



Death of Roma man following use of prone position by police – failure by authorities to protect life and effectively investigate use of force and potential discriminatory motives

The case of [S.T. v. the Czech Republic](#) (application no. 28273/23) concerned the applicant's complaints about the use of force against her brother, a Roma man who died in 2021 following a police intervention, and the investigation into the actions of the police officers involved.

In today's **Chamber** judgment¹ in the case the European Court of Human Rights held, unanimously, that there had been both procedural and substantive **violations of Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment)**.

Finding a substantive violation of the right to life, the Court concluded that the police officers had kept a vulnerable person in a potentially lethal position without adequately monitoring his health or reacting quickly enough when he lost consciousness. The authorities had not put in place an appropriate legal framework concerning the use of the prone position or ensured adequate training of its officers. The Court further held that the investigation into the death had not been effective: it had relied heavily on initial findings of the criminal police who lacked independence; had not taken the potential dangerousness of the prone position into account; had not explored contradictory evidence; and had failed to keep the applicant informed.

The Court also found a **violation of Article 14 (prohibition of discrimination) read in conjunction with Articles 2 and 3**.

The Court found that the authorities had failed to take all reasonable steps to uncover any racist motive behind the police intervention.

Principal facts

The applicant, S.T., is a Czech national who was born in 1977 and lives in the Czech Republic. The applicant's brother, with whom she shares the initials S.T., died on 19 June 2021 following an intervention by police officers.

Video footage of the intervention, which took place in a street inhabited predominantly by Roma residents, shows that S.T. (the applicant's brother) was knelt on by Officer M.Š., while in the prone position, with his hands cuffed behind his back, for over four minutes. By the time an ambulance had arrived S.T. was unresponsive and not breathing.

The Criminal Police of the Ústí nad Labem Regional Police Directorate, a body hierarchically directly linked to the police officers who had intervened against the applicant's brother, initiated proceedings on 19 June 2021 against an unknown person for selling drugs to S.T. The autopsy report obtained during those proceedings was prepared by experts from the closest forensic medical facility who regularly collaborated with that police directorate. It concluded that there was no link between the

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.

police intervention and S.T.'s death, which was found to have been caused exclusively by methamphetamine intoxication. Those proceedings were discontinued in December 2021.

The Ústí nad Labem Regional Department of the General Inspection of Security Forces ("the GISF"), the body responsible for investigating suspected crimes by police officers, was informed of the incident on 19 June 2021. In February 2022 it concluded its preliminary inquiry, finding no evidence of a criminal offence or other unlawful conduct by the intervening officers. The file was closed with no further action taken. At the same time, in June 2021, the applicant lodged a criminal complaint with the GISF, alleging that S.T. had died in connection with the police intervention and asking for a new post-mortem examination to be carried out. That request was refused and the investigation was closed in March 2022. A constitutional complaint by the applicant was dismissed.

Immediately following the police intervention, Czech media published the video-recording from the intervention likening S.T.'s death to that of George Floyd, a Black man killed by a police officer in Minneapolis in the United States in 2020. In a public statement, the Spokesperson of the Secretary General of the Council of Europe called the footage alarming and for an effective investigation of the incident.

In public statements published shortly after the intervention, several high-ranking public officials denied any responsibility of the police officers for S.T.'s death. Those statements prompted strong disagreement of parts of the civil society, expressing serious concerns about the impartiality of the investigation.

Complaints, procedure and composition of the Court

Relying on Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment) and 14 (prohibition of discrimination), the applicant complained that her brother had died in connection with the disproportionate force used during the police intervention, which had amounted to ill-treatment and that the authorities had failed to conduct an effective investigation into those acts. She also alleged that the authorities had failed to investigate the alleged discriminatory motive behind the police intervention.

The application was lodged with the European Court of Human Rights on 4 July 2023.

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

María Elósegui (Spain), *President*,
Kateřina Šimáčková (the Czech Republic),
Andreas Zünd (Switzerland),
Diana Sârcu (the Republic of Moldova),
Mykola Gnatovskyy (Ukraine),
Sébastien Biancheri (Monaco),
Nicholas Emiliou (Cyprus),

and also Victor Soloveytschik, *Section Registrar*.

Decision of the Court

[Articles 2 and 3 \(right to life/failure to conduct an effective investigation\)](#)

The Court found that the GISF had not genuinely attempted to clarify the circumstances of S.T.'s death. Firstly, all the early investigative measures had been conducted by the Criminal Police of the Ústí nad Labem Regional Police Directorate, which did not meet the requirements of hierarchical and institutional independence. The GISF had then relied on that evidence both in its decision not to initiate a formal investigation and in its final decision to close the case after its preliminary inquiry.

The practice of relying on another body's conclusion to justify a refusal to initiate a formal investigation, where that body lacked the requisite hierarchical and institutional independence, as was the case for the criminal police in this case, could not satisfy the requirement of a genuine and independent investigation.

GISF's reliance on the forensic expert report which constituted a key piece of evidence in the case was particularly problematic. Referring to that report, both the criminal police and the GISF had concluded that there was no link whatsoever between the police officers' use of force and S.T.'s death and consequently they had refused to consider the potential impact of the use of force. It was striking that the forensic medical expert opinion commissioned by the criminal police had not taken the potential dangerousness of the prone position into account, despite the well-documented threat to life it could pose, especially if combined with being knelt on and handcuffed while intoxicated.

The Court went on to note that the GISF had relied on the police officers' statements to determine that it was not possible to establish when S.T. had lost consciousness, despite the contradicting statements of the paramedics who had indicated that S.T. must have lost consciousness while under police restraint. The GISF had not critically assessed why officer Z.V.'s body camera had not been switched on, even though he had had a clear legal obligation to ensure this. In addition, the GISF had not fulfilled its duty to keep the applicant informed.

There had therefore been a violation of the procedural aspects of Articles 2 and 3 of the Convention.

Article 2 (right to life)

The police officers had been aware that S.T. was severely intoxicated and injured. Nonetheless, S.T. had been placed in the prone position for over 11 minutes and for almost all that time he had been handcuffed with his hands placed behind his back. For over four minutes M.Š. had simultaneously applied pressure to his chest area. The Court accepted that M.Š. had also knelt on the area around S.T.'s neck.

The use of the prone position could be dangerous and life threatening, especially when used against vulnerable persons in an agitated state. The way the police intervention had been conducted put S.T. at an imminent risk of death or at the very least in danger of suffering a serious health impairment. The Court found the authorities' failure to consider the seriousness of such risks alarming. It did not appear that M.Š. or the two other police officers had at any point attempted to check S.T.'s vital signs in the way expected of a police professional. Furthermore, the Court found that an ambulance could have been called sooner.

There had therefore been a violation of Article 2 on account of the failure to put in place an appropriate legal framework concerning the use of the prone position and to ensure adequate training of the police officers in that regards, as well as on account of the intervening officers' failure to monitor the vital signs and general state of S.T. who had been under their control.

Article 3 (use of force)

The Court also found that the force used by the officers against S.T. had been disproportionate.

There had therefore been a violation of Article 3.

Article 14 in conjunction with Articles 2 and 3 (failure to adequately investigate allegations of a discriminatory motive)

The Court noted that the police officers had knowingly intervened in a Roma neighbourhood against a Roma individual and that their use of force had been disproportionate. S.T. had been visibly injured and under the influence of drugs. Despite those signs of vulnerability, officer M.Š. had not monitored S.T.'s condition while kneeling on him in the prone position and had made no attempt to verify S.T.'s vital signs once he had ceased moving. In the Court's view, those actions showed a striking disregard

for S.T.'s life and the suffering he had endured. At an early stage several high-ranking officials had issued statements denying police responsibility. Those statements had heightened concerns in civil society and the Roma community not only about the incident but also about the impartiality and thoroughness of the ensuing inquiry.

Czech Roma continued to face discrimination in nearly every sphere of life, including through police violence and discriminatory public statements. The Grand Chamber's judgment in [D.H. and Others](#), which had found widespread discrimination against Roma children in education was still pending [implementation](#), suggesting that the Czech Republic had not made adequate progress in combating systemic discrimination. As such, the authorities should have been aware of the possibility that racial bias may have played a role in the intervention and consequently, were under a duty to take all reasonable steps to investigate any potential racist motive, including the possible influence of institutional or unconscious bias. The Court found however, that they had not done so.

There had therefore been a violation of Article 14 read in conjunction with Articles 2 and 3.

Just satisfaction (Article 41)

The Court held that the Czech Republic was to pay the applicant 20,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,260 and EUR 6,400 in respect of costs and expenses.

Separate opinion

Judge Elósegui expressed a concurring opinion. This opinion is annexed to the judgment.

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.