



## An article criticising the applicants' decisions in the marketing of veterinary antibiotics with harmful effects on human health did not breach their private life

In today's Chamber judgment<sup>1</sup> in the case of [Daneş and Others v. Romania](#) (applications nos. 44332/16, 44829/16, 44839/16) the European Court of Human Rights held, unanimously, that there had been:

**no violation of Article 8 (right to respect for private life)** of the European Convention on Human Rights.

The case concerned the dismissal of civil claims brought by the applicants, members of the management board of the National Order of Veterinary Surgeons of Romania (C.M.V.R.), against a journalist and a local weekly newspaper, with a view to securing protection of their reputation following the publication of an article containing criticisms of them.

The Court noted that the aim of the disputed article was to set out the danger posed to consumer health by the marketing and use of non-prescription veterinary medicines, the steps taken by the applicants to have set aside a decree intended to strengthen the effectiveness of the relevant standards, and the applicants' direct involvement in the marketing of veterinary medicines. It also noted that the sale of meat unfit for consumption was already a matter of media coverage when the article was published and had been discussed in the national press. It considered that the subjects touched on in the article were questions of general interest, linked to the protection of public health. It reiterated that, pursuant to the authorities' positive obligations under Article 8 of the Convention, the public had to have access to information enabling them to assess the risks to which they were exposed.

The Court therefore saw no reason to doubt that the publication of the disputed article could be understood as having contributed to the coverage of a subject of public interest. In consequence, it considered that national courts had struck a fair balance between the applicants' right to respect for their private life and the right of the article's author to freedom of expression, and had assessed these competing interests in the light of the criteria set out in its case-law.

### Principal facts

The applicants, Mihai Daneş, Liviu Harbuz and Viorel Andronie, are three Romanian nationals.

An article was published in the 18-24 March 2013 edition of *Bihoreanul* (a local weekly newspaper) and on that newspaper's Internet site. The headline read: "*Poisoned meat. As the scandal rages over antibiotic-contaminated meat, a Bihor vet points the finger: the C.M.V.R.'s management body is responsible*". It addressed, among other topics, the dangers entailed by the marketing and use of non-prescription veterinary antibiotics and, in particular, criticised the applicants for their involvement in the national trade in veterinary medicines and for taking steps to ensure that a decree to secure strengthened monitoring of marketing of such drugs was set aside.

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](http://www.coe.int/t/dghl/monitoring/execution).

The applicants brought civil proceedings against the newspaper and the journalist who had written the article. They accused the author of the article of making statements suggesting that they bore some responsibility for the population's consumption of foods contaminated by traces of antibiotics, that they supported the marketing of veterinary medicines, that they had an interest in the setting aside of decree no. 41/2012, and that they were acting against the interests of the veterinary surgeons who were members of the C.M.V.R.

The applicants' claims were rejected by the Romanian courts, which held that a fair balance had been struck between the two competing rights in the case, namely: the applicants' right to protection of their reputation and the right to freedom of expression of the journalist and the newspaper. The first-instance court held, in particular, that the contested article concerned the danger to human health posed by the marketing and non-prescription use of veterinary antibiotics. It held that this was a topic of public interest and contributed to a debate of general interest to society.

## Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private life) of the Convention, the applicants argued that the national authorities had failed to protect their reputation.

The applications were lodged with the European Court of Human Rights on 26 July 2016.

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

Yonko **Grozev** (Bulgaria), *President*,  
Tim **Eicke** (the United Kingdom),  
Faris **Vehabović** (Bosnia and Herzegovina),  
Iulia Antoanella **Motoc** (Romania),  
Armen **Harutyunyan** (Armenia),  
Pere **Pastor Vilanova** (Andorra),  
Jolien **Schukking** (the Netherlands),

and also Ilse **Freiwirth**, *Deputy Section Registrar*.

## Decision of the Court

### Article 8

#### **Debate on a matter of general interest**

The Court noted that the aim of the contested article was to set out the danger posed to consumer health by the marketing and use of non-prescription veterinary medicines, the steps taken by the applicants to have set aside a decree intended to increase the effectiveness of the relevant standards and the applicants' direct involvement in the marketing of veterinary medicines. It also noted that the sale of meat unfit for consumption was already a matter of media coverage when the article was published and had been discussed in the national press. It considered that the subjects touched on in the article were questions of general interest, linked to the protection of public health. It reiterated that, pursuant to the authorities' positive obligations under Article 8 of the Convention, the public had to have access to information enabling them to assess the risks to which they were exposed. The Court therefore had no reason to doubt that the publication of the disputed article could be understood as having contributed to the coverage of a subject of public interest.

**The extent to which the persons concerned were well-known, and the subject of the article**

The Court noted that the applicants held office on the management board of a professional body which had been described by the first-instance court as acting in the public interest. It considered that their professional activity meant that they were well-known figures in that particular sector. In addition, the first and third applicants also had a certain public profile in the academic world, and the third applicant was also a “politician”. It concluded that the applicants were, to a certain extent, well-known public figures and could not therefore claim protection of their right to respect for their private life in the same way as private individuals unknown to the public.

With regard to the subject of the article, the Court noted that it did not concern the applicants’ private lives, but focused on their professional activity as members of the C.M.V.R.’s management board and as partners in companies which marketed and distributed veterinary medicines.

**Content, form and consequences of the article**

The Court noted that the first-instance court had held that the article mainly focussed on the contamination of animal products with residues of veterinary drugs and the resulting risks to consumer health, and that the applicants had been mentioned only as a subsidiary topic.

Although the article also referred to the steps taken by the applicants, as representatives of the C.M.V.R., to have set aside a decree which was intended to strengthen the standards in force in this area, and to the applicants’ direct involvement in the marketing of veterinary drugs, the Court noted that it had neither disclosed details of the applicants’ private lives nor contained any insulting expressions, but essentially set out opinions on the manner in which the applicants exercised their functions within the C.M.V.R.’s management body.

It also noted, like the national courts, that the author of the article had acted in good faith, by basing his article on other publications discussing the same subject and using the collected information to reach value judgments. His statements had been corroborated by evidence from a veterinary surgeon who, like the journalist, wished to sound the alarm about the unrestricted marketing of veterinary medicines. In addition, the fact that the author of the article had moderated his statements, accompanied his allegations with justifying documents and was participating in a debate that was already underway were factors indicating his good faith.

It further noted that the national courts had analysed the scope of the article’s distribution and accessibility and concluded that it had appeared in a locally published weekly newspaper, whose Internet site was visited essentially by readers from Bihor County. It followed that the extent of dissemination of the article had been limited.

**Conclusion**

The Court considered that the national courts had struck a fair balance between the applicants’ right to respect for their private life and the journalist’s right to freedom of expression, and had assessed these competing interests in the light of the criteria set out in its case-law. Taking into account the margin of appreciation afforded to the Contracting Parties, it thus saw no serious reason to substitute its own opinion for that of the Romanian courts. Accordingly, it could not be said that by refusing to grant the applicants’ request the domestic courts had failed to fulfil the Romanian State’s positive obligation to protect the applicants’ right to respect for their private life within the meaning of Article 8 of the Convention. It followed that there had been no violation of this provision.

*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.