



Camera surveillance of lecture halls in Montenegro violated professors' right to privacy

In today's **Chamber** judgment¹ in the case of **Antović and Mirković v. Montenegro** (application no. 70838/13) the European Court of Human Rights held:

by four votes to three, that there had been a **violation of Article 8 (right to respect for private and family life)** of the European Convention on Human Rights.

The case concerned an invasion of privacy complaint by two professors at the University of Montenegro's School of Mathematics, Nevenka Antović and Jovan Mirković, after video surveillance had been installed in areas where they taught. They stated that they had had no effective control over the information collected and that the surveillance had been unlawful. The domestic courts rejected a compensation claim however, finding that the question of private life had not been at issue as the auditoriums where Ms Antović and Mr Mirković taught were public areas.

The Court first rejected the Government's argument that the case was inadmissible because no privacy issue had been at stake as the area under surveillance had been a public, working area. The Court noted that it had previously found that "private life" might include professional activities and considered that was also the case with Ms Antović and Mr Mirković. Article 8 was therefore applicable.

On the merits of the case, it found that the camera surveillance had amounted to an interference with their right to privacy and that the evidence showed that that surveillance had violated the provisions of domestic law. Indeed, the domestic courts had never even considered any legal justification for the surveillance because they had decided from the outset that there had been no invasion of privacy.

Principal facts

The applicants are Montenegrin nationals who live in Podgorica.

In February 2011 the dean of the School of Mathematics announced that he had decided to install surveillance cameras in several areas, including the auditoriums where classes were held. A decision issued later the same month specified that the measure was to protect people and property and to monitor teaching.

Ms Antović and Mr Mirković complained to the Personal Data Protection Agency in March, saying the video surveillance and consequent collection of data on them was taking place without their consent. They stated that they knew of no reason to fear for anyone's safety and that there were other ways to protect people and property. They also asked for the cameras to be removed.

Two inspectors from the Agency initially backed the School but after an objection by Ms Antović and Mr Mirković the Agency's Council ruled that the measure was not in accordance with Montenegro's Personal Data Protection Act. It held that there had been no good reason for video surveillance as there was no danger to people or property and that the surveillance of teaching was not amongst

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.

the justifications for such a measure in the Act. It ordered the cameras to be removed, which was done by late January 2012.

In January 2012 Ms Antović and Mr Mirković sought compensation in court, citing Article 8 of the Convention (right to respect for private and family life) and domestic law. However, the domestic courts rejected their claim. They considered that the question of private life had not been at issue as the auditoriums where Ms Antović and Mr Mirković taught were public areas. The data collected by the video surveillance was also thus not personal data.

Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, Ms Antović and Mr Mirković complained that the alleged unlawful installation and use of video surveillance equipment in the university auditoriums where they held classes had violated their right to respect for their private life.

The application was lodged with the European Court of Human Rights on 25 October 2013.

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

Robert **Spano** (Iceland), *President*,
Julia **Laffranque** (Estonia),
Ledi **Bianku** (Albania),
Nebojša **Vučinić** (Montenegro),
Paul **Lemmens** (Belgium),
Jon Fridrik **Kjølbro** (Denmark),
Stéphanie **Mourou-Vikström** (Monaco),

and also Stanley **Naismith**, *Section Registrar*.

Decision of the Court

Article 8

The Court began by rejecting the Government's argument that the case was inadmissible because the two professors' private lives had not been at issue as the area under surveillance had been a public, working area. The Court noted that it had previously found that "private life" might include professional activities and considered that that was also the case with Ms Antović and Mr Mirković. Article 8 was therefore applicable and the case was admissible.

The Court then went on to note that it had held in previous judgments that the notion of private life may include professional activities or activities taking place in a public context and observed that university amphitheatres were teachers' workplaces, where they not only taught but interacted with students, developing relationships and constructing their social identity. It had previously found covert video surveillance at work to be an intrusion into an employee's private life and saw no reason to depart from that finding as far as non-covert surveillance at a workplace was concerned. As a consequence, Ms Antović's and Mr Mirković's private life had been at stake and the camera surveillance had amounted to an interference with their rights.

Furthermore, the domestic courts had not examined the lawfulness of the measure because they had not found in the first place that there were any privacy issues involved. However, the Data Protection Agency had considered it to be an interference and had found that it had not been in accordance with the law. For instance, the domestic legislation had stated that video cameras could be used to monitor areas of access to official premises, however, in this case they had been set up in the amphitheatres.

The domestic law had also provided that surveillance could be carried out if the aim of the measure, such as preventing danger to property or people, could not be achieved in another way. The Data Protection Agency had found no such danger existed while another reason cited for the measure, the surveillance of teaching, was not in the law at all as a justification.

The Court therefore found that the camera surveillance had not been in accordance with the law and that there had been a violation of Article 8.

[Just satisfaction \(Article 41\)](#)

The Court held by four votes to three that Montenegro was to pay the applicants 1,000 euros (EUR) each in respect of non-pecuniary damage and EUR 1,669.50 in respect of costs and expenses.

Separate opinions

Judges Vučinić and Lemmens expressed a joint concurring opinion. Judges Spano, Bianku and Kjølbros expressed a joint dissenting opinion. These opinions are annexed to the judgment.

The judgment is available only in English.

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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.