

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

SECOND SECTION

CASE OF SCHÖNBERGER v. HUNGARY

(Application no. 40805/21)

JUDGMENT

STRASBOURG

26 May 2026

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



In the case of Schönberger v. Hungary,

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

Gediminas Sagatys*, President*,
Péter Paczolay,
Stéphane Pisani*, judges*,
and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to:

the application (no. 40805/21) against Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 2 August 2021 by a Hungarian national, Mr Ádám Schönberger ("the applicant"), who was born in 2002 and lives in Pécs, and was represented by Mr G. Győző, a lawyer practising in Budapest;

the decision to give notice of the application to the Hungarian Government ("the Government"), represented by their Agent, Mr Z. Tallódi, of the Ministry of Justice;

the parties' observations;

Having deliberated in private on 5 May 2026,

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

SUBJECT MATTER OF THE CASE

1. The application concerns the applicant's alleged ill-treatment by the police during his arrest and the authorities' failure to carry out an effective investigation into his allegations of police violence.

2. At close to midnight on 27 October 2019 the applicant, a 17-year-old minor at the time of events, was driving a car in the company of two of his friends (P.Gy. and R.P.), when they were stopped by the local police not far from the Croatian border. They fled the scene when the police officers tried to search the vehicle and were eventually caught in a nearby stone quarry.

3. The Government's version of the events is as follows. The search for the applicant and his companions was carried out in the quarry by local police officers Z.K., M.L. and P.T. and police officers J.Sz. and P.H. from the Standby Unit. The applicant was the last one to be found and he was apprehended by police officer J.Sz. Because of poor visibility conditions, both the applicant and police officer J.Sz. fell while leaving the quarry.

4. The applicant's version of the events is as follows. He was probably captured by police officer P.H. Right after they had started walking toward the police car, another police officer – whom he later identified as J.Sz. – attacked him from behind. On their way to the car, J.Sz. repeatedly kicked and hit him with a flashlight all over his body. The other police officer asked J.Sz. twice to stop assaulting the applicant. Two local police officers (M.L.

and Z.K.) approached them from ten to 15 metres from the police car and took the applicant. They handcuffed him and called an ambulance.

5. The applicant was taken to a children's hospital where the following injuries were recorded: several abrasions all over the body, in particular on the left side of the head (near the temple and above the zygomatic bone), on one of the left fingerbones, above the breastbone and the left elbow, on the right shoulder, a haematoma on the right shin bone and a fracture of the left scaphoid bone.

6. Two days later a private medical examination recorded additional injuries, including an abrasion on the top of the head and on the left side of the jaw, haematomas on the edge of the top of the right ear, abrasions on both knees and both shinbones, and on the back of the left hand and fingers. The expert stated that the injuries on the top of the head had probably been caused by multiple blows, as it was very rare for the top of the head to be injured in a fall. With regard to the injuries on the left side of the head and jaw, he concluded that they were located in protected areas, thus ruling out the possibility that they had been caused by a fall onto a gravel surface. The injuries to the hands and fingers were not typical of injuries caused by a fall, but were consistent with the applicant's description of being struck with a flashlight. The expert further stated that it was unlikely that the injury to the right shoulder had been caused by a fall.

7. On the same day the applicant submitted a criminal complaint of alleged ill-treatment by the police.

8. On 13 November 2019 the regional prosecutor's office ordered an investigation into assault committed in official capacity and battery causing grave bodily harm. It heard the applicant, several police officers, the ambulance staff and the applicant's friends. It also obtained several police reports on the events in question.

9. A report prepared by officer M.L. stated that the applicant, once he had been caught in the stone quarry, had lain on the ground several times, trying to escape from the police operation. He had been handcuffed by Z.K., P.T. and J.Sz. and had then been escorted to the police car.

10. A report prepared by police officer Z.K. stated that P.Gy. had had a bleeding head injury and the other two suspects had also had minor abrasions which they had sustained while fleeing from the police and hiding in the quarry. All three of them had demonstrated passive resistance to the police action.

11. A report prepared by police officer J.Sz. stated that he had chased the applicant with officers P.T. and Z.K. He had fallen while running after the applicant, who had then been apprehended by the other two officers. He had arrived subsequently to the place where the applicant had been apprehended. He stated that the applicant had passively resisted, had not wanted to stand up and had fallen on several occasions because his coveralls had repeatedly slipped down to his knees. The applicant had then been handcuffed and

escorted to the police car. J.Sz. stated that the injuries of the apprehended persons had presumably been sustained while fleeing and hiding in the quarry.

12. In a subsequent report, police officer Z.K. stated that the applicant had tried to resist arrest while being escorted to the police car by lying on the ground several times.

13. On 22 January 2020 the prosecutor heard the applicant's friends, P.Gy. and R.P., who confirmed that they had both fallen in the quarry. The applicant had told them about his ill-treatment by the police and they had both seen marks on his face that might have been footprints of boots.

14. The local police officers were interviewed on 6 February 2020.

15. Police officer Z.K. stated that he had waited at the police car and had seen the applicant being escorted towards him by one of the police officers of the Standby Unit and police officer P.T. The applicant had been resisting the arrest by lying on the ground several times. Z.K. had handcuffed the applicant at the police car. He had seen no injuries on him.

16. Police officer P.T. stated that the applicant and his friends had fallen several times on the uneven terrain. He had followed J.Sz., who had first apprehended P.Gy., but then had gone on to catch the applicant. When he had managed to catch up with J.Sz. he had already been escorting the applicant away from the gravelled bushy area. He stated that police officer J.Sz. could have only spent one or two minutes alone with the applicant. He had helped J.Sz. escort the applicant to the police car, during which time the applicant and J.Sz. had fallen several times and had stated that it was a rough terrain and that the applicant's coveralls had repeatedly slipped down.

17. Police officer M.L. stated that the applicant had been escorted to the police car by one of the police officers of the Standby Unit and police officer P.T. Police officer Z.K. had gone ahead to help them. He had heard that the applicant had passively resisted arrest but he had not seen it.

18. An opinion prepared by Dr Gy. B., a medical expert, dated 23 April 2020 and prepared at the request of the investigating authority, contained the following. On the basis of the applicant's medical examination on 28 October 2019 (see paragraph 5 above), it was concluded that he had suffered superficial abrasions all over his body, which had required a duration of seven days to completely heal. An X-ray examination had revealed that the fracture of the scaphoid bone in his left hand had occurred previous to his apprehension: it had been the result of an accident suffered by him on 18 September 2019. The medical expert stated that the other injuries might have been caused with equal probability during the course of events leading to the police action – as a result of repeated falls or collisions with objects in the vicinity – or as a result of the beating described by the applicant. The medical expert did not take into account the findings of the private medical expert (see paragraph 6 above), as the latter's opinion has only been shared

with the investigating authorities at a later stage, at the end of 2020 (see paragraph 20 below).

19. On 29 October 2020 the regional prosecutor's office discontinued the investigation. It found no evidence to prove beyond any doubt that the applicant had been assaulted by any of the police officers. It appeared from the expert opinion that the applicant's injuries might have occurred either as a result of repeated falls in the quarry or physical abuse.

20. The applicant lodged a complaint against that decision, which was rejected by the Attorney General on 19 January 2021. The decision was served on the applicant's representative on 7 February 2021. The Attorney General noted that the alleged acts – if they had occurred – had been committed by police officer J.Sz. in the presence of police officer P.H. and, therefore, in view of their involvement, they could not be heard as witnesses during the proceedings. Furthermore, there was a lack of reasonable suspicion that an offence had been committed. The private expert's opinion had only been submitted by the applicant together with the complaint against the first-instance decision. The Attorney General found the opinion ill-founded concerning the fracture of the applicant's hand, because the expert reached his findings without radiological expertise and without being aware of the results of the X-ray of 28 October 2019. He also disagreed with the private expert's opinion that it was unrealistic to have fallen multiple times in a rocky, rugged area full of depressions under nighttime conditions. In the Attorney General's view, the private expert had not made any categorical findings as to the origin of the applicant's injuries, therefore the continuation of the proceedings was not justified on the basis of his opinion.

21. The applicant complained under Article 3 of the Convention that he had been ill-treated by the police during his arrest and that no effective investigation has been conducted into his allegations.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

A. Alleged ill-treatment

22. The relevant general principles with regard to complaints under the substantive head of Article 3 are summarised in *Bouyid v. Belgium* ([GC], no. 23380/09, §§ 81-90, ECHR 2015).

23. As to whether the applicant had been ill-treated while being arrested by the police, the applicant asserted that one police officer had hit and kicked him all over his body while he had been escorted to the police car. The ensuing medical examination had documented several abrasions all over his body, a haematoma on his right shin bone and a fracture of his left scaphoid bone (see paragraph 5 above). However, as is apparent from the expert

opinion of 23 April 2020, the fracture of the left scaphoid bone had occurred prior to the police action on 28 October 2019 (see paragraph 18 above). As regards the other injuries, recorded on the day of the incident in the children's hospital and two days after the incident by a private medical expert, the medical experts involved in the case had differing opinions regarding the cause of the injuries (see paragraphs 6 and 18 above). Moreover, the Court notes that the applicant's account and that of police officers J.Sz. and P.T. differed considerably concerning the circumstances of the applicant's apprehension (see paragraphs 4, 11 and 16 above). As a consequence, none of them can be considered to provide conclusive evidence as to the possible cause of the applicant's injuries (compare also *Tarjáni v. Hungary*, no. 29609/16, § 50, 10 October 2017).

24. Allegations of ill-treatment contrary to Article 3 must be supported by appropriate evidence. To assess this evidence, the Court adopts the standard of proof "beyond reasonable doubt". However, where the events in issue lie, wholly or in large part, within the exclusive knowledge of the authorities, as in the case of persons within their control in custody or otherwise under the control of the police, strong presumptions of fact will arise in respect of injuries occurring during such detention or control. The burden of proof is then on the Government to provide a satisfactory and convincing explanation by producing evidence establishing facts which cast doubt on the account of events given by the victim (see *Bouyid*, cited above, §§ 82-84). In the present case, according to the forensic expert, the applicant's broken scaphoid bone predated his apprehension of 28 October 2019. There are also indications that some or all of the injuries suffered by the applicant (as those of his friends) might have occurred while they were trying to hide in the quarry (see paragraphs 10, 11, 13 and 16 above). Therefore, it is not evident that the applicant had had no injuries by the time he was captured in the quarry by the police officers and it cannot be established that the cause of the applicant's injuries lay, wholly or in large part, within the exclusive knowledge of the authorities. Against this background, no strong presumptions of fact arise in respect of the applicant's injuries, which would be necessary for the burden to shift onto the Government to explain how the injuries were caused and to produce evidence casting doubt on the veracity of the applicant's allegations (compare also *Tarjáni*, cited above, § 51).

25. In such circumstances, given all the information in its possession, the Court cannot conclude "beyond reasonable doubt" that the applicant's injuries were caused by police officers, as stated by him. In view of the foregoing, the Court finds that the applicant's complaints under the substantive aspect of Article 3 of the Convention must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

B. Alleged lack of an effective investigation

26. However, where an individual raises an arguable claim that he or she has suffered treatment infringing Article 3 by the police or other such agents of the State, that provision, read in conjunction with the State's general duty under Article 1 of the Convention, requires that there should be an effective official investigation. The relevant general principles in this regard have been summarised in *Bouyid* (cited above, §§ 114-23). 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 or the identity of the persons responsible will risk falling foul of the required standard of effectiveness (ibid., § 120).

27. The Court considers that the applicant's submissions give rise to a reasonable suspicion that he may have been subjected to ill-treatment by the police. This part of the application is accordingly 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.

28. The Court observes that the applicant and several police officers present at the time of the events were heard during the criminal investigation. However, police officers P.H. and J.Sz. were not questioned at all.

29. The Court takes note of the Attorney General's argument that police officers P.H. and J.Sz. could not be questioned, either as witnesses, because of the risk of self-incrimination, or as suspects, in the absence of a well-founded suspicion of a crime (see paragraph 20 above). However, the Court has already discarded this argument in several previous cases, finding that such practice had deprived the applicants of any opportunity to challenge the alleged perpetrators' version of the events (see, *mutatis mutandis*, *Kmetty v. Hungary*, no. 57967/00, § 42, 16 December 2003, and also *Nagy v. Hungary* [Committee], no. 43441/15, § 36, 26 May 2020; *Csúcs v. Hungary* [Committee], no. 75260/17, § 30, 15 April 2021; and *R.B. v. Hungary* [Committee], no. 48444/18, § 15, 19 January 2023). A hearing of the police officers in person and their eventual confrontation with the applicant could have contributed to the clarification of the events (see *Kmetty*, cited above, §§ 41-42, and *Borbála Kiss v. Hungary*, no. 59214/11, § 37, 26 June 2012), because there existed several unresolved contradictions between the testimonies of the applicant and those of police officer J.Sz. and the other police officers as to the circumstances of the applicant's apprehension. Police officer P.T. stated that it had been police officer J.Sz. who had apprehended the applicant (see paragraph 16 above). In contrast, J.Sz. himself stated that his colleagues, P.T. and Z.K., had apprehended the applicant and that he had joined them later (see paragraph 11 above). The applicant stated that police officer P.H. had caught him, while police officer J.Sz. had joined them later (see paragraph 4 above). Furthermore, the testimonies of the police officers remained contradictory as to whether the

applicant had fallen or had thrown himself on the ground in resistance (see paragraphs 9-13, and 15-16 above). However, no attempts were made by the investigating authority to resolve these contradictions and clarify the circumstances of the applicant's apprehension and his transfer to the police car, and thus the cause of his injuries and, if caused by the police, the identity of the person responsible.

30. Furthermore, the Court notes that the medical expert appointed by the investigating authority was of the opinion that the applicant's injuries might have been caused with equal probability by repeated falls and collisions with objects in the vicinity or as a result of the assaults alleged by the applicant. In contrast, the private medical expert found that the majority of the injuries were unlikely to have been sustained by falling. With respect to certain injuries, he even ruled out the possibility that they might have been caused by a fall. Despite this, the investigating authority did not make any attempt to resolve the conflict between the medical expert opinions with regard to the cause of certain injuries by requesting the appointed medical expert to supplement his opinion in view of the private medical opinion or by requesting a second opinion.

31. Having regard to the considerations above, the Court concludes that the investigation into the applicant's allegations of ill-treatment by the police was not adequate. There has accordingly been a violation of Article 3 of the Convention under its procedural limb.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

32. The applicant claimed 15,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,400 in respect of costs and expenses incurred before the Court. The latter sum corresponds to 22 hours of legal work, billed at EUR 200.

33. The Government contested these claims.

34. The Court awards the applicant EUR 5,500 in respect of non-pecuniary damage, plus any tax that may be chargeable.

35. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 3,500 covering costs for the proceedings before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under the procedural limb of Article 3 of the Convention admissible and the remainder of the application inadmissible,

2. *Holds* that there has been a violation of Article 3 of the Convention under its procedural limb;

3. *Holds*

(a) that the respondent State is to pay the applicant, 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 5,500 (five thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 3,500 (three thousand five hundred euros), plus any tax that may be chargeable to the applicant, 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 applicant's claim for just satisfaction.

Done in English, and notified in writing on 26 May 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim Deputy Registrar	Gediminas Sagatys President