

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF BYSTRÝ v. SLOVAKIA

(Application no. 46293/22)

JUDGMENT

STRASBOURG

26 June 2025

This judgment is final but it may be subject to editorial revision.



In the case of Bystrý v. Slovakia,

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Davor Derenčinović*, President*,
Alena Poláčková,
Alain Chablais*, judges*,
and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the application (no. 46293/22) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 17 September 2022 by two Slovak nationals, Mr Andrej Bystrý ("the first applicant") and Mr Marian Bystrý ("the second applicant"), who were born in 1999 and 1977 respectively, live in Bardejov and were represented by the European Roma Rights Centre and Mr M. Zalesak, a lawyer practising in Bratislava;

the decision to give notice of the complaint concerning ill-treatment by police officers under Article 3 of the Convention to the Government of the Slovak Republic ("the Government"), represented by their Agent, Ms M. Bálintová, and to declare the remainder of the application inadmissible;

the parties' observations;

the decision to reject the Government's objection to the examination of the application by a Committee;

Having deliberated in private on 5 June 2025,

Delivers the following judgment, which was adopted on that date:

SUBJECT MATTER OF THE CASE

1. The application concerns coercive measures and alleged ill-treatment against the applicants by the police in the course of an intervention in a Roma community in Bardejov.

2. On 12 April 2020 festivities in celebration of Easter Sunday were taking place in a Roma community in Bardejov, despite anti-COVID sanitary measures being in place. These measures included restrictions on freedom of movement and assembly and an obligation to wear a face mask. When the police took steps to enforce these rules, the situation escalated, and people started to throw stones and other objects at them.

3. According to the first applicant, Mr A. Bystrý, he had been on the way to visit family members when he was approached by police officers in the street on account of his not wearing a face mask. He explained to the officers that he was not wearing a face mask because he felt nauseous. This resulted in a confrontation and his arrest by three officers who pushed him to the ground and hit him in the ribs and on the back. According to the police, the first applicant verbally abused the police officers and had been ready to

assault them. Since the first applicant resisted arrest, the police officers grabbed him, forced him to the ground and handcuffed him with his arms behind his back. They dragged him to the police car but he tripped and fell. Then he was lifted by the officers and placed in the police car. An expert later found that he had been concussed and had sustained contusions and skin abrasions on the forehead, a contusion on the chest, as well as contusions and abrasions on the left elbow and knee with an expected healing period of five to six days. The first applicant was released from detention the next day and the matter of his not wearing a face mask was referred for investigation as a minor offence but was ultimately not pursued.

4. The second applicant, Mr. M. Bystrý, arrived at the scene later, looking for his son. During a skirmish involving an attempt to arrest another person, the second applicant was hit on the upper part of his body with a telescopic baton made of metal, and was also punched and hit again, repeatedly, with a baton, including on the head. A penal order was imposed on the second applicant, which found him guilty, with final effect, of having assaulted an officer of law, throwing stones at two officers and punching one of them. According to expert evidence, the second applicant sustained several injuries, including a depressed fracture of the frontal bone on his forehead with haematoma, a 6 cm contusion wound to the forehead and a mild brain contusion with an expected healing period of about thirty days.

5. The applicants' injuries were recorded by medical doctors on 12 and 13 April 2020.

6. On 20 April 2020 the police inspectorate opened an investigation into the incident of its own motion. The investigation was terminated on 26 February 2021 on the grounds that the use of coercive measures against the applicants had been lawful and adequate. It was concluded that the first applicant had sustained his injuries when he had tripped and fallen while being escorted to a police car and the second applicant had been inadvertently hit on the head by a baton. In particular, the authorities agreed with the conclusions of a medical expert in his report of 15 November 2020, that if the second applicant had been hit on the head directly, his injuries would have been much more severe, thus, he must have been hit accidentally by a blow directed at the soft tissue of the body. As regards the first applicant, his injuries seemed to have been caused by his accidental fall to the ground or because somebody had pushed (or punched) him.

7. On 7 September 2020 the second applicant was found guilty of the offence of assault on a public official, sentenced to a fine of 600 euros (EUR) and ordered to pay damages in the amount of EUR 434.63.

8. On 17 March 2021 the applicants lodged a complaint against the decision to discontinue criminal proceedings initiated against the police officers. That complaint was rejected by the regional prosecutor's office on 21 June 2021.

9. On 6 September 2021 the applicants lodged a complaint against the above decision before the Constitutional Court, which dismissed it on 13 April 2022 as manifestly ill-founded. The decision was served on the applicants on 19 May 2022.

10. The applicants complained about the ill-treatment by police officers under Article 3 of the Convention and the lack of an effective investigation.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

11. The applicants submitted that the use of force against them by the police officers had been unwarranted and disproportionate, based on bias against them, and that the investigation into the use of that force had lacked thoroughness. In particular, their arguments had not been taken into account. The Government argued that the force used against the applicants had been justified by their aggressive conduct and that the investigation had been prompt and efficient.

12. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

13. The Court has summarised the applicable case-law principles in its judgment in *Bouyid v. Belgium* [GC], no. 23380/09, §§ 81-90 and 114-23, ECHR 2015, and *R.R. and R.D. v. Slovakia*, no. 20649/18, §§ 146, 176 and 178, 1 September 2020.

14. In the present case, it has not been disputed that in the course of the police intervention of 12 April 2020 and, more specifically in the course of the applicants' arrest, the police resorted to the use of force against them and that the applicants sustained bodily injuries. The applicants were examined by doctors and obtained medical certificates, in particular those dated 12 and 13 April 2020. Later, an expert gave his opinion on the applicants' injuries and presented his conclusions (see paragraphs 5 and 6 above).

15. As regards the second applicant, it was established that his behaviour towards the police officers was aggressive (see paragraphs 4 and 7 above) and that the use of force by those officers was in principle justified (see *Sarigiannis v. Italy*, no. 14569/05, § 61, 5 April 2011). It remains to be seen whether the force used was proportionate to the second applicant's resistance.

16. As established by the medical experts, the second applicant's injuries were caused when he was hit by the police with a metal baton. In particular, he sustained a depressed fracture of the frontal bone on his forehead and several contusions with an expected healing period of about thirty days (see paragraph 4 above). In this connection, the Court notes that the fracture of his frontal bone undoubtedly exceeded the threshold of seriousness

required to fall within the scope of Article 3 of the Convention (see *Dembele v. Switzerland*, no. 74010/11, §§ 45 and 47, 24 September 2013). The medical expert considered that the baton strike to the head had been accidental. However, irrespective of whether the strike had been accidental or premeditated, the Court considers that the manner in which the police officers intervened with metal batons, taken as a whole, reveals a disproportionate use of force.

17. As regards the first applicant, he was arrested after confronting and threatening the police officers. The police records stated that he did not have any visible injuries when arrested, but according to the medical certificate of 13 April 2020 and the expert's conclusions, the first applicant had concussion, contusions and skin abrasions on various parts of his body with an expected healing period of five to six days (see paragraph 3 above). Taking into account that the first applicant obtained not only haematomas and abrasions, which do not appear to have been particularly serious, but had also been concussed, the Court considers that the injuries, taken a whole, were sufficiently serious to amount to ill-treatment within the scope of Article 3 (see *Assenov and Others v. Bulgaria*, 28 October 1998, § 95, *Reports of Judgments and Decisions* 1998-VIII). Moreover, the first applicant fell while being dragged to the police car and could not protect himself when falling as his arms were handcuffed behind the back (see paragraph 3 above). Bearing in mind the requirement of professionalism and high level of competence on the part of law-enforcement officials, and the fact that even if the applicant had indeed threatened police officers, it has not been shown that it was strictly necessary for trained police officers to resort to physical force of such a degree in the particular circumstances of the case (see *A.P. v. Slovakia*, no. 10465/17, § 62, 28 January 2020). Moreover, the first applicant was not charged or convicted of assault on police officers. In this respect, the Court notes the absence of any sign of physical injuries to the police officers which would indicate excessive violent actions, such as kicking or biting, on the part of the first applicant (see *Iljina and Sarulienė v. Lithuania*, no. 32293/05, § 50, 15 March 2011).

18. In the light of the above, the Court concludes that the severity threshold necessary for the applicability of Article 3 of the Convention in the present case has been attained. The Government have not demonstrated that the extent of the physical force used against the applicants was strictly necessary in the circumstances. Therefore, there has been a violation of Article 3 of the Convention in its substantive limb.

19. As regards the efficiency of the investigation into the alleged ill-treatment by the police, the Court reiterates that compliance with the procedural requirements of Article 3 is assessed on the basis of several essential parameters, in particular, effective participation of victims, promptness, thoroughness, independence of the investigation and the adequacy of the investigative measures (see *Bouyid*, cited above, §§ 122-23;

R.R. and R.D. v. Slovakia, cited above, § 178, with further references; and *M.B. and Others v. Slovakia (no. 2)*, no. 63962/19, § 55, 7 February 2023).

20. In the present case, the investigation and subsequent proceedings appear to have been prompt enough and the victims were able to sufficiently participate in the investigation. At the same time, the Court reiterates that an investigation must be thorough, which means that the authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation. The applicants' case was considered at several levels of jurisdiction. However, a large part of those examinations and conclusions constituted an endorsement of the position taken by the investigative authorities (see *Adam v. Slovakia*, no. 68066/12, § 75, 26 July 2016), which in turn relied predominantly on the medical expert report issued in November 2020, seven months after the arrest, and the arguments made by the police, rather than on the evidence adduced by the applicants (see paragraph 6 above; *M.F. v. Hungary*, no. 45855/12, § 55, 31 October 2017, and *A. P. v. Slovakia*, cited above, § 78).

21. In particular, the Court notes that the police inspectorate to a large extent based its decision to terminate the investigation on the medical expert's conclusion that if the second applicant had been hit on the head directly rather than accidently, his injuries would have been much more severe. However, the hit to the head was not the only injury sustained by the second applicant and the domestic authorities do not appear to have drawn their own conclusions on the basis of all the material in the case file, including the medical report made directly after the event. Likewise, concerning the first applicant's injuries, there is no adequate explanation in the case materials as to whether and to what degree the police officers' actions resulted in the applicant's injuries. Indeed, the domestic authorities did not sufficiently analyse the expert's conclusion that the injuries could have been caused not by an accidental fall but by somebody pushing or punching the first applicant (see paragraph 6 above). Thus, they failed to sufficiently establish the cause and circumstances of the applicants' bodily injuries.

22. Although this is not an obligation of results to be achieved but of means to be employed, any deficiency in the investigation which undermines its ability to establish the cause of injuries will risk of falling foul of the required standard of effectiveness (see *A. P. v. Slovakia*, cited above, § 71). Accordingly, in the present case, the investigation into the circumstances of the allegations of ill-treatment in respect of the applicants was not effective.

23. Lastly, noting that the independence of an investigation is a component for the assessment of its overall effectiveness, in view of the finding that the investigation was not effective for the reasons mentioned above the Court considers that it is not necessary to examine this remaining aspect on the merits (see *R. R. and R.D. v. Slovakia*, cited above, § 189).

24. There has accordingly been a violation of Article 3 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. The first applicant claimed 20,000 euros (EUR) and the second applicant claimed EUR 25,000 as regards non-pecuniary damage. They claimed EUR 6,410 jointly as regards costs and expenses incurred before the domestic authorities and the Court.

26. The Government submitted that the applicants' claims were excessive and that their costs and expenses had not been reasonably, actually and necessarily incurred.

27. The Court awards EUR 6,500 to the first applicant and EUR 10,000 to the second applicant in respect of non-pecuniary damage, plus any tax that may be chargeable.

28. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 6,410 jointly to the applicants covering costs under all heads.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 3 of the Convention in its substantive and procedural aspects;

3. *Holds*
   (a) that the respondent State is to pay the applicants, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 6,500 (six thousand five hundred euros) to Mr A. Bystrý and EUR 10,000 (ten thousand euros) to Mr M. Bystrý, plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 6,410 (six thousand four hundred and ten euros) jointly to the applicants, plus any tax that may be chargeable to them, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 26 June 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt Deputy Registrar	Davor Derenčinović President