

TO THE PRESECUTORS' OFFICE
OF THE HIGH COURT OF CASSATION AND JUSTICE

PENAL COMPLAINT

Regarding the crimes committed against
THE MINOR MADALINA DUMITRU

I, the undersigned DUMITRU MADALINA, with the chosen residence during the trial case in Bucharest, 136 Mihail Sebastian Str., bl. V 90, sc.1, ap. 20, district 5, minor at the time the facts committed took place, I submit the following *penal complaint* against the prosecutors and the employees of the Romania Police and Gendarmerie, involved in the house search, the hearing, the diffusion of information about my intimate life, who beaten me, forced me to undertake a medical expertise, moved me by force to Constanta and sequestered me at the residence of Iordache's, prevented me from attending the high-school etc.

From the information obtained from the respective institutions, I identified some of these persons, who flagrantly ruined my life.

Therefore I submit a *penal complaint* against:

- A) The prosecutors coordinating the dossier no. 720/P/2003, **BALAN GEORGE**, General Prosecutor of the Prosecutors' Office of Bucharest Appeal Court, and **CHABORSKI GRIGORE ANTON**, from the Prosecutors' Office of Bucharest Appeal Court, prosecutors who knew where I was living and the fact that I was a minor from the reports of the secret services that illegally monitored me, and who directed that I would be given intimidating and molesting treatments, informing and collaborating with the press about the development of these activities.
- B) The prosecutor **NICA ANDREEA**, from the Prosecutors' Office of Bucharest Appeal Court, in charge with the house search that took place on March 18, 2004 at no. 2 Vasile Grozavu Str., district 5, Bucharest, who humiliated me, created a huge physical and psychological pressure upon me, forced me to be filmed undressed and handed to the TV journalists the respective tapes, as well as letters and other private documents seized during the house search.
- C) The **GENDARMES** that participated in the violent action, in the search and filming, that took place by breaking the legal provisions.

I state again the serious fact that the criminal authorities **KNEW PRECISELY WHERE I WAS LIVING**, fact proven later on by showing the evidence (in the sense that I was monitored by the secret services), therefore they can not pretend the search warrant was issued based on **indications that I have committed the crimes of money laundering and fiscal evasion**.

- D) Lieutenant **RAICU ALINA**, officer psychologist in the Special Antiterrorist Battalion 1 of the Gendarmerie, the Ministry of Internal Affairs and Administration, who was present at my hearing during the night of 18/19 March 2004 and who **AGGRESSED ME BOTH PSYCHICALLY AND PHYSICALLY**, showing an unprofessional behaviour, a biased attitude, being uninterested in knowing me, protect my interests, especially as I was a minor. Moreover, at a later date, while exercising her duties and responsibilities, she filed the Report no.

169795/05.04.2004, wherein she stated untrue facts and circumstances and purposely omitted to insert the true facts and circumstances.

- E) The prosecutors **CERBU VIOREL** and **CHABORSKI GRIGORE ANTON** who strongly opposed when I wanted to give a supplementary declaration, and on 01.04.2004 they decided:
- To take me by force and under the escort of Special Police Intervention Forces at the Forensic Medical Institute, for a forceful gynecological and anal examination
 - To illegally retain me inside the Forensic Medical Institute and later on
 - To send me by force to Constanta and to place me (without my agreement and while I had no need to be taken care of) in the custody of Iordache Florentina and Marian
- F) The senior police inspector **ILIES DUMITRU** who illegally deprived me of freedom, sequestered and molested me, during the time I was forcefully taken, without any warrant, from Bucharest Appeal Court to the Forensic Medical Institute and afterwards to Constanta.
- G) Against the other prosecutors and police investigators who attended my interrogation during the night of March 18/19, 2004, who did not introduce and identify themselves, and whom I ask you to identify.
- H) I also request to start an investigation in order to check the legality of my monitoring by the secret services, as well as the legality of the warrants to intercept my phone conversations. I also ask you to proceed to the identification of the prosecutors who issued such illegal warrants.

Statement of facts:

After the forcefully and abusive raid to the private residences of several natural persons, by troops of 300 prosecutors, policemen, masked gendarmes and armed special intervention troops, on March 18, 2004, with the purpose of incriminating Mr. Bivolaru Gregorian, the authorities had to come up with a justification for the abuses committed during the operation known as “Christ”, abuses unexperienced in the actions of the investigating bodies within the past 15 years.

The authorities had therefore to make up an alleged criminal offense, provided for in art 198 of the Penal Code (sexual act with a minor), which supposedly Mr. Gregorian Bivolaru had committed against the undersigned. In their furious attempt of making up false evidence, required for **reaching the aims stated in the transcripts of the meeting on 27.03.2004 of the Permanent Delegation of the Social Democratic Party**, they infringed with no shame not only the most basic human, moral and social norms, but also imperative provisions of the national and international legislation.

These consist of the commission of the following acts against the undersigned, a minor at that moment, acts that were meant to portray me as a “victim” of the above-mentioned criminal offense, and that had as purpose the wrongful incrimination of Mr. Gregorian Bivolaru.

On 18.03.2004, gendarmes troops coordinated by a prosecutor found me and during the violent descent at my domicile, filmed me barely dressed, against my will, brutalized and threatened me, and masked men kept me at gunpoint for more than 14 hours. During all this time I was completely and brutally prevented from contacting a member of my family or a lawyer.

By creating a state of panic and insecurity, by using well-known means of manipulation and intimidation, the authorities wanted to make me receptive and to convince me to become the tool for

reaching the purpose above mentioned, namely to sign a declaration incriminating Mr. Gregorian Bivolaru.

The prosecutor that interrogated me after the psychological trauma that I suffered during the whole abusive search **forced me through blackmail and threat** to write down that Mr. Gregorian Bivolaru is my yoga **professor** and it would be best both for me and for Mr. Bivolaru to state that I have known him longer, before 2002, namely since the summer of 2001, fact which I told him to be false and which I obstinately refused to write in the declaration I wrote.

This approach of the investigating bodies was essential, since art. 198 of the Penal Code considers as an offense only the sexual act with a person under 15 years, or between 15 and 18 years if committed by a professor of the victim who took advantage of the victim's trust.

Afterwards, being pulled by the hair, threatened with battery and threatened not to be free again unless I sign the declaration the investigators needed, without a defender or anyone else to protect my rights, I took the threats seriously and I signed the respective declaration.

As a matter of fact, after more than 14 hours of abuses, during which for a certain time I was kept in my house face down on the floor at gunpoint, which 17-years old young woman would have refused to sign the declaration dictated by the investigators?

The capacity in which I was interrogated was deliberately unclear. I was told to be a witness and therefore I need no lawyer, but at the end of the first declaration, taken while I was basically illegally retained, they added "*considering the above mentioned facts please take the necessary measure*", expression dictated by the investigator (which obviously a 17-years old would not be acquainted with), and which could confer to a declaration the nature of a complaint.

I state this since an injured party is a person who, prejudiced by certain criminal offenses committed against her/him, refers to the investigating bodies for justice to be made, requesting the investigation and legal measures to be taken against the defendant.

But, in the undersigned's case, I did not submit any complaint against Mr. Gregorian Bivolaru, on the contrary, I submitted later on a complaint against the investigators who abused me physically and psychically, who filmed me, took me by force to the Prosecutors' Office with a Police van, denied violently my right to legal assistance and forced me through blackmail and threat to give the declaration on 18.03.2004.

The fact that I was a minor was ignored by the prosecutors, who should have ensured me a special treatment and full exercise of my civil rights, according to the internal and European legislation; but the same fact was infamously exploited in order to incriminate Mr. Gregorian Bivolaru.

When I filed the complaints, describing the terrible circumstances (policemen, masked gendarmes, threats and physical violence) under which the initial declaration was taken, I was denied the right to submit a new declaration by the investigating prosecutor himself. He did not want the truth to be found out and he sent me, basically in a state of retention, to the Forensic Medical Institute, for a gynecologic and anal expertise (!) against my will.

At the Forensic Medical Institute I was taken by the Special Intervention Police Forces from the arms of my fiance, Remus Lomos. Having been initially separated from my lawyer, after my repeated requests the lawyer was allowed to enter the building, where we were practically violently detained over 4 hours despite our repeated requests to be released.

Since I opposed the gynecological and anal examination, and I claimed in front of journalists from all TV stations and newspapers that I had no sexual intercourse with Gregorian Bivolaru, statement

that destroyed the weak Machiavellian set-up of the prosecutors, as of that moment the investigating prosecutor started to put into practice his initial threats, **that I will be aggressed and I will not be free any more.**

To confirm these, here is an excerpt of my lawyer Adina Solomon's memo, submitted to the Attorney General of Bucharest Court of Appeal, who coordinated these abuses:

“On April 4, 2004, I the undersigned Adina Solomon, a lawyer, I was required by my client Ms. Dumitru Madalina for juridical assistance at the Prosecutor's Office of the Court of Appeal, as the minor deliberately wanted to submit a further declaration in Dossier nr. 720/P/2003.

She was absolutely unreasonably denied to do this. Prosecutor Cerbu Viorel and Prosecutor Chaborski Anton Grigore refused to hear her for further statement after the former she had made on March 18, 2004. They issued a warrant to appear for Dumitru Madalina (which made no sense since the minor came of her own will), and requested a forensic examination at the Forensic Medicine Institute (IML) sending her by force under Police escort to the Institute. When my client Dumitru Madalina reached the IML together with the undersigned, she was subject to unreasonable repression (the hospital doors were blocked and flanked by civil policemen). She panicked and realized that this forensic examination no longer is a free will act, compatible with the capacity of an injured party, but a flagrant abuse of the penal investigation agents.

My client and I have been restrained for almost 4 hours in the precincts of the Hospital (Institute) and then been pushed by the Special Police Forces (S.P.I.R.) into a Police van. I want to inform you that as I was being pushed into the van I was insulted as a criminal and I suffered physical aggression. Two other Police cars of the S.P.I.R. escorted us, the undersigned and my client Dumitru Madalina, to the precincts of the Police Headquarters in Bucharest. Since we got there, I was abusively and violently separated from my client Dumitru Madalina who was taken to an unknown location, having no relatives by her side. Then I was no longer allowed to exert my assistance as a chosen lawyer according to the juridical assistance contract, although I immediately went to the Court of Appeal in Bucharest and I have insistently asked for 3 hours to see my client, the minor Dumitru Madalina.”

The investigators abuses, as they seized me by force, took me to the I.M.L. and restrained me there for several hours, away from my fiancé and my lawyer, are also obvious in the recorded images broadcast by all the TV stations. These images show me, the undersigned crying under terror, just on the line of a breakdown, trying to get out of the I.M.L doors flanked by gendarmes, or still crying as I repeated countless times that I had never had sexual relations to Gregorian Bivolaru and nobody had ever raped me.

Then, they took me by force against my will to the General Directorate for Child Protection Constanta, and with no observance of the special legislation, without the compulsory social investigation and against my will, they entrusted me on April 6, 2004 to my elder sister and her husband, Iordache Florentina and Marian.

I mention that between April 1st and 6, 2004, I was denied any outside contact, so they basically illegally deprived me of freedom, for there was no restraining or arresting warrant for me. My friends, my fiancé Remus Lomos and my lawyer had not a clue about what was going on with me. Only on April 6, 2004 my friends and my fiancé found out in the papers that I was being confined at the Iordache's and at that time I was about to be officially entrusted to them.

As they completely sequestered me for 8 days, I was beaten by my relatives, my sister's husband Iordache Marian sexually harassed me and the Police and the Secret Services watched me strictly, standing in front of the door, which gave me a state of absolute terror and detainment.

The Office for the Child Protection of Constanta, having an investigation at my residence on April 15, 2004, **the inspectors who came there, after having been notified, verbally admitted that: “they hit her, indeed!”**

After April 15, 2004 both my fiancé and my friends were rejected when trying to contact me, but they saw me through the fence of the house as I was violently beaten by my relatives.

During this period I was obstructed from attending the high school and I have been expelled.

On Friday, April 23, 2004, the authorities announced that the undersigned, aking advantage of my guardians' distraction, I ran away from home and **they issued a warrant to pursue and confine me to the border!!! This is a world wide premiere – in Romania an alleged injured party is being pursued and confined to the border.**

Given these abusive and psychotic actions in a so-called democratic state, the following provisions of the internal and international legislation has been violated, and the following crimes have been committed:

I) Provisions of the European legislation flagrantly violated by the Romanian authorities:

- 1) RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE, HOME AND CORRESPONDENCE – art. 8 from the European Convention for the Protection of Human Rights and Fundamental Freedoms (called hereafter the Convention)
- 2) RIGHT TO LIBERTY AND SECURITY AND RIGHT TO A FAIR TRIAL – guaranteed both by art. 3 of the Penal Procedure Code and by art. 5 and 6 par. 3 from the Convention
- 3) FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION – art 9 from the Convention

II) Articles from the Constitution of Romania that have been violated:

- 1) Art 16 – EQUALITY OF RIGHTS

(1) Citizens are equal before the law and public authorities, without any privilege or discrimination.

- 2) Art. 21 – FREE ACCESS TO JUSTICE

(1) Every person is entitled to bring cases before the courts for the defense of his legitimate rights, liberties and interests.

(3) The parties have the right to a fair trial and to a solution within a reasonable time.

The prosecutors refused to take note of the revised declaration of the undersigned, declaration that stated the truth and modified the one obtained by force and terror by the prosecutors

- 3) Art. 22 – RIGHT TO LIFE, TO PHYSICAL AD MENTAL INTEGRITY

(1) The right to life, as well as the right to physical and mental integrity of person are guaranteed.

(2) No one may be subjected to torture or to any kind of inhuman or degrading punishment or treatment.

I was permanently aggressed, physically and psychically, by the investigators. During the house search, further during the interrogation that took place that night at the Prosecutors' Office, again at the Forensic Medical Institute, and while being sequestered by the relatives with the complicity of the authorities, I was the target of intimidations and huge pressure, facts proven by my declarations and those of eye witnesses, as well as from the filmed images.

4) Art. 23 – PERSONAL FREEDOM

(1) Individual freedom and security of person are inviolable.

(2) Search, detention or arrest of a person shall be permitted only in the cases and under the procedure provided by law.

5) Art. 24 – RIGHT TO DEFENSE

(1) The right to defense is guaranteed.

(2) All throughout the trial, the parties shall have the right to be assisted by a lawyer of their own choosing or appointed «ex officio».

On March 18, 2004, during the hearings that took place at the Prosecutors' Office, I repeatedly requested the assistance of a lawyer, which was denied to me, but I was heard in the presence of a psychologist who suggested to the prosecutor clever means to manipulate me, in order to make up an incriminating declaration.

The denial of the right to defense, purposely and premeditated, continued at the Forensic Medical Institute where I was again separated by force from my lawyer. Despite all her efforts, the lawyer was not allowed to contact me later on.

6) Art. 26 - PERSONAL AND FAMILY PRIVACY

(1) The public authorities shall respect and protect the intimate, family and private life.

(2) Any natural person has the right to freely dispose of himself unless by this he causes an infringement upon the rights and freedoms of others, on public order or morals.

The investigators coordinated in an abject way the exposure of very intimate and private aspects, in this respect they providing the mass media with:

- my full name and address
- excerpts from a notebook that they falsely sustained to be my diary
- excerpts from notes and letters found at my home
- photos and films with my face and my almost naked body

7) Art. 30 – FREEDOM OF EXPRESSION

(6) Freedom of expression shall not be prejudicial to the dignity, honor, privacy of person, and the right to one's own image.

The investigators provided mass media with excerpts from a notebook that they wrongly claimed to be my private diary, which led to the serious prejudice of a person's image, person who is a teenager in the 11th grade.

This type of information generates inappropriate jokes or even insults from the colleagues or professors, which will inevitably hurt my dignity and honor.

8) Art. 33 – ACCESS TO CULTURE

(2) One's freedom to enhance his spirituality and to access the values of national and universal culture can not be restrained.

Until I was forcefully and abusively put under the custody of Iordache's, I lived for over one year and a half in Bucharest, where I attended with good results a high-school with economic profile. I mentioned that I was appreciated by the professors, my behaviour being irrefragable, having obtained the highest grade for good behaviour.

My extracurricular activities, known to the professors, included yoga practice and study of yoga books, precisely for my spiritual development.

9) Art. 49 – PROTECTION OF CHILDREN AND THE YOUTH

(1) Children and the young shall enjoy special protection and assistance in the pursuit of their rights.

(5) The public authorities are bound to contribute to secure the conditions towards the free participation of young people in the political, social, economic, cultural and sporting life of the country.

III) Most serious violations of the PENAL PROCEDURE CODE

1) Art. 3 – THE PRINCIPLE OF FINDING THE TRUTH

The fact that I was intimidated, pulled by the hair, threatened, and so a declaration was obtained by force to incriminate Mr. Bivolaru, shows that it was not the truth that mattered to the prosecutors, but the incrimination of an innocent man by all means, even at the cost of torturing a minor.

The fact that ANTON GRIGORE CHABORSKI and VIOREL CERBU from Bucharest Appeal Court refused to consider the supplementary declaration that I wished to file on 01.04.2004, wherein I wanted to state the true nature of my relationship with Gregorian Bivolaru, proves once more the violation of this fundamental principle of justice.

2) Art. 5 – GUARANTEE OF PERSONAL LIBERTIES

I was held for more than 14 hours on March 18, 2004, without any warrant in this respect. Moreover, I was retained again on April 1, 2004, and taken by force to Constanta on April 7, 2004, being sequestered by relatives in complicity with the authorities and the Prosecutors' Office, any contact with the outside world, even by phone, being forbidden.

3) Art 5¹ – RESPECT FOR HUMAN DIGNITY

The threats, the violence, the terror under which the investigation took place, the sequestration, the battery and the sexual harassment that I endured led to the serious injury, probably irremediable, of my dignity.

The prosecutors treated me like a dangerous criminal because I did not sustained anymore the declaration that I was forced to sign, declaration needed for the indictment of Mr. Gregorian Bivolaru. For this reason I was exposed to degrading treatments that affected badly my dignity.

Still the prosecutors made public, intentionally and irresponsibly, the most intimate aspects of my life, this lowness affecting badly again my dignity, particularly considering that the exposed person is a female minor.

My forceful sending, with a warrant, for a gynecologic and anal examination, against my will, represents an unqualifiable violation of the human dignity.

4) Art. 6 – RIGHT TO DEFENSE

During the hearings on March 28, 2004, I was not allowed the assistance of a lawyer, although this is COMPULSORY in the case of a minor, and later on, both myself and my lawyer were forbidden by the prosecutors to get in contact.

5) Art. 68 – PROHIBITION OF MEANS OF CONSTRAINT

In the light of the universally valid principle of truth finding, irrespective of the interests and emotional involvement of the investigators, the Romanian legislation prohibits the use of any means of constraint, as the use of such means if hurtful both for the person against they are used, and for the efficiency and credibility of the justice act.

The magistrates in charge with investigating the undersigned use a whole arsenal of means of constraint in order to reach their goal of incriminating Mr. Gregorian Bivolaru, as per the Machiavellian saying “THE END JUSTIFIES THE MEANS” of constraint. The investigators had no problem in intimidating me, humiliating me, pulling my hair, depriving me of liberty unlawfully, taking me away from my friends, spoiling me of my personal belongings, and exposing to the public the most intimate aspects of my life, in order to reach their goal of deceiving the justice and the public opinion.

6) Art. 105 par. 3 – THE HOUSE SEARCH

In order to traumatize me even more, the authorities diffused through mass-media images with myself barely dressed and UNDER GUNPOINT, ad afterwards made public excerpts of personal documents. The fact that the so-called “injured party”, barely dressed, is threatened with a gun, and the fact that those images were provided to mass-media shows the serious abuses of the authorities, who no matter their behaviour will not be held responsible.

IV) Violations of the PENAL CODE

1) Art. 189, par. 2 – ILLEGAL DEPRIVATION OF LIBERTY

The undersigned, a minor at that date, I endured a real detention within April 1-22 at the residence of Iordache’s, through the complicity between them and the investigation authorities. The offense was committed in continuous form.

2) Art. 193 – THREATS

Consists of the way in which the undersigned, injured party, was threatened with a gun, which appears clearly even in the images broadcasted on TV, and of the other verbal threats that I undergone during the hearing and the investigation. Crime committed in continuous form.

3) Art. 196 – DISCLOSURE OF A PROFESSIONAL SECRET

Consists of disclosure with no right of the tapes recorded by the investigators during the house search, exposing me barely dressed, and the diffusion of excerpts from my correspondence and personal notebooks, aspects producing obvious and incalculable prejudices to the image, dignity and harmonious development of a minor.

4) Art. 246 – IN SERVICE ABUSES AGAINST THE INTERESTS OF PERSONS

Consist of the abusive manner in which the search on 18.03.2004 was conducted, the violation of several penal procedure provisions showing the purposely incorrect pursuance of the search, as well as the illegal interception of private phone conversations.

5) Art. 247 – IN SERVICE ABUSE THROUGH LIMITATIONS OF RIGHTS

Consist in prevention of contacting the lawyer both during the search and during the hearing. Also, later on, after April 1, 2004, the contact with my lawyer was strictly forbidden. At the same time the access to justice was violated, being prevented from participating to the trial, since my real declaration was not considered. I mention that all the limitations I suffered are due to my philosophical convictions, namely due to the fact that I practice yoga.

6) Art. 248¹ – IN SERVICE AGGRAVATED ABUSE

Consists of the very serious outcomes, irreversible, that led to the infringement of the inviolable rights of the human being, preventing my harmonious future evolution

7) Art. 250 – ABUSIVE BEHAVIOUR, connected to art. 267¹ – TORTURE

The outrageous way I was spoken to, the violence I endured during the search and the hearing on 18.03.2004, at the Forensic Medical Institute on 1.04.2004, and afterwards, the intense sufferings, both physical and psychical, the fact that I was treated like a criminal who needs to be punished, the pressure and intimidations cover all the material elements of this offense in a cumulative way. The offense was committed in continuous form.

8) Art. 266 par. 1 – ILLEGAL ARREST

Retained for the first time on 18.03.2004 for more than 14 hours, I was afterwards retained again for more than 4 hours at the Forensic Medical Institute on 1.04.2004, and later on taken by car to Constanta, by force and against my will, where after some time I was taken to my family. The offense was committed in continuous form.

According to the judicial practice – The Supreme Court, Penal Section, Military Judges, Decision 42/1973 – it was decided that ***“the confinement of a person without serious indications that he/she committed criminal offenses and without having an ordinance for confinement constitute a crime provided for and punished by art. 266 par. 1 of the Penal Code. It is not relevant that the person was not confined for more than 24 hours since the measure was taken without observing the legal provisions.”***

9) Art. 266 par. 3 – ABUSIVE INVESTIGATION

Consists in the cynical and degrading treatment that a defenseless minor endured through violence and threats in order to declare untrue facts leading to the incrimination of an innocent person.

The induction of the respective state of terror was pursued intentionally by the investigators starting with the house search, when for over 10 hours I was tortured and threatened specifically with the purpose of simplifying the mission of the investigator at the Prosecutors’ Office. Therefore, by continuing to use the methods described as well as other violence, such as pulling

my hair, the investigator made me give in and declare what he wanted. In order to ensure the full success of this action I was denied legal assistance, although I was a minor and I repeatedly requested this.

10) Art. 289 – INTELLECTUAL FRAUD

Officer RAICU ALINA, a psychologist in the Special Battalion of the Romanian Gendarmerie, as exerting her service, issued the Report nr. 169795/2004, wherein she stated unreal facts and circumstances, and deliberately omitted the real data and circumstances of the hearing.

11) Art. 291 – USING FALSE DOCUMENTS

The investigating prosecutors and the prosecutors George Balan and Anton Chaborski used as evidence the Report no.169795/2004, in order to enforce the validity of my consent regarding the statement signed under pressure.

In fact they acted from the very beginning on the basis of the same illegal resolution, which on March 18, 2004 was meant to get by any means and at any costs an accusing statement against Mr. Gregorian Bivolaru, so that he should be arrested. All those involved in this complex action are accomplices.

This acts of the investigating authorities disqualify irremediably those who committed them, showing how far the political obedience can go, as well as the complicity between part of the authorities and the mass-media, proving their incapacity to stand to the requirements of a modern justice by European standards.

In order to sustain this complaint I request the permission to bring as evidence audio and video tapes, documents and witnesses.

Considering the above, I request the prosecution of those guilty of the criminal offenses described, persons who should not consider themselves and act as if they were above the law.

February 23, 2005

Signature,

DUMITRU MADALINA