



Failure to return to a religious community one of the richest collections of ancient books in Romania confiscated during the communist period

In today's Chamber judgment in the case of [Catholic Archdiocese of Alba Iulia v. Romania](#) (application no. 33003/03), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 1 of Protocol No. 1 to the European Convention on Human Rights

The case concerned a Catholic religious community which wished to recuperate, under an emergency order enacted in 1998, ownership of assets confiscated by the Romanian authorities during the communist period.

The Court found that, almost 14 years after the beginning of the preliminary procedure provided for by the order, the applicant association had received no notification of a decision, thus leaving it in a state of uncertainty as to the fate of those assets. The Court noted that the cultural and historical importance of the property in question made this failure to act even more incomprehensible.

Principal facts

The applicant, the Catholic Archdiocese of Alba Iulia, is a religious organisation which is based in Romania and has its headquarters in Alba Iulia (Romania). On 31 July 1798 the applicant association received a donation of an Astronomical Observatory and a library containing a rich collection of historical and precious books (the "Batthyaneum Library"). One of the most precious items in the collection is a fragment from an illuminated Carolingian manuscript dating from 810, the Lorsch Gospels (or Codex Aureus), which is written in Latin and decorated with gold. In accordance with the donor's wishes, the library and observatory were open to the public (and not merely to Catholic believers), and were not to be removed from Alba Iulia.

Until 1947, when the communist authorities closed and sealed the building, the applicant association was the only owner of the premises. The Romanian State was subsequently recognised as the owner and the library was placed under the administration of the Central State Library.

After the end of the communist regime an emergency order ("Emergency order no. 13/1998") was enacted on 7 July 1998, providing for the restitution of various buildings confiscated after 1940, including the Astronomical Observatory and the Batthyaneum Library, to communities, organisations or churches. The order provided for the creation of a joint committee, made up of representatives of the Government and

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

the communities in question and responsible for examining the latter's requests and organising transfer of the assets that were to be returned. By a law which entered into force in March 2004, these powers were transferred to another, pre-existing, committee.

In 1998 the PSD (Romanian Social-Democrat Party) instituted proceedings against the applicant association for the purpose of preventing any restitution. Following several years of proceedings, the request for restitution was dismissed in a final judgment of the Alba Iulia Court of Appeal on 22 October 2003. In spite of various requests subsequently lodged by the applicant association, it has never regained ownership of the Batthyaneum Library and of the Astronomical Observatory.

Complaints, procedure and composition of the Court

Relying on Article 1 of Protocol No. 1 (protection of property), the Catholic Archdiocese of Alba Iulia complained, in particular, that it had been unable to enjoy his property rights for fourteen years.

The application was lodged with the European Court of Human Rights on 14 October 2003.

Judgment was given by a Chamber of seven judges, composed as follows:

Josep **Casadevall** (Andorra), *President*,
Egbert **Myjer** (the Netherlands),
Alvina **Gyulumyan** (Armenia),
Ján **Šikuta** (Slovakia),
Ineta **Ziemele** (Latvia),
Luis **López Guerra** (Spain),
Kristina **Pardalos** (San Marino),

and also Santiago **Quesada**, *Section Registrar*.

Decision of the Court

Preliminary observation

In the pilot judgment [*Maria Atanasiu and Others v. Romania \(no. 30767/05 and 33800/06\)*](#), the Court decided to adjourn the cases concerning properties nationalised during the communist era in Romania pending general measures at national level. Noting the unusual nature of the rules arising from order no. 13/1998 compared with the general laws on restitution of property in Romania, the Court decided that its conclusions in that judgment did not apply to the present case.

Article 1 of Protocol No. 1

The Court noted that, almost 14 years after the preliminary procedure provided for by the Romanian order, the applicant association had received no notification of a decision.

The joint committee which was supposed to organise the transfer of property under emergency order no. 13/1998 was never set up. The fact that there was no deadline and no procedure for ensuring the transfer of property, and the absence of judicial review (as provided for by the order in respect of application of its provisions), encouraged dilatory proceedings, capable of frustrating the applicant association's legitimate expectation of having the issue of the status of the property in question finally resolved.

The Court also noted that the second Committee, which had responsibility from March 2004, had never informed the applicant association of either the result of the examination of its request or of a date of resumption of that examination.

The Court, which was unable to discern any legitimate justification for the State's prolonged failure to act (thus frustrating implementation of emergency order no. 13/1998), held that the uncertainty affecting the applicant association for 14 years with regard to the legal status of the property claimed by it was all the more incomprehensible in view of the cultural and historical importance of the assets in question. In consequence, the Court concluded that there had been a violation of Article 1 of Protocol No. 1.

Just satisfaction (Article 41)

The court held that Romania was to pay the Catholic Archdiocese of Alba Iulia 15,000 euros (EUR) in respect of non-pecuniary damage and a total of EUR 10,000 in respect of costs and expenses.

The judgment is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.