



Use of eyewitness evidence damaged murder-trial fairness safeguards

In today's **Chamber** judgment¹ in the case of [Erik Adamčo v. Slovakia](#) (application no. 19990/20) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 6 (right to a fair trial) of the European Convention on Human Rights.

The case concerned the trial of Mr Adamčo as an accessory to two organised-crime-related murders, from the 1990s. The evidence used at the trial included testimony from persons who had confessed to having participated in the murders allegedly along with Mr Adamčo and who had agreed to cooperate with the prosecution in exchange for advantages. He was found guilty and sentenced to 25 years' imprisonment.

The Court found in particular that the use of such evidence had not been accompanied by appropriate safeguards to ensure the overall fairness of the proceedings as the courts had distorted the content of some of that evidence and had paid no individual attention to the scope and advantages obtained by the collaborating witnesses in return for giving it. It also noted that the legal framework and judicial oversight for such arrangements was lacking.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicant, Erik Adamčo, is a Slovak national who was born in 1976 and is currently serving a prison sentence in Dubnica nad Váhom (Slovakia). He is the brother of Branislav Adamčo, the applicant in [Adamčo v. Slovakia](#) (no. 45084/14).

In June 2014 Mr Adamčo was charged with being an accessory to two murders. The indictment had been based on testimony from three individuals: B, had confessed to having arranged one of the murders and was serving a life sentence for several other unrelated murders; E, who had first denied having anything to do with the second of the murders but had ultimately confessed having committed it allegedly with the applicant; and C, who had been allegedly also an accomplice in the first murder by bringing the victim, with Mr Adamčo, to B.

He was found guilty in 2017 and sentenced to 25 years' imprisonment. The conviction was based mainly on evidence from people involved in the murders, in particular B, C and E. Mr Adamčo argued that they had received advantages from the prosecution in exchange for giving evidence against him. The Žilina District Court did not find the refusal of E's retrial decisive and responded that giving incriminating evidence in return for advantages was within the law and that the court had examined the evidence "particularly carefully" and had looked "especially carefully" into the internal logic and coherence of their statements. Mr Adamčo appealed.

The Žilina Regional Court dismissed the appeal, essentially endorsing the first-instance court's assessment of evidence and the reasoning behind his conviction. It found that the evidence had been assessed correctly "just as any other piece of evidence".

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.

Mr Adamčo lodged an appeal on points of law, which the Supreme Court declared inadmissible, and a constitutional complaint, which was declared inadmissible by the Constitutional Court. The latter court stated that the lower courts had assessed the accomplice evidence in its overall context and that “it [was] not possible to conclude that they [had] assessed it like any other evidence or that they [had not taken] into account the possible advantages gained by the cooperating witnesses”.

Complaints, procedure and composition of the Court

Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial), Mr Adamčo complained that as the witnesses against him had been cooperating with the prosecution in exchange for advantages, his conviction had been unfair.

The application was lodged with the European Court of Human Rights on 27 April 2020.

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

Marko **Bošnjak** (Slovenia), *President*,
Péter **Paczolay** (Hungary),
Alena **Poláčková** (Slovakia),
Lətif **Hüseynov** (Azerbaijan),
Ivana **Jelić** (Montenegro),
Erik **Wennerström** (Sweden),
Raffaele **Sabato** (Italy),

and also Liv **Tigerstedt**, *Deputy Section Registrar*.

Decision of the Court

The Government asserted that the eyewitness testimony of B, C and E had not been the only evidence that had led to Mr Adamčo’s conviction. However, the Court noted that other witness evidence was only hearsay and held that the expert evidence had concerned the how the murder had been carried out, rather than the identity of the killer. Therefore the conviction had mainly been based on testimony from those three witnesses.

The question was whether there had been adequate scrutiny of that evidence given the advantages the witnesses had been given. The Žilina District Court had made general statements only on that matter in its reasoning. The Constitutional Court had reasoned that the evidence had not been “assessed like any other evidence”, and that the advantages given to the cooperating witnesses had been taken into account. Discrepancies between the testimonies and lack of clarity as to the benefits given to one of the witnesses, among other issues, had been found to be insignificant by the Slovak courts. On that account, the Court noted and expressed disquiet about the different conclusions reached around E’s trustworthiness by the Slovak courts.

Those courts had dealt with some of Mr Adamčo’s arguments in a manner which had distorted the evidence and with a reasoning that had lacked coherence, including justifying the inconsistencies in E’s testimony as stemming from stress.

The Court held that the Slovak courts had not paid any discernible individual attention to the scope and nature of the advantages obtained in return for incriminating evidence, despite Mr Adamčo’s specific arguments on that point. Those advantages had been significant, including the authorities’ holding off on prosecuting the witnesses for multiple murders.

The Court noted that Slovak law did not appear to have regulations in regard to granting of immunity, and that such deals were arranged outside judicial control. Mr Adamčo had only received abstract replies to his arguments in this regard.

As the use of evidence at Mr Adamčo's trial of the evidence from collaborating witnesses had not had the appropriate safeguards to ensure its fairness, it had fallen short of the guarantees under Article 6 and there had therefore been a violation of the Convention.

Just satisfaction (Article 41)

The Court held that Slovakia was to pay Mr Adamčo 5,000 euros (EUR) in respect of non-pecuniary damage and EUR 15,000 in respect of costs and expenses.

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.