

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF KRIEVIŅA v. LATVIA

(Application no. 31381/17)

JUDGMENT

STRASBOURG

27 February 2025

This judgment is final but it may be subject to editorial revision.



In the case of Krieviņa v. Latvia,

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Alena Poláčková*, President*,

Artūrs Kučs,

Anna Adamska-Gallant*, judges*,

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 31381/17) against the Republic of Latvia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 24 April 2017 by a Latvian national, Ms Maija Krieviņa ("the applicant"), who was born in 1978, lives in Jūrmala and was represented by Mr J. Balodis-Bolužs, a lawyer practising in Riga;

the decision to give notice of the application to the Latvian Government ("the Government"), represented by their former Agent, Ms K. Līce, and subsequently by their current Agent, Ms E.L. Vītola;

the parties' observations;

the decision to dismiss the Government's objection to the examination of the application by a Committee;

Having deliberated in private on 30 January 2025,

Delivers the following judgment, which was adopted on that date:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's complaints under Article 8 of the Convention and Article 1 of Protocol No. 1 to the Convention about a search of her apartment and her company's premises and the seizure and retention of several of her electronic devices.

2. On 16 August 2016 the Bureau for the Prevention and Combating of Corruption ("the Bureau") instituted criminal proceedings against the applicant's father in relation to a suspicion that he had unlawfully financed two political organisations.

3. On 29 September 2016 an investigating judge issued search warrants for the applicant's apartment and her company's premises. It was indicated in the warrants that they had been issued for the purpose of investigating criminal offences under sections 288^2 (unlawful financing of political organisations), 288^3 (facilitating the unlawful financing of political organisations) and 288^4 (acceptance or extortion of unlawful funds for a political organisation) of the Criminal Law (*Krimināllikums*) and that they were based on the suspicion that the applicant's father had unlawfully financed two political organisations. The operative parts of both search warrants allowed for a search of the above-mentioned premises with the aim of finding and seizing:

> "... accounting documents, other documents and notes relating to the illegal financing of [one of the political organisations], minutes from meetings with people implicated in the criminal proceedings, telephones, computers and other data storage devices potentially containing information about public-order offences which might have been committed, as well as other documents and items that might have evidential value in the criminal proceedings."

4. On 4 October 2016 officials from the Bureau and the Finance Police (*Valsts ieņēmumu dienesta Finanšu policijas pārvalde*) searched the applicant's apartment and seized, among other items, her smartphone and two laptop computers. On the same day, officials from those institutions also searched the premises of the applicant's company and seized, among other items, a computer server. On 7 October 2016 the applicant was designated as a person against whom criminal proceedings had been instituted.

5. The applicant and her company simultaneously pursued several avenues of redress in an attempt to remedy the alleged violations of their rights stemming from the searches and seizures.

6. On 14 October 2016 the applicant and her company separately contested the lawfulness of the respective search warrants and sought to have them revoked. By final decisions of 27 and 28 October 2016 respectively, the Riga Regional Court rejected those complaints.

7. On 20 October 2016 the applicant complained to the Bureau's investigator about the seizure of her personal electronic devices. She argued that those devices contained personal and business-related data that had no relevance to the investigation. She maintained that the devices should have been inspected prior to their seizure, so that only those containing relevant data were seized. On 25 October 2016 the company also complained to the investigator about the search of its premises and the seizure of items that it alleged had no relevance to the investigation. The investigator rejected those complaints and the supervising prosecutor and a higher-ranking prosecutor dismissed subsequent appeals brought by the applicant and her company. The higher-ranking prosecutor's decisions of 3 and 6 January 2017 were subject to a further appeal to another higher-ranking prosecutor, but neither the applicant nor her company appealed against them.

8. On 4 October 2016, immediately after the search of her apartment, the applicant requested the return of her smartphone and the two laptops that had been seized. The investigator rejected her request, and the supervising prosecutor and a higher-ranking prosecutor dismissed appeals brought by the applicant against that decision. However, in his decision of 17 November 2016, the higher-ranking prosecutor noted that he had instructed the investigator to prioritise the examination of the seized devices that were important for everyday use, so that they could be returned as soon as possible. That decision was subject to appeal to another higher-ranking prosecutor, but the applicant did not appeal against it within the 10-day time-limit.

9. On 25 October 2016 the company also requested the return of its computer server and a laptop computer that had been seized from its premises.

The investigator rejected that request, and the supervising prosecutor dismissed appeals brought by the company against that decision. On 30 November 2016 the applicant's company appealed to a higher-ranking prosecutor but received no response.

10. On 26 October 2018 the criminal proceedings against the applicant were terminated. However, the criminal proceedings continued against other persons who were also implicated in the criminal offences in question. Those proceedings were concluded on 29 November 2019, when the prosecutor in charge of the proceedings issued a penal order sentencing the accused persons after they had pleaded guilty.

11. The parties disagreed as to whether all the items seized from the applicant's apartment and her company's premises had been returned. The documents submitted to the Court show that on 3 November 2016 the applicant's lawyer received the applicant's smartphone and one of her laptops without its hard drive. According to the applicant's own statement, she received that laptop's hard drive on an unspecified date in 2018, shortly after the criminal proceedings against her had been terminated. The other laptop was returned to the applicant on 26 May 2020 along with the other seized items. The Government stated that the computer server had been returned to the applicant's company on 28 February 2018 but did not submit any documents in that regard.

12. The applicant complained under Article 8 of the Convention that the searches and seizures at her apartment and her company's premises had been disproportionate. Under Article 1 of Protocol No. 1 to the Convention, she complained about the retention of her personal electronic devices and her company's computer server.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

13. The Government argued that the applicant's complaints, in so far as they concerned her company, were incompatible with the Convention *ratione personae* because the company was a separate legal entity and the applicant was not authorised to represent it. In the light of its case-law (see *Ankarcrona v. Sweden* (dec.), no. 35178/97, ECHR 2000-VI), the Court considers that the applicant, as the sole shareholder of her company, can complain on her own behalf about the measures affecting her company and its property.

14. As regards the applicant's complaint about the seizure of electronic devices without a prior inspection for relevant data, the Court notes that the applicant and her company complained about the seizures to the domestic authorities but failed to appeal against the higher-ranking prosecutor's decisions concerning those complaints (see paragraph 7 above). Contrary to the applicant's assertions, that remedy cannot be considered ineffective

because it follows from section 337 of the Criminal Procedure Law (*Kriminālprocesa likums*) that the higher-ranking prosecutor would have been authorised to examine and address the substance of the applicant's complaints. Therefore, this part of the applicant's complaint under Article 8 is inadmissible for non-exhaustion of domestic remedies.

15. As regards the applicant's complaint about the search warrants, she argued that the reference to "public-order offences" extended the scope of the warrants beyond criminal offences relating to the unlawful financing of political organisations. Because the warrants allowed for the seizure of "other data storage devices" and "other documents and items", the applicant also argued that excessive discretion had been afforded to the officials conducting the search.

16. The Court observes that the search warrants were expressly limited to specific criminal offences (see paragraph 3 above). If the notion of "public-order offences that might have been committed" is viewed in the context of the search warrants as a whole, it is clear that it was used merely as shorthand for the specific offences indicated earlier in the warrants. It is also clear from the operative parts of the search warrants that the officials conducting the searches were only authorised to seize items that had evidential value for the investigation of those criminal offences. Thus, the scope of the search warrants was sufficiently limited. Given these findings, the Court considers that the remainder of the applicant's complaints under Article 8 are manifestly ill-founded.

17. Accordingly, the entirety of the applicant's complaints under Article 8 of the Convention must be declared inadmissible in accordance with Article 35 § 3 (a) of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

18. The applicant complained that the prolonged retention of her personal electronic devices and her company's computer server had imposed an excessive burden on her because those devices were important for her daily use and business activities.

19. The Court has already found that the applicant can complain on her own behalf about the measures affecting her company (see paragraph 13 above). The Government argued that the applicant had failed to exhaust the relevant domestic remedies in respect of this complaint because she had not appealed against the higher-ranking prosecutor's decision in the proceedings concerning her request for the return of her personal devices. However, the Court notes that in his decision the higher-ranking prosecutor stated that he had instructed the investigator to hasten the return of the seized devices (see paragraph 8 above). Thus, while the higher-ranking prosecutor's decision did not order the immediate return of the devices, it was not a clear rejection of

the applicant's request either, but could be understood as an acknowledgement that the devices should be returned as soon as possible. Indeed, the applicant could not have known that the higher-ranking prosecutor's instructions would not be followed. Therefore, in the particular circumstances of the present case, the Court finds that the applicant cannot be blamed for failing to appeal against that decision within the 10-day time-limit. It follows that the Government's objection in this respect must be dismissed.

20. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

21. The Court has previously established that the seizure of property for legal proceedings normally constitutes control of the use of an individual's property and thus interferes with his or her peaceful enjoyment of possessions within the meaning of Article 1 of Protocol No. 1 to the Convention. Such interference is justified if it is lawful, pursues a legitimate aim and strikes a "fair balance" between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights. The fair balance will not be struck where the person concerned bears an individual and excessive burden (see, among other authorities, *Stołkowski v. Poland*, no. 58795/15, §§ 53-54, 21 December 2021).

22. The parties, in essence, agreed that the seizure and retention of the applicant's electronic devices had been lawful and pursued the legitimate aim of the proper administration of justice. As to whether the retention of those devices struck a "fair balance", the Court notes that according to the Government's submissions, it was in fact the data found on the applicant's electronic devices, and not the devices themselves, that had evidential value in the criminal proceedings. Accordingly, a copy of the relevant data should have been sufficient for the purposes of the criminal proceedings. Although the parties disagreed on several points regarding the return of the devices, there is no disagreement on the fact that one of the applicant's laptops was returned to her only after the criminal proceedings were concluded, more than three years and seven months after it had been seized (see paragraph 11 above). The Government have not given a reasonable explanation as to why it was necessary to retain the laptop for the entire duration of the criminal proceedings. Thus, on account of its prolonged retention, the authorities failed to strike a "fair balance" between the demands of the general interest of the community and the requirements of the protection of the applicant's right to the peaceful enjoyment of her possessions (see and compare *Smirnov v. Russia* no. 71362/01, §§ 58-59, 7June 2007).

23. These findings are, in themselves, sufficient for the Court to conclude that there has been a violation of Article 1 of Protocol No. 1 to the Convention. Thus, there is no need to separately examine the merits of the applicant's remaining complaints under this provision.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. The applicant claimed 50,000 euros (EUR) in respect of non-pecuniary damage and EUR 6,050 in respect of costs and expenses incurred before the Court.

25. The Government contested those claims.

26. The Court awards the applicant EUR 1,600 in respect of non-pecuniary damage, plus any tax that may be chargeable.

27. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 2,000 in respect of the costs and expenses incurred during the proceedings before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Article 1 of Protocol No. 1 to the Convention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention relating to the retention of one of the applicant's laptop computers;

3. *Holds* that there is no need to examine the merits of the remaining complaints under Article 1 of Protocol No. 1 to the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts:
      (i) EUR 1,600 (one thousand six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 2,000 (two thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 27 February 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt Deputy Registrar	Alena Poláčková Presiden