



Romanian authorities' refusal to comply with court decisions obliging them to disclose public information to a journalist breached the Convention

In today's Chamber judgment in the case of [Roşiiianu v. Romania](#) (application no. 27329/06), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights, and

a violation of Article 10 (freedom of expression) of the Convention.

The case concerned the refusal by the mayor of Baia Mare to disclose information about the use of public money by the municipal administration to a journalist who had submitted a request to that effect. The mayor had also refused to comply with court decisions ordering him to hand over the information.

The Court held that, by refusing to comply with those decisions, the domestic authorities had deprived the applicant of effective access to a court. The Court considered that the Government had not submitted any argument showing that the interference in the journalist's right had been prescribed by law or that it pursued one or several legitimate aims.

Principal facts

The applicant, Ioan Romeo Roşiiianu, is a Romanian national who was born in 1969 and lives in Baia Mare (Romania).

At the relevant time, Mr Roşiiianu was the presenter of a regional television programme which had examined how public funds were used by the Baia Mare municipal administration. In January 2005 the programme was cancelled and Mr Roşiiianu was dismissed. His programme was immediately replaced by another, funded by the municipal administration and describing its activities.

In his capacity as a journalist, Mr Roşiiianu contacted the Baia Mare municipal authorities, requesting disclosure of several items of information of a public nature. His requests were based on the provisions of Law no. 544/2001 on freedom of public information.

The mayor replied to Mr Roşiiianu in terse letters which referred to multiple appendices. Mr Roşiiianu considered that these letters did not contain the requested information and applied to the administrative court. In three separate decisions, the Cluj Court of Appeal ordered the mayor to disclose the majority of the requested information. The Court of Appeal noted that, under Article 10 of the European Convention on Human Rights and Law no. 544/2001 on freedom of public information, Mr Roşiiianu was entitled to obtain the information in question, which he intended to

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

use in his professional activity. The letters sent by the mayor of Baia Mare did not represent adequate responses to those requests.

The Cluj Court of Appeal ordered the mayor to pay the applicant a total of about 700 euros (EUR) in respect of non-pecuniary damage, and held that his refusal to disclose the requested information amounted to a denial of the right to receive and impart information, guaranteed by Article 10 of the European Convention.

Mr Roşianu applied for enforcement of the decisions, but the mayor refused to comply. According to information submitted by the applicant, the final decisions delivered by the Cluj Court of Appeal remain unenforced to date.

Complaints, procedure and composition of the Court

Relying on Article 6 § 1 (right to a fair hearing), the applicant complained about the failure to execute the three final judicial decisions ordering the mayor of Baia Mare to disclose the information of a public nature that had been requested by him. Relying on Article 10 (freedom of expression), the applicant alleged that the failure to execute those three court decisions amounted to a violation of his right to freedom of expression.

The application was lodged with the European Court of Human Rights on 4 July 2006.

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

Josep **Casadevall** (Andorra), *President*,
Alvina **Gyulumyan** (Armenia),
Ján **Šikuta** (Slovakia),
Luis **López Guerra** (Spain),
Johannes **Silvis** (the Netherlands),
Valeriu **Griţco** (the Republic of Moldova),
Iulia Antoanella **Motoc** (Romania),

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

Decision of the Court

Article 6 § 1

Mr Roşianu obtained three final judicial decisions ordering the mayor of Baia Mare to disclose to him certain information of a public nature. The mayor had suggested that he come in person to the town hall to obtain several thousand photocopied pages, against payment for the reproduction costs. The domestic courts had concluded that such an invitation could not possibly be analysed as execution of a judicial decision ordering the disclosure of information of a public nature. In addition, the Court was unable to determine whether the documents referred to in those letters contained the information requested by Mr Roşianu, having regard to the Government's failure to submit the said documents to the Court's case file or to transmit a summary of them.

The Court noted that Mr Roşianu had never been informed, through a formal administrative decision, of any grounds which would have made it objectively impossible for the authorities to execute the decisions.

By refusing to enforce the final judicial decisions ordering disclosure to Mr Roşianu of public information, the domestic authorities had deprived him of an effective access to a court. The Court concluded that there had been a violation of Article 6 § 1 of the Convention.

Article 10

The Court noted that Mr Roşianu was involved in the legitimate gathering of information on a matter of public importance, namely the activities of the Baia Mare municipal administration. Given that the journalist's intention had been to communicate the information in question to the public and thereby to contribute to the public debate on good public governance, his right to impart information had clearly been impaired.

The Court reiterated that it had concluded under Article 6 § 1 of the Convention that the letters sent by the mayor of Baia Mare to Mr Roşianu, inviting him to come to the town hall to obtain thousands of pages of photocopies from several different documents, could not possibly amount to execution of a judicial decision ordering disclosure of information of a public nature. In those circumstances, there had not been adequate execution of the judicial decisions in question.

Lastly, the Court noted that the mayor had never alleged that the requested information had been unavailable. The complexity of the requested information and the considerable work that would have been entailed for the town hall in compiling it had been referred to solely to explain the impossibility of providing that information rapidly.

The Court considered that the Government had adduced no argument showing that the interference in Mr Roşianu's right had been prescribed by law, or that it pursued one or several legitimate aims. The Court concluded that there had been a violation of Article 10.

Just satisfaction (Article 41)

The Court held that Romania was to pay the applicant 4,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,748 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.