

THE DECISION of  
THE SUPREME COURT

issued in Stockholm on October 21, 2005

Matter No.

Ö 2913-05

Petition for extradition to Roumania of Gregorian Bivolaru, born on March 13, 1952  
lacking permanent adress, citizen of Roumania  
Public defence counsel: the lawyer Niclas Larsson.

The Ministry of Justice of Roumania has, in a petition of April 11, 2005, requested that Gregorian Bivolaru be extradited to Roumania for legal proceedings pertaining to the crime of sexual offense with an under-age person during the period as from and including 2002 to and including March 2004. In support of this request reference is made to a warrant of arrest of May 31, 2004 by the Sector 5 court in Bukarest.

Furthermore, the Ministry of Justice of Roumania has, in a petition of 26 April 2005 requested that Gregorian Bivolaru be extradited to Roumania for legal proceedings pertaining to trafficking in other persons during the period as from December 2001 to and including March 2004.

In support of this request reference is made to a detention order of April 15 by the Bukarest court, Section 1 for criminal cases.

The matter having, pursuant to the Act (1957:668) on extradition due to criminal action, been submitted to the Chief Public Prosecutor, a judicial inquiry having been undertaken, the Chief Public Prosecutor has, pursuant to Section 17 of the same Act, referred the matter as well as his own statement, to the Supreme Court.

Certified correct translation of  
the original in the Swedish language

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Gregorian Bivolaru has opposed extradition.

As arrested and detained Gregorian Bivolaru has, in the extradition matter been deprived of liberty since April 4, 2005.

The Supreme Court, having on October 11 and 12 conducted proceedings in the matter, now issues the following

#### STATEMENT

The criminal acts for which Gregorian Bivolaru has been requested to be extradited constitute – at the time of the request for extradition – sexual utilization of a dependent person (Chapter 6, Section 3 of the Penal Code) and trafficking in human beings (Chapter 4, Section 1 a of the same Act).

Gregorian Bivolaru has, as reason for his opposing the request for his extradition, maintained that he has not committed the criminal acts and that the detention decisions are obviously wrong, and that he will be subject to persecution if extradited to Roumania.

At the hearing of him in the Supreme Court he has stated i.a. as follows. He started yoga training at the age of twelve. In 1970, he began teaching other persons yoga, which was forbidden by the Ceausescu regime. During 1989 he was for some time committed to a psychiatric clinic but was released when C was overthrown.

He founded MISA (Asociata Miscarea de Integrare Spirituala in Absolut) together with some ten other persons in 1990. Misa's purpose is to inspire other people to genuine spirituality.

MISA arranged courses all over Roumania, sometimes for as many as 12,000 participants. The course programs were written by Gregorian Bivolaru. Members of MISA are the tutors and the course organizers.

The participants, in all 37,000 and most of them youngsters and intellectuals, are not members. On the course occasions he sometimes expressed himself critically about the regime, particularly about the corruption. The movement was conceived by the regime as a threat. In 1994 he was visited by a person who gave himself out to be a member of the

government party who said that unless Gregorian Bivolaru dissolved MISA he would be crushed mentally and physically with all means. As to the yoga school that one would in any case be closed down.

When he didn't obey, a number of persons unknown to him got into his flat and started a fire which destroyed the entire house. Those who were guilty to this were never caught by the authorities. After this, he has been pursued, harassed and threatened. Massmedia are carrying on a campaign against him and MISA and the authorities are those behind this. He left the directorship in 1995 due to the threats against him and the harassment to which MISA was exposed in consequence of his leadership. Since then he has not had any pupils but devoted himself to authorship and to serve as editor of MISA's periodical. In 1996 he was close to being committed to a mental hospital. Having criticized former premier Nastase, who is a friend of the present chief prosecutor, at a conference in Paris his flat was again vandalized and all his savings and personal belongings stolen in connection with a domiciliary visit in his absence in March 2004. Madalina Dumitru who had been forced to report him for sexual utilization was living in the same building as Gregorian Bivolaru's girlfriend with whom he had a sexual relationship. He visited the house in order to meet with his girlfriend but has had no sexual relationship with Madalina Dumitru. She was not even his pupil. Certainly, he has been going abroad with Madalina Dumitru but then together with 17 other persons. – The accusation against him and other persons to have engaged in trafficking in human beings is a made-up story. MISA is just like any yoga-school in this world.

Some of its exercisers live in a so-called ashram where they may exercise yoga. There are some 40 ashrams in Roumania. In total some 750 persons are living there. They do not need to be adherents to MISA. Some of the houses are owned by MISA but not all. Those living there are receiving board and lodging cost-free, just like in India. Gregorian Bivolaru has never received money or anything else from anyone living in an ashram. These people are free to at any time leave an ashram, and while living there they may at the same time work or study or carry on other activities. The rulings applying to living there are made-up by those living there. – He has come to Sweden in order to apply for an asylum since he would be in fear of his life if having to return to Roumania. – It is true that MISA has been permitted to arrange demonstrations in Bucharest and some of the journalists have been sentenced to fines for slander against MISA.



Like Sweden Roumania is attached to the 1957 European Extradition Convention. Detention decisions issued in Roumania shall for this reason be accepted according to Section 9, 3rd Paragraph of the Extradition Act unless it is, in specific cases, evident that the decision is obviously incorrect.

The detention decision of May 31, 2004 concerning sexual activity together with underage individuals is based partly on a report in writing from the injured party Madalina Dumitru (born in 1986) and, partly, on certain supporting evidence. In the detention decision is stated that Madalina Dumitru has withdrawn the report. However, the Court has assumed that this has been done upon pressure from persons around Gregorian Bivolaru.

Upon Gregorian Bivolaru's request Madalina Dumitru has been questioned as injured party in the extradition matter. She has i.a. stated as follows: She is exercising yoga since four years. She lived in Bucharest in the same house – however not an ashram – as a woman friend who had a relationship with Gregorian Bivolaru. She, herself, has never had any sexual relationship with him. Gregorian Bivolaru has never been her teacher but she respects him since he has written many books, and is a great person. She has participated in a trip abroad together with Gregorian Bivolaru, but this was a group excursion for approx. 18 persons. She has never received any gifts from Gregorian Bivolaru. She has never been exposed to any compulsion within MISA, nor does she know of anybody else who has.

In the morning of March 18, 2004, when she was about to leave her bed, some fifteen persons dressed in black broke into the house through a window. She thought they were thieves. She was frightened and ran thinly dressed into her girlfriends room where she tried to hide. In a minute, blackdressed men got into the room and aimed weapons at them. They were ordered to lay themselves down on the floor where she was left thinly dressed for half an hour. When she tried to rise she was kicked in her chest. After many hours, during which search of premises went on, she was brought to a place unknown to her which, as was told her later, belonged to the Prosecution Authority . There she was humiliated and forced – as dictated by the interrogation officers supported by a female psychologist, who pulled her hair from behind when she refused to obey what she was ordered, and with armed guards at the door – to write an accusation against Gregorian Bivolaru. She was also forced to swallow some tablets of unknown kind. She estimates the duration of the hearing to have been 4-5 hours. The accusation is not in any respect connected with reality. On the day after, she accompanied

her lawyer to the Prosecution Authority in order to take back her report, but her new report was not attached to the documents of the file.

The proof in support basic to the detention decision of May 31, 2004 consists of i.a. recordings of telephone calls said to have been had between Madalina Dumitru and Gregorian Bivolaru as well as confiscated notes made by Madalina Dumitru, in which is mentioned a man called G. After having, at the proceedings, read part of the written versions of the calls, Madalina Dumitru has stated that she doesn't remember the contents of the telephone calls she has had with Gregorian Bivolaru, and that the G who is referred to in her confiscated notes is a boy G, whom she was fond of and fantasized about.

Madalina Dumitru has furthermore stated: The apprehending of her on March 18, 2004, was filmed, and the film as well as extracts from her confiscated notes were shown the day after the apprehension on repeated occasions in the Roumanian television. As a result of this she has been seriously harassed by persons in her environment and not been able to continue her schoolstudies.

Madalina Dumitru has made a trustworthy impression, and her information about the circumstances when she was apprehendid and the questioning on March 18, 2004 gains certain support by other investigations. From the documents it is otherwise evident that she has, by aid of her lawyer, on February 23, 2005 made (1) a report to the Minister of Justice of Roumania on breach of authority by a prosecutor and (2) a report to the Prosecution Authority of the Supreme Court of Roumania on criminal acts committed against her by prosecutors and policemen. In the latter report there is also information on a report made by her lawyer against the prosecutor general at the Court of Appeal in Bucharest; in this it is adduced i.a. that the prosecutors have refused to again interrogate Madalina Dumitru regarding her accusation against Gregorian Bivolaru, that Madalina Dumitru and her lawyer have been sitting locked-up at the Forensic Medicine Department during four hours and that thereafter her lawyer was maltreated in a car by the special police force before being separated from her client.

Madalina Dumitru's information seriously weakens the belief in the accusation against Gregorian Bivolaru for having exposed her to sexual utilization. Considering that the Romanian Prosecution Authority has not had the opportunity to answer her report and make a more detailed presentation of other evidence, there exist however no such circumstances that

the detention decision of May 31, 2004, may be conceived as obviously wrong. Thus, there is no prevention, according to Section 9 Paragraph 3 of the Extradition Act, in this connection against extradition of Gregorian Bivolaru.

The detention decision of April 15, 2005, is based on the fact that within MISA there has during the period of December 2001-March 2004, existed an organized criminal group, consisting of Gregorian Bivolaru and 17 other persons, functioning according to a well established and coordinated hierarchical pyramid structure subject to the authoritarian Gregorian Bivolaru leadership. The purpose of this group formation was, by means of criminal activities, i.e. trafficking in human beings, to achieve financial benefits consisting of the value of the non-paid-for work, so-called karma-yoga, done by these persons. The victims were those exercising yoga within the framework of MISA, who were, according to the detention decision, forced into this condition by the spiritual authority exercised on them by Gregorian Bivolaru in his capacity of yoga teacher, spiritual master and guru.

The detention decision does not contain any specification of what the actions consisted of and there is nothing indicating what kind of evidence there is in support of the claim of criminal acts. From a separate "presentation of facts" by the criminal court there is however evident that the meaning of the value of the remarkable punishments is fines and confiscation of property, and that MISA's real purpose of recruiting MISA members is to exploit and enslave them. There is also emphasized that the adepts are forced to abstain from their studying or employments. The regulations governing the living in ashram are said to have been established by Gregorian Bivolaru who is said to have carefully supervised the observation of the regulations by aid of trusted persons. Certain information in the matter is also to be found in an enclosure in the matter from the Public Matters Department of the Prosecution Authority with connection to the Court of Appeal in Bucharest. There it is i.a. emphasized that in the year of 2003 it was noted that several members of MISA had, under MISA's management headed by Gregorian Bivolaru, produced video recordings of pornographic character, used personnel without any contracts and recruited female dancers and other persons in order to practise prostitution.

It is also emphasized that, within the scope of the yoga courses Gregorian Bivolaru has recommended that girls should engage in sexual acting together with him as a means to achieve spiritual liberation.



With regard to this accusation the student Birladeanu Costel – referred to by the prosecution as a witness in the Roumanian crime investigation – has upon Gregorian Bivolaru's request been questioned about his stay in two ashrams during 9 years and about his other knowledge about MISA in Roumania, and the vicar Karl-Erik Nylund been questioned about the MISA movement. Karl-Erik Nylund who is well informed about religious sects has based his statement on repeated interviews with Gregorian Bivolaru in the jail and with several other MISA supporters. Birladeanu Costel and Karl-Erik Nylund have, both of them, emphasized the absence of compulsion within MISA. In consequence of these statements and what Madalina Dumitru and Gregorian Bivolaru have adduced it appears improbable that Gregorian Bivolaru has become guilty of trafficking in human beings, including for instance offering housing by misuse of authority in order to – in some qualified sense – exploit those living there.

Considering the comprehensive description of what is being done and in view of the additional evidence that may be available behind the detention decision not having been presented, whatever may have come out during the proceedings, is not sufficient enough for the conclusion that the detention decision is obviously incorrect. Nor is there anything, according to Section 9, Paragraph 3 of the Aliens' Act, to prevent extradition due to the crime of trafficking in human beings.

Under the provisions of Section 7 of the Aliens' Act extradition must not be made of a person who may, due to his/her origin, affiliation to some certain social group or religious or political opinion or else due to political circumstances, run the risk to be exposed in the foreign country to persecution aiming at his life or liberty or else is of serious character.

From the investigation in the matter, including information supplied by Karl-Erik Nylund, it may be regarded evident that yoga, in any case of such character as the one exercised within MISA, has such a spiritual aim that participation in the activity reflects a religious belief.

In the matter there has been referred to several letters from individuals and from organizations, among them the Helsingfors Committee for the defending of human rights in Roumania, and Amnesty International, concerning harassment and crime against basic rights committed by Roumanian media and institutions against MISA and Gregorian Bivolaru.

In the letters it is adduced that Gregorian Bivolaru runs the risk of being pursued in Roumania and that he cannot expect to have a just trial there.

Upon approach by the Chief State Prosecutor the Swedish Ministry of Foreign Affairs has stated that, as a candidate country for EU membership, Roumania fulfills in principle the so-called Copenhagen criteria which implies that the country is to have stable institutions guaranteeing law and order, human rights and respect for and protection of the minorities. In practice, says the Ministry of Foreign Affairs, there occurs sometimes individual violation of the respect for human rights and, with reference to the overall report issued by the EU commission of October 2004, the Ministry of Foreign Affairs complains of deficiencies within the judicial system consisting of corruption and lack of non-dependence of the Government and directed drawing of lots on the part of the heads of court. With regard to the MISA organization it is noted that the accusations against the organization including its leaders have been many and serious on the part of Roumanian authorities as well as media. The tone in media has, according to the Ministry of Foreign Affairs, sometimes been very spiteful. The organization is said to have been kept under the supervision of the Roumanian security service for more than 10 years, and its leaders as long as since the 1970s; most of the accusations however have not been of a kind possible to prove, and no sentence has been issued.

In the matter it should be regarded as confirmed that the apprehension and questioning of Madalina Dumitru took place in such forms and ways that cause serious misgivings. It has in the matter furthermore been made probable that the immediate TV transmission of the apprehension and the subsequent press campaign were based on information from the preliminary investigation intentionally made available by the authorities for the purpose of achieving a general opinion against Gregorian Bivolaru. A certain documentation has been provided concerning search of premises in combination with vandalizing of Gregorian Bivolaru's apartment. In both of the detention decisions, which are basic to the request for extradition, there is adduced as special reason for detention that Gregorian Bivolaru is disturbing public order.

This disturbance would, according to the decision of May 31, 2004, consist of the fact that the well-known public reaction when people had become informed of the fact that serious criminal acts had been committed against certain under-age individuals, has caused a certain social tension justifying a drastically preventive action to be taken against Gregorian Bivolaru. In the matter there has furthermore been invoked a speech in the Roumanian



parliament in which Gregorian Bivolaru was referred to as Satan, psychopat, wretch, terrorist and villain, followed by a request to the public prosecutor to arrest him immediately.

As an important reason for immediate arrest was emphasized that parents of children whose life Gregorian Bivolaru would have destroyed would else have justice done, for example by lynching him.

A summary assessment of the investigation referred to in this part must be regarded as providing a basis for the conclusion that, due to his religious conception Gregorian Bivolaru runs the risk of being exposed to pursuit of evil character after an extradition. For this reason the Supreme Court finds that impediment to extradition applies pursuant to Section 7 of the Aliens' Act.

Certified correct translation of  
the original in the Swedish language

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Public authorized translator to and  
from English



## DECISIONS IN OTHER MATTERS

For assistance to Gregorian Bivolaru in the extradition matter Niclas Larsson is adjudged compensation from public funds in the amount of onehundredtwentyonethousandfourhundredandfortytwo (121,442) SEK whereof 84,420 for work, 21,968 for loss of time and 15,054 for expenses. This cost will stay with the State. The compensation includes VAT in the amount of 24,288 SEK.

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Participating in the Decision were:

the Supreme Court judges Munck, Regner, Blomstrand, Pripp and Håstad (referee)

Reporting judge referee: Åhrling

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