

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

THIRD SECTION

DECISION

Application no. 1952/06
Ionel PAPUC
against Romania

The European Court of Human Rights (Third Section), sitting on 15 April 2014 as a Committee composed of:

Dragoljub Popović, *President,*
Luis López Guerra,
Valeriu Griţco, *judges,*

and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above application lodged on 29 December 2005,

Having regard to the observations submitted by the parties,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Ionel Papuc, is a Romanian national, who was born in 1975 and lives in Pantelimon.

2. The Romanian Government ("the Government") were represented by their Agent, Ms I. Cambrea, of the Ministry of Foreign Affairs.

3. The facts of the case, as submitted by the parties, may be summarised as follows.

4. On 21 January 2003 the Prosecutor's Office of the High Court of Cassation and Justice issued a warrant for the interception of the conversations made from a certain phone number known to be in the possession of the applicant, who was suspected of planning a theft. Based on this warrant, the Criminal Investigation Service of the Bucharest Police intercepted the conversations made on 6 February 2003 from the phone number in question.

5. On 11 February 2003 an international search warrant was issued on the applicant's name on suspicion of participating in a theft.

6. On 25 October 2004 an investigation was opened in connection with a theft allegedly committed by the applicant together with three other persons on 6 February 2003.

7. On 11 August 2006 the prosecutor in charge with the investigation decided to clear the applicant of all charges since he submitted credible evidence that on 6 February 2003 he was in another country. In addition, the prosecutor found that the phone conversations intercepted on the basis of the warrant issued on 21 January 2003 had been conducted between other persons, on a phone number which was proved not to belong to the applicant.

COMPLAINTS

8. Invoking Article 6 § 1 of the Convention the applicant complained that he could not contest the prosecutor's decision to open a criminal investigation in his respect.

9. Under Article 6 § 2 of the Convention the applicant complained that his right to be presumed innocent was breached by the way the facts were presented by the prosecutor in the decision to open the investigation.

10. Invoking Article 8 of the Convention the applicant alleged that his right to private life had been breached by the unlawful interception of his phone conversations on 6 February 2003.

11. Finally, the applicant complained under Article 2 of Protocol No. 4 to the Convention of the unlawfulness of the international arrest warrant issued on his name on 11 February 2003.

THE LAW

A. Complaint under Article 8 of the Convention

12. The applicant complained that the phone interceptions ordered in his case breached his right to private life guaranteed by Article 8 of the Convention, which reads as follows:

> "1. Everyone has the right to respect for his private ... life ..."

13. The Court notes that the Government raised several objections. However, it considers that there is no need to examine them separately, in so far as the application is in any case inadmissible for the reasons explained below.

14. The Court reiterates that the word "victim" in the context of Article 34 of the Convention denotes the person directly affected by the act

or omission in issue (see *Velikova v. Bulgaria* (dec.), no. 41488/98, 18 May 1999).

15. In the case at hand, the Court notes that the prosecutor investigating the applicant's case found that the applicant's phone conversations had not been intercepted (see paragraph 7 above).

16. Therefore, the Court considers that the applicant's rights under Article 8 were not genuinely affected by any measure taken by a national authority (see *Viorel Burzo v. Romania*, nos. 75109/01 and 12639/02, § 117, 30 June 2009).

17. It follows that this complaint is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be dismissed in accordance with Article 35 § 4.

B. The other complaints raised by the applicant

18. The applicant further complained that his rights under Article 6 §§ 1 and 2 of the Convention had been breached during the criminal proceedings against him. He also complained that the international arrest warrant issued in his respect breached his rights under Article 2 of Protocol No. 4 to the Convention.

19. The Court has examined these complaints as submitted by the applicant. However, having regard to all the material in its possession, and in so far as they fall within its jurisdiction, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Marialena Tsirli
Deputy Registrar

Dragoljub Popović
President