



Alleged slapping of 16-year old Roma in police custody was not proven, but the related investigation was inadequate

The case [Adam v. Slovakia](#) (application no. 68066/12) concerned an allegation by a young Roma, Jaroslav Adam, that he had been slapped in the face when being questioned by the police in 2010 about a mugging and that the related investigation was inadequate.

In today's **Chamber** judgment¹ in the case the European Court of Human Rights held:

by six votes to one, that there had been **no violation of Article 3 (prohibition of inhuman and degrading treatment)** of the European Convention on Human Rights as concerned Mr Adam's allegation of having been slapped in police custody, and

unanimously, that there had been **a violation of Article 3 (investigation)** as concerned Mr Adam's complaint about the inadequate investigation into his allegation of ill-treatment.

As concerned the merits of Mr Adam's allegation that he had been slapped by the police officers who had questioned him, the Court noted several elements casting doubt on his submissions and considered it plausible, as advanced by the Government, that his injury – a swollen cheek – could have been caused while resisting arrest (as documented).

However, as to the investigation into the alleged slapping, rather than investigating Mr Adam's allegations on their own initiative, the authorities seemed to have shifted the burden of pursuing his claims to Mr Adam himself. Nor had the authorities apparently taken any steps to eliminate the inconsistencies in the different versions as to the cause of Mr Adam's swollen cheek, to question or cross-examine certain witnesses, including the accused police officers and the doctor who had treated Mr Adam on his release, or to hold a face-to-face interview between Mr Adam and those officers. Indeed, bearing in mind the sensitive nature of the situation concerning Roma in Slovakia at the time, the Court concluded that the authorities had not done all that could have been reasonably expected of them to investigate Mr Adam's allegations of ill-treatment.

Principal facts

The applicant, Jaroslav Adam, is a Slovak national of Romani origin, who was born in 1994 and lives in Bidovce (Slovakia).

Mr Adam was arrested, along with two other suspects, in the evening of 18 December 2010 on suspicion of a mugging and taken to the local police station for questioning. He alleges that he was slapped and punched in the head during his ensuing preliminary questioning and that he was not allowed to sit or lie down during the whole of his police detention. Charged with robbery in the early hours of 19 December 2010, he was brought before and interviewed by an investigator in the presence of his mother and the legal-aid lawyer appointed to him before being released later the same day. He submits that, during his entire custody, he was not provided with any food or drink. The charge against him was subsequently withdrawn.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Mr Adam subsequently lodged a criminal complaint with the Ministry of the Interior on 5 January 2011, alleging that he had been mistreated in detention, without his legal guardians being notified of his custody or his being provided with food or water. He submitted in particular a medical report dated 19 December 2010 in which a doctor had noted his allegation that he had been slapped and diagnosed him with a slightly swollen cheek, with no haematoma. In response to his complaint, the authorities interviewed Mr Adam and his alleged accomplices, as well as the two police officers under suspicion and the investigator who had interviewed him, and examined the case file on the alleged robbery. His complaint was, however, dismissed in March 2011. The authorities found in particular that: Mr Adam had not raised any complaint of ill-treatment in his interview with the investigator on 19 December 2010; his allegations of a sustained beating did not correspond to the doctor's findings in the medical report of 19 December 2010, which only attested to a swollen cheek, with no haematoma; there was no indication of any ill-treatment in the investigation file concerning the alleged robbery; and Mr Adam's injury could have been inflicted due to his having resisted arrest, as claimed by the police.

Mr Adam challenged the dismissal of his criminal complaint, arguing in particular that he had not resisted arrest and that he had not complained of ill-treatment to the investigator because he had been concerned about possible repercussions. The prosecuting authorities subsequently examined and dismissed this appeal and his requests for review at three levels, essentially endorsing the reasoning in the decision of March 2011. His complaint about the alleged failure to notify his legal guardians of his arrest and detention, to provide him with food and water during his detention, and to hear him immediately after his arrest, was also dismissed in a letter addressed to Mr Adam by the district police informing him that no error had been committed by the investigative authorities.

Ultimately in April 2012, his constitutional complaint was also dismissed as manifestly ill-founded.

Complaints, procedure and composition of the Court

Relying in particular on Articles 3 (prohibition of inhuman or degrading treatment) and 13 (right to an effective remedy) of the Convention, Mr Adam alleged that he had been beaten, denied food and water, subjected to psychological pressure and racially discriminated against by the police during his detention and that the investigation into his allegations had been inadequate.

The application was lodged with the European Court of Human Rights on 22 October 2012.

Judgment was given by a Chamber of seven judges, composed as follows:

Luis **López Guerra** (Spain), *President*,
 Helena **Jäderblom** (Sweden),
 Helen **Keller** (Switzerland),
 Branko **Lubarda** (Serbia),
 Pere **Pastor Vilanova** (Andorra),
 Alena **Poláčková** (Slovakia),
 Georgios A. **Serghides** (Cyprus),

and also Stephen **Phillips**, *Section Registrar*.

Decision of the Court

As concerned Mr Adam's allegation that he had been slapped by the police officers who had questioned him, the Court could not help noting certain inconsistencies in his submissions to the doctor who had examined him on 19 December 2010, to the national authorities and to this Court. In particular, the medical report indicated that Mr Adam had alleged that he had been slapped on his right cheek, whereas the doctor had noted that it was his left cheek which was swollen.

Moreover, his allegation that he had been beaten, slapped and punched for three hours in the face and on the head was contradicted by the doctor's recording of his allegation that he had in fact been slapped in the face as well as his finding that there were no haematoma. Furthermore, Mr Adam had only actually lodged his official complaint on 5 January 2011, that is 17 days after his alleged ill-treatment, and had not supported his version of events with, for example, a statement by his co-accused.

In view of all the circumstances, the Court considered it plausible, as submitted by the Government, that Mr Adam's injury could have been caused while resisting arrest. The Government had backed up that alternative explanation with detailed and systematic documentation, unlike Mr Adam who had alleged in general terms, without any supporting evidence, that the Government had fabricated reports on the lawfulness of using measures of restraint against him. The Court therefore found that it had not been established that Mr Adam had actually been slapped in the face during his preliminary questioning at the police station. Nor had Mr Adam's allegations of psychological pressure, denial of water or discriminatory treatment been established on the facts. As concerned his allegation of having been denied food, the Court considered that the requisite level had not been reached for finding inhuman and degrading treatment under Article 3 of the Convention.

Mr Adam had not therefore been exposed to inhuman or degrading treatment and the Court held that there had been no violation of Article 3 of the Convention as concerned the allegation of slapping in police custody.

Nevertheless, the Court found Mr Adam's assertions sufficiently credible to give rise to an obligation on the part of the authorities to investigate them in compliance with the requirements of Article 3 of the Convention. In that regard, the Court observed that, rather than investigating Mr Adam's allegations on their own initiative, the authorities seemed to have shifted the burden of pursuing his claims to Mr Adam himself. In particular, one of the reasons why his complaint about the alleged beating at the police station had been dismissed was that he had failed to raise that complaint before in his interview with the investigator. Moreover, the Court found it difficult to follow the logic of the authorities' dismissal of his complaint in as far as they had referred him to the criminal proceedings against him and mentioned that no ill-treatment had been found in the investigation file against him.

Furthermore, no steps had apparently been taken with a view to eliminating the inconsistencies in the different versions as to the cause of Mr Adam's swollen cheek. Nor had the authorities taken any measures to question another person alleged by Mr Adam to have been present at the police station during his questioning; to cross-examine the officers involved; to hold a face-to-face interview with Mr Adam and those officers; or to question the doctor who had treated Mr Adam.

Lastly, the remaining part of Mr Adam's claim, namely that concerned with the alleged failure to notify his legal guardians of his arrest and detention, to provide him with food and drink during his detention, and to hear him immediately after his arrest, had been dismissed without any explanation at all and the Constitutional Court appeared to have completely overlooked his complaint in that respect.

Bearing in mind the sensitive nature of the situation concerning Roma in Slovakia at the time, the Court concluded that the authorities had not done all that could have been reasonably expected of them to investigate Mr Adam's allegations of ill-treatment. There had therefore been a violation of Article 3 as concerned the investigation into Mr Adam's allegations of ill-treatment.

Given that conclusion, the Court found that it was not necessary to examine the merits of Mr Adam's complaint under Article 13 of the Convention.

Article 41 (just satisfaction)

The Court held that Slovakia was to pay Mr Adam 1,500 euros (EUR) in respect of non-pecuniary damage and EUR 3,000 for costs and expenses.

Separate opinion

Judge Serghides expressed a partly dissenting opinion which is annexed to the judgment.

The judgment is available only in English.

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Press contacts

echrpess@echr.coe.int | tel.: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.