



Young woman's fall from police-station window: violation of right to life

In today's **Chamber judgment**¹ in the case of [P.H. v. Slovakia](#) (application no. 37574/19) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 2 (right to life) of the European Convention on Human Rights regarding the investigation into an incident in which the applicant's life had been put at risk, and

a violation of Article 2 regarding her injuries while in police custody.

The case concerned an incident in which the applicant had fallen from a second-storey window next to a toilet in a police station while in custody on suspicion of theft, and the resulting investigative proceedings.

The Court found that the investigation had been inadequate from the point of view of the situation not having been looked at as a whole, the evidence taken and procedural steps not carried out, and the negligible disciplinary penalty imposed, with that decision not having even been sent to the P.H. and the Constitutional Court misconstruing her subsequent complaint.

In the absence of any recollection by the applicant of the circumstances of her fall, the Court held that the domestic authorities had failed to look after her in the vulnerable position of police custody. In particular, the police could have ensured that the windows had been locked or that P.H. had been accompanied to the toilet by a woman, and so could have prevented her fall.

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

Principal facts

The applicant, P.H., is a Slovak national. She is of Roma ethnicity and she is mildly intellectually disabled.

On 17 January 2017, when aged just 16, P.H. was caught red-handed during a theft in a shopping centre. She confessed to the responding police officers. She was taken to a police station; she alleged physical and verbal abuse during transport, which the Government denied.

According to the authorities, at the police station, Ms P.H. was cooperative and confessed to three other thefts that day. She was searched and later allowed to use the toilet. There was no indication that she might attempt to flee. While in the toilets, the officer guarding her turned his back and the applicant fell out of a 60 x 102 cm window onto the snow-covered grass 770 cm below. She was found lying on the ground and an ambulance was called.

According to Ms P.H., she has no memory of the events preceding her fall, suggesting that the police ill-treatment that had allegedly occurred in the police car might have continued at the station.

At the hospital the same day a full medical examination of Ms P.H. was ordered, which found an unspecified endocranial injury, four rib fractures, four other skeletal fractures and a pneumothorax on one side. She was later reported to be in a coma, which lasted about one month. She was

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.

ultimately discharged on 24 February 2017 but quantitative disruption of consciousness, mild cognitive impairment and retrograde amnesia due to her injuries were later diagnosed by doctors.

On 18 January 2017 criminal proceedings concerning Ms P.H.'s fall were opened but then annulled by the Public Prosecution Service. Proceedings were opened again on 10 March 2017. It was possible to interview the applicant only on 20 April 2017 owing to her state of health. During this interview she stated that she had no memory of the events just prior to her fall, but that she had been slapped by the two arresting officers in the police car.

On 26 April 2017 the prosecutors ordered a separation of the investigation into the alleged ill-treatment off from that into the fall, concluding that there were no grounds for criminal prosecution in relation to the latter matter. Disciplinary action was carried out by the superiors of the officer attending to the applicant at the time of her fall, but the applicant was not informed of that decision.

On 12 July 2017 the Inspection Service concluded that there was no evidence of any offence having been committed in the police car. While the applicant did not challenge this decision by means of an interlocutory appeal, she had it reviewed by the prosecutors in a different type of procedure, ultimately unsuccessfully.

Ms P.H. lodged complaints with both the Constitutional Court – citing, among other provisions, four Convention Articles – and the Ombudsperson. The Constitutional Court found her complaint to be manifestly ill-founded, stating that her case had been duly examined by the authorities, and that the court was neither a court of fact nor of appeal in matters governed by criminal law. The Ombudsperson established no violation of Ms P.H.'s rights in relation to the actions taken against her by the police.

During the criminal proceedings against Ms P.H., it was established that she suffered from some form of light mental disability. The Court did not receive any documentation concerning the termination of those proceedings.

Complaints, procedure and composition of the Court

Relying on Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 6 (right to a fair trial), 13 (right to an effective remedy) and 14 (prohibition of discrimination), the applicant complained, in particular, of verbal and physical ill-treatment in police custody; of the State's reaction to the incident at the police station, of the lack of an effective investigation into this matter; of the Constitutional Court's rejection of her complaint; of the lack of an effective remedy; and of discrimination due to her ethnicity and mental disability.

The application was lodged with the European Court of Human Rights on 4 July 2019.

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

Marko Bošnjak (Slovenia), *President*,
Péter Paczolay (Hungary),
Alena Poláčková (Slovakia),
Erik Wennerström (Sweden),
Raffaele Sabato (Italy),
Lorraine Schembri Orland (Malta),
Davor Derenčinović (Croatia),

and also **Renata Degener**, *Section Registrar*.

Decision of the Court

Article 2

The Court reiterated that Article 2 was among the most fundamental values of the Convention and represented the basis of democratic European societies.

Article 2 (procedural)

The domestic authorities appeared to have ignored any possible relationship between the incident in the police station and the alleged ill-treatment in the police car (the Court did not find the allegations of ill-treatment to have been proven, however). The authorities had relied on evidence from the police officers under suspicion, with no attempt made to broaden the investigation. Investigative steps such as a reconstruction of events had not been taken. The Court noted that the applicant, despite being a minor, had never been given victim status in the proceedings. The ultimate disciplinary sanction – a one-month 5% salary reduction – had been in effect negligible. Moreover, it was noted that the Constitutional Court had misconstrued the applicant's complaint and had failed to address a substantial part of her claims.

Given this, the Court concluded that the investigation had been inadequate to the point of ineffectiveness.

It thus found a violation of Article 2 in respect of the investigative proceedings following the incident.

Article 2 (substantive)

The Court reiterated that individuals in custody were in a particularly vulnerable position and the authorities were under an obligation to account for their treatment. As in this case, where the events in question lay within the exclusive knowledge of the authorities, the burden of proof could be regarded as resting on those authorities to provide a satisfactory and convincing explanation.

It was undisputed by the parties that the applicant had been injured owing to her fall and there had been no allegation of any direct involvement of a third party in it. However, this did not absolve the authorities of responsibility. Even though there had been no indication of any risk that the applicant might attempt to escape by jumping out of the window, the authorities had been bound to take certain basic precautions to protect her. As established at the domestic level, the officer who had accompanied P.H. to the toilet had failed to discharge his duty by turning his back on her; either he should have ensured that the window had been locked, or he should have found an officer of the same gender to monitor her. The Court found that this omission had been contrary to the State's duty to protect the applicant's well-being.

The State was accordingly responsible for the applicant's injuries and there been a violation of her Article 2 rights in that respect.

Other articles

The Court held that the information at its disposal did not indicate that the applicant had suffered discrimination within the meaning of Article 14 on account of either her ethnicity or her mental disability.

Just satisfaction (Article 41)

The Court held that Slovakia was to pay the applicant 30,000 euros (EUR) in respect of non-pecuniary damage and EUR 3,750 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.