



## PORADŇA PRE OBČIANSKE A ĽUDSKÉ PRÁVA

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### European Court in Strasbourg: Slovakia insufficiently investigated police violence against three Roma boys

The European Court of Human Rights in Strasbourg (ECtHR) ruled on a case of police violence against three Roma boys that occurred in a police car during their transfer to a police station in Košice, Eastern Slovakia, in 2009. According to the ECtHR, the responsible state authorities did not sufficiently investigate the violence against them, thus violating their international human rights obligations. This is the incident that preceded further police violence, which they subsequently faced together with three other Roma boys during their detention at the Košice - South police station.

The incident occurred in March 2009 when one of the affected Roma boys was arrested by police officers. During his transport in a police car, one of the police officers reportedly slapped him in the face and asked him for the names and addresses of the other Roma boys, with whom he was suspected to commit a crime. After the arrest of two other accomplices, the police officer reportedly slapped all three of them in the face during their transfer to the police station.

All the injured were minors at that time. This incident immediately preceded the widely publicised police violence, which the injured Roma boys and their three other friends - according to their statements - subsequently experienced during their detention at the Košice - South police station. The violence was partly recorded on a mobile phone and more police officers faced criminal charges for this ill-treatment, but in December 2020 they were acquitted by the decision of the domestic courts.

The Section of Control and Inspection Service of the Ministry of the Interior of Slovak republic initiated criminal proceedings in the whole case in 2009 and filed charges against suspected police officers. In 2010, however, the alleged violence against the three injured boys during their transport by car to the police station was allocated to separate criminal proceedings. The involved policeman was accused of the crime - abusing powers by the public officer. The Košice District Court firstly rejected the indictment of the military prosecutor in 2011 and returned it to him for further completion of the investigation. After the completion of the investigation and re-indictment, the District Court heard the case, but by its judgment in 2015 acquitted the accused policeman. The court found that his act was not a criminal offense. The appeal court dismissed the prosecutor's appeal as unfounded and the acquittal thus became final.

Subsequently the affected boys in an attempt to reverse this judgment turned to the Constitutional Court. However, it did not find any violation of their rights and in November 2018 rejected their complaint.

After exhausting all available domestic remedies, in June 2017, the affected boys lodged a complaint with the ECtHR. They claimed violation of their rights guaranteed by the Convention on the Protection of Human Rights and Fundamental Freedoms, particularly the right to protection from cruel and inhuman treatment, which includes the positive obligation of state authorities to conduct effective investigation in such cases. They also sought a declaration that the conduct of law enforcement authorities had also violated their right of access to an effective remedy and, in conjunction with these claims, their right to protection against discrimination.

**On 1 April 2021, the European Court upheld their complaint.** It rejected the Government's argument that the complaint was inadmissible and found that the responsible state authorities had violated the applicants' right to an effective investigation into the alleged police violence. In so doing, they violated the procedural component of a right to protection against inhuman or degrading treatment or punishment under Article 3 of the Convention.

ECtHR in its judgment particularly stressed that in cases where the police violence with a racial motive is alleged, the public authorities are obliged to take all reasonable steps to ascertain if this violence had racist motive and to establish whether racial hatred or prejudice based on ethnic origin of the person played a role in the investigated events. The ECtHR stressed that treating racially motivated violence and brutality on an equal footing with cases lacking any racist overtones would be tantamount to turning a blind eye to the specific nature of acts which are particularly destructive of fundamental human. According to the ECtHR, there is no indication that any particular attention was paid to the presence of a racial element in this case.

According to the ECtHR, it is an objective fact, well known to the law enforcement authorities including the District Court, that the alleged incident investigated into in the present case fell into a bigger picture involving the incident that allegedly followed immediately afterwards at the police station. The police officer accused in the present case was also accused in the second criminal proceedings being conducted. The ECtHR thus found that the District Court should have assessed the conduct of the accused police officer in the broader context of the subsequent event and thoroughly investigate a possible racial motive.

According to the ECtHR, those shortcomings, together with a lack of speed in certain stages of criminal proceedings, have rendered these proceedings ineffective.

Free legal aid to the affected boys in criminal proceedings and subsequent proceedings before the Constitutional Court and ECtHR was provided by NGO Center for Civil and Human Rights (Poradňa).

***The father of one of the affected Roma boys said on the judgment:***

*"I am glad that my son and the other boys have finally come to justice after so many years."*

***Legal representative of the affected boys, Vanda Durbáková, stated:***

*"It is important that justice has prevailed in the case of three Roma boys. Unfortunately, it happened as late as before the Strasbourg court. It is necessary that the law enforcement agencies including courts in Slovakia proceed in handling cases of police violence cases with a racial motive as thorough as possible. This is one of the key messages of European Court in this judgment."*

***The program coordinator of Poradňa, Štefan Ivanco, added:***

*"Over last few years this is another judgment of the European Court, which highlights the serious shortcomings in the investigation of police violence in Slovakia, including investigation of possible racial motive. It is clear that these shortcomings are not isolated and, from our experience, still persist. Till now, the responsible state authorities have not taken effective measures to eliminate them."*

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**The Center for Civil and Human Rights (Poradna)** is a non-governmental organization based in Slovakia focused on the protection of human rights with particular emphasis on the rights of minorities and protection from discrimination. Poradna has for a long time worked on the issue of discrimination against Roma ethnic minority in various areas of public life. It has also been active in the protection of

reproductive rights and protection from police brutality. Poradna employs strategic litigation to combat discrimination and human rights abuses against minorities. Poradna offers free legal advice to victims of discrimination and in selected cases free legal representation to victims of discrimination before Slovak courts and the European Court of Human Rights in Strasbourg. It also conducts monitoring in the field, advocacy, and educational activities on the protection from discrimination for lay and expert audiences. Visit us at: [www.poradna-prava.sk](http://www.poradna-prava.sk)

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