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ORIGINAL PAPER

Application of the Provisions of art. 102 (2) and (3) of the Criminal Procedure Code in Relation to Special Surveillance Measures Listed under art.138 (1) (a) and (c) of the Criminal Procedure Code Enforced before the Publication in the Official Journal of Decision no. 51/2016 of the Constitutional Court

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Abstract
The use of the special surveillance methods provided for in art. 138 (1) (a) and (c) of the Criminal Procedure Code by a body lacking jurisdiction to carry out such activities is not grounds for absolute nullity of procedure, since none of the specific and fully inclusive cases provided under art. 281 (1) a) to f) of the Criminal Procedure Code apply. However, the parties or the main litigants claiming an infringement of their rights may raise an application for relative nullity of the evidentiary process. Where the preliminary hearing was completed prior to the publication of Decision no. 51/2016 of the Constitutional Court in the Official Journal no. 190 of 14 March 2016, relative nullity could be raised before the Court at the time of the first main hearing with procedure dully fulfilled set after the publication of the Decision of the Constitutional Court. In this context, it is noteworthy that, until the Decision was published, the litigants were not aware that the evidence was obtained using an evidentiary process undertaken by a body without jurisdiction. At the same time, the poor quality of the law – caused by lack of clarity, precision, predictability and accessibility – cannot be attributed to the persons claiming that, by the enforcement of such law, their rights were infringed.

Keywords*: nullity, evidentiary process, body lacking jurisdiction*

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The right to privacy in general and privacy of correspondence, in particular, is of particular importance to anyone, and limitations to these rights can produce very serious, sometimes irreparable, consequences to both the owner of those rights, as well as family members, and his friends, affecting family and social relations. "Private life cannot be defined precisely. It is a contingent concept whose content varies with time, environment and society in which the individual lives." (Sudre, 2006: 315). The Romanian Constitution in article 53 and European Convention on Human Rights in article 8 par. 2 see the possibility of interference for public authorities in the exercise of specific rights of privacy, not in any way, but under conditions related to the necessity of limiting rights, and proportionality of the produced effects, with the wanted purpose. "Limitation of fundamental rights is imposed on behalf of a certain pragmatism that fits concern for efficacy: the absolutism of human rights would certainly lead at a high enough ineffectiveness, which would be unpleasant." (Renucci, 2009: 815).

The ECHR case law, it was stated that the ability to secretly monitor citizens, "characteristic of the police state (...) cannot be tolerated only to the extent strictly necessary to preserve democratic institutions" and if accompanied by adequate and effective safeguards against abuse, such as the establishment of conditions by law, independent institutions' control over the admission and enforcement surveillance measures, since such a system "carries the risk of undermining or even destroying democracy it claims to defend." (Klass vs. Germany, Request no. 5029 / 71, ECHR September 6, 1978 from 42.49 to 50).

To no risk of misinterpretation of constitutional and conventional norms, but also to prevent the abusive use of regulations that allow certain interference in people's privacy, the legislator authority has a positive obligation to create a normative system to provide a clear procedure to be followed where it is necessary to restrict certain rights.

However, the state must act with the *necessary prudence and diligence* to reach that result, so the obligation is a conduct of prudence and diligence. (Bîrsan, 2005: 18).

Thus, certain issues must be concretely established, regarding: the reasons underlying limitations; competent State authorities are to assess whether the conditions for interference in the exercise of rights are met; bodies that may exempt interference; how interference decisions are enforced; public authorities' representatives that have powers for the intrusive implementation measures; procedure to be followed by persons who claim that their rights were unlawfully infringed and request for removing the effects and provide compensation for damages.

In Romania, one of the reasons specified in Art. 53 par. 1 of the Constitution, for which the exercise of certain rights and freedoms may be restricted, regards a criminal investigation, but the purpose of judicial bodies participating in the criminal proceedings is to find the offenses in time, applying the penalties provided by law to persons who have committed them, but at the same time no innocent person would be punished.

This article may not be invoked automatically, some procedural limitations should be imposed on the State when invoking its functionality and general interest, perfectionist values, the repressive or preventive system must not become ends, but just remain means (Dănișor, 2014: 229).

Art. 138 par. 1 letters a, c Criminal Procedure Code governs the possibility of interception of communications and any kind of distance communication and of video, audio, or photographing surveillance, which are part of the special surveillance methods.

Given the importance of these methods, both in terms of consequences caused to the rights of persons surveyed and regarding the contribution to the establishment of the

truth and therefore in the judicial decision, the Romanian legislator has tried to limit the cases where surveillance measures can be used, either by listing the offenses that can be investigated by these methods, either by specifying a minimum limit of punishment that reflects the seriousness of the facts raised.

It also attributed the power to decide whether there are met the conditions on the appropriateness, proportionally limiting the rights of a person with the general interest of society, in the task of a judge - a judge of rights and liberties of the competent court to hear the case in the first instance, and a declaration of technical surveillance may only be made by the prosecutor. However, in urgent cases, the prosecutor may also order provisionally, for a period of 48 hours, conducting surveillance, with the obligation to notify the judge in the shortest time possible, but no later than 24 hours, to check whether the conditions provided by law were met. "The Judge for rights and freedoms must verify proportionality of the measure – of the technical supervision process of evidence - based on one of the following alternative criteria: particular circumstances, the importance of information or evidence to be obtained or gravity of the offense." (Chirita, 2015: 338).

Given that the procedure governing the special measures of surveillance, is not just limited to the first stage, e.g. approval of surveillance, but that regarding the consequences of limiting the right to privacy, utterly important is the next step regarding how the surveillance is done, there should be no fact creating doubt about how the information obtained is used, where it is stored, what people have access to them. "The conditions under which the exercise of rights and freedoms may be restricted should be analyzed in steps. This means we have to start from the condition of competence and analyze the performance of each condition separately" (Dănișor, 2008: 3).

In this regard, the state through its authorities has a positive obligation to prevent the risk of disclosure of private telephone conversations, through the establishment of effective measures, and to conduct an effective investigation to uncover the causes that led to such deeds (Craxi no. 2 vs. Italy, Request no. 25337 / 94 ECHR, July 17, 2003: 73-76).

The reference on how the supervisory methods are enforced, the legislature is required to adopt clear rules that do not allow situations of an alleged reason that would justify restricting the right to privacy of a person, but in reality, aiming supervision of another person, regarding whom legal conditions for approval of surveillance were not met, or to ascertain the circumstances would belong to another judge of the superior court. For example, the judge in the court issues the surveillance warrant for a suspect against whom there is reasonable suspicion that he committed a crime within the jurisdiction of the court, but when enforcing the mandate, another person is supervised, friends with the suspect, against whom there is no evidence that he committed any crime, and, moreover, has a special quality (notary, lawyer, judge, an MP, minister, etc.) that would attract the competence of higher court respectively appeals court or supreme court.

If, in addition to the person shown in the surveillance mandate, the right to privacy of other people using a phone line that did not belong to him is limited, in that over a long period of time are also recorded his conversations in breach of Article 8 of the ECHR (Lambert vs. France, Request no. 23618 / 94 ECHR, august 24, 1998: 35-41).

Regarding public authorities that enforce the technical surveillance measures, the current Code of Criminal Procedure, art. 142 paragraph 1, in addition to the prosecutor, criminal investigation authorities or the specialized police officers or other specialized state bodies are authorised.

Until 14.03.2016 - publication of the RCC decision no. 51 of 16.02.2016, in the interception of communications, RIS was the only national authority designated by decision of the Supreme Council of National Defence, interception being made through the National Centre of communications interception or through collaboration with suppliers of electronic communication services.

Moreover, due to lack of facilities of technical systems required to enforce the surveillance mandates, both the prosecutor and criminal investigation bodies or workers in the police, have addressed RIS staff for interception and recording of communications in many cases, and based on storage media, containing the results of interceptions, drew up the minutes in written form of the conversations.

RCC by decision no. 51 of 16.02.2016 published in the Official Gazette 190 of 14.03.2016, was admitted the exception of unconstitutionality and it was found that the term "or other specialized organs of the state" from the provisions of article 142, paragraph 1 Criminal Procedure code is unconstitutional, in the decision's recitals being stated that, in essence, the phrase in question "appears as lacking clarity, precision and predictability, not allowing subjects to understand that these bodies are empowered to carry out measures with a high degree of intrusion in people's personal life", being violated provisions of article 1, paragraph 3 of the Romanian Constitution "on the State law, regarding ensuring citizens' rights" and the provisions of Article 1 paragraph 5 of the Basic law "which enshrines the principle of legality".

On the date of publication of the decision in the Official Gazette, before the Courts there were registered many cases, in both the preliminary stage room, judgment on the merits or before the court of appeal, cases in which there were used evidence and means of evidence obtained through surveillance measures enforced by technical workers in the RIS.

In this context, there were discussed the effects of the decision regarding evidence resulting from the interception and recording of communications from RIS, provided they were made before the publication of the decision in the Official Gazette, some even under the empire of the previous criminal procedure code, and according to the provisions of Article 147 paragraph 4 of the Constitution, the decisions are only enforceable for the future and are generally binding from the date of publication.

RCC, in par. 52 decision recitals tried to eliminate the risk of non-unitary practice in ordinary judges' activity, indicating that "throughout the whole activity of a law, it enjoys the presumption of constitutionality, so the decision is not to be applied to the cases definitively settled until its publication, however, appropriate applying in cases pending before the courts (...)".

Although at the date of execution of the technical supervision warrants there was a presumption of constitutionality of criminal procedure provisions that regulated supervisory measures, the question is why RCC did not mention that the evidence obtained before the publication of the decision are not affected, given that, to that date, a law has been respected, not violating the Constitution, but mentioned that the decision does not apply to criminal cases resolved by final judgment?

Arguably, taking into account the fact that although probation procedures - communication interceptions at the time of their realization were regulated by a law that respects the fundamental law, evidence effects obtained in such way, occur after publication of the decision in RCC in the Official Gazette, in the sense that all the evidence administered in criminal cases are analysed throughout the process until delivery of the definitive judgments. But evidence is considered by Panels of judges to determine the true

state of fact, and on that basis decide on the guilt or innocence of persons accused of offenses object of criminal cases.

Regarding causes specified by RCC, a question of interpretation of the phrase "role of the courts" has to be cleared up, for the purposes of determining whether the envisaged broad sense was considered, that of court of law, under Article 126 paragraph 1 of the Constitution, or the narrow sense, that of judicial body specialized in criminal matters, under Article 30 Criminal Procedure Code. "Outside the High Court of Cassation and Justice, the judiciary power also includes courts. The Constitution evokes them only generically, leaving ordinary materialization to the legislator." (Constantinescu, Iorgovan, Muraru and Tanasescu, 2004: 270).

In our opinion, the court of contentious considered the broad sense, because there is no reason leading to the conclusion that the decision takes effect only on cases in which was ordered judgment, given that also the judge of rights and freedoms and also the preliminary chamber judge, at the judgments, analyses the evidence that are based on technical surveillance methods enforced by RIS.

Moreover, preliminary chamber procedure cannot be regarded as exempt from the effects of RCC decision, given that at this stage is controlled, inter alia, the legality of the way in which evidence was taken during prosecution. "By evidence legality we understand the legality of acts by which the evidence is administered, and *verify the legality of evidence* consists of checking the legality of the following: the act whereby the evidence and evidence means were ordered, approved and confirmed; the evidence means; the process by which the evidence was obtained." (Kuglay in Udroiu (coordinator), 2015: 906). And if the RCC decision would not have been applied also to criminal cases under preliminary stage room at the publication date of the decision in the Official Gazette, this procedure would have been meaningless as there was only theoretical, given that the judge would not have been able to verify the legality of evidence through the evidentiary method.

On the other hand, the preliminary chamber must have the role of shortening and simplifying the whole procedure of criminal proceedings by setting deadlines within which individuals may invoke aspects regarding non-legal issues. If the judge for preliminary chamber rules that the claims or exceptions to the legality of evidence and criminal prosecution are unsubstantiated, they cannot be raised again during trial, or if under the final conclusion terminating the preliminary room procedure, certain evidence are excluded, they will not be considered at court or when judging the merits or in the appeal. Therefore, given the importance of Pre-Trial Chamber in relation to other phases of the criminal proceedings, taking into account the consequences of concluding handed down by the judge of preliminary chamber, both in terms of the evidence during the investigation, but also on how to carry judgment, we can say that the constitutional contentious judges had no intention to exclude the pending cases from the application of the decision, at the decision publication date in the preliminary procedure room.

Turning to cases where by the conclusion, the preliminary chamber judge ordered the judgment begins, we identified several issues that require some discussion regarding the applicable sanction to evidence obtained through technical surveillance methods enforced before the publication of the decision No. 51 / 2016 of RCC, by the RIS workers, the legal regime of the penalty, the period within which it may be invoked, the situation of the causes in which the preliminary chamber judge rejected claims or exceptions related to the evidence, noting that they were legally administered.

Regarding these issues of significant importance are the recitals of the decision No. 51 / 2016 RCC contained in paragraph 32 which states that "illegality of disposition, authorization, deposit or administration of the measure draws absolute or relative nullity, according to the distinctions set in art. 281 and 282 of the criminal procedure Code. Thus, achieving technical supervision, as evidentiary process, in violation of the legal requirements laid down in art 138-146 of the Code of Criminal Procedure, including those relating to state authorities enforceing the mandate of surveillance, has the effect of invalidity of the evidence obtained, and therefore the inability to use them in criminal proceedings under Article 102 par. (3) of the criminal procedure Code."

Regarding the absolute or relative nullity, it can only be applied to acts that have violated rules governing the way in which a criminal proceeding is developed, as from the provisions of art. 280 paragraph 1 Criminal Procedure Code, and if the judge for preliminary chamber or the court finds that an act which underpins obtaining evidence, is null, that evidence will be excluded, so that it will not be used in the criminal proceedings under article 102 paragraphs 2 and 3 Criminal Procedure Code. This idea also results from the grounds of the RCC Decision no. 383 / May 27, 2015, published in the Official Gazette no. 535 of 17.07.2015, par. 21, showing that "nullities, as regulated in art. 280-282 in the Criminal Procedure Code, concern only procedural and process documents, e.g. evidence and probation procedures, and not the evidence itself, that are only facts".

In case of evidence obtained through technical surveillance measures, the act of supervision is the conclusion of the judge for rights and freedoms under Article 140 paragraph 1 Criminal Procedure code, or, in urgent cases where the prosecutor may authorize a provisional supervision for a period not exceeding 48 hours, the prosecutor having the obligation to later inform the judge to consider whether the conditions laid down in Article 141, paragraph 1 Criminal Procedure Code were met.

After technical supervision has been ordered, follows work enforcing the provisions of the Judge's conclusion, that is the prosecutor's order by the bodies provided by article 142 paragraph 1 Criminal Procedure Code, whose acts constitute probative procedures based on which the prosecutor or criminal investigation body realizes the evidence consisting in the reports drawn up according to art. 143 par.1 Criminal Procedure Code, which record the surveillance results. As seen from the grounds of the Decision no. 51 / 2016 - par. 32, the Constitutional Court refers to Articles 281 and 282 Criminal Procedure Code, governing absolute nullity, respectively, relative nullity, without clearly establishing which of the two penalties apply to evidentiary procedures performed by RIS workers. In this context, an ordinary judge has the power to decide whether any sanctions must be applied before the publication of the RCC decision no. 51 / 2016 in the Official Gazette, and to determine whether the rules governing nullity or concerning the relative nullity are incident.

To analyse the evidence and probation procedures and to ascertain whether any penalties are required, the ordinary judge will consider both cases of absolute nullity and relative nullity provided for by the rules of criminal procedure, but also the reasons envisaged by constitutional court to adjudicate decision no. 51 / 2016. Thus, RCC took into account the effects produced by the execution of technical surveillance measures, limiting the right to private life, family, privacy and the right to privacy of correspondence showing in par. 48 of the decision that should "exist a framework that expressly establishes in a clear, precise and predictable way which are the bodies authorized to carry out operations which constitute interference in the sphere of protected rights."

In this context, enforcement technical supervision methods must be carried out by State bodies, on which the law expressly established competence to perform these evidence procedures, such as the prosecutor and criminal investigation bodies, which are judicial organs under article 30 Criminal procedure code, or specialized workers from the police, who received the assent of the general prosecutor attached to the High Court of Cassation and Justice, as special criminal investigation bodies, according to Article 55 par. 5 Criminal procedure code. Therefore, RIS workers lacked competence established by the Code of Criminal Procedure or other law, to enforce technical supervision warrants, not having the capacity of judicial bodies or prosecution organs, context in which they could not perform procedures underlying evidentiary procedures that can be used in criminal proceedings."Nullity sanction by applying it, has the function to remove the contents of the criminal acts which contain violations and that are alleged or proven harmful to criminal justice." (Iliescu in Dongoroz (coordinator), 2003: 406.

With reference to the cases of absolute nullity provided exhaustively by art. 281 paragraph 1, letters a) -f) Criminal procedure Code, we find that only in case of legal infringements on material competence and personal jurisdiction of the courts, this penalty occurs, but not always, but only when a court of lower degree performed the judgment although competence belonged to the higher court. In these circumstances, we will consider whether the evidence can be excluded by evidentiary procedures obtained by state bodies to which the law did not established that competence, due to the existence of relative nullity provided for by art. 282 par.1 Criminal procedure Code.

An important aspect which is required to be discussed is regarding the time limit to be raised relative nullity of the act - evidence, which administered the evidence resulting from interception of communications or video, audio or photograph surveillance. Technical surveillance methods are enforced during prosecution, and, according to art. 282 paragraph 4 letter a) Criminal procedure code, where the violation of the law occurred during the investigation, relative nullity can be amenable to closure of the procedure in preliminary chamber. In cases where preliminary stage room was not completed until the publication of RCC decision no. 51 / 2016 in the Official Gazette, not many questions arose about the possibility of invoking relative nullity of evidentiary procedures and of evidence means, but difficulties arose in criminal proceedings in which the preliminary chamber judge had ordered opening of the judgment. Thus, in the preliminary procedure room, the situation may call into question the evidence resulting from the temporary authorization issued by the prosecutor to carry out technical surveillance measures, under Article 141 paragraph 1 Criminal procedure Code, given that according to Article 3 of the same article, the prosecutor is obliged to submit to the judge of rights and freedoms in order to confirm the measure, the case file and the minutes edited, in summary form, surveillance activities conducted. If the judge for rights and freedoms confirmed by conclusion the measure provisionally authorized by the prosecutor, the question is whether the evidence thus obtained can be appealed in the preliminary phase? In our opinion, the answer is yes, because the judge for rights and freedoms didn't verify which of the state bodies have enforced the measure of supervision, but just analysed whether the conditions provided for by article 139 paragraphs 1 and 2 criminal procedure Code are met; conditions on: the existence of reasonable suspicion of committing or preparing one or more of offenses listed in paragraph 2; the proportionality of the interference with the seriousness of the action and importance of proof was sought to be achieved; the subsidiary character of the evidence, reported to the inability to obtain otherwise, or of danger to the safety of persons or valuables.

Regarding the main causes in which the preliminary chamber procedure was over until the publication of the RCC decision no. 51 / 2016 in the Official Gazette, of particular importance are the provisions of Article 4, paragraph 2 of Law no. 255/2013 implementing law no. 135 / 2010 on the criminal procedure Code, according to which "invalidity of any act or work performed before the entry into force of the new law can only be invoked under the Code of criminal procedure". That is, according to art. 282 paragraph 3 Criminal procedure Code "relative nullity is raised during or immediately after the act or at the latest within the time specified in paragraph 4", e.g. until the termination of the pre-chamber procedure, when non-compliance occurred during legal prosecution. Given these legal provisions one could tell at first glance that after the conclusion by the judge for preliminary chamber, who ordered commencement of trial, participants at criminal proceedings who claim that their rights have been harmed by the fact that RIS workers have enforced the technical supervision mandate, can no longer invoke the relative nullity of the documents that were administered as evidence during prosecution.

This idea would be justified only if during the preliminary chamber procedure there would be grounds forecast by law or RCC, which could support the conclusion that probation procedures and evidence do not comply with legal provisions; the rules governing the relative nullity are incidents.

In jurisprudence (conclusion issued by the High Court of Cassation and Justice on 18.03.2016 in case no. 2826 / 1/2015), showed that only in cases where RCC admitted unconstitutional exceptions of the substantive rules that allowed the principle of retroactivity of a more lenient penal law, the contentious constitutional court stated that the effects of decisions are applicable to pending cases, even if from a procedural point of view it had exceeded the time until which the text could be invoked. In this regard, it was the decision no.1483 / 2011 which found that the provisions of art. 320 criminal procedure code of 1969 are unconstitutional to the extent that the application removes more lenient penal law, and the decision nr. 932 of December 14, 2016 which established that Article 10 par. 1 thesis I of Law no. 241 / 2005 on preventing and combating tax evasion also apply to criminal legal relations arising before the entry into force of the law, according to the principle of applying a more lenient penal law, thus the first hearing can be found immediately following the entry into force of the law. In our view, given that until the publication of the RCC decision no. 51 / 2016 in the Official Gazette, there was a presumption of constitutionality of the provisions of article 142 paragraph 1 Criminal procedure code, and the decision was published in the Official Gazette after completion of the Pre-Trial Chamber phase, if they would accept the idea that relative nullity can no longer be invoked during trial, we could say that the RCC decision would have no effect, and secondly the right to defence and the right to fair trial would not exist effectively. However, lack of quality of the law due to non-compliance of clarity, precision, predictability and accessibility cannot be attributed to individuals who claim that by applying that law, their rights have been violated. The state has a positive obligation to enact quality laws, as Hans Kelsen describes it "as a reality consisting of the independently existing state of law as social reality that firstly creates the right and then willingly subjects to that right" (Kelsen, 2000: 367).

Therefore, we can say that the parties or major proceeding subjects who complained about a violation of their rights, were able to invoke the relative nullity before the court, who judged either merits or appeal at the first complete procedure term, which was established after the publication of the Constitutional Court decision.

References:

Bîrsan, C., (2005). *Convenţia europeană a drepturilor omului. Comentariu pe articole.Vol.I. Drepturi şi libertăţi,* Bucharest: Editura All Beck.

Chirita, C. M., (2015). Metode speciale de supraveghere sau cercetare. În Volonciu N. (coordonator), *Noul Cod de procedură penală, comentat, Ediţia a-2-a revizuită şi adăugită,* Bucharest: Editura Hamangiu.

Constantinescu, M., Iorgovan, A., Muraru, I. and Tănăsescu, E. S. (2004). *Constituţia României, revizuită – comentarii şi explicaţii-*, Bucharest: Editura All Beck.

Dănişor, D. C. (2008). Consideraţii privind reglementarea constituţională a restrângerii exerciţiului unor drepturi sau al unor libertăţi. *Noua Revistă de Drepturile Omului*, (2),3-22.

Dănişor, D. C. (2014). *Libertatea în capcană. Aporii ale justiţiei constituţionale,* Craiova: Universul Juridic, Bucharest: Editura Universitaria Craiova.

Iliescu, N. (2003). Nulităţile. În Dongoroz, V. (coordonator), *Explicaţii teoretice ale codului de procedură penală român, Partea generală, vol.V, Ediţia a doua*, Bucureşti: Editura Academiei Române, Editura All Beck, pp. 405-411.

Kelsen, H. (2000). *Doctrina Pură a Dreptului ,* Bucureşti, Editura Humanitas.

Kuglay, I. (2015). Camera preliminară. În Udroiu, M. (coordonator), *Codul de procedură penală. Comentariul pe articole*, Bucharest: Editura C. H. Beck, pp. 901-921.

Renucci, J. F. (2009). *Tratat de drept european al drepturilor omului*, Bucharest: Editura Hamangiu.

Sudre, F. (2006). *Drept European şi Internaţional al Drepturilor Omului*, Iaşi, Editura Polirom.

ECHR jurisprudence:

Klass vs. Germany, Request no. 5029/71 , ECHR, September 6, 1978: 42, 49-50.

Craxi no. 2 vs. Italy, Request no. 25337/94, ECHR, July 17, 2003: 73-76.

Lambert vs. France, Request no. 23618/94, ECHR, August 24, 1998: 35-41.

RCC jurisprudence:

Request no. 51/2016 in the Official Gazette no. 190 of March 14, 2016.

Request no. 383/27 May 2015, published in the Official Gazette no. 535 of 17.07.2015.

High Court of Cassation and Justice jurisprudence:

High Court of Cassation and Justice conclusion of 18.03.2016 in case no. 2826/1/2015.

Legislation:

European Convention on Human Rights (1950). Retrieved from: http://www.echr.coe.int/Documents/Convention_ENG.pdf

Romanian Constitution (2003). Retrieved from: www.monitoruloficial.ro

Criminal Procedure Code (2010). Retrieved from: www.monitoruloficial.ro

Abbreviations
Art. - Article
ECHR - European Court of Human Rights
RCC - Romanian Constitutional Court
Par. - paragraph
RIS - Romanian Intelligence Service

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