



Supreme Court of Slovakia requests an advisory opinion on police complaints mechanism

The Supreme Court of Slovakia has asked¹ the European Court of Human Rights to provide an advisory opinion on the independence of the current mechanism for investigating complaints against the police, a question at issue in a case which is still ongoing at the domestic level.

Slovakia is the third country to seek such an opinion under [Protocol No. 16](#) to the European Convention on Human Rights. France made the first request in October 2018 and the Court delivered its [opinion](#), on rights related to surrogacy, in April 2019. Armenia made the second request in August 2019, concerning an Article of the country's Criminal Code which penalises the overthrowing of the Constitutional order, and the Court delivered its [opinion](#) in May 2020.

Protocol No. 16 allows the highest courts and tribunals, as specified by member States which have ratified it, to request advisory opinions on questions of principle relating to the interpretation or application of the rights and freedoms defined in the European Convention or its Protocols.

The Supreme Court of Slovakia stated that its request was made in the context of criminal proceedings brought against a police officer for attacking a woman in a bar in 2014. In 2019 the officer brought an appeal on points of law against his conviction for causing bodily harm and disorderly conduct before the Supreme Court. He contested in particular the fact that the investigation into his case had been carried out by the Control and Inspection Service Department of the Ministry of the Interior.

In its questions, the Supreme Court has asked for guidance from the European Court on whether the Control and Inspection Service Department meets the criteria laid down by the European Convention on Human Rights under Article 2 (right to life), Article 3 (prohibition of inhuman and degrading treatment) and Article 6 § 1 (right to a fair trial) concerning the investigation of crimes committed by police officers, in particular that such investigations have to be carried out by an independent and impartial authority.

An advisory opinion may only be requested in the context of a case pending before the domestic courts. The acceptance or refusal to examine the request is at the Court's discretion. A panel of five judges decides whether to accept the request, giving reasons for any refusal.

Advisory opinions, given by the Grand Chamber, give reasons and are not binding. Opinions are published and communicated to the requesting court or tribunal and to the relevant High Contracting Party. Judges are entitled to deliver a separate opinion. The panel and the Grand Chamber include *ex officio* the judge elected in respect of the High Contracting Party to which the requesting court or tribunal pertains.

The aim of Protocol No. 16 is to enhance interaction between the Court and national authorities and thereby reinforce the implementation of Convention rights and freedoms by requesting courts in their adjudication of pending cases.

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¹ The request, initially submitted on 25 September 2020 and received at the Court on 5 October 2020, was completed on 19 November 2020 and was thus formally considered to have been lodged on the latter date.

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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.