



Complaints brought by journalists accused of running a blackmailing network declared inadmissible

In its decision in the case of [Man and Others v. Romania](#) (application no. 39273/07) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case originated in accusations against an investigative journalist, Liviu Aurel Man, and his team for operating a blackmailing network.

The applicants, Mr Man, his wife and their media companies, brought multiple complaints under the Convention, essentially connected to the search-and-seizure operation at their home and newspaper premises as well as the freezing of their assets and bank accounts during the criminal proceedings over the blackmail network.

In particular, the Court rejected as manifestly ill-founded those complaints brought under **Article 8 (right to respect for private and family life, the home, and the correspondence)** and **Article 10 (freedom of expression)**. It found that the decision authorising the searches, taken in the context of an investigation into complex crimes, had been based on relevant and sufficient reasons, with adequate safeguards from abuse. Furthermore, any repercussions on the applicants' journalistic activities, because of material being seized during the searches, had merely been the result of that investigation and had not been excessive. Indeed, there had never been any suggestion that there had been an illegitimate purpose behind the criminal proceedings. The fact that Mr Man and his co-defendants had eventually been acquitted had no bearing on those conclusions.

Other allegations were dismissed because the applicants had not exhausted all domestic remedies, while the complaint concerning the freezing of the applicants' assets and bank accounts was rejected as premature because court proceedings were still ongoing.

Principal facts

The applicants in this case are two Romanian nationals, Liviu Aurel Man and Milena Man, husband and wife, born respectively in 1965 and 1967 and living in Cluj-Napoca (Romania), and three Romanian companies they own or administer, namely S.C. Exploziv Media S.R.L., S.C. Loretto Press S.R.L. and S.C. Token Media S.R.L..

Mr Man is a journalist and the president of the Gazeta press group, which publishes several investigative newspapers and weekly magazines targeting high-level corruption.

The prosecuting authorities started a criminal investigation in 2005 against Mr Man and five other journalists on the Gazeta management team on suspicion of blackmail and organised crime. They were accused of threatening to disclose compromising information about local politicians and businessmen unless they bought advertising space from the newspapers belonging to the Gazeta group.

In the context of those criminal proceedings, on 30 October 2006 Mr Man was arrested and searches of his home and two of his newspapers' headquarters were authorised and carried out.

During the search operation the police seized certain items, including documents and computers, which were eventually returned to the applicants in December 2009.

After his arrest Mr Man was taken in for questioning by the prosecutor and remanded in custody until March 2007 when he was released with a ban on him leaving town. He was eventually

acquitted in the criminal proceedings against him in December 2017 as the domestic courts found that the accusations had not been proved.

During the criminal proceedings all assets and bank accounts belonging to the applicants were frozen to ensure that any compensation claimed by the alleged victims would be paid. At the end of the proceedings the appeal court decided to maintain the measures.

Mr Man attempted to have the measures lifted during the criminal proceedings, without success. He also raised a complaint about the unlawfulness of the searches carried out at his newspapers, but it was dismissed as ill-founded.

After completion of the criminal proceedings, Mr Man brought an action for compensation for the length of the criminal proceedings against him, which is still ongoing. He has also complained in those proceedings about the measures taken in respect of his assets and bank accounts.

The case was widely reported in the media. In particular, in December 2006 and January and February 2007 articles were published which included transcripts of conversations between Mr Man, other journalists and the Mayor of Cluj discussing local politicians and businesses and their advertising.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 31 August 2007.

Mr Man made two complaints under Article 3 (prohibition of inhuman or degrading treatment) alleging, first, that he had been held in solitary confinement for 60 days after his remand in custody; and, second, that the prosecutor had invited the media to photograph and film him being handcuffed and arrested by masked police officers, thus giving the impression that he was a dangerous criminal.

Various allegations were also brought under Article 8 (right to respect for private and family life, the home, and the correspondence) with regard to the searches and seizures as well as the authorities leaking Mr Man's telephone conversations to the press and inviting the media to cover his arrest and search of his home.

The applicants further alleged under Article 10 (freedom of expression) that the seizure of material necessary for editing their newspapers had led to some of their publications being suspended or even stopped altogether.

Also relying on Article 1 of Protocol No. 1 (protection of property), they complained about the freezing of their assets and bank accounts.

Lastly, Mr Man raised complaints under Article 5 §§ 3 and 4 (right to liberty and security) about his arrest and pre-trial detention, under Article 6 §§ 1 and 2 (right to a fair trial) about irregularities in the criminal proceedings and under Article 13 (right to an effective remedy) taken in conjunction with Articles 3, 8, and 10 of the Convention and Article 1 of Protocol No. 1 to the Convention.

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

Jon Fridrik **Kjølbro** (Denmark), *President*,
Faris **Vehabović** (Bosnia and Herzegovina),
Iulia Antoanella **Motoc** (Romania),
Branko **Lubarda** (Serbia),
Carlo **Ranzoni** (Liechtenstein),
Stéphanie **Mourou-Vikström** (Monaco),
Georges **Ravarani** (Luxembourg),

and also Andrea Tamietti, *Deputy Section Registrar*.

Decision of the Court

Article 3 (prohibition of inhuman and degrading treatment)

The Court found that Mr Man had had effective remedies at his disposal under the relevant national law but had failed to complain either about his solitary confinement or the fact that he had been exposed to the public in handcuffs. The Court therefore considered that his complaints under Article 3 had to be rejected as inadmissible for non-exhaustion of domestic remedies.

Article 8 (right to respect for private and family life, the home, and the correspondence)

Complaints about the searches and seizure

The Court found that the searches, regulated by Article 100 to 111 of the Code of Criminal Procedure, had been carried out “in accordance with the law” and had served a legitimate aim, namely to prevent crime and protect the rights of others.

Furthermore, the decision authorising the searches had been based on relevant and sufficient reasons, with adequate safeguards from abuse.

In particular, the search warrant itself had been issued by a judge in the context of accusations of blackmail and organised crime and on the basis of the prosecutor’s explanation that he had aimed to find advertisement contracts, accounting books and a database containing potential blackmail victims. The warrant had therefore been based on a reasonable suspicion. The fact that Mr Man had ultimately been acquitted had no bearing on that assessment. The warrant had also only been granted for a reasonably limited period, just 10 days.

Moreover, the searches had been carried out in the presence of Mr Man and his wife, two attesting witnesses and defence counsel, and the seized items had been placed in sealed envelopes and reports had been drawn up. Neither Mr Man nor his wife had made any objections to the search; nor had they then complained to any national authority about the search at their home. Mr Man had complained about the search, but only with regard to his newspapers’ premises and that complaint had been examined and dismissed by the domestic court, which had given reasons in its decision.

The Court therefore rejected the applicants’ complaint about the searches and seizure as manifestly ill-founded.

Allegations of telephone conversations leaked to the press

The Court noted that excerpts of conversations between Mr Man and other parties, obtained via telephone tapping and included in the prosecution file, had been published in private newspapers.

However, there had never been any suggestion that the newspapers had in some way been under the control of the public authorities.

Nor was there any evidence that the information published had been the result of anything other than journalistic investigation.

Moreover, the publication of the transcripts had taken place at the end of 2006 and beginning of 2007, that is to say after the case against the applicants had been lodged with the domestic courts. The media could therefore have accessed the case file during those court proceedings, as was their right under Romanian law. The applicants, on the other hand, could have requested that public access to the case file be restricted to protect their privacy, but they had not done so.

In sum, the Court found that there was no proof that the authorities had been responsible for the publication of the transcripts. It therefore rejected the applicants’ complaint in that respect as manifestly ill-founded.

Media invited to cover Mr Man's arrest and search of his home

Given the Court's finding under Article 3 concerning Mr Man's public exposure in handcuffs, the Court found that this complaint also had to be rejected for non-exhaustion of domestic remedies.

Article 10 (freedom of expression)

The Court reiterated that journalists' protection under Article 10 was subject to the proviso that they acted in good faith, within the tenets of responsible journalism.

It also pointed out that the applicants' case, involving an ongoing investigation into complex crimes, differed from other cases where journalists' right to impart information had been breached because of searches and seizures aimed at identifying their journalistic sources.

Indeed, there was nothing to show that the criminal investigation had been for an illegitimate purpose, such as to unlawfully restrict the applicants bringing news to the public's attention. The confiscated documents and computers had merely been a consequence of the criminal investigation and had in any case eventually been returned to them. The applicants had moreover been able to complain about the measure to the authorities and the courts had examined their complaint.

The Court therefore considered that although the searches, involving the seizure of certain items necessary for the applicants' journalistic activities, had amounted to a restriction on their right to freedom of expression, that restriction had not been disproportionate.

The applicants' complaint under this Article was therefore also rejected as manifestly ill-founded.

Article 1 of Protocol No. 1 (protection of property)

The Court noted that, after completion of the criminal proceedings, Mr Man had lodged a compensation claim against the authorities, which had included a complaint about the freezing of his assets and bank accounts. Those proceedings were apparently still ongoing, and therefore the Court rejected as premature Mr Man's complaint about an infringement of his right to peaceful enjoyment of his possessions.

Other articles

The Court found that all the other applicants' complaints, under Article 5 §§ 3 and 4, Article 6 §§ 1 and 2 and Article 13, were manifestly ill-founded and had to be rejected.

The decision 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.