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UK: The European Arrest Warrant in the dock

Alexander Adamescu arrested in London and threatened with extradition to Romania in an obviously politically motivated case

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Alexander Adamescu

HRWF (31.10.2016) - On 13th June 2016, **Alexander Adamescu**, a German citizen and the son of a prominent Romanian businessman, was arrested in London on the basis of a European Arrest Warrant (EAW) issued by the Romanian government which accused him of complicity with his father in bribing judges. He was on his way to deliver a statement to reporters at London's Frontline Club, a well-known gathering spot for journalists, when London Metropolitan Police officers took him into custody.

Alexander Adamescu denies the charges. He claims that the jail sentence against his father was based only on the false testimony of a former employee in one of the group's companies and that he and his family are being politically persecuted by the Romanian Government.

The arrest in London of Alexander Adamescu was the result of investigations by prosecutors in Romania's National Anti-corruption Directorate (DNA).

According to the DNA, in June and December 2013, **Dan Adamescu** and his son Alexander remitted through intermediaries the amounts of EUR 15,000 and RON 23,000 to two judges from a court in Bucharest in order for them to provide favorable solutions to one of the firms involved in insolvency procedures where Dan Adamescu, a 68-year old businessman, was a

shareholder. He was arrested in June 2014 and later sentenced to 4 years and 4 months in prison.

On May 4, 2016, a first proposal for Alexander Adamescu's arrest was granted by a first instance court in Bucharest to the DNA. His lawyer challenged that decision on procedural grounds which were granted on May 19, 2016. Within a couple of hours, Alexander Adamescu had a new arrest warrant issued against him. On the very same day, he was summoned at the door of the court at 11:00 for a hearing at 13:30. Alexander Adamescu's lawyer rushed to court unprepared and made his plea as best he could. Within 30 minutes after the end of the hearing, Alexander Adamescu's new arrest warrant was on the electronic court register. The new judge had deliberated on the arguments of both side, taken a decision, admitted a new arrest warrant and had also found the time to write his decision on the court electronic system within that half hour. Alexander Adamescu's next court hearing in London is scheduled for 24th April 2017 and his handing over will be decided.

Alexander Adamescu is a 38-year old playwright. His father is the owner of a business group that includes real estate assets such as Unirea Shopping Center in Bucharest, Intercontinental Bucharest and Rex Hotel in Black Sea resort Mamaia, newspaper *România Liberă* and insurance company Astra Asigurari. Since his father's incarceration, he has been managing the family's business.

Alexander Adamescu is now residing in London with his wife and three young children where he studies at the Royal Central School of Speech and Drama.

Alexander Adamescu: breaches of human rights

Article 5(1)(c)

The European Convention, by the provisions of Article 5 paragraph 1, guarantees to any individual "his/her right to freedom and safety". It imposes the obligation on the State not to retain an individual unless "legal means were employed", limiting thus the force of the discretionary power of the State. The violation of the right to freedom and safety for Alexander Adamescu is proven by the way his arrest was ordered.

Alexander Adamescu's case file consists of 37 volumes. The haste of the court to judge the request of the DNA against Alexander Adamescu and the extremely short time given to deliberation and decision-making show that it was impossible for the judge to have read the entire case file of 37 volumes let alone analyse the evidence and arguments that were presented to him. In his decision the judge almost entirely copy-pasted the reasoning of the DNA and admitted automatically the proposal of taking the measure of Alexander Adamescu's arrest.

Article 6(2)

Article 6 of the Convention for protecting human rights and fundamental freedoms, ratified by the Romanian State by Law no. 79 dated June 6, 1995, guarantees that: «any person has the right to a fair trial » and paragraph 2 of the same article enshrines the principle of presumption of innocence. Similar to Dan Adamescu's trial, judges repeatedly verbally mentioned and wrote about the alleged illegality of Alexander Adamescu's acts before he was

sent to trial. In the light of his father's treatment and conviction, Alexander Adamescu's conviction seems to be a *fait accompli*.

Alexander Adamescu: a politically motivated case

Many observers of political and judicial life in Romania believe that Alexander Adamescu is the victim of his father's and his own criticisms and actions against the Romanian government.

It is indeed noteworthy that the DNA completely ignored any involvement of Alexander Adamescu in his father's case until Romania was slapped with an GBP 200 million arbitration claim for the purposeful destruction of a group of companies controlled by Dan Adamescu - The Nova Group - which include Romania's liberal newspaper *România Liberă* and one of Romania's largest insurance companies Astra Asigurari.

Moreover, Alexander Adamescu pointed his finger at former Prime Minister Victor Ponta, who he considers responsible for fueling public outrage against his father and his companies. He accused Victor Ponta of illegally changing Astra Asigurari's board in February 2014 and of naming Misu Negritoiu as president of the Financial Supervisory Authority (ASF) which made a series of arbitrary decisions that consequentially led to the bankruptcy of Astra in August 2015.

Alexander Adamescu obviously angered the Romanian authorities and as a reaction to the arbitration, it appears as though the DNA decided to orchestrate his arrest by using the EAW system and thereby deter him from pursuing his legal action.

The use of the EAW "to neutralise" Alexander Adamescu arrives at a time when this system is in the dock in the UK because of a number of serious shortcomings. One of them is that it can easily be instrumentalised and misused for political score-settling by some EU member states where the judiciary lacks independence and is vulnerable to political pressure. In this regard, Romania and some others are on the black list of human rights organizations. (1)

Another serious weakness is that no evidence of criminal wrongdoing against Alexander Adamescu was presented and none is in fact needed under the EAW. Before the introduction of the EAW in 2004, the Romanian authorities would have had to prove they had a credible case against him. Now, with the European Arrest Warrant, they simply have to prove that their paperwork is in order. No matter how strong Mr Adamescu's arguments are, or how unconvinced a British court might be by Romania's case, the UK is by international law obliged to hand him over unless it can be proved there are human rights abuses attached to the case or that it is politically motivated.

Peter Alan Osborne, a British journalist, who is the associate editor of the *Spectator* and former chief political commentator of the *Daily Telegraph*, quickly took up Alexander Adamescu's defence, writing in the Daily Mail (<http://dailym.ai/2dSeFhr>) a few days after his arrest:

“This week, I spoke at a press conference to publicise the plight of Alexander Adamescu, the London-resident son of a Romanian newspaper owner who is being pursued by his own government for what look like ugly political motives.

He is accused, in what I believe are trumped-up charges, of bribing judges presiding over cases involving his family’s firms.

I fear he will not get a fair trial in Romania, where a notoriously corrupt government is intent on eliminating all domestic opposition — and, in his case, getting its hands on his father’s assets.”

And the author of *The Rise of Political Lying* and *The Triumph of the Political Class*, well-known for his acerbic commentary on the hypocrisy and apparent mendacity of contemporary politicians continued:

“Using the controversial European Arrest Warrant (designed to speed up the extradition process for EU citizens who have fled one country and are wanted for criminal proceedings in another), a British police officer arrested Mr Adamescu two hours before our press conference was due to begin. I don’t blame our police, who had no choice under European law. However, it is grotesque that the British system of justice is suborned to help a corrupt government persecute someone who stands a negligible chance of a fair trial when he gets home.

The European Arrest Warrant system is a small but telling example of why British membership of the EU is not working properly.

It wrongly assumes that the rule of law prevails in all 28 member countries — which it most certainly does not. It is an unjust system.”

Stephen Pollard in the 3rd September issue of *The Spectator* (<http://bit.ly/2damlZA>) wrote in an article questioning the UK’s ‘Brexit’ from the European Arrest Warrant system:

The European Arrest Warrant clearly has benefits. But it has a fundamental flaw. It can lead to the incarceration of good people who fall foul of bad regimes.

The key problem with this agreement is the premise on which it is built — that all 28 EU member states have equally robust legal systems and independent judiciaries. They do not. And the consequences of that imbalance are becoming clear.

After referring to the case of Sky News journalist Stuart Ramsay and his film crew, prosecuted by Bucharest for their report on alleged gun-running in Romania (2) as a case of repression of freedom of expression, Stephen Pollard raises the cases of Alexander Adamescu and his father:

Most likely the Romanians are using the Sky News case to scare off other journalists. One can see why, because there is much to investigate in Romania. Such as the case of Alexander Adamescu, a German citizen who lives in London and is the son of a Romanian newspaper owner. *Romania Libera* is a moderate centre-right paper but is a thorn in the side of Romania’s left-wing government. Adamescu’s father has already

been imprisoned on trumped-up charges of bribing judges. Now the government is going after the son in the same way — in part to get full control of his father's assets (he owns an insurance company).

Alexander Adamescu's father: a politically motivated case

His father, Dan Adamescu, is currently serving a four-year and four-months prison term in Romania for allegedly bribing two judges - Elena Roventă and Ion Stanciu - who handled insolvency cases involving his companies. Noteworthy, he began being targeted after his newspaper *Romania Libera* criticized the then left-wing government of Socialist Prime Minister Victor Ponta.

Critics accuse Romania's government of frequently using the country's National Anti-Corruption Directorate (DNA) to target the opposition.

On 5 September 2016, **Damien Philips, a public affairs consultant**, harshly denounced in *Conservative Home* (<http://bit.ly/2clQpPm>) Romania's disregard for basic civil liberties. After raising the scandalous prosecution of Sky News British journalists, he followed up with the case of the owner of *Romania Libera*, writing:

For the free press in Romania, the situation is even worse. Dan Adamescu, publisher of the elite-bashing anti-nomenklatura newspaper *Romania Libera*, was accused by then Prime Minister, Victor Ponta, of corruption after he decided that Adamescu had published too many articles critical of his shenanigans. Ponta announced the upcoming prosecution of Adamescu in an extraordinary televised interview. Two weeks later, squads of masked anti-terror police arrested Adamescu on charges of bribery.

Adamescu was promptly declared guilty on the first day of his trial by a judge who said that he 'had to be exposed to public shame'. He was refused bail on the grounds that he continued to plead innocent to the charges he was accused of. He was then imprisoned, denied medication and critical knee surgery, and is now bound to a wheelchair as a broken man.

On 21st April 2015, **James Clappison, a member of the Parliamentary Assembly of the Council of Europe**, who had some concerns about the trial of Dan Adamescu, tabled a motion for a resolution (Doc. 13761). Signed by 20 MPs, it stated:

In February 2015, Mr Dan Adamescu, a German citizen and a businessman was convicted in a Romanian court of alleged offenses of corruption and received a sentence of four years and four months imprisonment without parole.

Before the trial of Mr Adamescu took place, the Prime Minister of Romania publicly accused him of "leading a network of corruption to such great effect over a period of many years".

In a pre-trial hearing the Judge referred to the matters alleged in respect of Mr Adamescu as established facts rather than allegations and denied bail on the basis that Mr Adamescu had refused to admit guilt.

Amongst other matters Mr Adamescu had been the owner of Romania Libera, a newspaper that was critical of the Romanian Government.

The Parliamentary Assembly affirms its belief that the presumption of innocence and the right to a fair trial are indispensable in the administration of justice and the maintenance of human rights and shall call on all member States to ensure that these legal principles are scrupulously observed.

The European Arrest Warrant

The European Arrest Warrant (EAW) is an arrest warrant valid throughout all member states of the European Union. By removing the political and administrative stages and hurdles of individual states, it allows for the arrest and unquestioned extradition of a named criminal suspect or sentenced individual from one-member state to another so that the person can be put on trial or complete a detention period.

An EAW can only be issued for the purposes of conducting a criminal prosecution (not merely an investigation), or enforcing a custodial sentence. It can only be issued for offences carrying a minimum penalty of 12 months or more in prison. In cases where a sentence has already been passed an EAW can only be issued if the prison term to be enforced is at least four months long.

The introduction of the EAW system was intended to increase the speed and ease of extradition throughout EU countries by removing the political and administrative phases of decision-making which had characterised the previous system of extradition in Europe and by converting the process into a system run entirely by the judiciary. Since it was first implemented in 2004 the use of the EAW has steadily risen.

Advocates of human rights and commentators from both the left and right of UK politics, have argued that the Romanian government's case against Alexander Adamescu is flawed and politically motivated. Furthermore, they argue that the British police should not be forced into the unenviable position of arresting a German citizen living in London under the pretense of the European Arrest Warrant, which obliges member states of the European Union to blindly trust a foreign government and carry out arrests on its orders.

[Fair Trials International](#) (FTI), the London-based human rights non-governmental organisation, claims to have highlighted a number of cases which demonstrate that the European Arrest Warrant system is causing serious injustice and jeopardising the right to a fair trial. In particular, FTI alleges that:

- European Arrest Warrants have been issued many years after the alleged offence was committed;
- Once warrants have been issued there is no effective way of removing them, even after extradition has been refused;
- They have been used to send people to another EU member state to serve a prison sentence resulting from an unfair trial;
- Warrants have been used to force a person to face trial when the charges are based on evidence obtained by police brutality;

- Sometimes people surrendered under an Arrest Warrant have to spend months or even years in detention before they can appear in court to establish their innocence.

Moreover, the EAW issue related to the Adamescu case is not confined to Romania as there are increasingly clear signals that some EU member states may use the EAW system for political purposes. In Poland, the governing Law and Justice party has recently announced legislation which would criminalise references to ‘Polish concentration camps’ or ‘Polish death camps’. Claiming that Polish people or the Polish state collaborated with the Nazis during the Holocaust could become a criminal offense, punishable with up to three years in prison. In this case, the EAW might be misused to prosecute journalists and researchers. Freedom of expression and academic freedom might be under increasing threat in the EU in the future if a reform of the EAW system is not envisaged.

Recommendations concerning the EAW

Considering that not all EU countries have fair legal systems and the EAW is vulnerable to abuse;

Considering that the EAW’s own authority is being undermined while innocent people can be imprisoned for months, have their reputations destroyed and their lives ruined;

Considering that the EAW is sometimes operating in a legal black hole;

***Human Rights Without Frontiers* recommends that the EU revise the functioning regulations so that:**

- the EAW system can only be used for the most serious crimes;
- “wanted person” alerts can only be circulated throughout the EU with its stamp of approval after examination of possible abuses ;
- the EU member state requested to hand over a “wanted person” keeps some margin of appreciation in its decision-making process;
- victims of abuse can have access to redress mechanisms through a fair, open and impartial process.

***Human Rights Without Frontiers* recommends that the European Parliament, the European Commission and the European Council fully participate in the revision of the functioning regulations of the EAW system.**

***Human Rights Without Frontiers* recommends that the Council of Europe and the OSCE bring possible cases of abuse of the EAW to the attention of the EU.**

Recommendations concerning the case of Alexander Adamescu

Brexit will affect the UK membership of the EAW system which is reserved to EU member states. It will also impact the debate between the supporters and opponents to it. Before the

referendum on Brexit, some wanted to leave the EAW system and recover their judicial sovereignty because British courts were deprived of a part of their powers and the rule of law in UK could be violated without any possibility of recourse. Others want to keep their collaboration with the EAW under a new form of partnership.

Human Rights Without Frontiers is not taking a position in this debate but the political follow up of the case of Alexander Adamescu in the UK cannot be separated from this unstable geopolitical and legal configuration.

Recommendations of *Human Rights Without Frontiers* to Romania

***Human Rights Without Frontiers* recommends that Romania**

**abides by the rule of law;
guarantees the independence of the judges;
respects fundamental human rights;
makes sure justice is not misused for political purposes;
only uses the EAW system for the most serious crimes;
withdraws the EAW issued against Alexander Adamescu
the Romanian authorities should end the personal and economic harassment in Romania against the Alexander Adamescu, his father and their businesses**

Recommendations of *Human Rights Without Frontiers* to UK

Concerning Romania's extradition request of Alexander Adamescu, *Human Rights Without Frontiers* considers that:

in view of the elements at its disposal there is a high probability that the case of Alexander Adamescu is politically motivated and he would not enjoy a fair trial in Romania;

the British authorities can legally fail to extradite him to Romania by referring to practices of other countries which have previously refused to implement an extradition request on the grounds that it would violate the right of the wanted person to his freedom and safety and a fair trial under the [European Convention on Human Rights](#);

the British authorities should reject the request of extradition of Alexander Adamescu.

Footnotes

(1) In the last few years, *Human Rights Without Frontiers* has dealt with another similar case of extradition requested by Romanian authorities.

(2) In August 2016, the award-winning chief correspondent of Sky News, Stuart Ramsay, reported on alleged gun-running in Romania. It was a shocking story and received a lot of attention. The Romanian government's response was to say his story was a lie. The country's Directorate for Combatting Terrorism and Organised

Crime asserted that Ramsay and his crew faked the whole report. The Romanian authorities reacted to the story with a formal request addressed to the UK for legal assistance into a criminal investigation. The Sky journalists have been charged with spreading false information to the detriment of Romania's national security.

Stuart Ramsay and his colleagues have been prosecuted for forming an "organised criminal group" by Romania's anti-terrorism unit on the grounds of an obscure national security law of "giving out false information."

ANNEX

Name: Adamescu, Bogdan Alexander
Date and place of birth: 06.05.1978 Bucharest/Romania
Nationality: German
Spoken languages: German, Romanian, English, French, Spanish, Portuguese

Education

1980 Emigration to Germany and naturalization
1990s Successful junior tennis player at German national level
1996 National Summer Academy for highly-gifted pupils in Braunschweig
1997 Abitur in Germany, grade: (1.2) very good
1997-99 Studies at Humboldt-University Berlin
1999-2002 Studies at ENSAE and Paris-Sorbonne
2002 Participation in International Mathematics Olympics for students in Warsaw
2003 Diploma of economics at Humboldt-University Berlin
Thesis on Equilibria in Oligopolies with Prof Ulrich Kamecke
Grade: very good (1.3)
2003 Diplome d'economie et statistique ENSAE
2004 Diploma of mathematics at Humboldt-University Berlin
Thesis on Superbranching processes with Prof Hans Foellmer and Prof Steve Evans (Berkeley)
Grade: very good – (1.0) published as DFG research project

Professional career

2005 New York University; Courant institute of Mathematical Sciences, 251 Mercer Street, NY 10012, USA
Position: Research Fellow
Activity: Research in stochastics;
2005 - 2006 McKinsey & Comp. Germany
Position: Associate
Activity: Management consulting

2006 - 2012 TNG – The Nova Group
Position: Member of the Board of Directors
Activity: Family Office

2012- present Writer
2013 Theatre play *54'5' North 10'53 East* staged at Sibiu Festival in Romania
2015 MA at Central School of Speech and Drama