



Statement by the President of the European Court of Human Rights

The President of the Court wishes to clarify the position with regard to the immunities attaching to judges of the European Court of Human Rights following questions which have arisen in connection with the search by the prosecuting authorities of the home of a judge in his country of origin.

The immunities of the judges of the European Court of Human Rights are provided for in the Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe and Article 51 of the European Convention on Human Rights. Immunities extend also to their spouses and minor children.

Such immunities are an essential component of judicial independence under the rule of law and attach to judges of every international court. In the specific context of the European Convention on Human Rights they must operate so as to allow judges to carry out their duties in accordance with the independence and impartiality required of them by that instrument.

The Court is concerned that in carrying out a search in the home of the Romanian judge as part of an inquiry concerning allegations about his wife the rules on immunity may not have been respected. The Court has requested the Romanian Government to indicate whether they have grounds for asking the Court to waive the judge's immunity. Under the terms of Article 4 of the Sixth Protocol¹ only the plenary Court is empowered to waive a judge's immunity.

At the present time no request for a waiver of the immunity has been presented to the Court.

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¹ Article 4 of the Sixth Protocol provides as follows:

Privileges and immunities are accorded to judges not for the personal benefit of the individuals themselves but in order to safeguard the independent exercise of their functions. The plenary Court alone shall be competent to waive the immunity of judges; it has not only the right, but is under a duty, to waive the immunity of a judge in any case where, in its opinion, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.

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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.