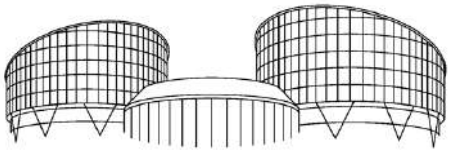

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

GRAND CHAMBER

CASE OF GRANDE ORIENTE D'ITALIA v. ITALY

(Application no. 29550/17)

JUDGMENT

Art 8 • Home • Search of a Masonic association's premises ordered by a parliamentary commission of inquiry ("Commission") and seizure of numerous paper and digital documents, including lists with the names and personal data of more than 6,000 of its members, in the context of an investigation into mafia-type organised crime • Domestic legal framework, relevant case-law and practice of commissions of inquiry in line with Art 8 requirements • Inquiry aimed to provide Parliament with information enabling it to take effective action against organised crime infiltrating Freemasonry • Wide margin of appreciation afforded to national authorities in defining a framework within which parliamentary commissions of inquiry carried out their activities and in the organisation of their operation • Margin of appreciation narrower where parliamentary commissions have recourse to coercive procedural acts capable of directly affecting the Convention rights of third parties • Scope of search and seizure order and of the measures authorised particularly broad • Commission's discretion in exercising search powers particularly broad and devoid of any form of authorisation or scrutiny • Potentially unlimited duration of the seized documents' storage • Need for sufficient safeguards compatible with the rule of law either by a judicial authority or by another impartial decision-making body, including a

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

parliamentary body, mandated to perform *ex ante* scrutiny or *ex post* review • Choice of the authority or body competent to carry out such review to be left to each member State's discretion • Lack of sufficient domestic safeguards against abuse and arbitrariness • Impugned interference not "necessary in a democratic society"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

7 July 2026

This judgment is final but it may be subject to editorial revision.

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In the case of Grande Oriente d'Italia v. Italy,

The European Court of Human Rights, sitting as a Grand Chamber composed of:

Mattias Guyomar, *President*,
Arnfinn Bårdsen,
Lado Chanturia,
Ioannis Ktistakis,
Kateřina Šimáčková,
Raffaele Sabato,
Lorraine Schembri Orland,
Anja Seibert-Fohr,
Peeter Roosma,
Ana Maria Guerra Martins,
Diana Sârcu,
Diana Kovatcheva,
Stéphane Pisani,
Mateja Đurović,
András Jakab,
Juha Lavapuro,
Vahe Grigoryan, *judges*,

and John Darcy, *Deputy Grand Chamber Registrar*,

Having deliberated in private on 19 November 2025 and on 27 May 2026

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the search of the applicant association's premises ordered by a parliamentary commission of inquiry and the subsequent seizure of a number of paper and digital documents, including in particular lists containing the names and personal data of more than 6,000 members of the applicant association. The applicant association made complaints under Articles 8, 11 and 13 of the Convention.

PROCEDURE

2. The case originated in an application (no. 29550/17) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an association registered under Italian law, Grande Oriente d'Italia ("the applicant association"), on 13 April 2017.

3. The applicant association was represented by Mr V. Zeno Zencovich, a lawyer practising in Rome. The Italian Government ("the Government") were represented by their Agent, Mr Lorenzo D'Ascia, *Avvocato dello Stato*.

4. The application was allocated to the First Section (Rule 52 § 1 of the Rules of Court), and on 13 June 2023 notice of the application was given to the Government. On 19 December 2024 a Chamber of that Section, composed of Ivana Jelić, President, Alena Poláčková, Georgios A. Serghides, Erik Wennerström, Raffaele Sabato, Alain Chablais, Artūrs Kučs, judges, and Ilse Freiwirth, Section Registrar, delivered a judgment in which it dismissed, unanimously, the Government's preliminary objection concerning non-exhaustion of domestic remedies. It then examined the complaint under Article 8 of the Convention and the procedural safeguards provided for therein, and found a violation of that Article, holding, by six votes to one, that there was no need to examine the admissibility and merits of the complaints raised under Articles 11 and 13 of the Convention.

5. On 19 March 2025 the Government requested that the case be referred to the Grand Chamber. That request was granted by a panel of the Grand Chamber on 28 April 2025.

6. The composition of the Grand Chamber was determined in accordance with Article 26 §§ 4 and 5 of the Convention and Rule 24.

7. A hearing took place in public in the Human Rights Building, Strasbourg, on 19 November 2025.

There appeared before the Court:

(a) *for the Government*
Mr L. D'ASCIA, *Avvocato dello Stato*, *Agent*,
Mr E. MANZO, *Avvocato dello Stato*,
Ms M. DE VERGORI, *Avvocato dello Stato* *Counsel*;

(b) *for the applicant association*
Mr V. ZENO ZENCOVICH, *Counsel*.

The Court heard the oral submissions by Mr D'Ascia and Mr Zeno Zencovich, and their replies to questions put by judges. The parties were given leave to submit written replies to certain questions put by the judges of the Grand Chamber.

THE FACTS

8. The applicant is an Italian association, the registered office of which is in Rome. Grande Oriente d'Italia is an Italian Masonic association which comprises numerous lodges throughout Italy. It was founded in 1805 and is affiliated to Universal Freemasonry. Under Italian law, it has the status of an unrecognised private-law association within the meaning of Article 36 of the Civil Code, and therefore does not have legal personality. At the material time, the association was represented by its Grand Master, S.B.

9. The parliamentary commission on combating the Mafia was established by Law no. 1720 of 20 December 1962. Since then, it has been re-established at the beginning of each parliamentary term. Since its creation, the scope of the commission on combating the Mafia's terms of reference has evolved in tandem with the development of organised criminal activities, and covers a wide range of topics related to the problem of the Mafia. Between 1992 and 1994, the parliamentary commission examined, *inter alia*, the relationship between the Mafia and Freemasonry, and invited Parliament to consider the risk of influence from "deviant" Masonic lodges (*logge deviate*) within public institutions and their link with mafia-type criminal organisations (Doc. XXIII, no. 2 of 6 April 1993). In its final report, the Commission published statistical data on the number of registered members, the lodges, and their geographical distribution (Doc. XXIII, no. 14 of 18 February 1994).

10. In 2013, Parliament enacted Law no. 87 of 19 July 2013 establishing the Parliamentary Commission of Inquiry on the phenomenon of mafias and other criminal associations, including foreign ones (*Commissione parlamentare d'inchiesta sul fenomeno delle mafie e sulle altre associazioni criminali anche straniere* – "the Commission").

11. In the second half of 2016 the Commission opened a line of inquiry into the capacity of mafia-type organised crime to infiltrate and influence the activity of Italian Freemasonry. In so doing, it relied on data gathered by it during a fact-finding mission to the city of Trapani, judicial investigations carried out in the Sicilian and Calabrian regions, and a decision of the Council of Ministers to dissolve the municipal council of Castelvetrano, the stronghold of M.M.D., who was at that time one of the most wanted leaders of Cosa Nostra.

12. On 3 August 2016 the Commission heard, in an "informal hearing" (*libera audizione*), the association's Grand Master. In a letter of 28 July 2016, he had asked to meet with the Commission following a series of articles in the press reporting on the Commission's fact-finding mission in Trapani and on the fact that certain members of the recently dissolved Castelvetrano municipal council were Freemasons. During the hearing, the Grand Master refused to provide the lists of members of the lodges, relying on those individuals' right to protection of their private life.

13. On the following day the President of the Commission wrote to the Grand Master, asking him to provide the full membership list of the Masonic association. In a letter of 11 August 2016, he refused once again to do so, arguing that the request was vague and indeterminate and that it did not mention any ongoing criminal investigations. He also reiterated his obligation to protect the personal data of the members of the association.

14. On 19 September 2016 the Grand Master of the applicant association requested the National Data Protection Authority ("the Authority") to determine whether the transmission of data relating to members of the

Masonic lodges could constitute "authorised processing" in accordance with the rules in force or whether, on the contrary, there was a risk that it would be in breach of the relevant obligations.

15. In its letter of 4 October 2016, the Authority began by reiterating that it was not its practice to respond to questions about Decree no. 196 of 2003 bearing upon the interpretation and application of that text raised by bodies responsible for interpreting and applying it. Next, it stated that it had no jurisdiction in matters of parliamentary activity, referring to the case-law of the Court of Cassation, which had already had occasion to express its views on the matter. In its judgment no. 4 of 20 February 1984 (see paragraph 52 below), the Combined Criminal Divisions had held that the activities of parliamentary commissions of inquiry directly expressed the sovereign power of the Italian Parliament, with the result that scrutiny and review of the political decisions of those commissions by the ordinary courts was not possible.

16. On 13 October 2016 the Commission heard the Reggio Calabria public prosecutor, F.C.D.R., and his deputies on the subject of the links between 'Ndrangheta (the Calabrian mafia-type criminal organisation) and Freemasonry, which had come to light during investigations conducted by the Calabrian public prosecutor's office. The prosecutors described the existence of a network, a "grey area" made up of members of State institutions, law enforcement, the judiciary and other professionals. Referring, in particular, to the "*Mammasantissima*" investigation, they stated that 'Ndrangheta had greatly benefited from this secret network, which had been put in place by the reserved inner circle within the criminal organisation (*La Santa*) so as to establish relationships with "strategic sectors" of society in order to achieve its goals. The prosecutors further added that the network was "made up of individuals from different social backgrounds who remained hidden even from Freemasonry, as they had to protect the [mafia-type] organisation, and were known only to the highest-ranking bosses in 'Ndrangheta". They referred to statements by various informers, who had confirmed the existence of this network where "one is no longer an enemy of the State, but where the State must necessarily be a friend, because otherwise the criminal system breaks down and the goals fixed can no longer be achieved".

17. On 21 December 2016 the Commission sent a further request to the Grand Master of the applicant association, this time requesting the names of Freemasons belonging to the lodges founded in Calabria and Sicily from 1990 onwards, as well as lists of the lodges in the other regions of the country, and the number of individual members in each lodge.

18. In a letter of 9 January 2017, the Grand Master replied that the list of lodges was available on the association's website, region by region. As to the names of the members of the Calabrian and Sicilian lodges, he again refused to provide them, referring to the reasons he had previously given. He observed that the Commission's investigatory powers were "genetically

identical to those of the judicial authorities in the preliminary-investigation phase", which ought to mean that any inquiry carried out by the Commission had to be linked to a criminal act under investigation. He noted that the request made no reference to criminal conduct by or ongoing investigations in respect of members of the lodge, concluding therefore that it was generic, insufficiently reasoned and "incompatible with the limits of the Commission's powers ... and ... fundamental rights".

19. On 18 January 2017, under section 4 of Law no. 87 of 2013 (see paragraph 45 below), the Grand Master of Grande Oriente d'Italia was summoned as a witness with a view to clarification of his statements during the hearing of 3 August 2016. The relevant parts of the hearing transcript read as follows:

> "President – The witness hearing of S.B. will be held in public, it being understood that, if necessary, the Commission may decide to continue the proceedings *in camera*. I now inform S.B. that, as a witness, he is obliged to tell the truth and that false testimony and reluctant witnesses are punishable under criminal law.
>
> ...
>
> Concerns were expressed to you that we might make these names public?
>
> S.B. – Yes, because we believe that by handing over the lists of the approximately 23,000 members of Grande Oriente d'Italia, we ourselves would be committing an offence ...
>
> President – Are there concerns that these sensitive data, assuming they are indeed sensitive, might be published and provided to the press? ... The question is this: has anyone claimed that the Commission transmitted the lists to the newspapers? Do you also share this concern?
>
> S.B. – I do not know. That depends on you.
>
> President – You are aware that an explicit request was made by this Commission, in which it was stated that these lists would be kept by the Commission under the rules governing the security and secrecy of sensitive documents.
>
> ...
>
> President – How many [members] are [there in] Calabria ...? Could you tell us the proportion of members registered in your lodges in Tuscany, Calabria, Sicily, and the province of Trapani?
>
> ...
>
> S.B. – As at 31 December 2015, in Calabria there were 2,634 members ... In Sicily, 2,208 members.
>
> ...
>
> President – From 1993, or rather, from 1982 to today, how many [Masonic] lodges [have been] dissolved or individuals ... expelled ...?
>
> S.B. – ... I would need to check. ...
>
> We dissolved three lodges in Calabria, and then, I believe, another lodge ... As to the reasons, these were lodges [which did not comply with the procedural rules and Masonic rite].

...

President – ... The lodges were dissolved essentially owing to problems related to their operation?

S.B. – For organisational reasons ...

President – You rightly point out that, in your view, these are also symptoms and manifestations of other possible [issues]. You yourself gave the example of the P2 lodge, which did not [comply with Masonic rite]. ... So these lodges were not dissolved on account of any possible ties to 'Ndrangheta?

S.B. – I repeat that, unless [a person has] a criminal record, we cannot act ... We observe, and if there are issues – even rumours – about a lodge or individuals, we try to take action. ...

President – [Have you] ever heard of the rank of '*santista*' or of '*La Santa*', that is, the link between the 'Ndrangheta and Freemasonry. If you have heard of it, can you tell us who told you about it and when? Is there a list of '*santisti*'? What kind of measures have been taken in respect of this lodge?

S.B. – No, there is absolutely no such structure within Grande Oriente d'Italia.

...

President – I propose that we sit *in camera*.

(So decided. The proceedings continued in camera*, before resuming in public.)*

President – I would like to return to the '*Mammasantissima*' investigation. Last time, you told us that no registered members had been found to be involved. Have you taken any steps to verify this, I imagine independently of the judicial authorities? ... The orders in connection with '*Mammasantissima*' are in the public domain.

S.B. – When we saw the list of those who received notice that the preliminary investigation had been closed, we checked each person one by one.

President – You have told us that only one person was involved. ... If we sit *in camera* again, will you tell us who it was?

S.B. – Yes.

President – I propose that we sit *in camera*.

(So decided. The proceedings continued in camera*, before resuming in public.)*

Let me rephrase the question. We are asking about the members in Sicily and Calabria because, having conducted an investigation into the relationship between Freemasonry and 'Ndrangheta, we believe that by checking these members, there is a possibility of identifying potential collusion, which is very important to us.

Today, in fact, the way the Mafia infiltrates the economic and political world is precisely by using public employees, professionals, all the people you tell us are members ... You are refusing to provide us with [their details], for reasons that we naturally consider legally unfounded, though of course these are opinions. But if I ask you questions about individuals, whether they are registered or not, do you agree to telling me yes or no?

S.B. – If your questions fall within the scope of this Commission, I will answer ... If saying yes or no can help with your investigation into collusion between mafia-type activities and Masonic organisations – or, rather, Grande Oriente d'Italia – ... I am at your disposal.

...

President – We will ask you questions and, based on the answers we receive, we will make our assessment. ... Do you not believe that the work carried out by this Commission is of great use for the good of the country?

S.B. – That is why I answered all your questions. The Commission is provided for in the Constitution, with which we comply. ...”

20. On 24 January 2017 the Commission summoned F.V., Grand Master of Gran Loggia Regolare d’Italia, and M.C.T., Grand Master of Serenissima Gran Loggia d’Italia-Ordine Generale degli Antichi Liberi Accettati Muratori. F.V. stated that his Masonic association had been founded by G.D.B., who had been Grand Master of, and had left, Grande Oriente d’Italia. The reason he had given for leaving was the impossibility of ridding that association of infiltration by the Mafia. F.V. made the following statement to the Commission:

“President – ... In the new association’s founding charter, are the reasons for the distancing from Grande Oriente d’Italia explicitly stated?

F.V. – No ..., but it can be inferred from the internal documents that we require [members] to sign ... For example, if I may read it, there are minutes of a board meeting which indicate that if, in the context of criminal proceedings, individual precautionary measures (*misura cautelare personale*) are imposed on a member, Gran Loggia [will automatically expel that member]. Then there is the declaration that every candidate must sign, informing him or her that his or her personal data will be used for the pursuit of Gran Loggia’s objectives ... and for any appropriate or necessary communication with the law-enforcement agencies. This is a peculiarity that does not exist within the other associations.

...

President – What other kinds of instruments do you have at your disposal to ensure that the anomalies which you believe – or at least which G.D.B. believed – had occurred in Grande Oriente d’Italia would not happen in Gran Loggia?

F.V. – I would say the main instrument is the biennial submission of the list of all members to the Ministry of the Interior. I think this has been decisive. First of all, the number of members in itself is significant. Note that in Calabria, there are not even – I believe – 200 of us. ... In Sicily, there are approximately 300 members.

...

President – What is the relationship, in your view, between confidentiality and secrecy in respect of the lists of your members?

F.V. – As I told you at the beginning, there is no secrecy. Our complete willingness to provide the lists to the Ministry of the Interior demonstrates that secrecy is not accepted in our organisation. ...

President – So, to the request that this Commission intends to make to you, namely, to obtain the list of members and lodges, as well as personal files, for the regions of Sicily and Calabria, do you respond positively?

F.V. – Absolutely yes, but above all for our own protection.

President –Very well. Moreover, we wish to emphasise that the lists of members we have requested from you, as well as from Grande Oriente d'Italia and which we will request from other associations, will be kept under the secrecy regime within the Commission's archives ..."

21. The Grand Master of Serenissima Gran Loggia d'Italia-Ordine Generale degli Antichi Liberi Accettati Muratori, M.C.T., noted that, in order to be admitted to the Masonic association, the person had to provide a copy of his or her criminal record and, where applicable, any pending charges, as well as an "anti-mafia" certificate. As to whether he would provide the list of names, M.C.T. stated that, were he to receive an official request from the Commission he would "cooperate fully", but that he was bound by the "data confidentiality agreement" signed by the members of the association. The President observed that the list of names would be "kept under the secrecy regime in the Commission's archives".

22. On 25 January 2017 the Commission examined A.B., the Grand Master of Gran Loggia d'Italia degli Antichi Liberi Accettati Muratori. At the material time, this association comprised 104 lodges and over 1,300 members in the two relevant regions. A.B. refused to provide the lists of its members, but made the following observations:

"A.B. – ... You have the means to obtain these lists ..., we would be happy to cooperate with you. In fact, we would thank you ... Let's speak the truth ... Enact a law on associations, please, because if you enact a law on associations, all the so-called 'deviant lodges' will be done away with, because if you say that it is necessary to have names, elections, proper financial statements, and the principle of majority voting ... we will have solved all the problems.

...

President – You will find that the members of this Commission agree with your observations and proposals, all the more so because the purpose of our inquiry is not to judge Freemasonry. ... The purpose of our inquiry is this: to carry out research, because it is very important for us to know all the elements ..., but also ... to punish the instrumental use of membership in 'deviant' associations within Freemasonry, which offer a means for criminal entities to penetrate into the economic world, the professional sphere, and public administration ...

We are confident that we will cooperate together, precisely because I believe we have the same goals. ... I want to clarify that these names will be kept under the secrecy regime in the Commission's archives, and that each member of this Commission has sworn to abide by the 2013 Act and the Commission's Internal Regulations ... We confirm that the names revealed to us must be kept secret ..."

23. On 31 January 2017 the Commission summoned G.D.B., who was Grand Master of the applicant association between 1990 and 1993. During the hearing, he stated that his decision to leave Grande Oriente d'Italia in 1993 had been linked to the criminal investigation into the expansion of 'Ndrangheta into northern Italy through Freemasonry and the impossibility of ridding the 28 Calabrian lodges of Mafia infiltration.

24. On 6 February 2017 the applicant association applied to the Presidents of the Senate and the Chamber of Deputies, asking them to verify whether the Commission's requests to be provided with the lists of the Masonic association's members fell outside its terms of reference. It is not possible to determine from the file whether a reply was ever sent.

25. On 22 February 2017 N.G., the Catanzaro public prosecutor, gave evidence to the Commission on the relationship between the Mafia and Freemasonry. He stated that many members of 'Ndrangheta were also members of Freemasonry and that that link had allowed the criminal organisation, through *La Santa*, to create a "dual affiliation", which facilitated contact with civil society and "those who manage public affairs in the broadest sense".

26. On 1 March 2017 the Commission ordered a search of the applicant association's registered office in order to find and seize the lists of names of the members of the lodges established in Calabria and Sicily from 1990 onwards, and also the decisions concerning the lodges that had been dissolved or closed in the same period. It referred to the 2013 Act, thereby reiterating the aims of the investigation, and to the evidence gathered throughout its investigation into the relationship between the Mafia and Freemasonry. It stated, in particular, as follows:

> "– ... it is clear from the hearings conducted to date (see the hearings of prosecutors from the public prosecutor's offices of Reggio Calabria, Palermo and Trapani, and the witness statements made by the Grand Masters and other members of Masonic lodges) and from the documents in the investigation file (see the judicial acts obtained by the National Anti-Mafia Directorate and the courts), that there is a real danger that the Mafia and 'Ndrangheta have infiltrated certain areas of Freemasonry, assisted by the principle of secrecy and by the bonds of obedience that often characterise Masonic associations. It has also become apparent that, in parallel with the changes in the way that mafia-type organisations operate – in an increasingly collusive manner – the coordination of unlawful interests may also be being conducted through Masonic lodges, to which members of the country's ruling class and business community sometimes belong;
>
> – in order for the parliamentary inquiry to successfully carry out its tasks, it is essential that a list of the names of the members of Masonic lodges be obtained urgently, in order to ascertain whether any of those members are linked to mafia-type organisations, and how many of them there are;
>
> – in particular, it is necessary to obtain, as a matter of priority, a list of the lodges in Sicily and Calabria (as these regions were the focus of the principal criminal investigations, both past and recent, and are characterised by a significant and increasing number of Freemasonry members) and of the names of their members from 1990 onwards (it was during this period that the most significant reports began to emerge, both in judicial and Masonic circles, of Mafia infiltration in certain areas of Freemasonry) (see session of 31 January 2017, testimony of G.B.D.; see also the final report of 18 February 1994 of the Commission on combating the Mafia of the XI Legislature);
>
> ..."

27. The search warrant concerned the applicant association's registered office, including outbuildings and furnishings, computers and electronic information systems located on its premises, irrespective of whether they were protected by security measures. As to the documents to be located and seized, the order stated that the operation was to focus on paper and electronic documents containing lists of all categories of members of the Calabrian and Sicilian lodges from 1990 onwards, including individuals whose membership of or active participation in the lodges had ceased, and giving their rank and role in each case, and also all documentation concerning suspended or dissolved lodges in Calabria and Sicily, from 1990 onwards, including the names of all their members and their personal files and information about any inquiries held and decisions taken in that connection. The search warrant also included an order for the seizure of the hard copies of the above-mentioned documents and of computer files, regardless of their nature. The relevant police department was then immediately required to make copies of the documents in the presence of the persons concerned so as to ensure conformity with the originals and to avoid any alteration of the original data. The seized computers and files were to be returned to their rightful owners once the operation was completed.

28. On 1 March 2017, the search took place. In its search record, the relevant police department (the Central Service for the Investigation of Organised Crime of the Revenue Police (*Guardia di Finanza*)) stated that during the search – which had been conducted throughout the applicant association's premises, including the Grand Master's personal residence – the identity of the staff present had been verified. It indicated that it had, in the presence of the applicant association's representative, seized numerous paper and digital documents, including computers, USB sticks and hard drives, and that the operation had begun at 5 p.m. and ended at 6.30 a.m. the following day. The documents were being kept in accordance with the secrecy regime established under sections 5 and 6 of Law no. 87/2013 (see paragraph 45 below). The Commission ordered that they be kept at the premises of the relevant police department, which were equipped in such a way as to prevent unauthorised computer access and protected by a security door, an alarm system and video-surveillance.

29. On 11 March 2017 another Masonic association applied to the Rome District Court for review of a search and seizure order issued by the Commission on 1 March 2017 concerning the seizure of documents and IT equipment in its possession. On 17 March 2017 the District Court declared the request inadmissible, finding that it would be incompatible with the constitutional principle of the separation of powers if review of a decision taken by a parliamentary commission of inquiry were possible.

30. On 16 March 2017 the applicant association requested the Commission to reconsider the search and seizure order, arguing that it was

unlawful, illegitimate, generic and contained no allegations of specific offences. It received no reply.

31. On 28 March 2017 the selection process began, with a view to subsequently copying the relevant paper and digital documents. The relevant police department conducted the operation in the presence of two prosecutors and an IT expert, who were acting as consultants for the Commission. The applicant association, which had previously stated that it did not intend to collaborate with the police in the operation, was not present.

32. On 31 March 2017 the applicant association lodged a complaint with the public prosecutor at the Rome District Court, arguing that both the search and seizure order itself and the way in which it had been enforced constituted criminal offences. Claiming in addition that the Commission had overstepped the limits of its powers and encroached upon matters reserved for the judicial authorities, it requested the public prosecutor's office to apply, under Article 134 of the Italian Constitution, for judicial review by the Constitutional Court of a conflict of jurisdiction between the branches of State power (*conflitto di attribuzione tra poteri dello Stato*; see paragraph 43 below).

33. On 11 April 2017 the President of the Commission received notice from the relevant police department that the operation to select and copy the seized documents had been completed. On the same day the Commission ordered the lifting of the seizure measure and the return of the documents to the Masonic associations. On 10 May 2017, pursuant to the Commission's decision, which had been notified on 4 May 2017, the documents and IT equipment still held by the relevant police department, together with the records of the operations conducted, were handed over to the applicant association.

34. On 23 October 2017 the Rome public prosecutor dismissed all of the applicant association's requests. His examination covered both the relationship between the Commission's activities and the ordinary courts' jurisdiction, and the scope of the Commission members' immunity and civil and criminal liability.

35. Relying on well-established domestic case-law, the public prosecutor began by rejecting the applicant association's request for the public prosecutor's office to apply for judicial review by the Constitutional Court of a conflict of jurisdiction between the Commission and a judicial authority. He stated, in particular, as follows:

> "The general considerations outlined above allow it to be indisputably concluded that the prerequisite for finding such a conflict of jurisdiction – namely, the existence of pending judicial proceedings in which a situation of interference and actual conflict has arisen with respect to the activity or powers of the commission of inquiry – has not been met in this case. Such a situation would have arisen, for example, if the public prosecutor's office had ordered the seizure of the same documents already acquired by the Commission and that seizure had been hindered by the Commission's (express or implied) refusal to transmit the originals or at least a copy to that authority."

36. He thus observed that, where the conditions for a conflict of jurisdiction were lacking from the outset and it was merely assumed that a constitutional body was "encroaching" without there being any concurrent judicial proceedings, the request might in effect be seeking a form of generic review of the lawfulness of the activity of one constitutional body by another. It followed from judgment no. 4 of 1984 of the Court of Cassation (see paragraph 52 below) that the fundamental difference in nature, purpose, conditions and effect between the seizures that the Commission and the judicial authorities could order made it possible to rule out any risk of conflict of jurisdiction with the latter, as they operated on two distinct legal planes.

37. As to the ordinary courts' jurisdiction with respect to the Commission's activities, relying on the relevant domestic case-law (see paragraphs 50-52 below), the prosecutor noted as follows:

> "[I]t is not for the judicial authorities – as clarified by the Combined Divisions of the Court of Cassation – to review decisions adopted by Parliament regarding the object and purpose of an inquiry or to assess the choice of investigatory means employed by a commission ..."

38. He added that the ordinary courts' jurisdiction was limited to cases in which a breach of the provisions applicable to investigations and the hearing of witnesses could engage the individual liability of a commission's members. The public prosecutor further observed that the 2013 Act explicitly provided for limitations on the Commission's powers, including the prohibition on it "taking measures relating to the freedom and secrecy of correspondence and any other form of communication". In his view, this prohibition concerned only the interception of telephone and data communications, together with correspondence in transit, situations which constituted the limits of investigatory powers and whose breach could engage the criminal or civil liability of the members of the Commission. He inferred the following from this in the present case:

> "[T]he coercive acquisition of the documents indicated in the order appears consistent with the object of the inquiry and with the evidence already gathered. There has therefore been no breach of the procedural rules and, accordingly, no liability arises."

39. Accordingly, the Rome public prosecutor dismissed the charges in respect of the offences complained of. As regards, in particular, the allegations of defamation, he pointed out that Commission members' statements were covered by the absolute immunity provided for in Article 68 § 1 of the Constitution, as they constituted "opinions expressed" in the context of commissions' political activity, and that in any event the statements complained of had not directly targeted the applicant association or Freemasonry in general, but rather the actions of certain members or deviant lodges.

40. As to the operations carried out by the law-enforcement agencies, he found that the relevant police department had acted in accordance with the

existing legal framework, both by selecting only the relevant documents – and providing for interested parties to be present – and by restricting access to those documents only to those persons authorised by law.

41. On 21 December 2017 the Commission unanimously approved the "Final report on the infiltration of Cosa Nostra and 'Ndrangheta into Freemasonry in Sicily and Calabria" (Doc. XXIII, no. 33 of 21 December 2017). In its report, the Commission began by clarifying the aim and purpose of the investigation, stating that it "[did] not concern Freemasonry as an association but rather the Mafia and its infiltration into the Masonic associations in Sicily and Calabria". It indicated that for methodological purposes, it had randomly selected representative Masonic associations, which demonstrated that the investigation had not been directed at Italian Freemasonry as such but rather organised crime and its ability to infiltrate Masonic associations, particularly in certain regions. In that connection, the Commission presented the results of the analysis of the lists carried out in cooperation with the National Anti-Mafia and Counterterrorism Directorate, which, using its IT system, had identified, after "an initial screening, 193 individuals against whom criminal proceedings for mafia-related offences had been brought", 122 of whom were members of Grande Oriente d'Italia. It went on to point out that in the absence of an overriding public interest in disclosing the identity of persons registered as Freemasons, "private life therefore had to be respected, by maintaining the secrecy regime already applied to the lists".

42. The Commission concluded its report by noting that the results of the investigation had highlighted several key aspects demonstrating the Mafia's ongoing interest in Freemasonry, which had been identified as the ideal place for it to achieve its goals (namely, controlling commercial activities, public procurement and influencing elections and the conduct of trials). After emphasising the lack of effective instruments in the domestic legal system to combat this phenomenon, it proposed a number of areas for consideration, in particular:

> "In this connection, it should be noted that since the entry into force of the Constitution, there has been no genuine cultural debate, either from a historical and political or legal perspective, on the constitutional prohibition, under Article 18, of secret associations and more specifically, on the Italian Masonic association movement in recent decades ...
>
> The resolution of this issue, which has so far been postponed or ignored, can no longer be put off. And it is in the principles set out in the Constitution and the European Convention on Human Rights, as outlined in the previous pages, that we must seek the guiding principle which will enable the individual's right to form associations freely to be balanced against the State's overriding interest in protecting society from mafia-type organisations."

RELEVANT LEGAL FRAMEWORK

I. DOMESTIC LAW AND PRACTICE

A. The Constitution

43. The relevant Articles of the Constitution read as follows:

Article 18

"Citizens have the right to form associations freely and without authorisation for purposes that are not forbidden by the criminal law.

Secret associations and associations that even indirectly pursue political aims by means of organisations of a military character shall be forbidden."

Article 68

"Members of Parliament shall not be required to account for the opinions they express or the votes they cast in the exercise of their functions. ..."

Article 82

"Each Chamber of Parliament may order inquiries into matters of public interest.

For these purposes it shall appoint a commission from among its members reflecting the proportion of the various groups within the Chamber. The commission of inquiry shall conduct investigations and examinations with the same powers and limitations as the judicial authorities."

Article 134

"The Constitutional Court shall rule ... on conflicts of jurisdiction between the branches of State power (*conflitto di attribuzione tra poteri dello Stato*) ..."

B. The Code of Criminal Procedure

44. The relevant Articles of the Code of Criminal Procedure provide as follows:

Article 247 – Cases and forms of searches

"1. Where there are reasonable grounds to believe that an individual is concealing on his or her person the proceeds of or items pertaining to an offence, a body search shall be ordered. Where there are reasonable grounds to believe that those proceeds or items are in a specific place or that the arrest of an accused person or fugitive may be carried out there, a search of that place shall be ordered.

1 *bis*. When there are reasonable grounds to believe that data, information, computer programs or evidence relating in any way to the offence are stored in a computer or telecommunications system ..., a search shall be ordered, using technical means to ensure the preservation of the original data and to prevent their alteration.

2. The warrant authorising the search or seizure shall give reasons.

3. The judicial authorities may conduct the search or seizure themselves or entrust the task to officers of a police department delegated by decree."

Article 248 – Delivery request

"1. If the search or seizure is for a specific item, the judicial authorities may require it to be handed over. If the item is handed over, the search or seizure shall not be carried out unless it is considered useful to do so for the completeness of the investigation.

2. With a view to searching for items to be seized or to verifying other circumstances relevant to the investigation, the judicial authorities or officers of the relevant police department may examine, within banking institutions, various categories of acts, correspondence, and data, information and computer programs.

3. In the event of a refusal, the judicial authorities shall conduct a search."

Article 252 – Seizure following a search

"Items found following a search shall be seized in accordance with the provisions of Articles 259 and 260."

Article 253 – Subject and formalities of seizure

"1. The judicial authorities shall issue a reasoned order for the seizure of such evidence and items related to the offence as are necessary for establishing the facts.

...

3. The seizure shall be carried out by the judicial authorities themselves or by a police department empowered by that order.

4. A copy of the seizure order shall be provided to the concerned party, if present."

Article 257 – Review of the seizure order

"1. The defendant, the individual whose property has been seized and the individual who would be entitled to have it returned may lodge an application for review (*riesame*) under Article 324.

2. The application for review shall not suspend the execution of the measure."

Article 258 – Copies of seized documents

"1. The judicial authorities may have copies made of the seized acts and documents, and shall return the originals.

...

3. In any event, the person concerned has the right to receive a copy of the seizure record."

Article 408 – Request to discontinue the proceedings

"1. Where the evidence gathered during the preliminary investigation does not allow for a reasonable prospect of conviction or the imposition of a preventive measure other than confiscation, the public prosecutor shall submit a request to discontinue the proceedings to the court.

...

3. The notification specifies that the injured party may, within 20 days, ... lodge a reasoned objection requesting that the preliminary investigation be continued."

C. Law no. 87 of 19 July 2013

45. The Parliamentary Commission of Inquiry was re-established at the beginning of the XVII Legislature by Law no. 87 of 19 July 2013 on the establishment of a parliamentary commission of inquiry on the phenomenon of mafias and other criminal associations, including foreign ones. Its relevant provisions read as follows:

Section 1 – Parliamentary Commission of Inquiry on the phenomenon of mafias and other criminal associations, including foreign ones

"(1) A Parliamentary Commission of Inquiry on the phenomenon of mafias and other criminal associations, including foreign ones, in so far as they operate in the national territory, is hereby established for the duration of the XVII Legislature, in accordance with Article 82 of the Constitution. It shall have the following tasks:

(a) assess the implementation of Law no. 646 of 13 September 1982; the Code of anti-mafia laws and preventive measures, as well as the new provisions on anti-mafia documentation; ... and other State laws and any parliamentary initiatives, in so far as they relate to the mafia phenomenon and other major criminal organisations;

...

(d) assess the relevance of the legislation currently in force and of any action taken by public authorities in application of it, formulating the legislative and administrative proposals deemed appropriate in order to render any initiatives of the State, regions, and local authorities more coordinated and effective ...;

(e) ascertain and assess the nature and characteristics of the changes and transformations in mafia-type activities and all related connections, including institutional ones, with particular regard to branches permanently established in regions other than those traditionally associated with Mafia presence and characterised by significant development of the real economy ...;

(f) investigate the relationship between the Mafia and politics ... as regards its structure within the territory and within administrative bodies ...;

...

(n) monitor attempts at Mafia influence and infiltration in local authorities and propose appropriate measures to prevent and combat such phenomena ...;

(o) submit a report to Parliament at the conclusion of its work and whenever it considers it appropriate, and in any event at least once a year.

2. The Commission shall conduct investigations and examinations with the same powers and limitations as the judicial authorities. The Commission may not take measures affecting the freedom and secrecy of correspondence or any other form of communication, or personal freedom, with the exception of compelling a witness to appear under Article 133 of the Code of Criminal Procedure. ..."

Section 2 – Composition of the Commission

"(1) The Commission is composed of 25 senators and 25 deputies selected, respectively, by the President of the Senate of the Republic and the President of the Chamber of Deputies in proportion to the number of members in the parliamentary groups, while ensuring the presence of at least one representative from each group existing in at least one branch of Parliament. ...

(2) The Commission shall be re-established two years after first being established; members may be reappointed. ..."

Section 4 – Witness hearings

"(1) Without prejudice to the powers of the judicial authorities, the provisions of Articles 366 and 372 of the Criminal Code shall apply to witness hearings before the Commission. ..."

Section 5 – Requests for acts and documents

"(1) The Commission may obtain, also by way of derogation from the prohibition laid down in Article 329 of the Code of Criminal Procedure, copies of acts and documents relating to proceedings and investigations conducted by the judicial authorities or other investigating bodies, as well as copies of acts and documents relating to parliamentary inquiries and investigations.

The judicial authorities may also forward copies of acts and documents of its own motion.

(2) The Commission shall ensure that secrecy is maintained where the acts and documents copied in accordance with subsection 1 are covered by secrecy.

(3) The Commission may obtain, from bodies and offices of the public administration, copies of acts and documents held, produced or otherwise acquired by them on matters pertaining to the purposes of this Law.

(4) The judicial authorities ... may delay the transmission of copies of requested actsand documents, by means of a reasoned decision, only for investigatory reasons. ... When the reasons for the order cease to exist, they shall transmit the requested material without delay ...

(5) Where acts and documents have been made subject to secrecy (*segreto funzionale*) by parliamentary commissions of inquiry, that secrecy cannot be relied upon against the Commission established by this Law.

(6) The Commission shall determine which acts and documents must not be disclosed ..."

Section 6 – Secrecy

"(1) Members of the Commission, officials and staff of any rank and grade attached to the Commission and any other person who cooperates with the Commission or carries out or assists in carrying out investigatory measures or has knowledge thereof by reason of their office or employment shall be bound by an obligation of secrecy with regard to all the acts and documents referred to in section 5(2) and (6).

(2) Unless it constitutes a more serious offence, a breach of secrecy shall be punishable under Article 326 of the Criminal Code.

(3) Unless it constitutes a more serious offence, the same penalties shall apply to any person who discloses, in whole or in part, even in summary or in the form of reported information, any act or document relating to the investigation proceedings whose disclosure has been prohibited."

Article 326 of the Criminal Code sets out a series of penalties for the offences of disclosure and use of official secrets. These range from six months' to five years' imprisonment, depending on the circumstances.

D. Internal Regulations of the Parliamentary Commission of Inquiry established by Law no. 87 of 2013

46. The relevant parts provide as follows:

Regulation 4 (Participation in sessions)

"Participation in Commission sessions is not permitted for parliamentarians who are not members of the Commission or for other external persons, with the exception of: members of the secretariat ... [and] external collaborators ..."

Regulation 12 (Publication of the proceedings)

"1. The Commission may decide that the verbatim transcript of certain sessions will not be made public ... A summary report of the Commission's proceedings is always published. The Commission's debates are published in the parliamentary records, unless otherwise decided by the Commission.

2. Without prejudice to the provisions of paragraph 1, journalists or the general public may follow public sessions in a separate room via closed-circuit audiovisual systems. During these sessions, the President may, where the circumstances so require, decide to suspend this public transmission, even temporarily.

3. The Commission may decide, in respect of specific documents, information or discussions, that its members are bound by secrecy, including for limited periods of time.

...

5. The President may propose that the Commission meet *in camera* when deemed appropriate."

Regulation 19 (Reporting an offence)

"1. The President shall inform the judicial authorities of any breaches of the secrecy imposed by the Commission in respect of information, acts and documents. This information shall be communicated to the Commission.

2. Where the report identifies one of the members of the Commission as the alleged perpetrator of the offence, the report shall also be forwarded to the President of the relevant Chamber. ..."

Regulation 20 (Commission archives)

"1. The Presidency Office, including representatives of the parliamentary groups, ... shall define the general criteria for classifying acts and documents, in order to determine whether they may be consulted and copied within the Commission, and whether it is possible to transmit them to the competent authorities.

...

3. The acts, deliberations and complete documentation collected by the Commission shall be kept in dedicated archives. The President shall be responsible for the archives, shall ensure that they are in good working order and adopt the security measures deemed appropriate, in agreement with the Presidents of both Chambers.

...

5. Documents held in the archives may be consulted by Commission members, [by external collaborators who have sworn an oath to respect professional secrecy], and administrative staff assigned to the Commission.

6. Where documents, deliberations and acts have been classified as secret, it is not permitted under any circumstances to make copies thereof, without prejudice to the provisions of the law on digitalisation. ..."

Regulation 22 (Publication of acts and documents)

"1. The Commission shall decide whether and, if so, which acts and documents should be made public in the course of its work.

2. When issuing its final report, the Commission shall decide directly, or through the committee referred to in Regulation 20 § 1, which acts and documents created or acquired in the course of the inquiry are to be made public.

3. All acts relating to the conduct of the inquiry shall be placed in the historical archives of the branch of Parliament to which the President of the Commission belongs."

E. Decision on the rules governing the disclosure of various categories of official documents (adopted by the Presidency Office on 19 November 2013)

47. In the "Decision on the rules governing the disclosure of various categories of official documents, adopted by the Presidency Office on 19 November 2013", the Commission defined the categories of documents that could be covered by secrecy, including, in particular "documents emanating from private persons (individuals, legal entities and associations) which, by their nature, must be treated as confidential".

F. Domestic case-law

1. Constitutional Court

48. In judgment no. 231 of 22 October 1975 (see also Constitutional Court judgments no. 219 of 24 June 2003 and no. 26 of 13 February 2008), the Constitutional Court, ruling on a conflict of jurisdiction between a parliamentary commission of inquiry and two courts, reiterated that the purpose and activities of parliamentary commissions of inquiry differed from those assigned to the judicial authorities in the course of their investigations. It specified that the task of parliamentary commissions of inquiry was not to adjudicate but only to gather the information and data necessary for the exercise of Parliament's legislative functions; that they did not produce "any

legal change", and their final reports could not have that effect (unlike judicial decisions); and that their purpose was simply to make available as much useful information as possible to the Chambers of Parliament so that they could decide how to proceed in full knowledge of the facts, and either put forward legislation or recommend that the Government take appropriate measures.

49. The Constitutional Court added that parliamentary inquiries were part of parliamentary oversight ("*funzione ispettiva*"); they were motivated by political concerns and pursued political ends; and they could not determine criminal offences or criminal liability, because if they did so, they would usurp the jurisdiction of the courts. The Constitutional Court further held that parliamentary commissions of inquiry were required to report to the judicial authorities any facts, discovered by them in the course of their investigations, that could constitute an offence.

50. In judgment no. 379 of 1996, the Constitutional Court ruled on a conflict of jurisdiction raised by the Chamber of Deputies in respect of an investigation opened by the public prosecutor's office at the Rome District Court into two members of parliament (MPs) suspected of having voted in place of fellow MPs. It held that, where MPs' conduct was regulated by existing provisions of parliamentary law, the principle of autonomy implied that Parliament had absolute autonomy to apply its own internal provisions and that the judiciary could not intervene. Conversely, where any aspect of such conduct was not fully covered by the provisions of parliamentary law – because it also affected the rights of third parties – the Constitutional Court pointed out that the judiciary had jurisdiction to examine the facts. In this latter situation, it specified as follows:

> "The separation between these two distinct values (parliamentary autonomy, on the one hand, and the principle of legality/jurisdiction, on the other) falls within the purview of this Court, which may examine complaints brought before it, in the event of a conflict of jurisdiction, by an authority which considers itself to have been prejudiced or compromised by the activities of another."

51. As to the possibility for an individual to have direct access to the Constitutional Court in order to raise a conflict of jurisdiction between the branches of State power, in Order no. 85 of 20 March 2009 it reiterated its well-established case-law, noting the following:

> "As concerns the subjective element, the application alleging a conflict of jurisdiction is manifestly inadmissible because it was lodged by an individual, who [has not demonstrated] in any way that he holds any constitutionally recognised public office which would confer on him the status of a 'State authority'.
>
> This Court has always held that 'under no circumstances ... may a private individual ... consider himself or herself as vested with relevant constitutional authority to raise a conflict of jurisdiction within the meaning of Article 134 of the Constitution and section 37 of Law no. 87 of 1953' (unnumbered Order of 27 July 1988, and Orders nos. 434, 284 and 189 of 2008 and no. 57 of 1971).

The objective element of a conflict of jurisdiction is also lacking, in so far as the appellant, rather than alleging a failure to respect constitutionally assigned roles, complained solely of a possible violation of personal and third parties' subjective legal rights.

In consequence, the purpose of the application is not to raise a conflict of jurisdiction between the branches of State power within the meaning of Article 134 of the Constitution and section 37 of Law no. 87 of 1953, but rather to obtain – on the appellant's own admission – a kind of direct access to this Court for the protection of individual rights."

2. Court of Cassation

(a) Ordinary courts' lack of jurisdiction

52. In judgment no. 4 of 20 February 1984, the Combined Criminal Divisions of the Court of Cassation held that the ordinary courts did not have jurisdiction over the acts of a parliamentary commission of inquiry. The case concerned an association's appeal on points of law concerning a search warrant issued by a parliamentary commission of inquiry for the purposes of obtaining a list of the names of its members. The relevant parts read as follows:

"[I]t should first be noted that the power to decide on and conduct inquiries is inherent ... in the primary institutional function of Parliaments; a means of acquiring knowledge and subsequently exercising legislative functions ... This connection between the investigation and the will of Parliament makes the investigation the expression of legislative power. ... Commissions of inquiry represent Parliament in a specific and necessary composition.

It can therefore be ruled out, both objectively and subjectively, that commissions are judicial bodies. ... The rationale behind [Article 82 of the Constitution] is the fact that, in exercising this investigatory power, Parliament conducts activities outside its domain, directly within the actual societal situation which is the subject of its inquiry. ... The power vested in ... commissions is always and solely investigatory; it is completely different in nature and purpose from that vested in the judicial authorities.

Article 82 of the Constitution establishes a parallel; it does not give examples. ... The fact of identifying the means used (the 'powers and limitations' of the relevant judicial body) does not alter the fundamental divergence in the ends being pursued. ... the reference, again in the context of this parallel, [to investigations and examinations] concerns ... only the active phase of the preliminary investigation.

...

As regards, in particular, seizures, it suffices to note that Article 337 of the Code of Criminal Procedure [replaced by Article 247 of the new Code of Criminal Procedure (see paragraph 44 above) which entered into force on 24 October 1989] gives the court the power to order seizures in respect of 'items relating to the criminal offence'. Thus, it is not only obvious that the general reference in Article 82 requires ... the need for a 'substitute' interpretation, in the sense that the commissions' seizure powers must be regarded as being limited to 'material relating to the [parliamentary] inquiry', but above all it is obvious that the purpose and scope of seizures ordered by commissions are entirely different from those of seizures provided for in criminal proceedings ...

In criminal matters, precisely because they concern items relating to the offence, seizures are generally linked to a final judgment closing the proceedings: seized property may be confiscated in specific cases ... [just as] it may be returned. ... The related rules are institutional and complex and they do not apply to the 'seizure' powers of parliamentary commissions ... It is therefore clear that the reference to Article 82 expresses only the possibility of securing, for the sole purpose of the investigation, the material availability of certain items for a period of time corresponding to that of the commission of inquiry.

...

Ultimately, therefore, the reference to 'limitations' on the judicial authorities' powers serves only to make applicable to parliamentary commissions the provisions of the Code of Criminal Procedure laid down to regulate the exercise of the judicial authorities' powers when carrying out investigative measures. On the other hand, it is necessary to rule out the idea that that reference could imply the extension to commissions of the system of judicial appeals or review. ... It follows that review of the acts of the parliamentary commissions in question is entrusted (or, *de iure condendo*, should be entrusted) to bodies of the 'parliamentary branch', that is, bodies which constitute expressions of the same legislative power by virtue of which the commissions' decisions are adopted.

...

The Constituent Assembly therefore established that investigatory activities, which were part of Parliament's legislative and therefore political function of (Article 82, first paragraph), could not be carried out *vis-à-vis* third parties with the freedom of action inherent in the exercise of political power, but only subject to legal regulation. In so doing, it chose judicial activity as a parameter. In that way, it established a legal relationship between commissions of inquiry and third parties. ...

...

As regards criminal liability, it should be noted that the personal nature of that liability implies that commission members may be held ... responsible for an offence of this kind. Moreover, the absolute immunity provided for in Article 68, first paragraph, of the Constitution cannot be invoked in respect of the activities of commissions of inquiry.

...

This Court therefore lacks jurisdiction to rule on applications ... for review, the setting-aside or the amendment of the seizure measure ordered by the parliamentary commission."

53. As regards the remedies available to individuals affected by a parliamentary commission of inquiry's activities, the Court of Cassation held that they were subject to the ordinary provisions concerning personal liability for unlawful acts, both civil and criminal.

(b) Application for judicial review of a conflict of jurisdiction between the branches of State power (*conflitto di attribuzione tra poteri dello Stato*)

54. In judgment no. 15236 of 12 May 2022, the Combined Civil Divisions of the Court of Cassation examined the powers of the ordinary courts when

examining an application for judicial review of a conflict of jurisdiction between the branches of State power. It held, *inter alia*, as follows:

> "The designation of the conflict-of-jurisdiction procedure as the mechanism for re-establishing the proper constitutional balance between the branches of State power ... does not, however, imply that the ordinary court must, at the outset, bring the proceedings to a halt and be compelled to raise a conflict of jurisdiction merely because, in the course of the proceedings, ... such an issue arises ...
>
> The court must assess whether the conditions for the application of parliamentary autonomy (*autodichia*) are fulfilled, which entails ascertaining ... and interpreting the scope and content of the parliamentary regulations establishing it.
>
> ...
>
> Where the proceedings are not discontinued, the court must refer the conflict of jurisdiction to the Constitutional Court, to complain of the specific failure to respect its constitutionally assigned role, namely, that of providing [judicial] protection for the subjective rights in the cases submitted to it. Conversely, where the court rules out the possibility that the case in issue falls within the ambit of ... parliamentary autonomy (*autodichia*), it is for [Parliament] to take the relevant initiative ..."

55. It is therefore for the ordinary courts to establish whether the case before it falls within the internal jurisdiction of Parliament (*autodichia*), having regard to the parliamentary prerogatives of autonomy and independence, or whether, on the contrary, it is for the court to rule on it itself in application of the ordinary rules of its jurisdiction, retaining the proceedings and, in that event, leaving it to Parliament to seek in its turn review of the conflict of jurisdiction.

II. COMPARATIVE-LAW MATERIAL

56. For the purposes of the present case a comparative survey covering 37 Council of Europe member States was prepared by the Court's Research Unit[1]. It shows that in most of the States surveyed, Parliament has the power to institute parliamentary commissions of inquiry.

57. In many States, commissions of inquiry may appoint legal advisers, prosecutors or independent investigators to help them gather evidence and make legal assessments. They may also collaborate with law-enforcement agencies and domestic authorities to access relevant information.

58. Parliamentary commissions of inquiry's investigative powers vary significantly. In some States, they operate with the same authority as standard parliamentary bodies, while in others they are endowed with powers comparable to those of investigating judges.

59. In most of the States surveyed, parliamentary commissions of inquiry may formally summon witnesses and request documents or other forms of evidence. In all of the surveyed States, they may hear persons vested with

[1] See also the summary of the comparative-law report in *Rywin v. Poland*, nos. 6091/06 and 2 others, § 101, 18 February 2016

public powers (government officials and civil servants) and, generally (in 32 States), individuals as well. In the majority of States, the relevant legal framework stipulates a legal obligation to appear, or grants the commissions powers to summon a person to be heard[2]. In many States a refusal to cooperate is sanctioned as a criminal offence, punishable by a fine or imprisonment[3]. Lastly, in 15 States witnesses may be physically compelled to appear and any sanctions and measures adopted are subject to judicial review.

60. In 28 member States, commissions of inquiry have the authority to request documents from public institutions, but only in 22 States may they also require private entities to submit documents[4]. In 13 States the refusal to cooperate may result in sanctions, generally enforced through judicial proceedings[5].

61. Among the various prerogatives and investigative powers entrusted to parliamentary commissions of inquiry, very few States permit them to order searches and seizures. Their powers are generally subject to judicial review. In particular: in Belgium, the legislation permits the commissions to take all investigative measures provided for in the Code of Criminal Procedure, although they must ask the courts to order certain measures such as searches and seizures; in Germany, the Constitution provides that a commission of inquiry has the right, within the scope of its mandate, to take any evidence it considers necessary, using coercive measures, but they must rely on the courts to order the seizure of documents (also in the Czech Republic, Iceland and Slovenia); in Latvia and Lithuania, the commissions may seize only documents from public entities, again through the relevant court; lastly, in Luxembourg, although a commission of inquiry may take all investigative measures provided for in the Code of Criminal Procedure and request the assistance of law-enforcement agencies, it should be noted that the domestic law limits searches and seizures to public authorities or institutions, and the documents held by them.

62. There seems to be no common approach with regard to mechanisms for reviewing the activities of parliamentary commissions. Certain States

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[2] Albania, Armenia, Austria, Belgium, Croatia, Cyprus, the Czech Republic, Estonia, France, Georgia, Germany, Greece, Iceland, Ireland, Latvia, Liechtenstein, Luxembourg, the Republic of Moldova, the Netherlands, Poland, Portugal, Romania, Serbia, Slovenia, Spain and Switzerland.

[3] Austria, Belgium, Croatia, Cyprus, Estonia, France, Georgia, Germany, Ireland, Liechtenstein, Luxembourg, Poland, Portugal, Romania, Spain and Switzerland.

[4] Albania, Belgium, Croatia, Cyprus, the Czech Republic, Estonia, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Latvia, Liechtenstein, Lithuania, the Republic of Moldova, the Netherlands, Poland, Portugal, Türkiye and the United Kingdom.

[5] Croatia, Cyprus, Denmark, Estonia, France, Germany, Ireland, Liechtenstein, Lithuania, Luxembourg, Portugal, Romania and Switzerland.

have ruled out the possibility of a specific remedy[6] . In general, the majority of parliaments do not have dedicated internal mechanisms for supervising the commissions' activities. In some States, this overview is entrusted to specific parliamentary bodies: in Austria, for example, specific authorities have responsibility for ensuring a fair procedure, by verifying in particular compliance with the commission's internal regulations; in Spain, the Bureau of the Chamber has a duty to ensure that investigative commissions respect the constitutional rights of the persons concerned; in Ireland, parliamentary commissions of inquiry operate under the broader oversight of the Irish Parliament's Committee on Procedure.

THE LAW

III. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

63. The applicant association complained that the search of its premises and seizure of the lists of its members, containing their names and personal data, had not been "in accordance with the law" within the meaning of Article 8 of the Convention and had been manifestly disproportionate. It also relied on the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS 108, signed in Strasbourg on 28 January 1981 and ratified by Italy on 29 March 1997) and on European Union law concerning the protection of personal data.

64. The Court would begin by reiterating that, in accordance with Article 19 of the Convention, its sole duty is to ensure the observance of the engagements undertaken by the Contracting Parties to the Convention and that it is not competent to rule formally on compliance with domestic law, other international treaties or EU law (see, in particular, *Avotiņš v. Latvia* [GC], no. 17502/07, §§ 99-100, 23 May 2016). Accordingly, having regard to the applicant association's submissions and the nature of its complaints, the Court considers that they can only be examined under Article 8 of the Convention.

65. The relevant parts of that provision read as follows:

> "1. Everyone has the right to respect for ... his home .
>
> 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."

[6] Albania, Austria, Croatia, the Czech Republic, France, Greece, Latvia, Luxembourg and the Netherlands.

A. Admissibility

1. Locus standi

66. The respondent State did not expressly raise any objection as to the applicant association's standing. The Court nevertheless considers it appropriate to examine this question of its own motion (see *Sejdić and Finci v. Bosnia and Herzegovina* [GC], nos. 27996/06 and 34836/06, § 27, ECHR 2009). It reiterates that in order to be able to lodge a petition under Article 34 of the Convention, a person, non-governmental organisation or group of individuals must be able to claim to be the victim of a violation of the rights set forth in the Convention. The individuals or entities concerned must be able to show that they were "directly affected" by the measure complained of (see, among many other authorities, *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, § 105, 27 November 2023).

67. In the present case, the Court notes that the applicant association claimed to have been directly affected by the search and seizure measure ordered by the Commission.

68. The Court notes in this connection that the search was carried out by the authorities in the applicant association's premises and outbuildings, as well as in the Grand Master's private residence. As such, there can be no doubt that the applicant association has standing to bring proceedings before the Court.

69. As to the personal data in the lists seized, the Court considers that only the members of the applicant association, acting on their own behalf, would have been entitled to complain of an interference with their right to respect for their private life. The applicant association does not therefore have standing (*locus standi*) to do so on behalf of its members.

70. The Court notes, however, that the contested search operation made it possible to obtain the names of thousands of Freemasons, against the applicant association's wishes. The applicant association is, by its very nature and purpose, responsible not only for keeping up to date, but also for storing the lists of the members of its numerous Sicilian and Calabrian lodges. Moreover, it has a duty to safeguard the confidentiality of its members' admission to the association, which forms one of the principles governing the operation of a Masonic association. Accordingly, in assessing the complaint under Article 8, the Court may take into account the applicant association's interest in protecting the private life of its members (see, *mutatis mutandis*, *DELTA PEKÁRNY a.s. v. the Czech Republic*, no. 97/11, §§ 65 and 78, 2 October 2014).

2. Exhaustion of domestic remedies

(a) The Government's submissions

71. The Government pleaded failure to exhaust domestic remedies within the meaning of Article 35 § 1 of the Convention.

72. They pointed out, first, that once the inquiry had ended it had been open to the applicant association to submit a new request for reconsideration to the Commission (*ricorso in autotutela*).

73. The Government then submitted that domestic law also afforded the applicant association the possibility of complaining about any act of a parliamentary commission of inquiry that could be said to have overstepped the limits of the latter's powers and infringed the rights of third parties. Thus, in the Government's submission, the applicant association could have challenged the Commission's allegedly unlawful act by bringing a civil or criminal action against its members in the ordinary courts on the basis of their individual liability. To illustrate the effectiveness and adequacy of that remedy, they cited the case of *Gatto v. Italy* ((dec.), no. 19424/08, 8 March 2016), in which the Court had examined the alleged interference with the applicant's private and family life following the disclosure in the press of the content of certain transcripts of *in camera* sessions of the parliamentary commission on combating the Mafia, and had declared the application inadmissible under Article 35 §§ 1 and 4 of the Convention.

74. Lastly, they submitted that the applicant association ought to have complained about the search and seizure ordered by the Commission by asking a court to refer the case to the Constitutional Court, which could have ruled on the conflict of jurisdiction between the branches of State power (*conflitto di attribuzione tra i poteri dello Stato*) within the meaning of Article 134 of the Constitution (see paragraph 43 above). At the hearing before the Court, the Government further clarified that the applicant association could, to that end, have appealed the public prosecutor's decision on its request.

75. In support of their argument that review by the Constitutional Court was possible, the Government referred to that court's judgments no. 231 of 22 October 1975 and no. 26 of 13 February 2008 (see paragraphs 48-49 above). In the 1975 judgment, the Constitutional Court had ruled on the conflict of jurisdiction between the then commission on combating the Mafia and two domestic courts, ordering the former to provide the latter with certain documents which were not subject to the secrecy regime applied by the commission itself to its activities. In the 2008 judgment, it had set aside a technical report on a vehicle, ordered and conducted by the commission of inquiry, which had refused to allow the joint participation of the judicial authorities in that investigative act.

76. The Government also referred to Constitutional Court judgment no. 379 of 2 November 1996 (see paragraph 50 above), in which that court

had examined the scope of parliamentary autonomy by establishing a sliding scale for the degree of application of that principle, stating that where Parliament was exercising its normal political functions, parliamentary autonomy applied to its fullest extent, whereas in the opposite situation, where an MP's individual acts were in issue, ordinary law could apply. They pointed out that the Constitutional Court had concluded from this that where parliamentary rules were applicable, the principle of parliamentary autonomy represented the limit on the exercise of judicial power and, conversely, in the absence of conduct that could be characterised as parliamentary, the rules of ordinary law applied. In their submission, it was therefore possible, in the event of a conflict of jurisdiction, for the (judicial or legislative) authority which considered itself to have been prejudiced by the other's action to refer the matter to the Constitutional Court, which performed a guarantor role by ensuring that the dividing line between the two scenarios was properly defined.

(b) The applicant association's submissions

77. The applicant association disputed the Government's submissions and claimed that there was no domestic remedy capable of redressing the alleged violation. It pointed out that it had unsuccessfully attempted various actions, both before and after the impugned search and seizures.

78. As to judicial remedies, it stated that it had lodged a criminal complaint, asking the judicial authorities to conduct a review of whether there had been a conflict of jurisdiction between the Commission and the judiciary, and protesting against the actions of the President of the Commission and its members, which, in its view, constituted the offences of a breach of secrecy, abuse of powers and defamation. It referred to the reasoning of the Rome public prosecutor's office in the request to discontinue the proceedings concerning its complaint (see paragraphs 34-40 above).

79. The applicant association also pointed out that it had applied directly to Parliament, both before the decision had been taken (see paragraph 24 above) and after the search had been carried out (see paragraph 30 above), by requesting the Commission to reconsider the search and seizure order, but had received no reply to either request.

80. Lastly, it referred to the opinion of the National Data Protection Authority, to which it had addressed the question whether the rules applicable to its members' personal data prohibited their transmission to the Commission. The Authority had stated that, in accordance with the Court of Cassation's case-law (see paragraph 15 above), it had no jurisdiction in respect of the activities of parliamentary commissions of inquiry.

81. The applicant association concluded that there had been no effective remedies available to it in the circumstances of the case.

(c) The Chamber judgment

82. In its judgment, the Chamber dismissed the Government's preliminary objection of non-exhaustion of domestic remedies.

83. With regard to the conflict of jurisdiction, the Chamber noted that the parties to proceedings in which they complained of a conflict of jurisdiction between the branches of State power had no procedural right to require that the case be referred to the Constitutional Court, as the decision to grant such a request fell within the discretion of the relevant judicial body. It also noted that the applicant association had attempted to use that remedy, by lodging a complaint with the Rome public prosecutor, but that the latter had considered that, in the absence of pending criminal proceedings concerning the same issues being investigated by the Commission, the conditions for raising the conflict of jurisdiction had not been met.

84. As to the possibility of asking the Commission to make use of the self-correction procedure (*autotutela*), the Chamber noted that the applicant association had attempted that approach, but without success. It observed, in particular, that such a procedure was not regulated and was based on *ad hoc* discretionary decisions by the Commission. It accordingly concluded that the applicant association had not been required to use that remedy.

(d) The Court's assessment

85. The Court refers to the general principles on the exhaustion of domestic remedies set out in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-77, 25 March 2014), which were cited recently in *Mansouri v. Italy* ((dec.) [GC], no. 63386/16, § 84, 29 April 2025) and *Duarte Agostinho and Others v. Portugal and 32 Others* ((dec.) [GC], no. 39371/20, § 215, 9 April 2024).

86. It further reiterates that, in ruling on whether an applicant has met this admissibility criterion in the specific circumstances of his or her case, the Court must first identify the act of the respondent State's authorities complained of (see *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, § 226, ECHR 2014 (extracts), and *Communauté genevoise d'action syndicale (CGAS)*, cited above, § 144).

87. It should be noted that the act complained of in the present case, namely the search and seizure order issued by the Commission, constitutes the subject-matter that determines the scope of the case referred to the Court (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 109 and 126, 20 March 2018, and *Grosam v. the Czech Republic* [GC], no. 19750/13, § 88, 1 June 2023). The allegations made by the applicant association, which complained of an interference with its rights under Article 8 of the Convention, concerned the lack of evidence justifying such a decision, the manner in which the order had been carried out and the absence

of any real limitations on the exercise of the power to order searches and seizures.

88. The Court further notes that the Government did not dispute the scope of the applicant association's complaint (contrast *Fu Quan, s.r.o. v. the Czech Republic* [GC], no. 24827/14, §§ 129-30, 1 June 2023) and that the circumstances surrounding the impugned measure, as submitted by the applicant association, formed the factual basis for the Government's observations on the admissibility and merits of the complaint under Article 8.

89. The act complained of having been identified, it is necessary to examine the domestic remedies put forward by the Government. The Court reiterates in that connection that it is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy was an effective one available in theory and in practice at the relevant time, that is to say, that it was accessible, was capable of providing redress in respect of the applicant's complaints and offered reasonable prospects of success (see *Selahattin Demirtaş v. Turkey (no. 2)* [GC], no. 14305/17, § 205, 22 December 2020).

(i) Request for reconsideration of the search and seizure order

90. With regard to the possibility, as submitted by the Government, of requesting the Commission to reconsider the search and seizure order, the Court would begin by observing that the applicant association expressly attempted to use this remedy, requesting that the contested order be amended and set aside, but that, in the absence of a formal reply, its attempt was unsuccessful (see paragraph 30 above).

91. Admittedly, the Government maintained that the applicant association had attempted this remedy too soon, namely during the selection phase of the seized documents, whereas, in their view, it ought to have submitted a new request at the end of the proceedings. The Court notes, however, that it has not been established that doing so would have been capable of leading to amendment or setting aside by the Commission of its search and seizure order. In the Court's view, given the nature and characteristics of the procedure in question, there is considerable uncertainty as to whether persons wishing to use this remedy in order to obtain reconsideration of a contested decision would be successful.

92. While referring to the general principles set out in its case-law (see *Vučković and Others*, cited above, §§ 69-77), the Court reiterates that the Convention mechanism requires the exhaustion of available domestic remedies which are capable of providing redress in relation to the complaints raised and which offer a reasonable prospect of success. By contrast, discretionary or extraordinary remedies are not remedies requiring exhaustion for the purposes of Article 35 § 1 of the Convention (see *Pisano v. Italy* (striking out) [GC], no. 36732/97, § 36, 24 October 2002; *Goulandris and Vardinogianni v. Greece*, no. 1735/13, § 27, 16 June 2022; and *Šimkus v. Lithuania*, no. 41788/11, § 33, 13 June 2017). The applicant association

was not therefore required to submit a new request for the Commission to reconsider its decision nor, *a fortiori*, to renew such a request at a later stage.

(ii) Action to establish civil or criminal liability of the Commission's members

93. The Government submitted that another effective and available remedy existed, namely a civil or criminal action against the members of a commission of inquiry in respect of acts exceeding the limits of that body's powers. In their submission, the applicant association could have challenged the Commission's order before the ordinary courts in this way, relying on the individual liability of its members. In support of this argument, the Government cited the *Gatto* case (cited above), in which the Court had examined the alleged breach of an applicant's right to respect for his private and family life following the disclosure of the content of certain transcripts of sessions of the parliamentary commission on combating the Mafia of the XV Legislature.

94. The Court notes that the applicant association complained about the exercise, by the Commission, of the search and seizure powers conferred on it (see paragraph 111 below) and, in particular, about the search warrant issued by it (see paragraph 87 above), which the ordinary courts had no jurisdiction to examine (see paragraphs 29 and 52 above). It did not complain about any subsequent act, such as a breach of secrecy in respect of information obtained during *in camera* sessions and then disclosed in the press, as in the *Gatto* case (cited above). Accordingly, the remedy referred to by the Government was not capable of redressing the complaint raised by the applicant association.

95. Furthermore, the applicant association unsuccessfully attempted to bring criminal proceedings against the President and members of the Commission, an approach which the Rome public prosecutor's office rejected (see paragraphs 32, 34-40 above) in application of the case-law principles of parliamentary autonomy and the separation of powers, referred to in paragraphs 50-52 above.

96. The Court therefore considers that the findings in *Gatto* (cited above) are not applicable to the present case and, in any event, that bringing civil or criminal proceedings was not a remedy that had to be exhausted in the circumstances of the case.

(iii) Conflict of jurisdiction between branches of State power

97. Lastly, it is necessary to examine the Government's preliminary objection concerning a request for a ruling by the Constitutional Court on a possible conflict of jurisdiction between the Commission and a judicial authority.

98. The Court notes that the Court of Cassation held, in a judgment of the Combined Civil Divisions of 12 May 2022, that the ordinary courts were not

obliged to refer a conflict of jurisdiction to the Constitutional Court "merely because, in the course of the proceedings, ... such an issue arises", but that they had to assess and decide, in the exercise of their discretion, whether there was a conflict of jurisdiction or whether, on the contrary, the powers of one or other State body should prevail (see paragraph 54 above).

99. The Court further notes that the Constitutional Court has explicitly held that a conflict of jurisdiction raised directly by an individual did not satisfy domestic admissibility requirements. In particular, the Constitutional Court held that an individual application lacked both the subjective element, as the individual did not hold any constitutionally recognised public office conferring on him or her the status of a "public authority", and the objective element, as the appellant had complained solely of a violation of personal subjective legal rights and not of a breach of "constitutional powers" (see paragraph 51 above).

100. Moreover, the Court notes that the conflict of jurisdiction procedure enables the Constitutional Court to resolve disputes between State bodies concerning conduct or acts infringing the powers conferred by the Constitution (see paragraph 50 above). It observes that, according to domestic case-law, in order for there to be a conflict of jurisdiction between a parliamentary commission of inquiry and the judicial authorities, there has to be a situation of genuine and ongoing interference between those two bodies. Indeed, the examples of constitutional case-law cited by both parties demonstrate that the conflicts of jurisdiction complained of always concern the implementation or execution of an act liable to encroach upon the powers of the other body: judgment no. 231 of 1975 concerned the refusal by the parliamentary commission of inquiry to transmit certain documents in its possession to the relevant judicial authorities; judgment no. 379 of 1996 concerned an inquiry opened by the Rome public prosecutor's office into two MPs who were suspected of having voted in place of fellow MPs; and judgment no. 26 concerned a complaint by the Rome public prosecutor about the refusal of the parliamentary commission of inquiry to carry out a joint expert examination (see paragraphs 48 et seq. above).

101. Interference by one branch of State power with the powers of another is therefore a necessary condition for the existence of a conflict of jurisdiction. In the present case, however, as indicated by the Rome public prosecutor's office when rejecting the applicant association's request, no conflict of jurisdiction could be established, given the absence of the prerequisite fact of ongoing judicial proceedings, which meant that no actual interference with the judiciary could be attributed to the Commission and that there was therefore no conflict of jurisdiction between it and the relevant judicial body (see paragraph 35 above).

102. Lastly, the Government submitted that the applicant association could have objected to the request to discontinue the proceedings and lodged a fresh request for an application to the Constitutional Court. The Court notes,

however, that the Government have not justified the effectiveness of such a remedy (see, among many other authorities, *Communauté genevoise d'action syndicale (CGAS)*, cited above, § 143, and *Vučković and Others*, cited above, § 77).

103. In the light of the above, the Court finds that an objection to the request to discontinue the proceedings, and the lodging of a fresh request for review of a conflict of jurisdiction would not have been justified in the circumstances of the case, since they were bound to fail.

(iv) Conclusion

104. Having regard to the foregoing, the Court considers that it has not been shown that the applicant association had at its disposal an effective and available remedy that it did not use. Accordingly, it dismisses the Government's preliminary objection.

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

B. Merits

1. The Chamber judgment

106. Having found that it was common ground between the parties that there had been an interference with the applicant association's rights as guaranteed by Article 8 of the Convention, the Chamber considered that this took the form of interference both with the right to respect for its home, on account of the search of the association's premises, and with the right to respect for its correspondence, owing to the seizure of various paper and digital documents.

107. In contrast, the parties disagreed as to the existence of a legal basis for, and the necessity of, the measures ordered by the Commission, issues which were examined jointly by the Chamber. Assessing the legal basis, it held that the guarantees provided in Article 82 of the Constitution were sufficient to prevent the risk of abuse and arbitrariness by a parliamentary commission of inquiry, but that the question of how they had been applied *in concreto* remained to be examined.

108. Assessing the lawfulness and proportionality of the interference together, the Chamber took four factors into account: (a) the seriousness of the matter being investigated; (b) the manner and circumstances in which the search and seizure order had been issued; (c) the content and scope of that order; and (d) the existence of sufficient *ex ante* or *ex post facto* procedural safeguards against abuse and arbitrariness.

109. While acknowledging the seriousness of the matters under investigation, the Chamber noted the absence of specific evidence or elements giving rise to a reasonable suspicion that the applicant association had been involved in them, in such a way as to justify the order, finding in particular that the measure had not been based on relevant or sufficient reasons. The Chamber then noted the broad and indeterminate content of the Commission's order, which, in its view, had significantly affected the applicant association's rights. Lastly, the Chamber noted the absence, in the domestic legal order, of sufficient counterbalancing guarantees, emphasising that the requirement of some form of *ex ante* or *ex post* control by an impartial authority with a sufficient degree of independence was an essential safeguard against arbitrary interference. Accordingly, it found that the interference had not been "in accordance with the law", nor "necessary in a democratic society".

2. The parties' submissions

(a) The applicant association

110. The applicant association emphasised that the present case concerned an interference that had seriously infringed its rights under Article 8 of the Convention.

111. With regard to the lawfulness of the interference, it argued that the exercise of the search and seizure powers had been incompatible with the provisions of Article 82 of the Constitution. Referring to settled domestic case-law, according to which decisions adopted by a parliamentary commission of inquiry could not be challenged before an ordinary court or any other body, it submitted that the domestic courts' interpretation implied that the commissions were not subject to "the same ... limitations as the judicial authorities" as provided for in the Constitution.

112. The applicant association also maintained that the choice to order the search and seizure, far from being a measure imposed by extreme necessity, as argued by the Government, was on the contrary a disproportionate decision that had failed to take account of the Grand Master's willingness to cooperate with the Commission, as was clear from the transcript of the hearing of 18 January 2017. In that regard, it considered that the Grand Master could have been heard in accordance with the provisions of the Code of Criminal Procedure, and that the Commission could have requested, under that Code, the appointment of an IT expert to access its members' data and analyse them in the presence of its own expert.

113. Moreover, it submitted that, despite the large number of documents seized covering a period of around 25 years and still stored in Parliament's archives, the Commission had been able to identify only two individuals convicted of offences linked to mafia-type organised crime. In its view, this demonstrated the punitive nature of the impugned measure. It also

emphasised that the order had made no reference to any ongoing criminal investigation or to the members who might be specifically concerned, the terms used therein having been, on the contrary, vague and imprecise.

114. It concluded that there was a need for Article 82 of the Constitution to be interpreted strictly, with a view to imposing on parliamentary commissions the same limitations to which the judicial authorities were subject in the context of a preliminary investigation, in particular the provisions regulating the circumstances that could give rise to a search warrant. The applicant association submitted that a procedural safeguard would enable concrete and effective review of the decisions taken by commissions of inquiry, and that the existing domestic procedures were ineffective. In particular, it noted that both its application to the Presidents of the Senate and the Chamber of Deputies (see paragraph 24 above) and its request to the Commission for reconsideration of the search and seizure order (see paragraph 30 above) had proved unsuccessful.

(b) The Government

115. The Government pointed out that parliamentary commissions' investigatory powers were based on the common constitutional tradition of European and western States, and that they corresponded to the principle of "informed decision-making".

116. They referred to Article 82 of the Constitution and emphasised that the purpose of commissions of inquiry was to shed light on facts or social phenomena of public interest, with a view to subsequently proposing legislative reforms. In this connection, they provided several examples of commissions of inquiry which, through the use of coercive search and seizure powers, had contributed to the work of Parliament. In particular, they cited the investigations into the activities of the deviant "P2" lodge, Mafia infiltration into Palermo shipyards, the murder of two journalists in Somalia and, lastly, the waste-management cycle and the associated illegal activities.

117. The Government submitted that, in order to make the work of parliamentary commissions effective, the Constitution had conferred on them powers similar to those of the judicial authorities, as indeed had been confirmed by the Constitutional Court (see judgment no. 231 of 1975, paragraph 48 above). They pointed out that the commissions' powers were probative in nature, a link with the subject matter of the investigation being necessary and sufficient, and their exercise did not require any allegation of facts punishable under criminal law, as in the case of seizure ordered as a preventive measure by the judicial authorities. In the present case, they submitted that the evidence gathered during the hearings and the analysis of the documents obtained by the Commission had justified the decision to order the search of 1 March 2017 and the related seizures.

118. They then referred to the Court's case-law on search and seizure, asserting that, while the principles developed concerned measures ordered by

the judicial authorities in the context of a criminal investigation or tax inspection, in the present case such principles ought to be adapted to the nature and specific features of parliamentary commissions of inquiry, where both the requirement to provide information about matters of public and societal interest and the principle of the separation of powers came into play. They added in that connection that, as regards the application of national law, the domestic case-law had consistently held, in particular since the judgment of the Combined Divisions of the Court of Cassation (see judgment no. 4 of 1984, paragraph 52 above), that the provisions of the Code of Criminal Procedure had to be adapted to reflect the context of an inquiry being conducted by a parliamentary commission.

119. They further submitted that the interference had been necessary in the interests of security, the maintenance of public order and the prevention of crime. In particular, it had addressed the urgent need to examine the extent to which organised mafia-type crime had infiltrated Freemasonry, a matter which had already been the subject of the activities of the Commission on combating the Mafia during a previous parliamentary term (1992-94).

120. The Government added that the interference had been proportionate, in that the Commission had taken progressive measures, seeking first to cooperate with the applicant association and then, in view of its refusal, putting in place safeguards that ensured both the selection (in the presence and with the cooperation of the parties concerned) of only those documents relevant to the investigation and the protection of the data seized (secrecy regime, storage in police premises equipped with the necessary facilities). They confirmed that the seizure had made it possible to obtain the names of approximately 6,000 members of the applicant association.

121. With regard to the storage of the documents obtained as a result of the search, the Government referred to the relevant provisions of the Rules of the Historical Archives of the Chamber of Deputies (Rules 16 and 18 of the Rules of the Historical Archives of the Chamber of Deputies), which stated that seized documents could be returned after the parliamentary commission of inquiry in question had ceased to operate. However, since the commission on combating the Mafia was re-established at the beginning of each parliamentary term, the statutory condition for their return had not been met. In their view, the applicant association could nevertheless have requested the documents' return after publication of the Commission's final report (see paragraph 41 above).

122. As to the lack of *ex ante* or *ex post facto* judicial control, the Government argued that it was justified by the separation of powers and the principle of parliamentary autonomy. Referring to the Court's case-law, they criticised the Chamber's findings as to the need for judicial review; in their view, this would entail a significant limitation on parliamentary autonomy and independence. They submitted that in any event the legal system already provided several safeguards against potential abuse: on the one hand, the law

establishing the Commission, which limited the scope of the inquiry and was subject to the scrutiny of the President of the Republic; and, on the other, the Commission's Internal Regulations, the provisions of the Code of Criminal Procedure applicable to the Commission's acts, the guarantee of respect for the adversarial principle in the selection of documents to be seized, and, lastly, the rules governing the secrecy of seized data.

123. As regards potential *ex post* reviews, the Government submitted that the domestic legal system provided, first, for the possibility of an application for judicial review of a conflict of jurisdiction between the branches of State power, citing, *inter alia*, two judgments of the Constitutional Court (judgments no. 213 of 1975 and no. 26 of 2008; see paragraphs 48-49 above); secondly, for the possibility of requesting the Commission itself to set aside its order; and, lastly, for the possibility of bringing proceedings in the ordinary courts against the members of the Commission on the basis of their civil or criminal liability (see paragraph 53 above).

124. Lastly, they submitted that the usefulness of the material seized could not be used as a criterion in the proportionality assessment, since the Italian Constitution and western constitutional tradition (see, in particular, Article 9 of the British Bill of Rights) precluded scrutiny of the motives behind legislative initiatives or parliamentary inquiries. In that connection, they noted that a commission of inquiry, similarly to a prosecutor during preliminary investigations, could not know in advance whether the measure adopted would produce the desired effect. In any event, the Government submitted that even from a retrospective standpoint, the Commission's final report (see paragraph 41 above), addressed to the Presidents of both Chambers of Parliament, had highlighted the infiltration of mafia-type organisations into the Sicilian and Calabrian lodges – classifying it as "continuous" – and had identified certain features of the phenomenon.

(c) Observations of the Venice Commission (*amicus curiae*)

125. The Venice Commission began by observing that, regardless of the scope of a parliamentary commission of inquiry's powers, they always remained linked to the competence of Parliament in a system of separation of powers. It noted that the creation of inquiry committees or a similar body by national parliaments was a common feature of almost all countries. While there were national variations, their mandate was to investigate specific events or situations to ensure democratic political accountability and to improve the transparency and efficiency of the government and the administration. It then observed that, in comparative practice, it had previously noted the existence of two groups of countries: in the first, commissions of inquiry might have no power over individuals, except to call them to testify; in the other, they might be provided with some or all of the usual powers of the investigating judges. This situation was a matter largely defined by the State's history and experience in the field. Relying on a survey

issued by the European Parliament in 2020 on commissions of inquiry [7], the Venice Commission noted that in many EU legal systems, legal remedies existed for situations where a parliamentary commission of inquiry committed an act or omission violating either the rules of procedure or the rights of natural or legal persons concerned by an investigation. It reiterated in that connection that the Venice Commission did not exclude in principle appeals against decisions taken by Parliaments, referring to its "Rule of Law Checklist"[8], in particular as regards the right to a fair trial and the prevention of abuse (misuse) of powers.

126. It added that parliamentary autonomy was mainly expressed through the existence of powers of self-regulation; their scope of inquiry; their composition; and the nature of the investigative powers conferred upon them.

127. For commissions of inquiry to be effective, they had to be vested with adequate investigative powers to perform their functions. While typical powers included requesting documents, summoning officials, and requiring cooperation, the Venice Commission noted that the comparative practice showed that in many jurisdictions there was an obligation for private persons or entities to cooperate, notably by testifying or providing documents (some countries foresaw, in particular, criminal penalties for false testimony or obstructing a commission's activities) – but professional secrecy (for example, lawyers, doctors) and protection of journalistic sources remained safeguarded –, and that, more generally, fundamental rights constrained the exercise of such powers.

128. With regard to binding measures in general, and searches and seizures in particular, the Venice Commission noted diverging approaches but also a broad trend demonstrating that parliamentary commissions of inquiry having direct authority to order searches and seizures was rare. Most systems required either judicial authorisation or the referral of findings to the prosecutorial or judicial authorities, which would then decide whether judicial action was warranted or not. In the Venice Commission's view, this comparative practice confirmed that the separation of powers generally prevented legislatures from exercising investigative coercive functions directly without passing through the judicial or prosecutorial authorities.

129. The Venice Commission emphasised that parliamentary commissions of inquiry did not operate in a legal vacuum and that, in a democratic society, no authority stood above the law. Respect for the rule of

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[7] Committees of Inquiry in National Parliaments – Comparative Survey, a survey provided by the Policy Department for Citizens' Rights and Constitutional Affairs – Directorate-General for Internal Policies (PE 649.524) at the request of the AFCO Committee of the European Parliament – and issued in March 2020.

[8] Venice Commission – "Rule of Law Checklist", CDL-AD(2016)007, adopted by the Venice Commission at its 106th plenary session, 11-12 March 2016. See also "The Updated Rule of law Checklist", CDL-AD(2025)002, adopted by the Venice Commission at its 145th plenary session, 12-13 December 2025.

law did not allow exemptions in the name of principles such as parliamentary autonomy, unless such exemptions were clearly provided *ex ante* by the law (namely by the constitution itself) in exceptional circumstances. It then referred to the procedural safeguards specific to the commissions' functioning when they adopted binding measures: specific requirements concerning voting, which had to be by a qualified majority for some coercive measures; rights for witnesses; involvement of an ombudsperson in overseeing proceedings or the role – recognised in some systems – that the president of a commission could play in safeguarding individual rights and protecting fundamental rights; and the possibility for third parties to appeal directly to the commission or to another parliamentary body.

130. With respect to the latter, the Venice Commission noted that a parliamentary review procedure might not be an appropriate forum for such an internal review of commissions' coercive measures. In its view, an internal parliamentary review procedure was not sufficient, given the risk that compliance with the necessary standards in the examination of evidence and the legal characterisation of facts might not be guaranteed. Such matters were more appropriately reserved to the judiciary, where proceedings were subject to a range of procedural safeguards in the decision-making process, including the requirements of independence and impartiality.

131. The Venice Commission therefore considered that a form of judicial review would be desirable: external procedural guarantees (prior judicial authorisation for coercive measures, or *ex post facto* judicial scrutiny of such measures) ensured scrutiny of the legality and proportionality of the measure at issue and, accordingly, the effectiveness of remedies, thereby reconciling parliamentary autonomy with the rule of law. It noted in that connection that several countries provided for *ex post facto* judicial scrutiny, either by the Constitutional Court or the ordinary courts.

132. Regardless of the States' constitutional traditions, the Venice Commission considered it essential to safeguard the rights of the persons concerned. Once coercive measures extended beyond the internal sphere of Parliament and began to affect the rights of third parties, the rationale of parliamentary autonomy lost much of its force, and the individual should have the same guarantees of legality as in judicial proceedings, which implied the possibility of judicial review where his or her constitutional rights were affected. It noted that, while sanctions on parliamentary members might fall within the logic of parliamentary autonomy, in the context of the aim pursued, coercive measures such as searches or seizures directed at third parties had an external dimension. The Venice Commission therefore asserted that the prevailing view in comparative practice and jurisprudence was that parliamentary autonomy and judicial oversight could be balanced. Thus, a form of *ex ante* or *ex post facto* judicial review, properly limited to questions of legality and protection of fundamental rights, was compatible with the separation of powers and constituted, in the absence of compelling reasons to

exclude it, an effective way of reconciling parliamentary autonomy with the rule of law, thereby strengthening constitutional democracy.

3. The Court's assessment

(a) Whether there has been an interference

133. The Grand Chamber would begin by observing that the parties agreed that the search and seizure ordered by the Commission constituted an interference with the applicant association's right to respect for its "home" under Article 8 of the Convention. Indeed, it is settled case-law that search and seizure measures constitute interference with the right to protection of the home (see, among many other authorities, *Buck v. Germany*, no. 41604/98, §§ 30-32, ECHR 2005-IV, and *Erduran and Em Export Dış Tic A.Ş. v. Turkey*, nos. 25707/05 and 28614/06, § 78, 20 November 2018). In addition, the premises of an association or a legal person are covered by the notion of "home" under Article 8 § 1 of the Convention (see *Ships Waste Oil Collector B.V. and Others v. the Netherlands* [GC], nos. 2799/16 and 3 others, § 146, 1 April 2025, with further references). Furthermore, the operation led to the seizure of the membership lists of the applicant association, information which it had wished to keep private (see § 70 above).

134. On the other hand, with regard to the question of the right to respect for correspondence, the Court notes that the scope of the operation ordered by the Commission was expressly limited to two categories of documents: first, lists of the names of members who belonged, or had belonged, to the Sicilian and Calabrian lodges from 1990 onwards, with their respective rank and role; and, secondly, the lists of lodges that had been dissolved or suspended in those regions, also from 1990 onwards, including their members' names and personal files. All other categories of documents in the applicant association's possession were therefore outside the scope of the search thus delimited.

135. The Court also notes that the search records drawn up by the relevant police department specified the precautions taken in order to restrict the seizure to relevant documents only, including by identifying IT equipment containing documents unrelated to the inquiry. Furthermore, during the subsequent document-selection phase – in which the applicant association waived its right to take part – the expert appointed by the domestic authorities used software in order to exclude documents and information which fell outside the scope defined by the Commission.

136. In those circumstances, the Grand Chamber considers that the case does not necessitate a separate determination as to whether the seizure also constituted an interference with the applicant association's right to respect for its "correspondence", within the meaning of Article 8.

(b) Whether the interference was justified

(i) In accordance with the law

137. The applicant association challenged the lawfulness of the Commission's decision to order the impugned search and seizure.

138. It submitted that Article 82 of the Italian Constitution represented both the legal basis for the powers of parliamentary commissions of inquiry, enabling them to adopt the measures necessary for their inquiries ("the same powers"), but also the framework limiting the exercise of those powers (the "same ... limitations"), which was defined by the provisions of the Code of Criminal Procedure and the relevant case-law applicable to judicial authorities.

139. It argued, however, that the settled domestic interpretation – since it merely established a "parallel" between parliamentary commissions' investigatory powers and how the domestic provisions on procedural safeguards were adapted to take account of those commissions' political nature – rendered the constitutional provision for "limitations" in the domestic legal order meaningless, thereby leaving parliamentary commissions free to modify the scope of their powers arbitrarily.

140. The Government submitted that Article 82 of the Constitution, Law no. 87 of 19 July 2013 (see paragraphs 43 and 45 above) and the relevant domestic case-law provided a clear and foreseeable legal basis. They also provided several examples from the practice of other parliamentary commissions of inquiry which had, in the past, ordered searches in the context of their investigatory activities (see paragraph 116 above).

141. The Court reiterates that any interference with Article 8 rights can only be justified under Article 8 § 2 if it is in accordance with the law, pursues one or more of the legitimate aims to which that paragraph refers and is necessary in a democratic society in order to achieve any such aim. The wording "in accordance with the law" requires the impugned measure both to have some basis in domestic law and to be compatible with the rule of law (see *Heino v. Finland*, no. 56720/09, § 36, 15 February 2011, and *Brazzi v. Italy*, no. 57278/11, § 39, 27 September 2018). Accordingly, the quality of the law is examined by the Court in the light of two criteria in particular: the law must be accessible to the person concerned, and foreseeable as to its effects (see *Gutsanovi v. Bulgaria*, no. 34529/10, §§ 218-19, ECHR 2013 (extracts)).

142. The Court's case-law on searches has established criteria applicable to measures adopted in the context of criminal or administrative proceedings, enabling a distinction to be made between the examination of the "quality of the law" and that of the necessity of the interference, which must relate to the manner in which domestic provisions were applied in the actual case submitted to the Court (see *Modestou v. Greece*, no. 51693/13, § 38,

16 March 2017, and *Kavečanský v. Slovakia*, no. 49617/22, §§ 64-70, 29 April 2025).

143. Nevertheless, in the context of the present case and the search powers conferred on the Commission, the Court considers it necessary to take a different approach, one that is capable of having regard both to the precise nature of a parliamentary inquiry (see paragraph 154 below) and to the specific features of the domestic legal order. In particular, the Court would emphasise that it is not a question of casting doubt on the existing legal basis – namely, Article 82 of the Constitution and the domestic case-law, especially judgments no. 231 of 1975 of the Constitutional Court (see paragraphs 48-49 above) and no. 4 of 1984 of the Court of Cassation (see paragraph 52 above) – but only of examining, in the light of the particular circumstances of the case, the Commission's exercise of the powers conferred on it by the 2013 Act.

144. In so doing, the Court notes that the parties each dedicated part of their submissions – from opposite perspectives – to the limits of the Commission's powers. While emphasising the parliamentary nature of that body, they put forward two differing interpretations of the reference in the Constitution to "the same powers and limitations as the judicial authorities" (see paragraph 43 above). The applicant association submitted that it was necessary to interpret the reference to a judicial paradigm strictly, concluding that there was a requirement to apply the relevant case-law in its entirety, in particular as regards *ex post facto* judicial or administrative review (see paragraph 114 above). The Government, relying on domestic case-law, the constitutional traditions common to the member States and the Court's case-law on parliamentary autonomy (see paragraphs 115-118 above), requested that the Commission's parliamentary nature be taken into account and that the legal system, as applied in this case and as currently in force, be found to be compatible with the Convention.

145. The Court considers that Article 82 of the Italian Constitution and Law no. 87 of 19 July 2013, which subject the powers of parliamentary commissions of inquiry to the "same ... limitations" as those on the powers of the judicial authorities – adapted where appropriate to the context of a parliamentary inquiry (see paragraph 140 above) – provide a regulatory framework as required by Article 8 of the Convention. That legal framework, the relevant case-law and the practice of the commissions of inquiry (see paragraph 118 above) do not, moreover, give rise to any doubt on the Court's part as to their accessibility and foreseeability.

146. Furthermore, the Court notes that the applicant association's complaints essentially concerned the Commission's failure, in the exercise of its investigatory powers, to comply with the domestic provisions on the safeguards in question and, consequently, the manner in which the relevant legal framework had been applied to it.

147. The question which arises in the present case is therefore whether the exercise by the Commission of its power to order the impugned search and seizures was accompanied by sufficient safeguards to prevent the risk of abuse and arbitrariness. In examining this question from the standpoint of the "necessity" of the interference, the Court will have to take into consideration all the circumstances of the case (see, *mutatis mutandis*, *Ships Waste Oil Collector B.V. and Others*, cited above, § 158), in particular the fact that the applicant is an association made up of a large number of individuals and the consequences which the interference may have entailed on that account.

(ii) Legitimate aim

148. The Court notes that the impugned interference arose in the context of the activities of parliamentary commissions of inquiry, the purpose of which is to provide Parliament with the information necessary for the exercise of its legislative function. For its part, the Venice Commission also observed that parliamentary commissions of inquiry's powers always remained linked to the competence of Parliament (see paragraph 125 above).

149. The Court also notes that the role of the Commission, and more generally the parliamentary commissions of inquiry on combating the Mafia, is to examine issues relating to organised mafia-type crime and to provide Parliament with the necessary information to intervene. As indicated by the Government (see paragraph 118 above), in a position reflecting that of the domestic case-law (see paragraphs 48 and 52 above), the purpose of inquiries into mafia-type activities is to evaluate the efficacy of existing normative instruments, to assess mafia-type activities from a sociological and economic perspective, including their impact on society, the economy and public institutions, and to prepare reports proposing reforms or areas for intervention.

150. Given the importance of the Commission's work, conducted in the context of Parliament's activities, the Court acknowledges that the measure in question pursued several legitimate aims, such as national security, the economic well-being of the country, the prevention of disorder and the protection of society through the "prevention of crime".

(iii) Necessary in a democratic society

151. An interference will be considered "necessary in a democratic society" for the achievement of a legitimate aim where it answers a "pressing social need" and is proportionate to the legitimate aim pursued. While it is for the national authorities to make the initial assessment of necessity, it is for the Court to determine whether the interference in issue was proportionate to the legitimate aims pursued and whether the reasons adduced by the national authorities to justify it were relevant and sufficient (see *Karácsony*

and Others v. Hungary [GC], nos. 42461/13 and 44357/13, § 148, 17 May 2016).

152. The Court reiterates that it has consistently held that the Contracting States enjoy a certain margin of appreciation in assessing the need for an interference, but this margin goes hand in hand with European supervision of compliance with the Convention requirements. In relation to parliamentary autonomy, where disputes relate to internal decisions of a Parliament, the Court has recognised that States enjoy a wide margin of appreciation (see, among many other authorities, *Karácsony and Others*, cited above, §§ 146-47).

153. In the present case, domestic law affords parliamentary commissions of inquiry the power, originally conferred on judicial authorities, to order searches. The Commission exercised this power, ordering the search of the applicant association's premises and the seizure of documents relating to Masonic lodges in Calabria and Sicily and their members.

154. Furthermore, the Court notes that the characteristics of the domestic legal system (see paragraphs 45 and 52 above), referred to by the Government in their observations (see paragraph 117 above), attest to the specific nature of the inquiry conducted by the Commission. It notes that inquiries conducted by parliamentary commissions are not intended to establish whether offences have been committed, to determine liability or to impose criminal or administrative penalties, but rather to enable national parliaments to gather information, to take cognisance of societal dynamics or to collect data and information that could, where appropriate, give rise to legislative change.

155. Having regard to the foregoing, the Court considers that it is required to examine the impugned interference not from the standpoint of the standards traditionally applicable in criminal or administrative matters concerning searches and seizures (see, among many other authorities, *André and Others v. France*, no. 18603/03, § 45, 24 July 2008; *Wieser and Bicos Beteiligungen GmbH v. Austria*, no. 74336/01, § 57, ECHR 2007-IV; and *Italgomme Pneumatici S.r.l. and Others v. Italy*, nos. 36617/18 and 12 others, § 98, 6 February 2025) but in the light of the specific features inherent in the work of a parliamentary inquiry.

156. The fact remains that, notwithstanding the specific features of the parliamentary context, search and seizure measures can have significant repercussions for the persons affected by them, as was the case for the applicant association here.

157. The Court notes that, in order to fulfil the task entrusted to it, the Commission decided to have recourse to the measures constituting the impugned interference in order to obtain information about Mafia infiltration into Freemasonry (see *Karácsony and Others*, cited above, § 148). Considering the circumstances of the case and, in particular, the consequences that such an interference may have entailed for the applicant association, it is necessary to examine whether the impugned measure was

accompanied by sufficient safeguards designed to prevent the risk of abuse and arbitrariness. Such review will be carried out having due regard to the principles of the separation of powers and parliamentary autonomy.

(α) Relevant case-law relating to parliamentary autonomy

158. The Court has examined the principle of parliamentary autonomy on several occasions, particularly in the context of disputes relating to the internal decisions of a Parliament and its bodies. In *Mugemangango v. Belgium* ([GC], no. 310/15, § 74, 10 July 2020), the Court stated the following:

> "... Parliament is a unique forum for debate in a democratic society, which is of fundamental importance. There is a close nexus between an effective political democracy and the effective operation of Parliament. The rules concerning the internal operation of Parliament are the exemplification of the well-established principle of the autonomy of Parliament. In accordance with this principle, Parliament is entitled, to the exclusion of other powers and within the limits of the constitutional framework, to regulate its own internal affairs, for example the composition of its bodies. This forms part of 'the jurisdictional autonomy of Parliament'. In principle, the rules concerning the internal functioning of national parliaments, as an aspect of parliamentary autonomy, fall within the margin of appreciation of the Contracting States. Nevertheless, the breadth of the margin of appreciation to be afforded to the State in this sphere depends on a number of factors. As regards Article 10 of the Convention, the Court has noted that the discretion enjoyed by the national authorities is not unfettered but should be compatible with the concepts of 'effective political democracy' and 'the rule of law' to which the Preamble to the Convention refers."

159. Furthermore, the *Karácsony and Others* judgment (cited above, §§ 151-59) emphasised the importance of procedural safeguards, which, in line with the principle of the rule of law, must afford protection against arbitrary interferences by public authorities with the rights safeguarded by the Convention. Thus, among the procedural safeguards afforded to an MP who has been sanctioned, the right to be heard during the proceedings is particularly important. The manner and mode of implementation of this right should be adapted to the parliamentary context, bearing in mind that a balance must be achieved which ensures the fair and proper treatment of the parliamentary minority and precludes abuse of a dominant position by the majority. Furthermore, any *ex post facto* decision imposing a disciplinary sanction should state basic reasons, thus not only enabling the individual concerned to understand the justification for the measure but also permitting some form of public scrutiny of it (ibid., §§ 157-59; see, for more recent examples, *Ikotity and Others v. Hungary*, no. 50012/17, §§ 36-37, 5 October 2023, and *Paterson v. the United Kingdom* (dec.), no. 23750/22, §§ 68-70, 3 September 2024).

160. The Court has also examined the imposing of sanctions on persons other than MPs, in order to prevent any disruption of the work of Parliament and to ensure its proper functioning. In *Mándli and Others v. Hungary*

(no. 63164/16, 26 May 2020), the applicants were journalists whose parliamentary accreditation had been suspended for several months by the Speaker of Parliament, on the grounds that they had not complied with the relevant rules about filming within the premises of the institution. In its examination of the applicants' complaint that their freedom of expression had been violated in that they had been prevented from reporting on matters of public concern, the focus of the Court's review was on the available safeguards against abuse. While accepting that procedural safeguards should be adapted to the parliamentary context, the Court noted that with no possibility of external scrutiny, the argument for internal procedural safeguards was particularly relevant (ibid., § 72). It found that these were lacking: there had been no requirement for the Speaker to assess the potential impact of the sanction on journalistic activity; no possibility for the persons concerned to be involved in the decision-making procedure; the duration of the sanction was not specified and no response was given to the applicants' subsequent requests to be permitted to enter the building; there were no effective means by which the applicants could challenge the Speaker's decision and that would have allowed them to present their arguments (ibid., §§ 73-75). In the absence of adequate procedural safeguards, the Court concluded that the interference could not be regarded as necessary in a democratic society and held that it had therefore been in breach of the applicants' rights under Article 10.

161. In *Drozd v. Poland* (no. 15158/19, 6 April 2023), the background to the case was the parliamentary authorities' decision to ban the applicants – members of an informal civic movement – from entering the premises of the *Sejm* for a period of about one year. This measure was imposed on the basis that their actions – displaying a banner with a political message when they had entered the grounds of Parliament – had been considered to amount to a disturbance of public order. Here too, the Court focused on effective and adequate safeguards against abuse, accepting that, in view of the principles of parliamentary autonomy and the separation of powers, this could be in the form of a review by a body set up by Parliament (ibid., § 73). Yet there had been neither an opportunity for the applicants to be involved in the process, nor any clear procedure to challenge the measure taken against them, in which they could have presented their arguments. The impugned interference had therefore not been accompanied by adequate procedural safeguards, leading to the conclusion of a violation of the applicants' right to freedom of expression (ibid, §§ 74-76).

162. In the *Mugemangango* case (cited above), concerning an electoral dispute in which a candidate standing for election to the Walloon Parliament had requested a recount of the ballot papers, the Court found violations of Article 3 of Protocol No. 1 and of Article 13, in that the respondent State had failed to comply with its positive obligation to provide the applicant with an

effective mechanism for examining his complaint about irregularities in the election process (ibid, §§ 135-136).

163. The Court's examination concerned the existence of "adequate and sufficient safeguards ensuring, in particular, that any arbitrariness could be avoided. Such safeguards [served] to ensure the observance of the rule of law ... the proper functioning of an effective political democracy and thus [represented] a preliminary step for any parliamentary autonomy" (ibid., § 87). In that connection, it determined those safeguards, verifying the following criteria: the guarantees of impartiality provided by the decision-making body; the extent and definition in law of its discretion; and whether the procedure was fair and objective and guaranteed a sufficiently reasoned decision (ibid., § 93). It found that the procedure under domestic law had not provided adequate and sufficient safeguards capable of avoiding arbitrariness, noting in particular that the procedural safeguards afforded to the applicant had been the result of *ad hoc* discretionary decisions (ibid., § 122; see also *Guðmundur Gunnarsson and Magnús Davíð Norðdahl v. Iceland*, nos. 24159/22 and 25751/22, §§ 89-90 and 96, 16 April 2024, and *G.K. v. Belgium*, no. 58302/10, §§ 59-63, 21 May 2019).

164. While this case-law was developed in the context of Article 10 and Article 3 of Protocol No. 1, these principles may also be relevant to complaints arising under Article 8 of the Convention (see *Green v. the United Kingdom*, no. 22077/19, § 81, 8 April 2025), in cases in which the decisions of parliamentary organs produce effects outside of Parliament.

(β) Application to the present case

165. It follows from the above-mentioned principles that where disputes are related to the internal decisions of Parliament, the Court accepts that there are limitations on the exercise of Convention rights, but the discretion enjoyed by States is not absolute (see *Karácsony and Others*, cited above, § 147). The Court must take account of the principle of the rule of law, which is applied differently depending on the different types of disputes arising under Article 6 § 1, Article 8 and Article 10 of the Convention or Article 3 of Protocol No. 1.

166. The Court notes that, in Italy, the basis for parliamentary commissions' investigatory powers is to be found in Article 82 of the Constitution. According to the domestic case-law, they derive from the constitutional functions of Parliament and, more specifically, in the words of the Constitutional Court, they are "part of parliamentary scrutiny" (see paragraphs 48-49 and 52 above). It is thus through commissions of inquiry that the two Chambers of Parliament obtain the information necessary to guide them in policymaking or for the examination of any measures taken by the Government. As observed by the Venice Commission, the creation of inquiry committees or a similar body by national parliaments is a common feature of almost all countries, allowing the investigation of specific events

or situations in order to ensure democratic political accountability and to improve the transparency and efficiency of the government and the administration (see paragraph 125 above).

167. In the Italian system, the expression "the same powers ... as the judicial authorities" refers to the relevant provisions of the Code of Criminal Procedure (concerning, for example, witness statements, searches, seizures or forensic reports that may facilitate the gathering of evidence). However, it is well-established domestic case-law that the application of the above-cited norms must take into account the nature of parliamentary commissions of inquiry and their role and function within the constitutional architecture (see paragraphs 48-52 above). As parliamentary commissions are political organs which embody Parliament, in accordance with the Constitution ("*ope constitutionis*"), their activity is an expression of the autonomy of Parliament, carrying out its will.

168. In the Court's view, parliamentary autonomy is expressed when the legislature defines a parliamentary commission of inquiry's terms of reference or, for example, when a commission decides on the lines of inquiry that it will explore, organises fact-finding missions or interviews individuals with a view to obtaining information relevant to its work. The same applies to the analysis of the documents and information obtained, the content of investigation reports and the preparation of legislative, administrative or other proposals which are then made available to Parliament with a view to contributing to the latter's activities.

169. However, where parliamentary commissions have recourse to coercive procedural acts capable of directly affecting the Convention rights of third parties, the margin of appreciation enjoyed by States in relation to parliamentary autonomy is necessarily narrower and must be accompanied by safeguards compatible with the rule of law. It is therefore for the Court to verify whether there exist such safeguards, in particular the possibility of obtaining a review, whatever its nature, of the measures in issue.

170. In that connection, the Court reiterates that the rule of law, one of the fundamental principles of a democratic society, is inherent in all the Articles of the Convention (see *Golder v. the United Kingdom*, 21 February 1975, § 34, Series A no. 18; *Amuur v. France*, 25 June 1996, § 50, *Reports of Judgments and Decisions* 1996-III; *Iatridis v. Greece* [GC], no. 31107/96, § 58, ECHR 1999-II; and *Karácsony and Others*, cited above, § 156). It implies, *inter alia*, that every legal system must provide a measure of legal protection against arbitrary interference by public authorities with the rights safeguarded by the Convention (see, among other authorities, *Klass and Others v. Germany*, 6 September 1978, § 55, Series A no. 28, and *Malone v. the United Kingdom*, 2 August 1984, § 67, Series A no. 82).

171. In the present case, the Court notes that the impugned measures ordered by the Commission affected the rights of a third party, given that, following the applicant association's rejection of the request to disclose its

members' names, the Commission considered that this amounted to a refusal to cooperate and ordered a search of the applicant association's premises and seizure of the lists of the lodges' members, for the purpose of obtaining information relevant to its inquiry.

172. In the Court's view, and having regard to the Venice Commission's observations (see paragraph 127 above), it would not be compatible with the Convention to find that the exercise of such broad investigatory powers could be justified by the mere fact that they derive from a parliamentary commission of inquiry, without taking into account the potentially serious consequences for the rights of third parties. Indeed, to hold thus would risk affording parliamentary commissions virtually unlimited discretion in this area, which would be difficult to reconcile with the requirements of the rule of law, referred to above and repeatedly reaffirmed by the Court in its case-law.

173. Likewise, the fact of exempting commissions of inquiry, on the basis of their parliamentary nature, from sufficient safeguards or any form of scrutiny of the investigatory methods used in carrying out their tasks would be hard to reconcile with the general principles established by the Court in its case-law, according to which it is necessary to provide for adequate and sufficient safeguards against abuse and arbitrariness precisely because of the extent of the possible interference with the right of the individuals concerned (see, in respect of parliamentary autonomy, paragraphs 159-163 above; see also, *mutatis mutandis*, *Gutsanovi*, cited above, § 220, and *Vinci Construction and GTM Génie Civil et Services v. France*, nos. 63629/10 and 60567/10, § 66, 2 April 2015). Moreover, it appears from the comparative-law survey, and from the Venice Commission's observations, that where parliamentary commissions of inquiry are entitled to request searches or seizures, this is subject to judicial authorisation, or requires referral of such requests to the competent prosecutorial or judicial authorities (see paragraphs 61 and 128 above).

174. In conclusion, the Court considers that the national authorities should be granted a wide margin of appreciation in this area, both in the definition of the framework within which parliamentary commissions of inquiry carry out their activities and in the organisation of their operation. However, in the absence of review mechanisms to scrutinise coercive measures such as searches and seizures, it falls to the Court to verify that the procedures implemented provided sufficient safeguards against the risk of abuse and arbitrariness (see paragraphs 169-170 above).

– *The search and seizure order, and its execution*

175. The Court notes that the applicant is an association composed of numerous lodges established throughout the national territory and coordinates their activities. One of the specific features of Freemasonry and its operation is the notion of the confidentiality of membership, which

guarantees to its members that their Freemason status will not be disclosed (see paragraph 70 above). That confidentiality does not, however, mean that membership is secret, a scenario which, moreover, would appear to be prohibited under the Italian Constitution (see paragraph 43 above). Nonetheless, the Court notes that the precautions provided for in the regulatory framework (see paragraphs 45-47 above) or taken by the Commission (see paragraph 41 above) did make it possible to avoid this information being disseminated in the public domain.

176. The fact remains that the exercise by the Commission of its power to order searches and seizures is liable to have particularly serious consequences for the rights of third parties. The Court must take account, among other points, of the associative nature of the applicant, which was responsible for retaining the lists of its members' names, since the measure constituting the interference concerned a large volume of documents and had significant consequences, especially as regards the lists of its members' names.

177. Examining the circumstances surrounding the decision and the features of the search and seizure order, the Court notes that the Commission relied on the provisions of Article 82 of the Constitution, which provides that commissions of inquiry have "the same powers" as the judicial authorities (see paragraph 43 above).

178. The purpose of the inquiry was to gather evidence concerning the infiltration by organised crime into Freemasonry, in two Italian regions in particular, in order to provide Parliament with information enabling it to take effective action against this particularly dangerous phenomenon for Italian public institutions and society (see paragraphs 11 and 41 above). The Court sees no reason to doubt that there existed the minimum nexus, which is required in order to exercise these powers, between that purpose and the measure ordered by the parliamentary commission of inquiry.

179. As to the scope of the search and seizure order, the Grand Chamber notes, as did the Chamber, that it was particularly broad and sought to obtain the lists of the Calabrian and Sicilian lodge members' names over a period of 25 years and information on their rank and role within the association in each case, and also any internal decisions taken by those same lodges during the period in question (see paragraph 27 above). The scope of the search was significant, as were the potential implications for the applicant association, given the particularly large number of persons concerned, which the Government estimated to be around 6,000 (see paragraph 120 above), comprising current and former lodge members.

180. The same conclusion must be reached as regards the measures authorised. The Court notes that those measures concerned a search of the applicant association's main premises, and of all associated premises, in addition to the seizure of documents, computers and, in general, IT equipment (see paragraphs 27-28). The search record drawn up by the relevant police

department attests to the substantial volume of documents seized and the extent of the operations carried out.

181. The Court points out, however, that Law no. 87 of 19 July 2013 establishing the Commission essentially reproduced the terms of the provisions of Article 82 of the Constitution, in addition to providing certain clarifications as to the restrictions on the possibility of ordering the interception of conversations and communications and measures affecting personal freedom (see paragraph 45 above). On the other hand, it provided no indications concerning the limits on the exercise of the Commission's search powers. In this connection, the Court considers that a mere reference to the Code of Criminal Procedure norms applicable to the judicial authorities cannot suffice, particularly since, while the domestic case-law permits the relevant provisions to be transposed to parliamentary commissions of inquiry, this is without reference to any review mechanism (see judgment no. 4 of 1984 of the Combined Criminal Divisions of the Court of Cassation, cited above, paragraph 52). It is therefore left to the Commission to exercise its own discretion, one that, moreover, is particularly broad and devoid of any form of authorisation or scrutiny.

182. The Court also notes that, according to the applicant association, whose allegations have not been disputed by the Government, copies of those documents are still stored in Parliament's archives (see paragraph 113 above). It notes in that connection that the relevant domestic provisions, namely Regulation 20 of the Commission's Internal Regulations (see paragraph 46 above) and the Rules of the Historical Archives of the Chamber of Deputies (see paragraph 121 above), appear to allow the Commission to keep documents classified as secret throughout the duration of its existence, which the Government has moreover confirmed.

183. In view of the foregoing, and given the particularly broad scope of the search and seizure order and the measures authorised by it, as well as the potentially unlimited duration of the seized documents' storage, the Court considers, having regard to the requirements of Article 8 of the Convention, that the exercise by the Commission of its power to order coercive measures had particularly significant consequences for the applicant association.

184. It therefore remains to be examined whether sufficient procedural safeguards existed in respect of the above-mentioned issues.

– *Procedural safeguards*

185. On this point, the Court notes that, according to the Government, the domestic system afforded several safeguards against potential abuse (see paragraph 122 above).

186. In particular, the Government submitted that *ex ante* scrutiny had been provided by Parliament, in that it had determined and circumscribed the scope of the inquiry by means of the law establishing the Commission, a law

which had subsequently been examined and approved by the President of the Republic.

187. The Government also argued that the procedure followed by the Commission in the present case provided equivalent *ex ante* procedural safeguards, as were provided by the relevant provisions of the Code of Criminal Procedure and the 2013 Act applicable to the Commission's activities (the possibility of copying only pertinent material, the selection of that material with the parties' participation, the rules governing the secrecy of seized material) and by the Commission's Internal Regulations (see paragraph 46 above). In that connection, the Court notes that, although it waived its right to do so, the applicant association had the option of taking part in the selection process in respect of the seized documents.

188. The Court notes that certain safeguards were indeed put in place during the search. In particular, as pointed out by the Commission, both before and after this measure, the rules governing the secrecy of documents set out in Law no. 87 of 19 July 2013 were applied to all the material seized (see paragraph 41 above). The Court also notes that the 2013 Act sets out the rules on penalties applicable in the event of a breach of secrecy and prohibits all members of the Commission, staff and any other persons who may have knowledge of the material for professional reasons from disclosing the content of acts and documents classified as secret. Furthermore, the Commission's Internal Regulations provide that the President must inform the judicial authorities of any infringement and, where the person responsible is an MP, the President of the Chamber to which he or she belongs (see paragraphs 45-46 above).

189. The Court observes, however, that these safeguards were only applicable during the execution of the search and thereafter, and were therefore not *ex ante* in nature, that is, capable of setting prior limits, in so far as justified, on the scope and intensity of the interference with the applicant association's right to respect for its "home".

190. With regard to the procedural safeguards internal to Parliament and specific to the operation of parliamentary commissions of inquiry, the Court notes that the Venice Commission referred to the existence of some of these safeguards, such as qualified majority voting for the adoption of coercive measures, or the role of "ombudsperson" to oversee proceedings, played in some systems by the president of a commission or by an external person (see paragraph 129 above), or judicial authorisation (see paragraph 128 above). The comparative law survey (see paragraph 57 above) also makes it possible to identify certain mechanisms that provide *ex ante* safeguards for the exercise of search powers. In particular, in some Council of Europe member States specific authorities or parliamentary bodies have responsibility for ensuring the fairness of the procedure, as well as respect for the constitutional rights of the persons concerned and compliance with the commission's internal regulations. That was not the situation in the present case.

191. Accordingly, the Court does not consider that the elements referred to by the Government, taken together, can be regarded as constituting sufficient *ex ante* safeguards applicable to the Commission's decision to order the search of the applicant association's premises and the subsequent seizures.

192. As to the possibility of *ex post facto* redress, the Court points out that it has already found that the applicant association had no such remedy available in the domestic legal system in order to secure review of the impugned measures (see paragraph 104 above).

193. It is true that the Government submitted that parliamentary autonomy and the principle of the separation of powers justified the absence of any judicial *ex ante* scrutiny or *ex post* review of the impugned search measures (see paragraph 122 above).

194. The Court refers, however, to its case-law, according to which the national discretion, which is inherent in the notion of parliamentary autonomy, albeit very important, is not unfettered but must be compatible with the concepts of "effective political democracy" and "the rule of law", to which the Preamble to the Convention refers (see *Karácsony and Others*, § 147, and *Mugemangango*, § 109, both cited above). Indeed, as reiterated above (see paragraphs 158 et seq.), "parliamentary autonomy can only be validly exercised in accordance with the rule of law" (*ibidem*, § 88), one of the fundamental principles of a democratic society and a concept inherent in all the Articles of the Convention (see *Karácsony and Others*, cited above, § 156), and parliamentary autonomy cannot in itself justify the absence of any form of procedural safeguard against the risk of abuse and arbitrariness.

195. The national systems must therefore afford protection against arbitrary interference by public authorities with the rights guaranteed by the Convention (ibid., § 156, and *Maestri v. Italy* [GC], no. 39748/98, § 30, ECHR 2004-I). It is not the Court's task to interfere with the institutional balance between the different branches of power within the respondent State, or to make a general assessment of the situations in which the domestic courts refuse to entertain jurisdiction. It must only ascertain whether a mechanism involving *ex ante* scrutiny or *ex post* review, and providing sufficient safeguards against the risk of abuse and arbitrariness as required by Article 8, was available to the applicant association.

196. Since the power to order coercive measures must be accompanied by sufficient safeguards (see paragraphs 181-183 above), the fact of conducting a parliamentary inquiry implies that there ought to be a possibility for the third parties concerned to apply to a competent authority, be that the courts or any other impartial body, for review of the impugned measure in the event of an alleged breach of the rights set forth in the Convention.

197. In its observations, the Venice Commission pointed out, moreover, that judicial review of the decisions of parliamentary commissions of inquiry, limited to questions of legality and protection of fundamental rights, would

be compatible with the rule of law (see paragraph 131 above). It also emphasised that sufficient review of coercive measures, such as searches and seizures, should comply with minimum standards concerning both the examination *in concreto* of the dispute and the procedural safeguards inherent in the decision-making process, in particular as regards independence and impartiality (ibid.). It thus submitted that a form of judicial review would be desirable and consistent with the separation of powers, and that any balance so obtained would strengthen constitutional democracy (see paragraph 132 above).

198. While it takes note of the Venice Commission's submissions, the Court considers that the choice of the authority or body competent to carry out the above-mentioned review (see paragraphs 196-197 above) must be left to the discretion of each member State. The Court reiterates that it is not a matter of imposing on States a given constitutional model governing, in one way or another, the relations and interaction between the various State powers (see *Thiam v. France*, no. 80018/12, § 62, 18 October 2018). Accordingly, sufficient safeguards can be afforded either by a judicial authority or by another impartial decision-making body, including a parliamentary body, mandated to perform *ex ante* scrutiny or *ex post* review.

(iv) Conclusion

199. In view of the foregoing, the Court considers that the impugned interference with the applicant association's right to respect for its home, in so far as it was not accompanied by sufficient safeguards against abuse and arbitrariness, cannot be regarded as having been "necessary in a democratic society" (see, *mutatis mutandis*, *Karácsony and Others*, cited above, § 161).

200. There has accordingly been a violation of Article 8 of the Convention on that account.

IV. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

201. The applicant association also complained of an infringement of its right to freedom of association in breach of Article 11 of the Convention, the relevant parts of which read:

> "1. Everyone has the right ... to freedom of association ...
>
> 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, 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. ..."

A. The Chamber judgment

202. Having regard to the facts of the case, the parties' submissions and its conclusions regarding the finding of a violation of Article 8 of the

Convention, the Chamber considered that it had dealt with the main legal issues raised by the case and that it was not necessary for it to rule on the admissibility and merits of the complaint under Article 11.

B. The parties' submissions

203. The applicant association argued that the violation sustained under Article 8 had been the source of a breach of its right to freedom of association, and referred to the identical arguments concerning the lack of lawfulness and necessity of that interference.

204. It alleged, in particular, that Freemasonry was the victim of a discriminatory attitude on the part of the Italian public institutions, and contrasted that attitude with the recognition it enjoyed in other European countries. It added that the Commission had compared the functioning of Freemasonry to that of the Mafia, criticising its rules on membership and secrecy, its structure and its organisation, and going so far as to claim that Freemasonry displayed a kind of "tolerance" towards mafia-type organised crime.

205. The Government submitted that Article 11 was not relevant in the present case, in so far as the Commission had not interfered with the applicant association's freedom of association or challenged the legitimacy of its purpose and activities. They pointed out, in particular, that the sole purpose of the parliamentary organ in question had been to verify whether there existed any links between the Mafia and Freemasonry, and to substantiate them. They further asserted that the facts of the case made it possible to rule out any public disapproval which might have had adverse effects on the applicant association.

C. The Court's assessment

206. The Court notes that the applicant association's submissions under Article 11 overlap with its submissions on the complaints under Article 8, which were repeated without the provision of any additional arguments warranting a separate examination. In addition, the Court refers to its examination of the issues under Article 8 of the Convention, in the context of which it expressly took into account the applicant's associative nature in finding a violation of that provision (see, in particular, paragraphs 175-176 and 179 above).

207. Accordingly, the Court considers that it is not necessary to examine separately the complaint under Article 11 (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014, *Tsaava and Others v. Georgia* [GC], nos. 13186/20 and 4 others, §§ 225 and 228, 11 December 2025).

V. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

208. The applicant association complained that it had not had an effective remedy in respect of its complaints under Articles 8 and 11 of the Convention. It relied on Article 13 of the Convention, which reads:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. The Chamber judgment

209. The Chamber, having regard to the circumstances of the case and the parties' submissions, as well as the finding of a violation of Article 8 of the Convention, considered that the main legal issues in the case had been examined and that it was not necessary to rule on the complaint under Article 13 (see *Centre for Legal Resources on behalf of Valentin Câmpeanu*, cited above, § 156).

B. The parties' submissions

210. The applicant association complained of a violation of Article 13 of the Convention in that there had been no effective domestic remedies in respect of a search and seizure order made by a parliamentary commission of inquiry.

211. The Government contested that argument. They referred to their observations under Article 8, while emphasising that the introduction of a judicial remedy against the Commission's acts would have negative consequences for the functioning of parliamentary institutions. They also pointed out that the legal system provided both for a procedure to obtain a ruling on a possible conflict of jurisdiction between the branches of State power, which the applicant association had not used, and for a request to the Commission, asking it to reconsider the order at issue.

C. The Court's assessment

212. Having regard to its finding of a violation of Article 8 of the Convention, in particular as regards the lack of any available remedy to challenge the search and seizure order made by the Commission, the examination of the complaint under Article 13 has, in the present case, been absorbed by that of the issues previously dealt with by the Court under Article 8. Accordingly, it is not necessary to examine this complaint separately under Article 13 (see, in respect of parliamentary immunity, *Karácsony and Others*, cited above, § 174; *Ikotity and Others*, cited above, § 48; *G.K. v. Belgium*, cited above, § 69; *Cordova v. Italy (no. 1)*, no. 40877/98, § 71, ECHR 2003-I; and *Podkolzina v. Latvia*, no. 46726/99,

§ 42, ECHR 2002-II; see also, more generally under Article 8, *Roman Zakharov v. Russia*, no. 47143/06, § 307, ECHR 2015, and *Centrum för rättvisa v. Sweden* [GC], no. 35252/08, § 377, 25 May 2021).

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

213. Article 41 of the Convention provides:

> "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

214. The applicant association left the sum to be awarded in respect of non-pecuniary damage to the Court's discretion.

215. The Government considered that there was no justification for making any award.

216. The Court considers that the applicant association must have sustained non-pecuniary damage which cannot be compensated for solely by the finding of a violation. Ruling on an equitable basis as required by Article 41 of the Convention, and having regard to the nature of the violation found, the Grand Chamber considers it appropriate to award it 9,600 euros (EUR) in respect of non-pecuniary damage.

B. Costs and expenses

217. Before the Chamber, the applicant association claimed EUR 16,552.60 in respect of the costs and expenses incurred before the domestic authorities and EUR 5,344 for the proceedings before the Court. With regard to the proceedings before the Grand Chamber, the applicant association's claim was lodged out of time and cannot therefore be taken into account.

218. The Government did not comment on this point.

219. 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 (see *Semenya v. Switzerland* [GC], no. 10934/21, § 244, 10 July 2025). In the present case, the Court notes, like the Chamber, that the claims in respect of costs and expenses incurred before the domestic authorities were submitted without any description or explanation of the legal services provided, beyond the generic indication "consultations on freedom of association". As a result, it is unable to find that those expenses were related to the present case and that they were necessarily incurred (see *UAB Kesko Senukai Lithuania v. Lithuania*, no. 19162/19, § 136, 4 April 2023). It

therefore rejects the applicant association's claim in respect of the costs and expenses incurred in the domestic proceedings.

220. Regard being had to the documents in its possession, the Court confirms the Chamber's award of EUR 5,344 to the applicant association in respect of costs and expenses.

FOR THESE REASONS, THE COURT,

1. *Declares*, unanimously, the complaint under Article 8 of the Convention admissible;

2. *Holds*, by 16 votes to 1, that there has been a violation of Article 8 of the Convention;

3. *Holds*, unanimously, that there is no need to examine the complaints under Articles 11 and 13 of the Convention;

4. *Holds*, by 16 votes to 1
   (a) that the respondent State is to pay the applicant association, within three months, the following amounts:
      (i) EUR 9,600 (nine thousand six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 5,344 (five thousand three hundred and forty-four euros), plus any tax that may be chargeable to the applicant association, 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 amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses,* unanimously, the remainder of the applicant association's claim for just satisfaction.

Done in English and in French and delivered at a public hearing in the Human Rights Building, Strasbourg, on 7 July 2026 pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

John Darcy	Mattias Guyomar
Deputy to the Registrar	President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Grigoryan is annexed to this judgment.

DISSENTING OPINION OF JUDGE GRIGORYAN

INTRODUCTION

1. I have voted against the finding of a violation of Article 8 of the Convention and against the award of just satisfaction to the applicant association (points 2 and 4 of the operative provisions). While the importance of the right at stake is beyond dispute, I am respectfully unable to share the conclusion reached in the judgment for two reasons that are closely connected: the assessment of the necessity of the interference, and the methodology used in that assessment.

2. On the question of necessity, an examination of the circumstances of this case leads me to conclude that, had the proportionality of the interference been properly, independently, assessed, as required by the Court's established case-law, no violation would have been found. It is only by conflating the proportionality analysis with the separate question of procedural safeguards that a finding of a violation has been arrived at in the present judgment. That conflation is, in my view, both analytically unsound and will have far-reaching consequences on the case-law.

3. This brings me to the methodological concern at the heart of my dissent. My disagreement is not that the adequacy of procedural safeguards has been invoked in the judgment, but that it makes the absence of safeguards decisive for the assessment of the necessity of the interference in a case in which the circumstances did not warrant it, thereby extending a legitimate but context-bound technique beyond the conditions that alone may justify its use.

4. I will develop these points in turn, beginning with the proportionality analysis as it should, in my view, have been applied to the facts of this case. I will then turn to the methodology used in the judgment to reach the conclusion, and to the difficulties that methodology creates.

MERITS

5. I would begin by saying that I fully endorse the precision with which the majority assessed the legitimate aims pursued by the impugned measure (see paragraphs 148-50 of the present judgment). It was identified that the interference pursued not one but four distinct legitimate aims: national security, the economic well-being of the country, the prevention of disorder and the prevention of crime. I believe that the Court rightly situated the Commission's activity within the broader constitutional function of parliamentary commissions of inquiry – the purpose of which is to furnish Parliament with the information necessary for the exercise of its legislative function – and it rightly recognised that an inquiry into the infiltration of mafia-type organised crime into Freemasonry was necessitated by the considerations of, simultaneously, the security of the State, the integrity of its

economic life, public order and the prevention of crime. That recognition of the multiplicity and weight of the aims at stake is, in my view, entirely correct, and it is a finding to which considerable weight ought to have been given in the proportionality assessment that followed.

6. I also agree with the majority's assessment of the lawfulness of the interference, and in particular their conclusion as to the accessibility and foreseeability of the legal basis for the Commission's powers (see paragraphs 137-45 of the present judgment). The Court has held that Article 82 of the Italian Constitution and Law no. 87 of 19 July 2013, subjecting the powers of parliamentary commissions of inquiry to the same limitations as those applicable to the judicial authorities, provide a regulatory framework that satisfies the requirements of Article 8, and that this framework, together with the relevant domestic case-law and the established practice of commissions of inquiry, leaves no doubt as to its accessibility or foreseeability.

7. My disagreement with the majority lies, instead, in the assessment of the necessity of the interference and in the methodology used in that assessment. It is to that question that I now turn.

8. The Grand Chamber, having assessed the constitutive aspects of the search and seizure order and its execution, concluded that they had "particularly significant consequences" for the applicant association (see paragraphs 175-83 of the present judgment). That conclusion then provided the basis for the examination of the procedural safeguards that followed.

9. This sequencing gave rise to a difficulty that runs through the entire necessity analysis. The significance of the circumstances surrounding an interference is not, in the Court's case-law, a finding that can substitute the result of the proportionality test. It is, *in the first place*, a threshold consideration, having a bearing on whether the interference was serious enough to warrant examination at all, and, where relevant, on whether the applicant has suffered a significant disadvantage within the meaning of Article 35 § 3 (b) of the Convention. *Secondly*, within the proportionality test itself, it is part of the balancing exercise: the significance of the circumstances acquires meaning only when, among other things, weighed against the legitimate aim at stake. It is, at most, an element of the proportionality assessment and never a substitute for it. By characterising the circumstances as "particularly significant" and proceeding directly to the question of safeguards, the Court left the assessment unfinished: a finding that the circumstances are significant adds weight to one side of the scales but says nothing of what is on the other, nor whether the two have been weighed up at all. The proportionality test was, in short, not completed.

10. Had the Grand Chamber applied its usual methodology, the significance of the circumstances would properly have informed the intensity of the scrutiny brought to bear on the interference, without in itself predetermining the outcome. It is with that distinction in mind that I turn to

examining each of the elements to which the judgment has attached considerable weight, with a view to ascertaining the conclusion that the proportionality assessment would most plausibly have yielded, had the Grand Chamber completed it.

C. "Necessary in a democratic society"

1. Minimum nexus

11. At the outset, the point on which I am in full agreement with the judgment is the acknowledgment by the Grand Chamber that the Commission acted within the powers conferred upon it by Article 82 of the Italian Constitution, and the finding that there existed the minimum nexus required between the purpose of the inquiry – the investigation of organised crime's infiltration of Freemasonry in Calabria and Sicily – and the measure ordered (see paragraphs 177-78 of the present judgment). That finding is, in my view, not only correct but of considerable importance, and its significance ought not to be lost in the analysis below.

12. The minimum nexus is not a merely formal threshold. It reflects the Court's recognition that the Commission was pursuing the legitimate and pressing public interests already discussed above (see paragraph 5). The infiltration of mafia-type organisations into Freemasonry was not a minor concern: as the evidence gathered in the course of the inquiry demonstrated, it had a direct bearing on the integrity of public institutions, the administration of justice and the economic life of at least two Italian regions.

13. This context is indispensable to the proportionality assessment, as the existence of a clear nexus between the measure applied and the purpose of the investigation carried out by the Commission, combined with the circumstances that led to the Commission's decision, are not merely background facts, they are central elements of the necessity analysis that, as I will argue, the judgment has not sufficiently weighed up.

2. Scope of the search and seizure order

14. The scope of the order has been characterised as "particularly broad" in the judgment in respect of four aspects (see paragraphs 27 and 179 of the present judgment): its temporal span of some twenty-five years; the fact that it affected roughly 6,000 current and former members; the detail sought as to each member's rank and role; and the breadth of the data it sought, extending beyond membership lists to the records, personal files and internal decisions of the suspended or dissolved Calabrian and Sicilian lodges. Each of these aspects was obviously dictated by the scope of the inquiry, as they were relevant to its final findings, and I cannot read any of them as an indicator of disproportionality. The breadth of the order was not an excess of zeal but the direct consequence of the nature and scale of the task: infiltration that had

developed over decades, reflecting a well-known feature of the country's post-Second World War history, namely, the transformation of the Mafia from a system of agricultural dominance into a contagious and pervasive scourge, affecting all sectors of the economy and public life. A phenomenon of that depth and reach could not have been investigated by requesting a handful of documents covering a matter of months. The scope of the order was commensurate with the scope of the problem.

15. To reason otherwise is to conflate the gravity of the subject matter with the gravity of the interference. The fact that numerous persons were implicated, the period covered was long and a particularly large volume of data were requested, does not in itself render the measure disproportionate: had the lodges comprised a handful of members, or the infiltration spanned months rather than decades, the order would have been correspondingly narrower. Nor is there anything in the case file to suggest bad faith or overreach. The Commission proceeded by stages, seeking voluntary cooperation over an extended period before resorting to the coercive measure: the fact that it ultimately took what it needed, and no more, is evidence not of abuse but of restraint.

16. The scope of the measure was therefore a reflection of necessity, not an indicator of disproportionality, and ought not to have weighed against the respondent State in the proportionality analysis.

3. Authorised measures

17. The same objection applies to the weight placed in the judgment on the nature and extent of the measures authorised, the search of the applicant association's main and associated premises, and the seizure of documents, computers and IT equipment (see paragraph 180 of the present judgment). The fact that the search took place in several premises, and that a large volume of material was seized, was an inevitable consequence of the organisation's own structure, it being a large association whose records, held in both paper and digital form, were distributed across its registered office and associated locations (see paragraphs 27-28 of the present judgment). A search confined to a single location could not have achieved its purpose. The extent of the operation was dictated by the physical reality of the applicant association, not by any excess on the part of the Commission.

18. There is, moreover, a factor that has not been sufficiently weighed up in the judgment: the coercive measures were the direct result of the sustained and deliberate refusal of Grand Master S.B. to provide the information requested. The Commission sought the data through repeated requests over several months (in August and December 2016 and twice in January 2017), before resorting to a search (see paragraphs 11-24 of the present judgment). At each stage Grand Master S.B. declined, invoking data-protection considerations that even this Court did not consider sufficiently substantiated to enable the applicant association to have *locus standi* in respect of its

members' private-life interest (see paragraphs 15, 24 and 69 of the present judgment). That refusal was decisive for the application of the coercive measure, rendering it strictly necessary and determining its scope.

19. This point was reinforced by the applicant association's own position before this Court. Though it professed, in principle, a willingness to cooperate (see paragraph 112 of the present judgment), it did not in practice provide the lists of the Calabrian and Sicilian lodges despite four successive requests. It is the conduct, not the professed willingness, that must inform the proportionality analysis. To treat the extent of the resulting operation as an indication of disproportionality, without regard to the refusal that compelled it, is to assess the measure in isolation from the very circumstances that gave rise to it.

4. Quality of law

20. A distinct difficulty arises in paragraph 181, in which the Court has treated the absence of explicit statutory limits on the Commission's search powers and of any review mechanism in the domestic law and practice as elements having a bearing on the necessity of the interference. I return to this below, where I discuss the methodology applied to the assessment of the necessity of the interference.

5. Retention of the seized documents

21. The retention of the copies of the seized documents in Parliament's archives has been treated as a further aggravating factor in the present judgment (see paragraph 182). I am unable to share that assessment, for two reasons. *First*, the search warrant itself provided that the original documents and equipment were to be returned to the applicant association on completion of the operation, and that copies were to be made in the presence of the parties to ensure conformity with the originals (see paragraph 27 of the present judgment). By the order of the Commission, the seizure measure was lifted and the documents were returned to the Masonic associations in May 2017 (see paragraph 33 of the present judgment). It appears that what remained in the classified archives were those copies alone. The interference with the applicant association's right to respect for its home ended the moment the search was concluded and the originals were returned.

22. *Secondly*, the retention of copies containing members' personal data engages, if anything, the right to private life of those individual members, not the applicant association's right to respect for its home. The Court has confined the present examination to the latter right, holding that only the individual members had standing to complain of any interference with the former (see paragraph 69 of the present judgment). To include the retention of members' data as an element in the proportionality assessment therefore enlarged the scope of the case beyond the limits the Court itself set at the

admissibility stage. Neither circumstance identified in paragraph 182, taken alone or together, aggravates the interference already examined or supplies any independent ground for a finding of disproportionality of the interference.

6. The broader context of the parliamentary inquiry

23. Though the Grand Chamber has attached no weight to it, one further circumstance seems to me of paramount importance to the proportionality of the interference. The inquiry arose in a very particular context, namely, the investigation of the infiltration of mafia-type organised crime into Italian Freemasonry in Sicily and Calabria. It was also the gravity of the danger to Italian Freemasonry, an institution with a long and distinguished history, and to a reputation built over centuries, no less so than the danger to Italian public life, that the inquiry sought to confront. The Commission was careful to make that very distinction, stating in its final report that the inquiry "[did] not concern Freemasonry as an association but rather the Mafia and its infiltration into the Masonic associations in Sicily and Calabria" (see paragraph 41 of the present judgment). In that sense, the inquiry served the interests of Italian Freemasonry and the State equally.

24. This is borne out by the evidence of the Masonic authorities the Commission heard. The Grand Master of Gran Loggia Regolare d'Italia, F.V., responded to the request for the Sicilian and Calabrian lists with an unequivocal "Absolutely yes", stating that this was "above all for [their] own protection", and explained that his lodge submitted its full membership list to the Ministry of the Interior every two years (see paragraphs 20-21 of the present judgment). His association had been founded by a former Grand Master of the applicant association, who had left it on account of the impossibility of ridding it of Mafia infiltration. Others spoke to similar effect: A.B. welcomed the Commission's work and called for legislation to expel Freemasonry's "deviant" elements (see paragraph 22 of the present judgment); M.C.T. undertook to cooperate fully on submission of an official request (see paragraph 20 of the present judgment); and G.D.B., himself a former Grand Master of the applicant association, confirmed that his own departure had been on account of the impossibility of cleansing the Calabrian lodges (see paragraph 23 of the present judgment). These were not hostile witnesses but senior figures within Italian Freemasonry, conscious both to the danger and to the value of cooperation in facing it.

25. This context cannot be divorced from a feature of the Italian legal order of decisive significance: the prohibition of secret associations is enshrined in the Constitution itself, Article 18 § 2 providing that "secret associations and associations that even indirectly pursue political aims by means of organisations of a military character shall be forbidden" (see paragraph 43 of the present judgment). The relevance of this has a bearing on the importance of the inquiry and on the very point of contention, the refusal of Grand Master S.B. to disclose the membership lists.

26. In a constitutional order that raises the prohibition of secret associations to constitutional rank, S.B.'s refusal to disclose information requested to a duly constituted constitutional authority, and the coercive measures that that refusal provoked, must be weighed against the reasons that led Italy to accord that prohibition such status. A request to disclose information to a constitutional body conducting an inquiry into criminal infiltration in the socio-legal context of a constitutional order which, on account of serious historical events, had elevated the ban on secret associations (regardless of the fact that the applicant was by no means such an association) to constitutional rank, is not, in those circumstances, an exorbitant demand made of a body entitled to absolute opacity.

27. The fact that this issue was of importance and relevance to the matter is confirmed by the Commission's own final report, which, noting the lack of effective domestic instruments against Mafia infiltration of Freemasonry, observed that since the Constitution's entry into force, there had been no genuine cultural debate, either from a historical, political or legal perspective, on the prohibition of secret associations under Article 18 of the Constitution of Italy. It also noted that this long-deferred question could be postponed no longer and had to be resolved by seeking, in the principles of the Constitution and of the Convention, the means of balancing freedom of association against the State's overriding interest in protecting society from the Mafia (see paragraph 42 of the present judgment). The interference in the present case arose precisely where those two interests meet. To weigh up its proportionality while setting that context aside and affording weight, by contrast, to matters of a more technical nature such as the scope of the order or the retention of copies – even leaving aside my above arguments on those accounts –, is to lose sight of the true picture of what was being examined.

7. The Grand Chamber's conclusion

28. Having identified the minimum nexus (see paragraph 178 of the present judgment), the Court examined in turn the scope of the order (see paragraph 179), the measures authorised (see paragraph 180), the absence of statutory limits on the Commission's powers (see paragraph 181), and the retention of copies (see paragraph 182), before arriving at its conclusion that "the exercise by the Commission of its power to order coercive measures had particularly significant consequences for the applicant association" (see paragraph 183).

29. It is here that my analytical difficulty lies. Nowhere in those paragraphs does the Court ask, let alone answer, the question the necessity test requires, that is, whether the interference, however significant its consequences, was proportionate to the legitimate aim pursued. Each element is noted, characterised, and accumulated into a finding of "particularly significant consequences". But significant consequences are not, in the Court's case-law, the same as disproportionate ones. Every effective coercive

measure of this kind will have significant consequences almost by definition, that is the nature of a coercive power of this intensity. The question is not whether the consequences were significant, but whether they were justified, whether the interference, in its concrete circumstances, struck a fair balance between the applicant association's right to respect for its home and the pressing public interests the Commission was bound to serve.

30. That question is never asked. Instead, paragraph 184 performs a pivot: having established that the consequences were significant, the Court turns to the question of "whether sufficient procedural safeguards existed". The finding of significant consequences thus serves not as the conclusion of a proportionality analysis, but as the threshold for a different assessment altogether, directed not at the concrete interference, but at the structural adequacy of the domestic framework. The proportionality test is thus not completed, it is simply replaced.

8. Conclusion on the proportionality assessment

31. To sum up my point on this part: given the right engaged – an association's right to respect for its "home" – the State's entitlement to interfere may be more far-reaching, since it is the premises of an organisation which are concerned rather than a natural person's home (see *Société Colas Est and Others v. France*, no. 37971/97, § 41, ECHR 2002-III). That is not to diminish the right, but to locate it accurately within the analytical framework of the necessity assessment: what is at stake is not the intimate sphere of an individual, but the premises of a large and well-organised institution.

32. On the other side of the scales from that comparatively modest weight are the four legitimate aims identified above (see paragraph 5), pursued here not in the abstract but against a documented and serious phenomenon, the infiltration of organised crime into Freemasonry in two regions with a deeply rooted history of such criminality. The context was indeed one of genuine public urgency.

33. The measure was, on any fair view, one of *ultima ratio*. As shown above, the Commission sought the lists by cooperative means over several months and was met each time with a refusal on grounds that this Court found insufficient even to engage Article 8's private-life guarantee (see paragraph 69 of the present judgment), a refusal that stood in marked contrast to the willing cooperation of other lodges. The request for the lists was strictly confined to what the inquiry required, covering the records of the Calabrian and Sicilian lodges alone, and not the applicant association's national, financial or other affairs (see paragraph 134 of the present judgment). And no even remotely equivalent alternative was open to the Commission: refused voluntary cooperation, it had no other means of obtaining the information, and it was vested with the coercive powers of the judicial authorities precisely for such circumstances.

34. To these considerations must be added the constitutional and socio-legal context examined above. This was an inquiry that was being conducted in a constitutional order that, on account of serious historical events, had elevated the ban on secret associations to constitutional rank, and the inquiry served the interests of Italian Freemasonry and the State equally. Weighing up all of these considerations together, that is, (1) the relatively modest weight of the right engaged against the acute and pressing nature of the four competing public interests; (2) the measure's *ultima ratio* character; (3) its strict limitation to what the Commission's mandate required; (4) its necessity for the fulfilment of that mandate; and (5) the absence of any equivalent alternative, I cannot but conclude that the interference was proportionate to the legitimate aims pursued and necessary in a democratic society within the meaning of Article 8 § 2 of the Convention.

D. Methodology

1. The safeguards test in the case-law of the Court

35. My second disagreement concerns the methodology used to assess the necessity of the interference, which calls for separate and closer examination. The necessity analysis hinged not on an independent assessment of whether the interference was proportionate, but on the absence of adequate safeguards against abuse, and the judgment thereby raises the safeguards question from its proper supporting role to a position of decisiveness. I am not suggesting that procedural safeguards are foreign to the examination of the necessity of interference. My objection is narrower: in the judgment, this legitimate but context-bound technique has been extended into a case in which its rationale does not apply.

36. The proper function of safeguards in the Court's case-law is well established (see, among Grand Chamber authorities, *Ships Waste Oil Collector B.V. and Others v. the Netherlands* [GC], no. 2799/16 and 3 others, §§ 182-95 and 196-200, 1 April 2025, and *Vavřička and Others v. the Czech Republic* [GC], nos. 47621/13 and 5 others, §§ 273-74 and 291-309, 8 April 2021; see also, among Chamber judgments, *Bernh Larsen Holding AS and Others v. Norway*, no. 24117/08, §§ 159-74, 14 March 2013; *Delta Pekárny a.s. v. the Czech Republic*, no. 97/11, §§ 82-92, 2 October 2014; and *National Federation of Sportspersons' Associations and Unions (FNASS) and Others v. France*, nos. 48151/11 and 77769/13, §§ 167-91, 18 January 2018). Their presence, whether by way of *ex ante* scrutiny or *ex post facto* review, or independent oversight, reassures the Court that the State's own machinery is capable of keeping the interference within Convention-compliant limits, and permits it, in accordance with the principle of subsidiarity, to defer to the domestic assessment without re-examining it under own judicial microscope.

37. The fact that the Court's own practice points the same way is shown by its most recent treatment of an analogous question. In *Ships Waste Oil*

Collector B.V. and Others, on which the present judgment also relies, though on another point, the Grand Chamber examined the safeguards against abuse in considerable detail: the authorisation procedures, the need for written reasoning in the transmission authorisations, the availability of *ex post facto* judicial review, and the applicant companies' ability to contest the interference before the domestic courts (ibid., §§ 182-95). Yet that examination did not displace the proportionality assessment. The Court went on to evaluate, independently and on the merits, the proportionality of the interference, the nature of the data, the seriousness of the violations, the public interest served, and the limited intrusiveness of the measure (ibid., §§ 196-200), and only on that comprehensive analysis, of both the safeguards and proportionality together, did it find no violation. The safeguards assessment in that case did not replace the proportionality assessment, it accompanied and informed it.

38. That is the logic of *Ships Waste Oil Collector B.V. and Others*: adequate safeguards allowed the Court to walk alongside the respondent State, supervising rather than substituting the domestic proportionality assessment. *But the converse should not follow*. The absence of safeguards means only that the Court, unless there are compelling reasons to extend the examination further as discussed in paragraph 45 below, must itself examine the necessity of the interference more closely, the domestic filter being absent. And where that examination discloses no disproportionality, it ends there, as the Court's task under Article 19 is to secure observance of the Convention in the case before it, not to find a violation based only on the absence of safeguards against an abuse that never occurred.

2. Choice of the methodology

39. The present judgment proceeds differently. Where in *Ships Waste Oil Collector B.V. and Others* the safeguards assessment accompanied a full proportionality assessment, here it takes its place. Rather than conducting the assessment the above paragraphs have shown should have been carried out, the present judgment has based its finding of a violation substantially on the absence of safeguards, with no genuine examination of whether the interference was, in itself, disproportionate. The very analysis that proved decisive in *Ships Waste Oil Collector B.V. and Others* has been omitted altogether here, a course difficult to reconcile with the concrete, fact-sensitive character of the analysis that has always been demanded by the question of what is "necessary in a democratic society".

40. The Grand Chamber has relied heavily in this regard on *Karácsony and Others v. Hungary* ([GC], nos. 42461/13 and 44357/13, 17 May 2016). In that judgment, in which opposition parliamentarians had been fined for the manner of their protest, the Grand Chamber found a violation of Article 10 because the sanctions lacked adequate procedural safeguards, while expressly declining to rule on whether the interference had been substantively

"necessary", given the wide margin of appreciation the State enjoyed in regulating its own parliamentary proceedings (see paragraph 151 of the present judgment). The difficulty lies in the transposition of the safeguards-centred approach to the present case, in which the conditions that justified it in *Karácsony and Others* are absent in two related respects.

41. *First*, in *Karácsony and Others* the proportionality of the sanction was genuinely finely balanced: the margin of appreciation was at its widest, the matter concerned Parliament's internal discipline, and the real grievance was itself procedural, namely, the denial of any opportunity to be heard before being fined. Where a proportionality test would be in equipoise, and the procedural defect is at the heart of the complaint, it is understandable that the Court should lean in its scrutiny on necessary safeguards. Here, that was not the case. As the preceding analysis has shown, a complete proportionality assessment does yield a clear answer – four pressing aims, a right with lower protection within its cluster of rights (Article 8), a strictly confined measure of last resort, and an absence of abuse.

42. *Secondly*, and more fundamentally, the two cases lie at opposite ends of the spectrum of protection. *Karácsony and Others* concerned the political expression of elected parliamentarians, to which this Court accords the highest protection, calling for the strictest scrutiny, both procedural and substantive. The present case concerns an association's "home", an interest that attracts a lower level of protection than the private life, home and correspondence of a natural person: as the Court has held, the State's entitlement to interfere with the premises of a legal person may be "more far-reaching" than in the case of an individual's dwelling (see paragraph 32 above). It is true that the Court's case-law has since developed in this field, extending to commercial premises a number of the procedural protections – prior judicial authorisation, effective subsequent review – once reserved to the private dwelling (see, for the search and seizure of a company's premises, *Delta Pekárny a.s.*, cited above, §§ 82-83 and 86). But that development has refined, not erased, the underlying distinction: the protection afforded to the "home" of a legal person remains lower than that afforded to the private life, home and correspondence of the individual, and weaker than the protection of the core guarantees of Article 8. To apply the safeguards-centred approach of *Karácsony and Others* – designed for a right at the apex, where the State's margin of appreciation is at its narrowest – to an interference attracting a markedly wider margin of appreciation, is to extend that approach in the opposite direction to its underlying rationale.

43. The course the judgment has taken in this case was a choice, not a necessity. *Karácsony and Others*, the judgment mainly relied upon in terms of choice of methodology, well apart from the substantive differences already indicated, belongs to the Court's case-law under Article 10, not Article 8; in adopting its safeguards-centred approach for the present search-and-seizure case, the Grand Chamber was not following a path already marked out, but

choosing one over the other. I do not, however, base this point on any difference between the two Articles.

44. It is the nature of that choice that I am concerned about. A choice of methodology ought not to decide the outcome: the way in which a court reasons should help it find the right answer, not produce a particular one. Where the choice of one methodology over another itself settles the result, where the proportionality assessment would have found no violation, and only the substitution of the safeguards test produces one, the choice is no longer one of methodology but of outcome. And this compounds my earlier point: the safeguards test was both used outside the context that justifies it and was also decisive of the result.

45. My criticism does not concern the safeguards test within its proper bounds. Where the foundations of democratic society are at stake, or identifiable groups face a real and systemic threat to their rights, where a deficiency is structural rather than singular and capable of affecting an indeterminate class of right holders or where any other imminent or large-scale danger to Convention rights is in issue, the application of the "safeguards test" may be the most effective means the Court possesses of protecting those rights. The Court's recent case-law concerning Italy illustrates this point: in *Italgomme Pneumatici S.r.l. and Others v. Italy* (no. 36617/18 and others, 6 February 2025) and *Ferrieri and Bonassisa v. Italy* (nos. 40607/19 and 34583/20, 8 January 2026), it examined the safeguards against coercive investigative measures taken by the Italian tax authorities and found them lacking. And the rationale behind the application of the "safeguards test" was not difficult to see: a legal framework applied as a matter of routine to a vast and indeterminate class of taxpayers, so general in its reach that the Court found it necessary, under Article 46, to require reform of the Italian law (ibid., §§ 146-49). Where the danger is of that nature – structural, recurring, and diffuse – the safeguards test is the right instrument, for it is precisely the systemic adequacy of the domestic framework that is in question.

46. The present case is the opposite in every relevant respect, and it is for that reason that the safeguards-centred approach, transposed here, has too readily yielded a finding of violation compared to the opposite result the proportionality test would have arrived at. This was a single, tightly circumscribed measure, taken once, and only once, by a parliamentary commission, following repeated refusals to cooperate, which had an exceptionally low likelihood of ever recurring. On top of that, the interests at stake were not the routine demands of fiscal assessment directed at individual taxpayers, but four extremely serious public interests culminating in the protection of democratic institutions and the applicant association itself from Mafia infiltration, and the ultimate aim was not to penalise the applicant association, but fact-finding undertaken to enable Parliament to act against that phenomenon. Where the interference is singular, tightly context-bound,

and discloses no abuse, the structural question that the "safeguards test" exists to answer – whether the domestic framework is structurally capable of restraining a recurring exercise of power, after having recorded that the abuse was non-existent – scarcely arises.

47. It follows that where the proportionality test is capable of yielding a clear and explicit result, the safeguards test should not be transposed automatically in its place. To substitute one for the other in such circumstances converts a technique developed for cases of genuine difficulty and exceptional use, into an automatic rule that dispenses with the proportionality assessment altogether. It is in that extension, not in the safeguards assessment as such, that the methodological difficulty of this judgment lies, with consequences which are neither theoretical nor confined solely to this case.

3. The wider implications

48. The difficulty is not merely formal. To find a violation for the absence of safeguards against an abuse that demonstrably did not occur is to hold the State responsible not for what it did, but for what it might, in other circumstances, have done. That sits uneasily with the Court's role as a guardian of Convention rights in the concrete circumstances of the case before it.

49. On the other hand, as regards an *in concreto* examination of the circumstances of the case, close attention has been devoted in the judgment to the circumstances of the search, its scope, the volume of material seized, the premises affected, the retention of the copies made (see paragraphs 175-84 of the present judgment). Yet if the absence of safeguards is, as the judgment has treated it, a self-sufficient ground for finding a violation, that examination served no purpose, the conclusion was effectively predetermined by the structural deficiency found at paragraph 181, and the examination of concrete circumstances rendered mostly ornamental. The present case illustrates the point starkly: a State may act in good faith, for a pressing and legitimate aim, on an accessible and foreseeable legal basis, proportionately to the circumstances and without a trace of abuse, and still be found to be in breach, solely because its legal order lacked a particular form of prior authorisation or review.

50. None of this denies that safeguards have their place in the necessity analysis, my point concerns only placing them in context and the weight accorded to them. Where adequate safeguards exist, they inform the proportionality assessment and permit deference to the domestic system. Where the interference is shown, by itself, to be disproportionate, the framework of safeguards may then be examined as a further and reinforcing element. But where the State has satisfied the test of proportionality and none of the above compelling reasons exists to justify the application of the safeguards test, the examination ends there: the Court cannot hold a State

responsible for what one might call a "ghost" violation, one based not on a proven violation of a Convention right, but on the mere possibility of an abuse of the examined right that the domestic framework failed to prevent. Instead, the Court's supervisory function is at its most compelling when deployed against genuine and recurring threats to Convention rights, or against structural inadequacies of described proportions and magnitude that place persons at real or foreseeable risk. The present case, with respect, is neither.

CONCLUSION

51. To sum up my opinion let me draw these threads together. *First*, a proper proportionality assessment, applied to the facts of this case, discloses no violation: the interference was strictly adapted to the pressing aims it pursued, it was a measure of last resort following repeated refusals to cooperate, it was confined to what the inquiry needed, and it involved no abuse, in short, it was proportionate and thus in compliance with the requirement of being "necessary in a democratic society". *Secondly*, the methodology used in the judgment to assess that necessity – replacing the proportionality assessment with a safeguards test – did not fit the present case: a single, unrepeated measure, affecting a right attracting lower protection, in the absence of any systemic danger calling for that approach. *Thirdly*, these two points are linked: the usual proportionality assessment and the safeguards-centred approach may well return with opposite answers, so the choice of one rather than the other turned out in this particular case to be a choice of outcome. *Fourthly*, the safeguards test, valuable as it is in its proper place, cannot be allowed to replace the proportionality assessment unless the substitution is justified by reasoning and governed by foreseeable standards.

52. I would therefore have preferred for the Court to confine the safeguards-centred approach to circumstances that justify it, and to have completed the proportionality assessment it began but left unfinished. Had it done so, it would, in my view, have been bound to find the interference – significant in its consequences, yet proportionate to the pressing aims it sought to achieve – "necessary in a democratic society" within the meaning of Article 8 § 2. The methodology applied did not merely complicate the analysis, it determined the result. It is for that reason that I have dwelt on it in this opinion, not only because I disagree with the outcome, but also with the route by which it has been reached, as it raises a concern that reaches beyond the present case.