

# **The Exception that Proves the Rule? European Court of Human Rights Okays Employer's Access to Personal Communications of Employee In (Highly) Limited Circumstances**

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The European Court of Human Rights recently ruled in [B?rbulescu v. Romania](#) (Application no. 61496/08) that a Romanian employer did not violate its employee's fundamental right of privacy when the employer accessed personal messages in the employee's Yahoo! Messenger account. Numerous newspapers and other media sources quickly declared employee privacy dead as a result of the ruling – and the Court was sufficiently alarmed by the mischaracterization of the case that it issued a press release refuting the media accounts. (The Guardian published a rather entertaining [article about the inaccurate media coverage](#) with photos of various front-page announcements by its competitor newspapers.)

In fact, the B?rbulescu case is so specific to the somewhat unusual facts that it does more to show how limited the circumstances in which an employer can access personal communications of its employees. The take-away for employers is that it is vital to consult local employment lawyers first before engaging in any monitoring of employee communications, to make sure that your company's policies and actions meet local requirements as well as the case law of the European courts.

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