



COUR EUROPÉENNE DES DROITS DE L'HOMME  
EUROPEAN COURT OF HUMAN RIGHTS

FOURTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 15250/02  
by Lazaros BEKOS and Eleftherios KOUTROPOULOS  
against Greece

The European Court of Human Rights (Fourth Section), sitting on  
23 November 2004 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,

MM. J. CASADEVALL,

C.L. ROZAKIS,

G. BONELLO,

R. MARUSTE,

S. PAVLOVSKI,

L. GARLICKI, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having regard to the above application lodged on 4 April 2002,

Having regard to the observations submitted by the respondent  
Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

## THE FACTS

The applicants, Mr Lazaros Bekos and Mr Eleftherios Koutropoulos, are Greek citizens belonging to the Roma (Gypsy) ethnic group. They were born in 1980 and live in Mesolonghi (Western Greece). They are represented before the Court by the European Roma Rights Center, an international law organisation which monitors the human rights situation of Roma across Europe, and the Greek Helsinki Monitor, a member of the International Helsinki Federation. The respondent Government are represented by the Delegates of their Agent, M. V. Kyriazopoulos, Adviser at the State Legal Council and Mrs V. Pelekou, Legal Assistant at the State Legal Council.

The facts of the case, as submitted by the parties, may be summarised as follows.

### A. Outline of the events

On 8 May 1998, at approximately 12.45 a.m., a patrol car from the Mesolonghi police station responded to a telephone complaint reporting the attempted burglary of a kiosk. The call had been made by the grandson of the owner of the kiosk, Mr Pavlakis. Upon arriving at the scene, the latter found the first applicant attempting to break into the kiosk with an iron bar while the second applicant was apparently acting as a lookout. He struggled with the second applicant, who subsequently stated that Mr Pavlakis had punched him in the face.

At that point three police officers, Mr Sompolos, Mr Alexopoulos and Mr Ganavias, arrived. The first applicant claims that he was initially handcuffed without being beaten. Then, an officer removed his handcuffs and repeatedly beat him on the back and the head with a truncheon. He stopped when the first applicant complained that he had a medical condition and was feeling dizzy. The Government dispute these claims.

Following their arrest, the applicants were taken to the Mesolonghi police station, where officers Tsikrikas, Avgeris, Zalokostas, Skoutas and Kaminatos were present. The first applicant alleges that as he was being led to his cell one officer beat him twice with a truncheon and another slapped him in the face. The Government dispute these claims.

At 10.00 a.m. the first applicant was taken to the interview room, where he alleges three police officers punched him in the stomach and the back, trying to extract confessions to other crimes and information about who was dealing in drugs in the area. According to the first applicant, the police officers took turns beating him, slapping him and hitting him all over his body. The first applicant further alleges that another police officer beat him with the iron bar that had been used in the attempted burglary. He alleges that this officer also pushed him against the wall, choking him with the iron

bar and threatening to sexually assault him, saying “I will f... you”, while trying to lower his trousers. The Government dispute these claims.

The second applicant said that he was also abused throughout his interrogation. During the early hours of the day, he was allegedly beaten with a truncheon on his back and kicked in the stomach by an officer who later returned to beat him again. Subsequently, the second applicant identified the officer as Mr Tsirikas. The second applicant also testified that the police officers “inserted a truncheon in [his] bottom and then raised it to [his] face, asking [him] whether it smelled”. The Government dispute these claims.

The applicants state that they were both able to hear each other's screams and cries throughout their interrogation. The first applicant testified: “I could hear Koutropoulos crying in the other room”. The second applicant stated: “I screamed and cried when they were beating me. I could also hear Bekos's screams and cries”. They also say that they suffered repeated verbal abuse about their Roma origins. The first applicant testified that the officer who had choked him with the iron bar said to him “you guys f... your sisters” and “your mothers are getting f... by others”. The Government dispute these claims.

The applicants remained in detention until the morning of 9 May 1998. At 11.00 a.m. they were brought before the Mesolonghi Public Prosecutor. The first applicant was charged with attempted theft and the second applicant with being an accomplice. The Public Prosecutor set a trial date and released the applicants<sup>1</sup>.

On the same day, the applicants went to the regional hospital in order to obtain medical evidence of their injuries. However, the intern they saw at the hospital was only able to verify that they both had bruises. In order to acquire stronger evidence of their injuries, the applicants consulted a forensic doctor in Patras. The latter issued a medical certificate dated 9 May 1998, in which he stated that the applicants bore “moderate bodily injuries caused in the past twenty-four hours by a heavy blunt instrument...” In particular, the first applicant had “two deep red (almost black) parallel contusions with areas of healthy skin, covering approximately 10 cm stretching from the left shoulder joint to the area of the deltoid muscle and the right shoulder joint. He complains of pain in his knee joint. He complains of pain in the left parietal area”. The second applicant had “multiple deep red (almost black) parallel 'double' contusions with areas of healthy skin covering approximately 12 cm stretching from the left shoulder joint along the rear armpit fold at the lower edge of the shoulder blade, a contusion of the aforementioned colour measuring approximately 5 cm on the rear left surface of the upper arm and a contusion of the aforementioned

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<sup>1</sup> In November 1999 the applicants were sentenced to thirty days’ and twenty days’ imprisonment respectively, in each case suspended for three years.

colour measuring approximately 2 cm on the right carpal joint. He complains of pain on the right side of the parietal area and of pain in the midsection. He complains that he is suffering from a torn meniscus in the right knee, shows pain on movement and has difficulty walking”. The applicants have produced to the Court pictures taken on the day of their release, showing their injuries. The Government question the authenticity of these pictures and affirm that they should have first been produced to the domestic authorities. They also question the credibility of the forensic doctor who examined the applicants and submit that he has convictions for perjury.

On 11 May 1998 the Greek Helsinki Monitor and the Greek Minority Rights Group sent a joint open letter to the Ministry of Public Order protesting against the incident. Reports of the incident were subsequently published in several Greek newspapers.

### **B. Administrative investigation into the incident**

On 12 May 1998, responding to the publicity that had been generated, the Ministry of Public Order launched an informal inquiry into the matter.

After the incident received greater public attention, the Greek police headquarters requested that the internal investigation be upgraded to a Sworn Administrative Inquiry (Ενορκή Διοικητική Εξέταση), which started on 26 May 1998.

The report on the findings of the Sworn Administrative Inquiry was issued on 18 May 1999. It identified the officers who had arrested the applicants and found that their conduct during the arrest was “lawful and appropriate”. It concluded that two other police officers, Mr Tsikrikas and Mr Avgeris had treated the applicants “with particular cruelty during their detention”. The report noted that the first applicant had consistently identified the above officers in his sworn depositions of 30 June and 23 October 1998 and that the second applicant had also consistently and repeatedly identified throughout the investigation Mr Tsikrikas as the officer who had abused him.

More specifically, it was established that Mr Tsikrikas had physically abused the applicants by beating them with a truncheon and/or kicking them in the stomach. It further found that although the two officers had denied ill-treating the applicants, neither officer was able to “provide a convincing and logical explanation as to where and how the above plaintiffs were injured, given that according to the forensic doctor the ill-treatment occurred during the time they were in police custody”.

As a result, it was recommended that disciplinary measures in the form of “temporary suspension from service” be taken against both Mr Tsikrikas and Mr Avgeris. The inquiry exculpated the other police officers who had

been identified by the applicants. Despite the above recommendation, neither Mr Tsikrikas nor Mr Avgeris were ever suspended.

On 14 July 1999 the Chief of the Greek Police fined Mr Tsikrikas 20,000 drachmas (less than 59 euros) for failing to “take the necessary measures to avert the occurrence of cruel treatment of the detainees by his subordinates”. The Chief of the Greek Police acknowledged that the applicants had been ill-treated. He stated that “the detainees were beaten by police officers during their detention ... and were subjected to bodily injuries”. The applicants complain that, notwithstanding these findings, the Greek police authorities failed to undertake any subsequent investigation with a view to identifying and bringing to justice the police officers who had beaten them.

### **C. Criminal proceedings against police officers**

On 1 July 1998 the applicants and the first applicant's father filed a criminal complaint against the Deputy Commander in Chief of the Mesolonghi police station and “all other” officers of the police station “responsible”.

On 3 July 1998 the first applicant gave a sworn deposition relating his allegations of ill-treatment. He claimed that during his arrest, he had been beaten on the head with a truncheon by a “tall, blond” policeman, who also gave him a beating in the police station.

On 18 December 1998 the Mesolonghi Public Prosecutor asked the Mesolonghi investigating judge to conduct a preliminary inquiry into the incident (προανάκριση). The findings of the inquiry were then forwarded to the Prosecutor of the Patras Court of Appeal. In January 2000 the Patras Court of Appeal ordered an official judicial inquiry into the incident (κύρια ανάκριση).

On 27 January 1999 and 1 February 2000 the first applicant stated that the behaviour of the police officers “was not so bad”, that he wanted “this story to be over” and that he did not want “the police officers to be punished”. On the same dates the second applicant repeated that he had received a beating at the hands of Mr Tsikrikas, but said that the police officers' behaviour was “rightfully bad” and that he did not want them to be prosecuted. He apologised to the owner of the kiosk and said that he wanted “this story to be over” because he has joining the army and wanted “to be on the safe side”.

On 31 August 2000 the Mesolonghi Public Prosecutor recommended that three police officers, Mr Tsikrikas, Mr Kaminatos and Mr Skoutas, be tried for physical abuse during interrogation.

On 24 October 2000 the Indictment Division of the Mesolonghi Criminal Court of First Instance (Συμβούλιο Πλημμελειοδικών) committed Mr Tsikrikas for trial. It found that “[the] evidence shows that Mr Tsikrikas

ill-treated [the applicants] during the preliminary interrogation, in order to extract a confession from them for the attempted theft ... and any similar unsolved offences they had committed in the past". The Indictment Division further stated that Mr Tsikrikas had failed to provide a plausible explanation as to how the applicants were injured during their interrogation and noted that they had both identified Mr Tsikrikas, without hesitation, as the officer who had ill-treated them. On the other hand, it decided to drop the criminal charges against Mr Kaminatos and Mr Skoutas on the ground that it had not been established that they officers were present when the events took place (bill of indictment no. 56/2000).

Mr Tsikrikas's trial took place on 8 and 9 October 2001 before the three-member Patras Court of Appeal. The court heard several witnesses and the applicants, who repeated their allegations of ill-treatment.

On 9 October 2001 it found that there was no evidence implicating Mr Tsikrikas in any abuse and found him not guilty (decision no. 1898/2001). In particular, after referring to the circumstances surrounding the applicants' arrest and to the forensic doctor's findings, it noted:

"...Admittedly, the second applicant had clashed with Mr Pavlakis. Further, given the applicants' light clothing, it was logical that they were injured during the fight that took place when they were arrested. Even if some of the applicants' injuries were inflicted by police officers during their detention, it has not been proved that the accused participated in this in one way or the other, because he was absent when they arrived at the police station and did not have contact with them until approximately two hours later, on his arrival at the police station. In his sworn deposition dated 3 July 1997, the first applicant stated that in the process of his arrest he had been beaten with a truncheon by a tall, blond police officer (a description that does not match the features of the accused) and that the same police officer had also beaten him during his detention. However, the accused was not present when the applicants were arrested. If the applicants had indeed been beaten by police officers during their detention, they would have informed their relatives who arrived at the police station that same night. Thus, the accused must be found not guilty."

Under Greek law, the applicants, who had joined the proceedings as civil parties, could not appeal against this decision.

## COMPLAINTS

1. The applicants complain under Article 3 of the Convention that during their arrest and subsequent detention they were subjected to acts of police brutality which inflicted on them great physical and mental suffering amounting to torture, inhuman and/or degrading treatment or punishment. They also complain under the same provision taken together with Article 13 of the Convention that the Greek investigative and prosecuting authorities have failed to proceed with a prompt and effective official investigation into

the incident which could have led to the identification and punishment of the police officers who were responsible. They have hence failed to identify all of the officers who had ill-treated them as well as to punish even the few who were identified. The applicants therefore claim that they have obtained no effective domestic remedy for the harm suffered while in police custody.

2. The applicants further complain under Article 14 of the Convention taken together with Articles 3 and 13 that the ill-treatment they have suffered, along with the subsequent lack of an effective investigation into the incident, were in part due to their Roma ethnic origin. They submit that the discriminatory motive for their abuse is clear and evidenced by (a) the nature of the incident, (b) the explicitly and implicitly racist language used by the officers at issue, and (c) the continuing failure of the Greek authorities to condemn and sanction instances of discrimination and anti-Roma police brutality, as documented by numerous international and domestic monitoring organisations. The applicants submit a number of reports in this respect.

## THE LAW

The applicants complain that they were subjected to torture, inhuman and/or degrading treatment or punishment, and that there was no adequate or effective investigation of this ill-treatment. They further allege that their Roma ethnic origin was a decisive factor in the attitude and acts of the police officers and the investigating authorities. They rely on Articles 3, 13 and 14 of the Convention. These provisions read as follows:

### **Article 3**

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

### **Article 13**

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

### **Article 14**

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

The Government refer to the findings of the domestic court and submit that the applicants' complaints are wholly unfounded. Their moderate injuries were the result of the struggle that took place during their arrest. The applicants themselves have stated that the conduct of the police officers was justified and that they did not want to see them prosecuted. The investigation into the incident was prompt, independent and thorough, and led to a fine being imposed on Mr Tsirikas. Criminal charges were also brought against him. Several witnesses and the applicants were heard in court. The fact that the accused was acquitted has no bearing on the effectiveness of the investigation. Lastly, the Government assert that there is no evidence of any racially motivated act on the part of the authorities.

The applicants submit that at the material time they were young and vulnerable. They had also received threats during the course of the investigation. This was the reason why, at some point, they claimed that they did not wish to pursue their complaints against the police officers. They reiterate their claim that they have suffered great physical and mental pain at the hands of the police. They also claim that the investigation into the incident and the ensuing judicial proceedings were ineffective, deficient and inconclusive. They consider that the discriminatory comments which the police officers shouted at them during their detention must be seen against the broader context of systematic racism and hostility which law-enforcement bodies in Greece repeatedly display against Roma. This attitude has been widely documented by intergovernmental and human rights organisations.

The Court considers, in the light of the parties' submissions, that the application raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established.

For these reasons, the Court unanimously

*Declares* the application admissible, without prejudging the merits of the case.

Michael O'BOYLE  
Registrar

Nicolas BRATZA  
President