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Strasbourg Court Sanctions Romania over the racially motivated ill-treatment of a Romani juvenile

Judgment further advances anti-Roma discrimination law – Romania held in breach of the substantive limb of Article 14

The European Court of Human Rights today delivered its judgment in the case of *Stoica v. Romania* concerning the racially motivated beating of Constantin Stoica, a Romani youth aged 14 at the time of the incident, by police officers in the village of Gulia, commune of Dolhasca, Suceava county, Romania, and the ensuing official investigation. The Court held that Romania is responsible for breaches of the prohibition of inhuman and degrading treatment (Article 3) in conjunction with the prohibition of discrimination (Article 14). The Court has also granted the applicant EUR 15,000 (fifteen thousand euros) in respect of non-pecuniary damage. The applicant was represented by Romani CRISS¹ and the European Roma Rights Centre².

On 3 April 2001 four police officers from the Dolhasca Police Force and their chief, together with six public guards from Dolhasca, at the request of the deputy mayor of the same locality to “teach them a lesson”, started beating on Roma gathered outside a bar in Gulia, a village inhabited primarily by Roma. Constantin Stoica, a 14-year-old Roma boy was also a victim of the officials hitting bystanders indiscriminately, as a police sergeant beat the child until he lost consciousness, despite his previous telling the sergeant about his current head surgery. Several persons, including the applicant's schoolmates witnessed the incident while the deputy mayor and police officers were heard shouting racist remarks. The child was diagnosed as bearing “[...] ecchymoses, thoracic concussion and excoriation, inflicted by a linear blunt instrument, which could date from 3 April 2001”. On 12 April 2001, the Commission for the Protection of Handicapped Persons established that he had a first-degree disability which required permanent supervision and a personal assistant.

The official investigation that was launched following the lodging of a complaint by Mr. Stoica's father over the racially motivated ill-treatment of his son and which was marred by serious procedural deficiencies, ended with a decision of non-indictment of any police officials as it had not been proved that Mr. Stoica's injuries were caused by police officials.

In relation to the applicant's claims under Article 3, the Court rejected the Romanian Government's argument to the effect that it should effectively accept the version of events as

¹ Romani CRISS is a Bucharest-based non-governmental organization, which defends and promotes the human rights of Roma in Romania. Romani CRISS provides legal assistance in cases of abuse and works to combat and prevent racial discrimination against Roma in all areas of public life.

² The European Roma Rights Centre (ERRC) is a Budapest-based international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma.

established by the Romanian authorities. Noting that the case concerned allegations of breach of Article 3 which enshrines one of the fundamental values of a democratic society, it proceeded to an independent assessment of the evidence before it. Upon reviewing the investigation launched by the police officials and the military prosecutor, the Court noted that it had not been established by the Government that Mr. Stoica's injuries could have been caused otherwise than by the treatment inflicted on him by the police officers and held that this amounted to inhuman and degrading treatment. On the basis of the same observations, the Court held that the Romanian authorities had also failed to launch an effective investigation into Mr. Stoica's allegations, in violation of the procedural limb of Article 3.

Turning to Mr. Stoica's allegations in relation to Article 14, the Court observed that the authorities had not been impartial in their assessment of the evidence before them. In particular, they had premised their findings on the statements of the police officials (who clearly had every reason to wish to exonerate themselves and their colleagues from any liability) but had dismissed all statements by villagers (all of whom were of Romani ethnicity) on grounds of their alleged bias in favour of the applicant. In rather unusual terms, the Court stated it was "dissatisfied" by the fact that the military prosecutor had overlooked police officials' statements to the effect that the villagers' behaviour was "purely Gypsy", a statement that in the eyes of the Court was purely stereotypical. As a result, the Court held that the investigation into the incident had failed to address the potential existence of racial animus. The Court then noted that all the evidence clearly pointed to the fact that the ill-treatment of Mr. Stoica was racially motivated and hence the burden of proof now lay with the Government to discharge it. Since the latter however failed to adduce evidence suggesting that the impugned ill-treatment was not racially motivated, the Court held that a substantive violation of Article 14 had also taken place.

Mr. Stoica has expressed his satisfaction that following a long period of time of injustice, the abusive behaviour of the local authorities towards him and his family has been finally condemned. He also stated he hoped the ECHR decision would help eliminate abuse and discrimination against Roma in Romania.

The ERRC and Romani Criss note that the *Stoica* judgment comes in the wake of a series of cases that dealt with ill-treatment of Roma such as *Cobzaru v. Romania* and *Anguelova and Iliev v. Bulgaria*. As such, the present judgment is yet another proof as to the importance the Court attaches to the fight against discrimination. ERRC and Romani Criss also welcome the finding of a substantive violation of Article 14 found by the Court as well as the ever-increasing sensitivity displayed by the Court in Roma-related cases.

Read the full text of the judgments here:

<http://cmiskp.echr.coe.int///tkp197/viewhbk.asp?action=open&table=F69A27FD8FB86142BF01C1166DEA398649&key=68806&sessionId=5949946&skin=hudoc-en&attachment=true>.

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