judgment in [Case C-8/24](#) (*D. d.o.o. v Županijsko državno odvjetništvo u Zagrebu*) concerning the mutual recognition of confiscation orders under [Regulation 2018/1805](#). The case clarified whether the Regulation applies to confiscation orders issued in criminal proceedings that ended in an acquittal, but in which the court nevertheless ordered confiscation of property considered to be the proceeds of another criminal offence. Furthermore, the ECJ ruled on the ground for non-recognition due to a manifest breach of fundamental rights. It is the first ECJ judgment that interprets the 2018 Regulation on the mutual recognition of freezing and confiscation orders (→[eucrim 4/2018, 201-202](#)).

Background of the Case

The case arose from Slovenian criminal proceedings concerning alleged abuse of position or power. The defendants were ultimately acquitted of that offence. However, the Slovenian criminal court found that certain shares owned by a Croatian company constituted the proceeds of other criminal offences, namely acting to the detriment of creditors and money laundering. Those offences had not led to an indictment against the persons allegedly involved.

On that basis, the Slovenian court ordered confiscation of the shares. The order was transmitted to Croatia for recognition and execution under Regulation 2018/1805. The owner of the shares challenged recognition of the order, arguing, among other things, that the Regulation should not apply because the underlying proceedings had ended in an acquittal against other defendants and the confiscation related to offences for which no indictment against him had been brought. He also argued that his fundamental rights had not been respected in the Slovenian proceedings.

The ECJ's ruling

The ECJ held that Regulation 2018/1805 does apply to such a confiscation order. It emphasised that the Regulation covers confiscation orders issued following proceedings in relation to a criminal offence, including confiscation without a final conviction. It was therefore irrelevant that the criminal proceedings ended in an acquittal, that the confiscation concerned property considered to be the proceeds of different offences, and that no indictment had been brought against the persons allegedly involved in those offences.

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Looking at the possible refusal of recognition and execution on fundamental rights grounds, the ECJ held that Art. 19(1)(h) of Regulation 2018/1805 allows refusal, in exceptional circumstances, where specific and objective evidence provides substantial grounds to believe that execution would entail a manifest breach of a relevant Charter right.

The judges in Luxembourg stressed that this is a strict and exceptional ground for refusal. The executing authority does not have to carry out the two-step test developed in the European Arrest Warrant case law, requiring a prior finding of systemic or generalised deficiencies in the issuing Member State. Instead, it must conduct an individual assessment of whether execution would entail a manifest breach of fundamental rights in the particular case.

In the case at hand, the executing authority could not refuse recognition and execution solely on the basis of alleged fundamental-rights violations in the issuing Member State where the person had been properly served, in a language they understood, with parts of the judgment sufficient to enable an appeal, but did not exhaust the remedies available there. However, if the executing authority has doubts about service or the protection of fundamental rights, it must consult the issuing authority before refusing recognition or execution, in accordance with Art. 19(2) of Regulation 2018/1805.

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