



## Slovakian authorities failed to investigate possible racist motive in shooting by off-duty police officer at Roma family's home

In today's **Chamber judgment**<sup>1</sup> in the case of **Lakatošová and Lakatoš v. Slovakia** (application no. 655/16) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 14 (prohibition of discrimination), read in conjunction with Article 2 (right to life), of the European Convention on Human Rights.**

The case concerned a shooting spree in 2012 by an off-duty police officer at the home of a Roma family. The two applicants in the case, a married couple, were seriously injured and three members of their family were killed. When questioned by the police, the officer stated that he had been thinking about "a radical solution" for "dealing with" Roma people. He was ultimately given a reduced sentence of nine years' imprisonment owing to diminished responsibility. The ruling was adopted in the form of a simplified judgment which contained no legal reasoning.

The Court found that there had been plausible information in the case to alert the authorities to the need to carry out an investigation into a possible racist motive for the assault.

It observed that racist violence was a particular affront to human dignity, and required special vigilance and a vigorous reaction from the authorities.

Nevertheless, the authorities had failed to thoroughly examine powerful indicators of racism in the case such as the police officer's frustration at his inability to resolve public order issues concerning Roma, as suggested in his psychological assessment. In addition, the police officer had not been charged with a racially motivated crime and the prosecutor had not at all addressed or discussed the possible aggravating factor of a racist motive in the bill of indictment.

Moreover, the courts had failed to remedy in any way the limited scope of the investigation and prosecution and the simplified judgment in the case had contained no legal reasoning to address that shortcoming. Indeed, as the applicants had been civil parties to the proceedings, they had only been allowed to raise issues concerning their claims for damages.

### Principal facts

The applicants, Žaneta Lakatošová and Kristián Lakatoš, husband and wife, are Slovak nationals of Roma origin who were both born in 1986. They live in Hurbanovo (Slovakia), a town where around a thousand Roma people live.

On 16 June 2012 Mr J., a municipal police officer, drove to the applicants' home town, entered their property and, without saying a word, started shooting at members of the family who happened to be in the yard. He was not on duty and used an illegally purchased gun. Mr Lakatoš's father, brother and brother-in-law were killed.

Mr J. was arrested and the police immediately conducted a preliminary investigation. They questioned in particular Mr J. and other witnesses as to whether there was a possible racist

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).

background to the attack. Mr J. stated that he had driven to the applicants' house to "deal with" the Roma, and confirmed that he had been thinking about a "radical solution". His relatives and colleagues denied that he was biased against Roma. The victims' relatives stated that they were not aware of any conflict between Mr J. and their family.

Two psychologists were also appointed to examine Mr J. They established that Mr J. had suffered from a temporary mental disorder at the time of the assault and concluded that the immediate motive for it was not clear, but that Mr J.'s continual frustration with his work and inability to resolve public order issues concerning Roma could have been behind it. The experts also referred to an incident shortly before the attack when Mr J. had been aggressive towards some Roma boys who had been caught stealing.

In December 2012 Mr J. was charged with premeditated first-degree murder and carrying a concealed weapon. The bill of indictment identified one aggravating factor, namely that the attack had been against five people.

The case went to trial before the Special Criminal Court and a hearing took place in March 2013. The applicants' lawyer attempted to question witnesses about a possible racist motive for the attack, but was not allowed to pursue this line of questioning because the applicants were civil parties to the proceedings and as such could only raise issues concerning their claim for damages.

Mr J. was found guilty as charged by way of a simplified judgment, without any legal reasoning, which was made possible because both the prosecution and the defence had waived their right of appeal. Mr J. was given a reduced sentence of nine years' imprisonment owing to diminished responsibility. The applicants' appeals were subsequently dismissed as was their constitutional complaint.

The applicants withdrew their civil claim for damages in 2016. In the meantime the Minister of Justice had awarded them compensation.

## Complaints, procedure and composition of the Court

Relying on Article 14 (prohibition of discrimination) read in conjunction with Article 2 (right to life), the applicants essentially complained that the Slovakian authorities had failed to conduct an effective investigation into whether the attack on their family had had racial overtones.

They also complained under Article 13 (right to an effective remedy), read in conjunction with Article 2, that they had been prevented from actively participating in the criminal proceedings.

The application was lodged with the European Court of Human Rights on 21 December 2015.

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

Vincent A. **De Gaetano** (Malta), *President*,  
 Branko **Lubarda** (Serbia),  
 Helen **Keller** (Switzerland),  
 Dmitry **Dedov** (Russia),  
 Pere **Pastor Vilanova** (Andorra),  
 Alena **Poláčková** (Slovakia),  
 Georgios A. **Serghides** (Cyprus),

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

## Decision of the Court

The Court conceded that, in practice, it was often extremely difficult to prove a racist motivation. Nevertheless, the authorities had to do whatever was reasonable in the circumstances to discover the truth. In particular, if evidence of racism came to light in an investigation, it had to be checked and, if confirmed, a thorough examination carried out.

The Court considered that there had been plausible information in the applicant couple's case to alert the investigators and prosecutors to the need to carry out an initial assessment of racism, which they had indeed done. The investigating authorities had in particular questioned Mr J. and other witnesses as to a possible racist background to his actions and had requested psychologists to assess his motives.

However, they had not extended their investigation and analysis beyond this. They had in particular failed to carry out a thorough examination of the fact that Mr J. had acted violently against some Roma boys shortly before the attack, even though the expert witnesses had suggested a link between this incident and the shooting. Nor had they examined another indicator of racism, namely the police officer's frustration at his inability to resolve public order issues concerning Roma, as suggested in his psychological assessment.

Furthermore, despite the evidence collected in the investigation, Mr J. had not been charged with a racially motivated crime. The prosecutor had then failed to address that shortcoming in the indictment, not addressing or discussing at all the possible aggravating factor of a racist motive.

Nor had the courts reacted in any way to the limited scope of the investigation and prosecution. As the applicants were civil parties to the proceedings, they had only been able to raise issues concerning their claims for damages. The courts had therefore not allowed their lawyer's line of questioning about a possible racist motive for the attack and they had not been able to lodge an appeal because an injured party only had the right to appeal rulings on compensation. Lastly, no stance on a possible racist motive had been taken in the ruling against the police officer either as the case had been resolved in the form of a shortened judgment, which contained no legal reasoning.

The Court emphasised that racist violence was a particular affront to human dignity, which required special vigilance and a vigorous reaction from the authorities. However, the investigation and prosecution in the applicants' case had been impaired to an extent that it had been irreconcilable with that obligation. Indeed, in the face of powerful indicators of racism, the authorities had failed to properly examine whether or not the attack had been motivated by racial hatred.

There had therefore been a violation of Article 14, read in conjunction with Article 2.

Given that finding, the Court held that there was no need for a separate examination of the applicants' complaints under Article 13 in conjunction with Article 2.

### Just satisfaction (Article 41)

The Court held that Slovakia was to pay each of the applicants 25,000 euros (EUR) in respect of non-pecuniary damage.

*The judgment is available only in English.*

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**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.