



## European Court rules that there are effective legal avenues available in Slovakia to challenge detention conditions

In today's **Chamber judgments**<sup>1</sup> in the cases of [Adamčo v. Slovakia \(no. 2\)](#) (application no. 55792/20 and two others) and [Ribár v. Slovakia](#) (no. 56545/21) the European Court of Human Rights addressed whether the [legal avenues available](#) in Slovakia concerning complaints about conditions of detention were effective.

The Court had criticised the functioning of the system of legal remedies available for such complaints under special legislation (before the Public Prosecution Service and the Constitutional Court) in a judgment of 2022 ([Maslák v. Slovakia \(no. 2\)](#)). It had moreover found that an action for the protection of personal integrity was not an effective remedy.

In today's two judgments the Court examined the developments at national level since *Maslák* and found that the remedies under the special legislation, accompanied by a State-liability claim for damages, were in principle effective for conditions-of-detention cases.

The applicant in the **first case, Mr Adamčo**, had made use of the special remedies to complain about the conditions of his detention as a prisoner serving a long sentence for violent offences under a maximum-security regime, in particular systematic strip searches – known as “thorough strip searches” (*dôkladná osobná prehliadka*) – and inspection of his documents when consulting his lawyers in prison. Upholding its position in *Maslák*, the Court dismissed the Government's argument that, in addition to using the special remedies, Mr Adamčo should also have brought an action for the protection of personal integrity. The Court therefore found that Mr Adamčo's case could not be rejected for failure to use all the legal avenues at national level and was accordingly admissible.

It went on to hold, unanimously, in Mr Adamčo's case that there had been a **violation of Article 3 (prohibition of degrading treatment)** of the European Convention on Human Rights because of his being subjected to over 1,000 thorough strip searches without any convincing security concerns and, a violation of **Article 8 (right to respect for correspondence)** as concerned several instances of inspection of his documents, without reasonable cause to believe that there was anything unlawful in them or that he was misusing meetings with his lawyers.

The applicant in the **second case, Mr Ribár**, a lawyer who had been detained on remand for one and a half years to prevent his interfering with the course of justice in a case concerning alleged involvement in a criminal gang, had not used the remedies under the special legislation. Combined with a State-liability claim for damages, these remedies were effective for all of his complaints about his detention regime, except for those stemming directly from statute or established practice, namely his being locked in his cell for 23 hours per day without many activities to occupy him. The Court therefore declared that complaint admissible.

It went on to hold, unanimously, that there had been **no violation of Article 3** because Mr Ribár's confinement to his cell, viewed against his detention conditions as a whole, had not amounted to ill-treatment under the Convention.

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](http://www.coe.int/t/dghl/monitoring/execution).

## Principal facts

The applicant in the first case, Branislav Adamčo, is a Slovak national who was born in 1978. He is currently serving a 24-year prison sentence in Leopoldov (Slovakia) for violent offences related to organised crime.

As such, Mr Adamčo's movements are subject to strict security arrangements. These include systematic strip searches. In some individual instances, his documents were also inspected prior to and following consultations with his lawyers.

The strip searches generally consist of the prisoner stripping naked, performing a squat, and being "visually searched". They are carried out when receiving open visits (including from lawyers), taking part in investigative measures outside of the prison and being transferred to court hearings and between prisons.

Mr Adamčo challenged the practice of such strip searches being carried out on him throughout his prison sentence, as well as several specific instances when his documents had been inspected between January and March 2019, in complaints lodged with the Public Prosecution Service (PPS). The PPS rejected these complaints, finding that the rules had been followed correctly in his case. His subsequent constitutional complaints were declared inadmissible as manifestly ill-founded.

He also unsuccessfully complained to the PPS and the Constitutional Court about a one-off incident during a break in a court hearing in 2021 when guards had refused to release one of his hands from manacles – so that he could use the toilet.

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The applicant in the second case, Martin Ribár, is a Slovak national who was born in 1977 and currently lives in Bratislava.

He is a practising lawyer and was detained on remand from October 2019 to May 2021 on suspicion of being involved in a criminal gang, under cover of providing legal services to its members. His detention pending trial was based on an order, among things, to prevent him from interfering with the course of justice.

As such, his detention was subject to additional rules, including restrictions on visits and telephone calls.

After his release, Mr Ribár lodged a complaint with the Constitutional Court against his investigators and the prison authorities about various aspect of the conditions of his detention under that regime, including the amount of time he had been confined to his cell, with not much to occupy him other than reading, writing, watching television and one hour per day in an outdoor yard on a rooftop surrounded by high concrete walls. His complaint was rejected as inadmissible because he had failed to assert his rights before the PPS.

## Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment), both applicants complained about various aspects of their conditions of detention. Mr Adamčo's complaints essentially concerned his systematic strip searches and the incident when guards refused to release his hands so that he could use the toilet. Mr Ribár's complaints focused on his confinement to his cell, with limited in-cell and out-of-cell activities.

Mr Adamčo also relied on Article 8 (right to respect for correspondence) to complain about the inspection of his documents when conferring with his lawyers.

The applications were lodged with the European Court of Human Rights on various dates in 2020, 2021 and 2022.

The two judgments were given by the same Chamber of seven judges, composed as follows:

Ivana Jelić (Montenegro), *President*,  
Alena Poláčková (Slovakia),  
Krzysztof Wojtyczek (Poland),  
Georgios A. Serghides (Cyprus),  
Raffaele Sabato (Italy),  
Alain Chablais (Liechtenstein),  
Artūrs Kučš (Latvia),

and also Ilse Freiwirth, *Section Registrar*.

## Decision of the Court

The Court upheld its position that an action for the protection of personal integrity was not a remedy to be exhausted for complaints about conditions of detention.

It noted its previous criticism of the functioning of the system of legal remedies before the Public Prosecution Service and the Constitutional Court for such complaints in a judgment of 2022 (*Maslák (no. 2)*). However, recent examples of the functioning of this system in practice showed that it was in principle effective. In a number of decisions, the Constitutional Court had ordered the PPS to ensure respect for inmates' rights with regard to the format of visits and the practical arrangements for consultations with lawyers, and had awarded damages to complainants. A compensation claim under the State Liability Act complemented these remedies.

The situation was, on the other hand, different if the matters complained of were directly regulated by statutory rules which were applied in a way allowing for no significant discretion. The Court accepted that such matters could not have been effectively challenged at the domestic level.

### [Adamčo v. Slovakia \(no. 2\)](#)

Mr Adamčo had used that set of legal remedies under the special legislation. Specifically with regard to the strip searches, which constituted a continuing situation, it would have been excessively formalistic to have required him to complain to the authorities about each and every search. Moreover, in line with established practice, the action for the protection of personal integrity was not an effective remedy for his complaints. The Government was not therefore in a position to argue that Mr Adamčo had not exhausted all legal avenues at national level or that his complaints were belated.

The Court therefore declared his Article 3 complaint about the strip searches admissible. His complaint under the same provision about the incident when he could not use the toilet was rejected as manifestly ill-founded. It noted in particular that that had been a one-off situation and had not involved any use of force against him.

It went on to hold that there had been a violation of Article 3 as concerned the systematic strip searches to which Mr Adamčo had been subjected. It pointed out that he would have been searched about 1,500 times since 2008, without any concrete security concerns. In fact, the searches had simply been prescribed by law in certain situations without any individual assessment. The authorities had thus not taken into account his behaviour in prison, to the fact that no illicit material had ever been found on him and that he had in any event been subject to a complex set of other security measures, including guards. The result, in the Court's view, had been a degree of humiliation exceeding that which strip-searches of prisoners inevitably involved, amounting to degrading treatment within the meaning of the Convention.

It also held that there had been a violation of Article 8 as concerned inspections of Mr Adamčo's documents when he had consulted his lawyers in prison between January and March 2019. The

Court found in particular that there had been no reasonable cause to believe that his documents contained anything unlawful or that the channel of communication with his lawyers, who were subject to deontological rules, was being misused. Moreover, the consultations had taken place in a room equipped with CCTV, with Mr Adamčo separated from his lawyers by bars, making it difficult to see how any unlawful interaction could have occurred.

In respect of both the Article 3 and 8 violations, the Court further noted that the complaints Mr Adamčo had made had been rejected without his arguments being given any individual consideration on the merits.

Lastly, the Court held, by six votes to one, that there was no need to examine the admissibility and merits of the remaining complaints.

### Ribár v. Slovakia

The Court agreed with the Government that Mr Ribár should in principle have used the domestic remedies available under special legislation to complain about his detention regime. However, he could not have effectively challenged at national level the amount of time he had been locked in his cell, the lack of in-cell and other out-of-cell activities and the conditions spent outdoors as these were matters where the statutory rules had been applied in a way that had not allowed for any significant discretion. The Court therefore found his complaints in that regard admissible.

Those specific allegations were corroborated by a 2018 report by the Committee for the Prevention of Torture which was critical of prison conditions in Slovakia. However, having regard to its role under the Convention, the Court had to assess the cumulative effects of the applicant's detention. It noted that there was no issue of lack of personal space, as Mr Ribár had been held in an 8 square-metre cell, and even though he had been alone, that had been at his own request most of the time. There were other aspects of his detention of which the applicant had not complained or in respect of which he had not exhausted domestic remedies. Moreover, the PPS and the prison authorities had visited and interviewed him on four occasions during his detention and, despite being himself a lawyer and having the benefit of a legal representative, he had said that he had no complaints. Lastly, his detention under the contested regime had lasted for one year and four months, which was less than in other cases that had already come before the Court where a violation had been found or where Article 3 had been inapplicable.

In sum, the Court found that, in so far as the matters complained of were within its competence, Mr Ribár's confinement to his cell and related complaints had not amounted to ill-treatment under the Convention. There had therefore been no violation of Article 3.

### Just satisfaction (Article 41)

The Court held that Slovakia was to pay Mr Adamčo 20,000 euros (EUR) in respect of non-pecuniary damage and EUR 3,500 in respect of costs and expenses.

### Separate opinion

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

*The judgments are available only in English.*

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### Press contacts

[echrpess@echr.coe.int](mailto:echrpess@echr.coe.int) | tel.: +33 3 90 21 42 08

**We are happy to receive journalists' enquiries via either email or telephone.**

**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)

Neil Connolly (tel: + 33 3 90 21 48 05)

Jane Swift (tel: + 33 3 88 41 29 04)

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