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EGMR Nr. 30457/06 (1. Kammer) - Urteil vom 3. Juli 2012 (Robathin v. Österreich)

Recht auf Achtung der Korrespondenz (Kommunikation) insbesondere bei Anwaltskanzleien (Schutz der Vertraulichkeit von Mandantendaten: Begründung der Reichweite einer Durchsuchung beim Rückgriff auf alle elektronische Daten eines Rechtsanwalts; Verhältnismäßigkeit; tragfähiger Verdacht: Beurteilungszeitpunkt; prozedurale Schutzinstrumente; Achtung der Wohnung).

Art. 8 EMRK; Art. 6 EMRK; Art. 13 GG; Art. 12 GG; § 102 StPO; § 105 StPO

Leitsätze des Bearbeiters

1. Auch auf der Basis einer richterlichen Anordnung, der ein tragfähiger Tatverdacht zugrunde liegt, verstoßen die Durchsuchung einer Anwaltskanzlei und die in ihr stattfindenden Beschlagnahmen gegen Art. 8 EMRK, wenn die Durchsuchungsanordnung keine hinreichende Begründung dafür angibt, weshalb sie trotz eines auf Kontakte zu zwei Personen beschränkten Tatverdachts eine vollständige Kopie aller vorhandenen elektronischen Daten des verdächtigten Rechtsanwalts veranlasst.

2. Wird durch die Durchsuchung einer Anwaltskanzlei in das Recht auf die Vertraulichkeit der Korrespondenz eingegriffen, muss diese Maßnahme in einer demokratischen Gesellschaft strikt erforderlich sein. Es müssen adäquate und effektive Schutzinstrumente eingreifen, die vor Missbrauch und Willkür schützen. In die Prüfung der Verhältnismäßigkeit ist insbesondere einzubeziehen, ob die Durchsuchung auf einer richterlichen Anordnung und auf einem tragfähigen Verdacht beruht, ob die Reichweite der Anordnung angemessen begrenzt wurde und ob - im Fall der Durchsuchung einer Anwaltskanzlei - ein unabhängiger Beobachter anwesend war, der für den Schutz von Material eintreten konnte, das der anwaltlichen Verschwiegenheitspflicht unterliegt.

3. Ob ein tragfähiger Verdacht vorliegt, ist nach den zum Zeitpunkt der Entscheidung vorliegenden Informationen zu beurteilen. Ein späterer Freispruch des verdächtigten Rechtsanwalts macht einen zuvor bestehenden Verdacht nicht im Nachhinein unzureichend.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1959 and lives in Vienna. 1

6. The applicant is a practising lawyer by profession. He runs his law office with a partner. 2

7. In 2005 criminal proceedings on suspicion of aggravated theft, aggravated fraud and embezzlement were opened against the applicant and a number of other persons by the Vienna Regional Criminal Court (Landesgericht für Strafsachen). 3

8. On 21 February 2006 the investigating judge issued a search warrant for the applicant's premises. The warrant authorised the search and seizure of the following items: 4
"Documents, personal computers and discs, savings books, bank documents, deeds of gift and wills in favour of Dr Heinz Robathin, and any files concerning R. [name of one person] and G. [name of another person]."

9. In its reasoning, the search warrant stated that the applicant was suspected firstly of having taken furniture, pictures and silver worth more than 50,000 euros (EUR) from Mr R. in December 2003 for personal enrichment; secondly, of having induced Mr G. to sign an agreement for a secured loan of EUR 150,000 in December 2004, which Mr G. then failed to receive; and thirdly, of having abused the power of attorney granted to him by Mr R. in order to make bank transfers, causing the latter financial damage of more than EUR 50,000 in September 2003. 5

10. The search of the applicant's business premises was carried out by police officers of the Federal Ministry of the Interior on 21 February 2006. The applicant, his defence counsel and a representative of the Vienna Bar Association were present. The police officers proceeded to search the applicant's computer system, copying all files to disc. The representative of the Vienna Bar Association opposed this as being disproportionate since it was technically possible, by using appropriate search criteria, to search for and copy only those files which corresponded to the criteria set out in the search warrant. Having contacted the investigating judge, the police officers insisted on copying all files. On the proposal of the representative of the Vienna Bar Association, the police officers copied all data returned by a search for the names "R." and "G." to one disc and all other data to separate discs. All the discs were sealed. 6

11. The report drawn up by the police officers lists the following seized items: (1) laptop, (2) CDs/DVDs of R./G. data, (3) CDs/DVDs of all Robathin law office data, and (4) copies of agendas. 7

12. All these items were handed over to the investigating judge. Because the applicant opposed the search of the data, the Review Chamber (Ratskammer), a panel of three judges, of the Vienna Regional Criminal Court was called upon to decide whether they were to be examined or returned pursuant to Article 145 § 2 of the Code of Criminal Procedure (Strafprozeßordnung). 8

13. On 3 March 2006 the Review Chamber authorised the examination of all the files. It repeated that there were grounds for suspecting the applicant of the offences described in the search warrant and noted that the data in issue had been seized in the context of the preliminary investigations in respect of the applicant and other persons. A lawyer could not rely on his duty of professional secrecy and the attendant guarantees of Article 152 § 1 of the Code of Criminal Procedure when he himself was the suspect. In sum, the examination of the seized files was necessary in order to investigate the offences. 9

14. On 23 March 2006 the Vienna Bar Association contacted the Procurator General, suggesting that he lodge a plea of nullity for the preservation of the law (Nichtigkeitsbeschwerde zur Wahrung des Gesetzes) in the applicant's case. It submitted, in particular, that a search of a lawyer's business premises risked impinging on his duty of professional secrecy. 10

15. Pursuant to Article 139 of the Code of Criminal Procedure, the investigating judge had to give reasons when issuing a search warrant and to describe as clearly as possible which items were to be searched for and seized. In the applicant's case it was open to doubt whether the search warrant had accurately described which items could be seized. Generally, only a search for particular files likely to be related to the offence in issue could be authorised. The same applied to searches of electronic data. A practising lawyer was obliged by law to have at his disposal a computer system fulfilling certain standards in order to communicate electronically with the courts. In fact, most lawyers also had all their files in electronic form. Standard software for law offices allowed full-text searches for any name or word and thus made it easy to narrow the search of data. In the present case such a search had returned results and thus the search warrant did not extend to the seizure of all of the law office's data. 11

16. For these reasons, the Bar Association argued that the seizure of all the data and the Review Chamber's decision to permit the examination thereof had been excessive and therefore unlawful. The Review Chamber had failed to give any specific reasons why an examination of the data relating to Mr R. and Mr G. would not be sufficient. The applicant's duty of professional secrecy could only be lifted in relation to the suspicion against him concerning two of his clients but not in respect of all his lawyer-client relationships. Moreover, the partner in his law office was not under any suspicion. 12

17. By a letter of 12 April 2006 the Procurator General informed the Vienna Bar Association that he had not found any reason to lodge a plea of nullity for the preservation of the law. 13

18. On 14 May 2009 the Vienna Regional Criminal Court convicted the applicant of embezzlement but acquitted him of the other charges. The court sentenced him to three years' imprisonment, two of which were suspended on probation. On 22 December 2009 the Supreme Court dismissed the applicant's and the public prosecutor's pleas of nullity and on 10 March 2010 the Vienna Court of Appeal upheld the sentence. Subsequently, the applicant obtained evidence which had not been available to him at the time of the trial. He requested a reopening of the proceedings, which was granted and led to the applicant's acquittal by the Vienna Regional Criminal Court's judgment of 15 March 2011. 14

II. RELEVANT DOMESTIC LAWAND PRACTICE

A. Provisions of the Code of Criminal Procedure relating to search and seizure

19. Articles 139 to 149 of the Code of Criminal Procedure in the version in force at the material time concerned the search of premises and persons and the seizure of objects. 15

20. Article 139 § 1 provided, in particular, that a search may be carried out only if there is reasonable suspicion that a person suspected of having committed an offence is hiding on the premises concerned, or that there are objects on the premises the possession or examination of which is relevant to a particular criminal investigation. 16

21. Pursuant to Article 140 §§ 1 and 2, a search should, in general, be carried out only after the person concerned has been questioned, and only if the person sought has not come forward of his or her own volition or the object or objects sought have not been voluntarily produced and if the reasons warranting the search were not eliminated during the questioning. No such questioning is required where delay would be detrimental. 17

22. Article 140 § 3 stated that a search may, as a rule, only be carried out on the basis of a reasoned search warrant issued by a judge. 18

23. Pursuant to Article 142 §§ 2 and 3, the occupant of the premises subject to the search or, if he is unavailable, a relative of the occupant, must be present during the search. A report is to be drawn up and signed by all those present. 19

24. Article 143 § 1 of the Code of Criminal Procedure provided that, if objects relevant to the investigation or subject to forfeiture or confiscation are found, they are to be listed and taken to the court for safe keeping or seized. It referred in this respect to Article 98, pursuant to which objects in safe keeping must be put into an envelope to be sealed by the court, or have a label attached so as to avoid any substitution or confusion. 20

Article 145 read as follows: 21

"1. When searching through documents, steps must be taken to ensure that their content does not become known to unauthorised persons.

2. If the owner of the documents does not want to permit their being searched, they shall be sealed and deposited with the court; the Review Chamber must determine immediately whether they are to be examined or returned."

25. According to the courts' case-law, which is endorsed by the opinion of academic writers (see Bertl/Vernier, Grundriss des österreichischen Strafprozessrechts, 7th edition), the provisions relevant to the search and seizure of paper documents also apply mutatis mutandis to the search and seizure of electronic data. If the owner of discs or hard drives on which data are stored objects to their being searched, the data storage devices are to be sealed and the Review Chamber must decide whether they may be examined. 22

B. Provisions relating to the professional secrecy of lawyers

26. Section 9 of the Austrian Lawyers Act regulates the professional duties of lawyers including, inter alia, the duty to maintain professional secrecy. 23

27. Article 152 § 1 of the Code of Criminal Procedure exempts lawyers, notaries and business trustees from the obligation to give evidence as witnesses in respect of information given to them in the exercise of their profession. 24

28. It is established case-law that documents which contain information subject to professional secrecy may not be seized and used in a criminal investigation. 25

29. Pursuant to an instruction (Erlaß) of the Federal Minister of Justice of 21 July 1972, a representative of the competent Bar Association shall be present during the search of a lawyer's office in order to ensure that the search does not encroach on professional secrecy. 26

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

30. The applicant complained that the search and seizure of all his electronic data had violated his rights under Article 8 of the Convention, which reads as follows: 27

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the

protection of the rights and freedoms of others."

31. The Government contested that argument. 28

A. Admissibility

32. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible. 29

B. Merits

1. The parties' submissions

33. The applicant stated that under the Lawyers Act (Rechtsanwaltsordnung), he was bound by the duty of professional secrecy in respect of information which became known to him in the course of the exercise of his profession, where it was in the client's interest for such information to remain secret. The principle of secrecy must not be circumvented by seizing documents or by hearing a lawyer's employees as witnesses. In the present case, he argued that the data contained in the files concerning Mr R. and Mr G., which were covered by the search warrant, had been saved on separate storage devices. However, the search and seizure warrant had been vague and could not be considered to be in accordance with the law, or, in the alternative, the search and seizure of all his law office's electronic data could not be considered proportionate and had thus not been necessary in a democratic society. 30

34. Lastly, the applicant argued that his acquittal showed that there had been no basis for the suspicion against him. In the applicant's view this confirmed that the search and seizure of all his electronic data had been disproportionate, if not arbitrary. 31

35. The Government argued that the search and seizure had indeed been in accordance with the law. Referring to the Court's finding in Wieser and Bicos Beteiligungen GmbH v. Austria (no. 74336/01, § 65, ECHR 2007-XI) that the search of a lawyer's premises and his professional and business activities could have an impact on the lawyer's duty of professional secrecy and consequently on the proper administration of justice as guaranteed by Article 6 of the Convention, the Government maintained that the search had been carried out in a way that had not interfered disproportionately with the applicant's rights. 32

36. The Government pointed out that while the principle of professional secrecy as expressed in the Lawyers Act served to protect the special relationship of confidence between a lawyer and a client, professional secrecy did not protect the lawyer himself against criminal prosecution or measures in connection with such prosecution. Turning to the present application, the Government stressed that the search had been carried out in the presence of a representative of the Bar Association, and in compliance with the relevant provisions of the Code of Criminal Procedure with a view to securing the guarantees of Article 8 of the Convention. 33

37. As to the applicant's claim that the examination of all his files had been excessive and disproportionate, the Government argued that in order to determine what was of relevance to the criminal proceedings, all the seized data had had to be searched, as some relevant documents might not have been detected by a comprehensive full-text search alone. A search of all files - at least on a superficial level - had therefore been necessary. As a result, the measure had served a legitimate aim and the applicant's rights had been interfered with to the least extent possible. Thus, the measure could not be considered disproportionate. Furthermore, the search had not had any impact on the proper administration of justice as regards the relationship between the applicant and his other clients. 34

38. The Government contested the applicant's argument that his acquittal had to be taken into account when assessing whether the search and seizure of electronic data had been justified. They pointed out that, at the time when the search warrant was issued, there had been a reasonable suspicion against the applicant. The fact that, following his conviction, new evidence became available which led to the proceedings being reopened and then to his acquittal could not change this assessment. 35

2. The Court's assessment

39. It is not in dispute between the parties that the measures complained of interfered with the applicant's rights under Article 8 of the Convention. The Court finds that the search and seizure of electronic data constituted an interference with the applicant's right to respect for his "correspondence" within the meaning of Article 8 of the Convention (see Wieser and Bicos Beteiligungen GmbH, cited above, § 45 with further references). 36

40. As to the question whether the measure was in accordance with the law, the Court's case-law has established that 37

a measure must have some basis in domestic law, with the term "law" being understood in its "substantive" sense, not its "formal" one. In a sphere covered by statutory law, the "law" is the enactment in force as the competent courts have interpreted it (see Société Colas Est and Others v. France, no. 37971/97, § 43, ECHR 2002-III). In Kennedy v. the United Kingdom (no. 26839/05, § 151, 18 May 2010), the Court also held that the domestic law must be compatible with the rule of law and accessible to the person concerned, and that the person affected must be able to foresee the consequences of the domestic law for him (see, among many other authorities, Rotaru v. Romania [GC], no. 28341/95, § 52, ECHR 2000-V; Liberty and Others v. the United Kingdom, no. 58243/00, § 59, 1 July 2008; and Iordachi and Others v. Moldova, no. 25198/02, § 37, 10 February 2009).

41. The Court found in the case of Wieser and Bicos Beteiligungen GmbH (cited above, § 54) that the Austrian Code of Criminal Procedure did not contain specific provisions for the search and seizure of electronic data. However, it contained detailed provisions for the seizure of objects and, in addition, specific rules for the seizure of documents. It was established in the domestic courts' case-law that these provisions also applied to the search and seizure of electronic data. Taking into consideration the criteria of compatibility with the rule of law, accessibility of the domestic law, and foreseeability of the consequences of the law, the Court accepts that the search and seizure was in "accordance with the law". In so far as the applicant argues that the search warrant was too vague to be in accordance with the law, the Court considers that his argument raises questions rather of proportionality, which will be examined below. 38

42. The search and seizure also pursued a legitimate aim, namely the prevention of crime. 39

43. It thus remains for the Court to ascertain whether the measure complained of was "necessary in a democratic society", in other words, whether the relationship between the aim sought to be achieved and the means employed can be considered proportionate. 40

44. In comparable cases, the Court has examined whether domestic law and practice afforded adequate and effective safeguards against any abuse and arbitrariness (see, for instance, Société Colas Est and Others, cited above, § 48). Elements taken into consideration are, in particular, whether the search was based on a warrant issued by a judge and based on reasonable suspicion; whether the scope of the warrant was reasonably limited; and - where the search of a lawyer's office was concerned - whether the search was carried out in the presence of an independent observer in order to ensure that materials subject to professional secrecy were not removed (see also Niemietz v. Germany, 16 December 1992, § 37, Series A no. 251-B; Tamosius v. the United Kingdom (dec.), no. 62002/00, ECHR 2002-VIII; and Wieser and Bicos Beteiligungen GmbH, cited above, § 57). 41

45. In the present case the search and seizure complained of were based on a warrant issued by the investigating judge in the context of criminal proceedings against the applicant on suspicion of aggravated theft, aggravated fraud and embezzlement. He was suspected of having stolen valuables and of having defrauded substantial amounts of money from Mr. R. and Mr. G. The warrant gave details in respect of the alleged acts, the time of their commission and the damage allegedly caused. 42

46. The Court disagrees with the applicant's argument that his acquittal showed the lack of a reasonable suspicion from the beginning. Rather, the existence of reasonable suspicion is to be assessed at the time of issuing the search warrant. In the circumstances described above, the Court is satisfied that the search warrant was based on reasonable suspicion at that time. The fact that the applicant was eventually acquitted years later cannot change this assessment. 43

47. Turning to the question whether the scope of the warrant was reasonably limited, the Court considers that the search warrant was couched in very broad terms. While limiting the search and seizure of files to those concerning R. and G., it authorised in a general and unlimited manner the search and seizure of documents, personal computers and discs, savings books, bank documents and deeds of gift and wills in favour of the applicant. The Court will therefore examine whether deficiencies in the limitation of the scope of the search and seizure warrant were offset by sufficient procedural safeguards, capable of protecting the applicant against any abuse or arbitrariness. 44

48. As the Court has already noted in the case of Wieser and Bicos Beteiligungen GmbH (cited above, § 60) the Austrian Code of Criminal Procedure provides the following procedural safeguards as regards the search and seizure of documents and electronic data: 45

(a) The occupant of the premises shall be present;

(b) A report is to be drawn up at the end of the search and items seized are to be listed;

(c) If the owner objects to the seizure of documents or data storage media they are to be sealed and put before the

judge for a decision as to whether or not they are to be used for the investigation; and

(d) In addition, as far as the search of a lawyer's office is concerned, the presence of a representative of the Bar Association is required.

49. In the present case, the search was carried out in the presence of the applicant, his defence counsel and a representative of the Vienna Bar Association. While all of the applicant's electronic data were copied to discs, the police officers followed the proposal of the representative of the Bar Association and copied all data containing the names "R." and "G." to a separate disc. All the discs were sealed. A report was duly drawn up at the end of the search, listing all the items seized. 46

50. The Court also notes that the applicant had a remedy against the examination of the seized data at his disposal, namely a complaint to the Review Chamber at the Regional Criminal Court. As the applicant opposed the search of the data, it was for the Review Chamber to decide which data could actually be examined. The Court has already noted above that the search warrant in the present case was couched in very broad terms whereas the description of the alleged criminal activities related exclusively to "R." and "G." (see paragraph 9 above). Nevertheless all of the applicant's electronic data were copied to discs. 47

51. In these circumstances, the manner in which the Review Chamber exercised its supervisory function is of particular importance. The Court notes that the Review Chamber gave only very brief and rather general reasons when authorising the search of all the electronic data from the applicant's law office. In particular, it did not address the question whether it would be sufficient to search only those discs which contained data relating to "R." and "G.". Nor did it give any specific reasons for its finding that a search of all of the applicant's data was necessary for the investigation. Thus, the way in which the Review Chamber exercised its supervision in the present case does not enable the Court to establish that the search of all of the applicant's electronic data was proportionate in the circumstances. 48

52. However, the facts of the case show that the alleged criminal activities, necessitating a search warrant, related solely to the relationship between the applicant and "R." and "G." Thus, the Court finds that there should be particular reasons to allow the search of all other data, having regard to the specific circumstances prevailing in a law office. However, in the present case, there were no such reasons either in the search warrant itself or in any other document. In these circumstances, the Court finds that the seizure and examination of all data went beyond what was necessary to achieve the legitimate aim. It follows that there has been a violation of Article 8 of the Convention. 49

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

53. Article 41 of the Convention provides: 50

"If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

54. The applicant claimed 20,000 euros (EUR) in respect of non-pecuniary and pecuniary damage, without further substantiating his claim or stating which amounts were claimed under which head. 51

55. The Government asserted that there was no causal link between the violation in issue and the pecuniary damage alleged by the applicant. 52

56. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. 53

57. However, the Court considers that the applicant must have sustained some non-pecuniary damage. It thus awards the applicant, on an equitable basis, EUR 3,000 under this head, plus any tax that may be chargeable. 54

B. Costs and expenses

58. The applicant also claimed EUR 22,849.36 for the costs and expenses incurred before the domestic courts. This amount includes value-added tax. As far as claims for costs and expenses incurred in the Convention proceedings are concerned, the applicant stated that he would submit these at a later stage. 55

59. The Government contested the claim for costs and expenses incurred before the domestic courts, arguing that the bills for costs and expenses only added up to the amount of EUR 22,749.36 and that the applicant had failed to show 56

that the costs had been actually and necessarily incurred to prevent the violation of the Convention. The Government also argued that the applicant had failed to show that these costs were reasonable as to quantum.

60. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 2,500 for costs and expenses in the domestic proceedings, plus any tax that may be chargeable to the applicant. 57

61. Turning to the costs for the proceedings before the Court, it notes that the applicant did not make any claim for costs and expenses, despite having been instructed to do so by a letter dated 27 January 2009. The Court is therefore unable to make an award under this head. 58

C. Default interest

62. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points. 59

FOR THESE REASONS, THE COURT

1. Declares unanimously the application admissible;

2. Holds by five votes to two that there has been a violation of Article 8 of the Convention;

3. Holds by five votes to two

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage and EUR 2,500 (two thousand five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. Dismisses unanimously the remainder of the applicant's claim for just satisfaction.

DISSENTING OPINION OF JUDGES KOVLER AND LORENZEN

In this case the majority found a violation of Article 8 because the search and seizure went beyond what was necessary to achieve the legitimate aim. For the following reasons we are unable to follow that conclusion. 60

When assessing whether the search and seizure was disproportionate because the applicant is a practising lawyer, it is in our opinion crucial to bear in mind that the measures were not directed against any of his clients but concerned a criminal investigation against himself and others for various offences in his relation to clients. The applicant was thus suspected of aggravated theft, aggravated fraud and embezzlement against R and G, and the authorities considered that the search and seizure could not be limited to the files bearing the names of those two persons, but that it was necessary to include the other items listed in the search warrant. 61

We have no difficulties in accepting that it was important for the investigation to examine whether relevant evidence of the suspected illegal transactions were to be found outside the files of the two clients. Even if admittedly the Austrian authorities gave only succinct reasons for that necessity and did not address the allegations of the Vienna Bar Association that it might have been possible to narrow the search of data by electronic means, we fail to see that this can in itself justify the conclusion that the search and seizure was not in compliance with Article 8. 62

In this connection we attach great importance to the fact that all the procedural safeguards provided for by Austrian law were complied with, including that all the copied discs were sealed and could only be examined under the control of the Review Chamber. The case differs in this respect from the case of Wieser and Bicos Beteiligungen GmbH. Furthermore there is no indication that the search and seizure of the applicant´s electronic data risked encroaching on 63

his duty to professional secrecy as a lawyer.

Accordingly we have voted for finding no violation of Article 8. 64