

Press release issued by the Registrar

**CHAMBER JUDGMENT**  
**ŠEČIĆ v. CROATIA**

The European Court of Human Rights has today notified in writing its Chamber judgment<sup>1</sup> in the case of *Šečić v. Croatia* (application no. 40116/02).

The Court held unanimously that there had been:

- a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights concerning the lack of an effective investigation; and
- a **violation of Article 14** (prohibition of discrimination) of the Convention in conjunction with **Article 3**.

Under Article 41 (just satisfaction), the Court awarded the applicant 8,000 euros (EUR) in respect of non-pecuniary damage and EUR 6,000 for costs and expenses. (The judgment is available only in English.)

### **1. Principal facts**

The applicant, Šemso Šečić, is a Croatian national who was born in 1963 and lives in Zagreb.

In the evening of 29 April 1999, the applicant, together with several other individuals, was collecting old metal in a street in Zagreb. Two unidentified men approached the group and attacked the applicant. They beat him all over his body with wooden planks while shouting racial abuse. Another two unidentified men, apparently members of the same group, kept watch. Shortly afterwards, the police arrived; they interviewed people at the scene and looked for the attackers.

The applicant was taken to a nearby hospital where the doctors found that no bones had been broken, sending the applicant home with painkillers. However, during the night, the applicant experienced severe pain and the next day went to another hospital where it was found that he had sustained multiple rib fractures. He was kept in hospital for a week for further treatment and released on 5 May 1999.

Mr Šečić submitted: that he has had to undergo psychiatric treatment as a result of the incident; that he has been diagnosed with post-traumatic stress disorder, characterised by

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<sup>1</sup> Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

depression, anxiety, panic attacks, fear for his own safety and that of his family, intermittent insomnia and nightmares; and, that he has had an emotional breakdown.

On 15 July 1999 the applicant's lawyer filed a criminal complaint with the Zagreb Municipal State Attorney's Office against unknown individuals and sent a letter to Zagreb Police Department informing them about the incident and requesting the information necessary to bring criminal proceedings.

On 29 September 1999 the police interviewed the applicant about the events of the evening of 29 April 1999. The applicant vaguely described the two attackers, stating that due to his short-sightedness he was not likely to be able to recognise them. The police also interviewed three eye-witnesses who stated that they had not been able to see the attackers clearly.

On 16 March 2000 the applicant's lawyer informed the State Attorney's Office that the individuals who had attacked the applicant had apparently been engaged in numerous other attacks against Roma people in Zagreb during the relevant period. She stressed that all the incidents had been racially motivated because they had involved both physical attacks and racist verbal abuse. Two of the Roma attacked had told the applicant's lawyer that they would be able to identify the perpetrators and one of them, O.D., claimed to have personally witnessed the attack on the applicant. Furthermore, the police had already identified and apprehended O.D.'s attackers.

On 1 August 2000 O.D. was interviewed by the authorities. He stated that he had been attacked by a certain S. sometime in January 2000 and that the same person had been one of the applicant's attackers. He remembered S. because he had a large scar on his face.

The police subsequently identified S. as an alcoholic well-known to the local authorities for several criminal offences. However, the police eliminated him as a possible suspect because no other witness identified him, despite his very noticeable scar, and because S. did not appear to belong to a skinhead group. Nothing in the police case-file indicated that S. was ever summoned for questioning regarding the incident.

On 24 May 2000 the applicant's lawyer again wrote to the State Attorney's Office indicating that Croatian Radio Television (HRT) had broadcast a programme on 14 May 2000, in which a young skinhead was interviewed, explaining his reasons for engaging in attacks on the Roma population in Zagreb. She claimed that the interviewed individual had implicitly mentioned the incident involving the applicant.

The State Attorney's Office asked the editor of HRT to disclose the necessary information to identify the person interviewed and the police also interviewed the journalist who made the interview. However, the journalist refused to identify the person concerned on the ground that he did not want to reveal his sources.

On 14 February 2001 the applicant's lawyer informed the prosecuting authorities about several recent attacks on the Roma population by skinheads and listed names and addresses both of victims and witnesses of such attacks.

On 6 April 2001 the applicant filed a constitutional complaint with the Constitutional Court requesting it to order the State Attorney's Office to take all necessary steps in order to complete the investigation as soon as possible but no later than six months. On 12 November 2002 the Constitutional Court informed the applicant's lawyer that it had no competence to

rule on cases involving prosecutorial inaction during the pre-trial stage of proceedings. The proceedings are still pending at the pre-trial stage.

## **2. Procedure and composition of the Court**

The application was lodged with the European Court of Human Rights on 12 November 2002 and declared partly admissible on 15 June 2006.

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

Christos **Rozakis** (Greek), *President*,  
Loukis **Loucaides** (Cypriot),  
Nina **Vajić** (Croatian),  
Elisabeth **Steiner** (Austrian),  
Khanlar **Hajiyev** (Azerbaijani),  
Dean **Spielmann** (Luxemburger),  
Sverre Erik **Jebens** (Norwegian), *judges*,

and also Søren **Nielsen**, *Section Registrar*.

## **3. Summary of the judgment<sup>1</sup>**

### **Complaints**

The applicant alleged, in particular, that the domestic authorities failed to undertake a serious and thorough investigation into the racist attack of 29 April 1999 and that he suffered discrimination on the basis of his Roma origin. He relied on Article 3 (prohibition of inhuman or degrading treatment), Article 8 (right to respect for private and family life) and Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination) in conjunction with Article 3.

### **Decision of the Court**

#### Article 3

The Court considered that the injury suffered by the applicant, including several broken ribs and his subsequent hospitalisation, was sufficiently serious to amount to ill-treatment within the meaning of Article 3.

The Court reiterated that States which had ratified the European Convention on Human Rights were required to take measures designed to ensure that individuals within their jurisdiction were not subjected to ill-treatment, including ill-treatment by private individuals. Article 3 might also give rise to a positive obligation to conduct an official investigation. The authorities had to take all reasonable steps available to them to collect the relevant evidence and to do so promptly and with reasonable expedition.

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<sup>1</sup> This summary by the Registry does not bind the Court.

However, the Court observed that, since the event complained of had taken place, the police had not brought charges against anyone and the criminal proceedings had been pending in the pre-trial phase for almost seven years.

The Court noted that the police had concluded that the attack had been committed by members of a skinhead group, which had been known to participate in similar incidents in the past. Yet the police appeared never to have questioned anyone belonging to that group or to have followed up that information in any way. Moreover, they had excluded S. from the list of possible suspects without questioning him about the attack.

In addition, the police did not ask the competent court to order the HRT journalist to reveal his source, despite the fact that such a legal provision had existed since 2003. The Government did not explain why the police did not avail themselves of that right, given that there appeared to be no further leads in the case. Such action on the part of the police or the competent State Attorney's Office would not necessarily have been incompatible with the freedom of the media guaranteed under Article 10 (freedom of expression) of the Convention, since, in any event, it would have been for the competent court to weigh all the interests involved and to decide whether or not it was necessary in the particular circumstances of the case to reveal the interviewed person's identity.

Lastly, the Court noted that the police had not made use of any other investigative measures allowed for under domestic law, other than interviewing witnesses proposed by the applicants' lawyer. Indeed, the police had taken no action since 2001.

Having considered all the material in its possession and the arguments put forward by the parties, the Court considered that the failure of the State authorities to further the case or obtain any tangible evidence with a view of identifying and arresting the attackers over a prolonged period of time indicated that the investigation did not meet the requirements of Article 3. There had, therefore, been a violation of Article 3.

#### Article 14 in conjunction with Article 3

The Court observed that it was suspected that the applicant's attackers belonged to a skinhead group, which was by its nature governed by extremist and racist ideology. Both the police and the Government admitted that fact. It was therefore unacceptable that, being aware that the event at issue was most probably induced by ethnic hatred, the police allowed the investigation to last for more than seven years without undertaking any serious steps to identify or prosecute the perpetrators. Consequently, the Court considered that there had been a violation of Article 14 taken in conjunction with the procedural aspect of Article 3.

#### Other Articles

The Court further held unanimously that no separate issue arose under Articles 8 or 13.

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The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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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.*