



Lack of sufficient safeguards in respect of a search and seizure measure ordered by Parliamentary Commission of Inquiry on combating the Mafia

The case of [Grande Oriente d'Italia v. Italy](#) (application no. 29550/17) concerned a search – ordered by a parliamentary commission of inquiry investigating the infiltration of mafia-type criminal organisations into Masonic lodges – of an Italian Masonic association's premises, and the subsequent seizure of numerous paper and digital documents, in particular lists containing the names and personal data of more than six thousand individuals.

In today's **Grand Chamber** judgment¹ the European Court of Human Rights held, by a majority (sixteen votes to one), that there had been a **violation of Article 8 (right to respect for the home)** of the European Convention on Human Rights.

Having pointed out the discretion enjoyed by the States in the area of parliamentary autonomy, the Court found, however, that the interference with the applicant association's right to respect for its home had not been accompanied by sufficient safeguards against abuse and arbitrariness, and had therefore not been "necessary in a democratic society", since it had not had available to it any *ex ante* guarantee or *ex post* remedy.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicant, Grande Oriente d'Italia, a Masonic association founded in 1805 with a large number of members, coordinates the activities of numerous lodges throughout Italy.

In 2013, at the beginning of the new parliamentary term, Parliament enacted the law establishing the Parliamentary Commission of Inquiry on the phenomenon of mafias and other criminal associations ("the Commission"). The law had been re-established multiple times since 1962.

In 2016 the Commission launched an inquiry into the risk of Mafia infiltration into Masonic associations, including the applicant association, on the basis, in particular, of the findings of certain judicial investigations.

The Commission requested the applicant association's grand master several times to provide it with the list of its lodges' members, which he refused to do, relying in particular on the association's obligation to protect its members' personal data. When summoned as a witness in January 2017, he again refused to provide the list of names.

In March 2017 the Commission decided to make use of its search powers to order a search of the applicant association's premises in order to obtain a list of persons belonging or having belonged to one of Grande Oriente d'Italia's Sicilian or Calabrian Masonic lodges from 1990 onwards.

The applicant association's premises and the contents of several computers were searched. Numerous paper and digital documents, including lists of approximately six thousand persons registered with the applicant association, as well as hard drives, USB sticks and computers, were seized. The authorities

1. Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

then made their selection from the material, excluding documents and information not included in the scope of the search.

The applicant association unsuccessfully challenged the search order and subsequent seizures.

Complaints, procedure and composition of the Court

Relying on various Articles of the Convention, the applicant association submitted that the search of its premises and the seizures had not been in accordance with the law and had been grossly disproportionate. The Court decided to examine these complaints under Article 8 (right to respect for the home) of the Convention.

The application was lodged with the European Court of Human Rights on 13 April 2017.

In a [judgment](#) of 19 December 2024, a Chamber of the Court held, unanimously, that there had been a violation of Article 8 of the European Convention.

On 19 March 2025 the Government requested that the case be referred to the Grand Chamber under Article 43 of the Convention (referral to the Grand Chamber) and on 28 April 2025 a panel of the Grand Chamber [accepted](#) that request. A hearing took place on 19 November 2025.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Mattias **Guyomar** (France), *President*,
Arnfinn **Bårdsen** (Norway),
Lado **Chanturia** (Georgia),
Ioannis **Ktistakis** (Greece),
Kateřina **Šimáčková** (the Czech Republic),
Raffaele **Sabato** (Italy),
Lorraine **Schembri Orland** (Malta),
Anja **Seibert-Fohr** (Germany),
Peeter **Roosma** (Estonia),
Ana Maria **Guerra Martins** (Portugal),
Diana **Sârcu** (the Republic of Moldova),
Diana **Kovatcheva** (Bulgaria),
Stéphane **Pisani** (Luxembourg),
Mateja **Đurović** (Serbia),
András **Jakab** (Austria),
Juha **Lavapuro** (Finland),
Vahe **Grigoryan** (Armenia),

and also John **Darcy**, *Deputy Grand Chamber Registrar*.

Decision of the Court

Article 8

The Court noted that the search and seizure ordered by the Commission had constituted an interference with the applicant association's right to respect for its "home". However, the Court had no doubt as to the accessibility or foreseeability of the applicable domestic provisions, the relevant case-law and the practice of commissions of inquiry.

Given the importance of the Commission's work, the Court acknowledged that the measure had pursued legitimate aims, namely, national security, the economic well-being of the country, the prevention of disorder and the protection of society through the "prevention of crime".

It also considered that the national authorities ought to be granted wide discretion (margin of appreciation) in this area, both in the definition of the framework within which parliamentary commissions of inquiry carried out their activities and in the organisation of their operation. As parliamentary commissions were political organs which embodied Parliament, in accordance with the Constitution, their activity was an expression of the autonomy of Parliament, carrying out its will. On the other hand, where parliamentary commissions had recourse to coercive procedural acts capable of directly affecting the Convention rights of third parties, the margin of appreciation enjoyed by States in relation to parliamentary autonomy was necessarily narrower and had to be accompanied by safeguards compatible with the rule of law. The discretion, which was inherent in the notion of parliamentary autonomy, enjoyed by the national authorities, albeit very important, was not unfettered but had to be compatible with the concepts of “effective political democracy” and “the rule of law”, to which the Preamble to the Convention referred.

The Court noted that the scope of the search and seizure order in the present case had been particularly broad; it had sought to obtain the lists of the Calabrian and Sicilian lodge members’ names over a period of twenty-five years, and also any internal decisions taken by those same lodges during the period in question.

This finding was also applicable in respect of the measures ordered, which concerned the search of the applicant association’s main premises, and of all associated premises, in addition to the seizure of documents, computers and, in general, IT equipment. The scope of the search had been significant, as had the potential implications for both the applicant association and its members, given the large number of former and current members concerned (around six thousand). In addition, copies of the seized documents were still being stored in Parliament’s archives, as domestic law allowed documents classified as secret to be stored for a potentially unlimited duration.

Furthermore, the law² provided no indications concerning the limits on the exercise of the Commission’s search powers. The domestic case-law also made no reference to any review mechanism, thus leaving the Commission to exercise its own discretion, one that was particularly broad and devoid of any form of authorisation or scrutiny.

Given the broad scope of the search and seizure order and the measures authorised by it, as well as the potentially unlimited duration of the seized documents’ storage, the Court considered that the exercise by the Commission of its power to order coercive measures had had significant consequences for the applicant association.

The Court observed that some of the safeguards available in the domestic legal order had been put in place during the search. In particular, the rules governing the secrecy of documents had been applied to all of the material seized. However, those safeguards had applied only during the search itself, and subsequently, and the Court was therefore unable to describe them as prior scrutiny. In addition, the applicant association had had no domestic remedy available in order to secure review of the contested measures and their execution.

The Court pointed out that national systems had to afford protection against arbitrary interference by public authorities with the rights guaranteed by the Convention. While it was not the Court’s task to interfere with the institutional balance between the different branches of power within the respondent State, it nevertheless had to ascertain whether the applicant association had had available to it a review mechanism, either prior to the adoption of or after the measure in question, that afforded sufficient safeguards against the risk of abuse and arbitrariness.

The power to order such measures therefore had to be accompanied by sufficient safeguards. The fact of conducting a parliamentary inquiry implied that there ought to be a possibility for the third parties concerned to apply to a competent authority, the courts or another impartial decision-making body

² Law no. 87 of 19 July 2013.

