

THE CZECH REPUBLIC BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS IN 2024

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Abstract: The purpose of this article is to provide an overview of the activity of the European Court of Human Rights in relation to the Czech Republic in 2024. The Strasbourg Court delivered a number of important judgments for Czech law and practice, particularly in the areas of the prosecution of non-consensual sexual offences, decisions on the detention of juveniles, compensation for criminal prosecution, and decisions on the residence of foreigners based on classified information. There was also positive progress last year in the execution of the Court's judgments, especially regarding the ability of the police to intervene adequately against vulnerable persons and regarding effective and independent investigation of arguable allegations of ill-treatment by police officers.

Resumé: Účelem článku je poskytnout přehled činnosti Evropského soudu pro lidská práva vůči České republice v roce 2024. Štrasburský soud vydal řadu důležitých rozhodnutí pro českou právní úpravu i praxi, a to zejména v oblasti stíhání sexuálních trestných činů bez souhlasu, rozhodování o vazbě mladistvých, odškodňování za trestní stíhání či rozhodování o pobytu cizinců na základě utajovaných informací. I v oblasti výkonu rozsudků Soudu nastal v loňském roce pozitivní posun v řadě rozsudků, zejména ohledně schopnosti policie adekvátně zasahovat proti zranitelným osobám a zajištění účinného a nezávislého vyšetřování hájitelných tvrzení špatného zacházení ze strany příslušníků policie.

Keywords: protection against ill-treatment; prosecution of sexual offences; right to liberty and security; prohibition of discrimination; protection of vulnerable persons; presumption of innocence; right to compensation; state jurisdiction; human rights and climate change; protection of public order; classified information; inclusive education; remedying past injustices; effective investigation; execution of Court's judgments

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Introduction

The year 2024 brought a number of interesting and important judgments for the Czech Republic. They concerned many topics, without any one of them being numerically dominant. As many as eight judgments of the European Court of Human Rights (Court) were classified as level 2 in terms of importance. These are judgments that not only apply existing case-law but also develop and advance it.

Out of a total of 23 judgments, the Court found a violation of the European Convention on Human Rights (Convention) in only seven of them. In 13 cases, the proceedings ended in favour of the respondent state. One case ended with a unilateral declaration of the

Government, and two were settled amicably by the parties. This result essentially mirrors the long-term record of the Czech Republic since 1993. In less than 30% of cases, the Court finds a violation of the Convention, and in more than half of the proceedings the state succeeds in its defence. If we add applications that the Court rejects without requesting the Czech Republic's observations, the Court finds a violation of the Convention in relation to our state in only about 1–2% of applications. It was no different in 2024, when the Court decided on 324 applications and found a violation in only 2% of them.¹

In the following text, we will take a closer look at the most significant judgments of the Court from last year. And since a judgment of the Court is often only the beginning of another story, we will also look at what important developments last year brought in the area of execution of judgments.

1. Judgments of the Court

1.1 Prosecution of sexual offences

The most serious violations of the Convention were undoubtedly found in the judgments of *Z v. the Czech Republic*² and *Y v. the Czech Republic*,³ where the infringed articles included Article 3, which enshrines the prohibition of torture and inhuman or degrading treatment. The Czech Republic had previously violated this provision only four times,⁴ and only twice outside a *mere* procedural aspect concerning the right to an effective investigation.⁵

Both cases concerned sexual abuse by a Catholic priest. In both, the Court concluded that the Czech criminal law framework and the manner in which it was interpreted and applied by the authorities did not provide the applicants with sufficient protection.

In *Z*, the applicant was repeatedly sexually abused in 2008–2009 by a priest who was her confessor and supervisor of her thesis at the theological faculty in Prague. Criminal proceedings were not initiated until 2019, following a report by a third party. In 2021, the authorities discontinued the case, concluding that the conduct amounted to the offence of sexual coercion, which, however, had only been introduced into the Criminal Code after the events in question. According to the investigators, the acts did not constitute sexual abuse under the then-applicable Criminal Code, as the applicant was neither a minor nor entrusted to the priest's supervision. Nor did they constitute rape, as the priest did not use violence or threats of violence. Although the applicant expressed her disagreement with his conduct, she never did so before the act, only afterwards.

In *Y*, another priest allegedly sexually abused the applicant between 2002 and 2014, when she was aged 17 to 30. In 2017, the police and district prosecutor discontinued the case, finding that it was neither rape nor another sexual offence, as the applicant, although she considered the priest's conduct unpleasant, did not resist and tolerated it in exchange

¹ Data according to the Court's statistics available at <https://www.echr.coe.int/documents/d/echr/stats-analysis-2024-eng>.

² Application no. 37782/21, judgment of 20 June 2024.

³ Application no. 10145/22, judgment of 12 December 2024.

⁴ *Bureš v. the Czech Republic*, no. 37679, judgment of 18 October 2012; *Kummer v. the Czech Republic*, no. 32133/11, judgment of 25 July 2013; *B. Ů. v. the Czech Republic*, no. 9264/15, judgment of 6 October 2022; and *Sládková v. the Czech Republic*, no. 15741/15, judgment of 10 November 2022.

⁵ These are the first two judgments cited in the previous footnote.

for material and financial support for herself and her family. Several years later, in 2020, the applicant submitted a request to the municipal prosecutor's office for supervisory review. The office concluded that the offence of sexual coercion may have been committed, as the priest abused the applicant's religious dependence and his position of ecclesiastical and spiritual authority, but the offence was already time-barred.

In both judgments, the Court recalled that since its judgment in *M.C. v. Bulgaria*⁶ in 2003, States Parties to the Convention have been under an obligation, pursuant to Articles 3 and 8, to criminalise and effectively prosecute all non-consensual sexual acts, including those where the victim did not physically resist. The Czech Republic failed to fulfil this positive obligation. In *Y*, the authorities did not consider that the applicant's passivity might have been due to the priest's position of authority over her. Her passivity, therefore, did not necessarily mean consent. Nor did they consider her psychological state or her particular vulnerability and dependence on the priest. They failed to take into account that, due to her vulnerability and psychological state, she might not have been able to express her will or defend herself and might have been in a state of helplessness. In *Z*, the authorities also failed to sufficiently consider whether the applicant was in a situation of particular vulnerability due to her psychological state and material need and her dependence on the priest. They also failed to consider that, over time, she might have stopped expressing her disagreement because she had resigned herself and considered it hopeless.

Both judgments clearly point to the inadequacy of the criminal law provisions in the 1961 Criminal Code and, to some extent, in the new Criminal Code of 2009. It is very positive that the criminal law in this area was significantly amended in favour of victim protection with effect from 1 January 2025.⁷ *First*, the amendment changed the definition of rape. While the original definition was based on coercion or abuse of helplessness, under the new definition, rape occurs even if sexual intercourse takes place 'against the discernible will' of the victim. *Second*, the amendment also changed the definition of sexual coercion. The new definition includes not only the abuse of the victim's dependence or the perpetrator's position and resulting credibility or influence, but also the abuse of the victim's distress. *Finally*, the amendment newly defines that the offence is committed by abusing helplessness even when the perpetrator takes advantage of the victim being in a state of 'severe paralysing stress', the so-called freeze response.

The judgments are also an important guide for the work of law enforcement authorities on how to interpret the relevant criminal provisions and what circumstances must be thoroughly examined.

The Court left somewhat unclear and open the question of whether the wording of the Criminal Code itself prevented the authorities from fulfilling the requirements of Articles 3 and 8 of the Convention, or whether they could have interpreted it more broadly. This was particularly ambiguous in *Y*. On the one hand, the Court excused the applicant for not exhausting domestic remedies, including a constitutional complaint, against the discontinuance of her case in 2017, noting that such remedies would likely have been futile at the time. On the other hand, the Court criticised the authorities for not taking into account

⁶ Application no. 39272/98, judgment of 4 December 2003.

⁷ Act No. 166/2024 Sb.

Supreme Court case law⁸ from 2014, which in its view allowed for a broader interpretation of the elements of rape and sexual coercion, according to which it is not necessary for the victim to resist, even verbally, as she may have refrained from doing so due to exhaustion, fear, hopelessness, or psychological block. Thus, in 2017, there was already case law allowing the conduct to be considered criminal. However, the Court did not require the applicant to bring this to the attention of the Constitutional Court. On the other hand, in another case, the Court required the applicant to bring an action, including a constitutional complaint, even where the case law changed in the applicant's favour only later.⁹ In that case, however, the matter was not as serious and sensitive as sexual abuse, but rather the withdrawal of a passport. The Court's approach may thus have been influenced by this circumstance.

More clarity was provided by the Constitutional Court, which granted the applicant Z's request for a reopening of the proceedings.¹⁰ It concluded that the authorities should have considered the applicant's alleged helplessness and dependence on the priest and could have found that these circumstances fulfilled the elements of criminal offences under the Criminal Code in force in 2008–2009. However, the Constitutional Court did so by reference to a Supreme Court decision from 2010.¹¹ In its judgment annulling the original decision to discontinue the case, the Constitutional Court relied on Supreme Court judgments from 2011–2013 and 2017.¹² The authorities will thus have to address, among other things, how this later case law interpretation of the Criminal Code could have been foreseeable for the potential offender and how a possible conviction would stand in light of Article 7 of the Convention, which enshrines the principle of *nullum crimen sine lege*.¹³ According to the Constitutional Court, however, the authorities cannot, when interpreting the concepts of *entrusted supervision* and *state of helplessness*, limit themselves to stating that the applicant's situation is not the same as in previous case law examples. They must examine whether, although the situation is different (for example, not a teacher and a primary school pupil, but a priest and an adult woman), it nevertheless displays comparable features of helplessness or supervision.

The judgments in Y and Z will undoubtedly influence the practice of prosecuting sexual offences, as will the subsequent decisions of the Constitutional Court. In Y, the Constitutional Court will still have the opportunity to supplement its case law – the applicant has already applied for a reopening of the proceedings.¹⁴

⁸ Note on spelling: The term “case-law” (with a hyphen) is widely used in Strasbourg jurisprudence and in publications of the European Court of Human Rights (e.g., “the Court's case-law,” “HUDOC – case-law”).

In contrast, English-language materials of the Czech Constitutional Court and scholarly writing about it generally use “case law” (two separate words) when referring to its precedent.

In this document, I follow the convention of each court: “case-law” when referring to Strasbourg precedent, and “case law” when referring to the Czech Constitutional Court, to reflect their customary usages.

⁹ See *Slunský v. the Czech Republic*, no. 31225/06, decision of 5 April 2011.

¹⁰ Resolution file no. Pl. ÚS 2/25 #2 of 7 May 2025.

¹¹ See § 27 of the cited resolution.

¹² See §§ 58–63 of the judgment file no. P. ÚS 2/2025 #3 of 9 July 2025.

¹³ On the issue of reconciling the rights of the victim under Article 3 of the Convention and the rights of the potential perpetrator under Article 7 of the Convention, see e.g., also *Myumyun v. Bulgaria*, no. 67258/13, judgment of 3 November 2015, § 76, or the on the applicability of statutes of limitation to prosecution, conviction and punishment in respect of an offence constituting, in substance, an act of torture, no. P-16-2021-001, Grand Chamber advisory opinion of 26 April 2022, §§ 67–78.

¹⁴ Proceedings are conducted under file no. Pl. ÚS 27/25.

For context, it should be added that these judgments are not the first of their kind. They fit into a trend in recent years, where both the Court¹⁵ and the Constitutional Court¹⁶ have begun to approach complaints about insufficient investigation of sexual offences with greater sensitivity.

Finally, it is worth mentioning that the Court is currently considering the application *M v. the Czech Republic* concerning the prosecution of sexual abuse of a 13-year-old girl¹⁷ and the case *A and Others v. the Czech Republic* concerning the prosecution of certain acts by a former Member of Parliament D. F.¹⁸ The Court will thus soon issue further judgments against our state on these sensitive and serious legal issues.

1.2 Decisions on detention

Two adverse judgments last year concerned the courts' decisions on detention. In *Spišák v. the Czech Republic*,¹⁹ the Court found that, whereas in cases of particularly serious crimes committed by adults, the courts review the justification for continued detention *ex officio* after three months, none of the reasons put forward by the Government regarding favourable treatment of juveniles in detention (such as a significantly shorter maximum possible duration of detention, automatic deduction of detention from the sentence, or broader alternatives to detention) could justify the fact that, in cases of particularly serious offences, the courts review the justification for continued detention of juveniles *ex officio* only after six months. The Court thus found a violation of the prohibition of discrimination (Article 14 of the Convention) in conjunction with the right to liberty (Article 5 of the Convention). The Court rejected the argument that the overall conditions of juvenile detention should be assessed in their entirety and compared with adult detention as a whole. From its reasoning, it appears that the conditions and circumstances of juvenile detention should be more favourable, or at least on the same level, as those for adults in every respect.

The Czech Republic has already begun to respond to the *Spišák* judgment. The Ministry of Justice has prepared and submitted for inter-ministerial comment a draft amendment to the Juvenile Justice Act, which remedies the unequal treatment criticised by the Court. The detention of a juvenile will also be reviewed no later than three months after the last decision on detention.²⁰

The second detention judgment last year was *Zadeh v. the Czech Republic*.²¹ The applicant raised a number of complaints related to his detention, to which he was subjected on suspicion of particularly serious crimes of tax evasion and participation in an organised criminal group.

¹⁵ See e.g., *K.M. v. North Macedonia*, no. 59144/16, judgment of 4 March 2025; *X v. Cyprus*, no. 40733/22, judgment of 27 February 2025; *I.C. v. Moldova*, no. 36436/22, judgment of 27 February 2025; *H.W. v. France*, no. 13805/21, judgment of 23 January 2025; *N.Ö. v. Turkey*, no. 24733/15, judgment of 14 January 2025; *M.Ş.D. v. Romania*, no. 28935/21, judgment of 3 December 2024; *X v. Greece*, no. 38588/21, judgment of 13 February 2024; *Vučković v. Croatia*, and no. 15798/20, judgment of 12 December 2023.

¹⁶ Constitutional Court judgment of 19 March 2025, file no. Pl. ÚS 17/24; Constitutional Court judgment of 11 March 2025, file no. III. ÚS 2083/23; Constitutional Court judgment of 22 January 2025, file no. IV. ÚS 2118/24; Constitutional Court resolution of 11 September 2024, file no. III. ÚS 381/24; and Constitutional Court judgment of 30 May 2024, file no. II. ÚS 527/23.

¹⁷ Application no. 36622/21, more at: <https://hudoc.echr.coe.int/eng?i=001-235593>.

¹⁸ Application no. 30003/24, more at: <https://hudoc.echr.coe.int/eng?i=001-244312>.

¹⁹ Application no. 13968/22, judgment of 20 June 2024.

²⁰ For the legislative proposal see more at: <https://msp.gov.cz/en/web/msp/pravni-predpisy-v-legislativnim-procesu>.

²¹ Application no. 35207/17 and 6 others, judgment of 27 June 2024.

He challenged the length of his detention, the duration of the judicial review proceedings, the insufficient frequency of detention reviews, and the monitoring of his correspondence with his lawyers by the prison service. The Czech Bar Association joined the proceedings as a third party in relation to the last complaint. However, the Court approached the application by stating that the main legal issue is the length of detention. In this respect, it found a violation of Article 5(3) of the Convention. It noted that the reasons for the applicant's detention were initially weighty and justified. Over time, however, the risk of witness tampering disappeared, as the investigation was completed, and the case was submitted to the court. Nevertheless, the courts reviewing the detention continued to give the same reasons for its continuation. In total, the detention lasted two years and three months, which, according to the Court, was disproportionate, especially given that the offence was of non-violent nature.

This conclusion was expected in light of existing case-law of the Court and does not bring anything new to its development. The applicant's other complaints, particularly regarding the length of certain review proceedings and the monitoring of his correspondence with lawyers, had the potential to have a general impact spreading beyond the applicant's case. However, the Court, referring to the judgment in *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania*,²² decided not to address these complaints at all, stating that 'it is not necessary'.²³ The Court has adopted this approach in hundreds of cases in recent years.²⁴ In many of them, this may be appropriate, as the complaints left aside did not bring anything new to the case.

However, the *Zadeh* judgment shows that this is not always the case. It seems that the Court adopts this approach even in relation to complaints that could result in a violation of the Convention, which have a different nature and cause than the main issue identified by the Court. The domestic courts' decisions on the merits of the detention are one thing. The procedural aspects of these proceedings are quite another. The legal issue of monitoring the correspondence of a person in detention is even more distinct. It is questionable to what extent this approach by the Court, where it does not rule on large parts of the application at all, is compatible with the right of individual application enshrined in Article 34 of the Convention. In *Zadeh*, the Court put a total of 14 questions to the parties, including sub-questions.²⁵ However, in its decision, it addressed only four of them and left ten completely unanswered. This approach harms not only the applicant, who is denied justice, but also the state and, by extension, other individuals in similar situations. If it is not clarified whether a certain practice of state authorities is compatible with the Convention, even though it may and should be done by the Court, many other individuals may become victims of violations of the Convention that could have been prevented.

²² Application no. 47848/08, Grand Chamber judgment of 17 July 2014, § 156.

²³ See § 20 of the *Zadeh* judgment.

²⁴ See for example these cases: <https://mezisoudy.cz/databaze-judikatury/vysledky?sit=decisions&sdbi=1%2C2%2C3%2C4&fqj=%22Centre%20for%20Legal%20Resources%20on%20behalf%20of%20Valentin%20Câmpeanu%20v.%20Romania%20%5BGCC%5D%2C%20no.47848%2F08%2C%20%2C%20A7%20156%22&orderBy=date-desc>.

²⁵ See <https://hudoc.echr.coe.int/eng?i=001-196324> and <https://hudoc.echr.coe.int/eng?i=001-192865>.

1.3 Other judgments finding a violation of the Convention

Of the remaining adverse judgments, let us focus in more detail on *Machalický v. the Czech Republic*.²⁶ The Court found a violation of the presumption of innocence protected by Article 6(2) of the Convention. In essence, the applicant was originally prosecuted for suspected fraud. As the subjective element of the offence could not be proven, the court reclassified the act as a breach of duty in the management of another's property. However, this offence was already time-barred, so the prosecution was discontinued. The applicant subsequently applied for compensation. The courts rejected his claim, referring to the findings of the criminal court and stating that there was no doubt that he had committed conduct constituting the offence of breach of duty in the management of another's property, but the prosecution was discontinued due to the statute of limitations. They stated that, although the State Liability Act does not expressly provide for this situation, it should be applied *per analogiam*, as the legislature intended to deny compensation where a criminal offence was committed, although the perpetrator was not convicted. The appellate court added that the expiry of the limitation period alone does not mean that the prosecution was unlawful. The Supreme Court added that compensation is excluded if the individual committed conduct corresponding to the elements of a criminal offence.

According to the Court, it is clear from the reasoning of the civil courts' decisions that they took the view that the applicant was guilty of a criminal offence for which he was not convicted only because of the statute of limitations. However, expressing this view in judicial decisions is prohibited by Article 6(2) of the Convention. The Court stated that the mere dismissal of a claim for compensation on the grounds that the discontinuance of the prosecution due to the statute of limitations does not imply its unlawfulness would not in itself violate the presumption of innocence. However, the reasoning used by the courts did.

The judgment pointed to a broader problem. Section 12 of the State Liability Act does not expressly provide for similar situations. However, the courts have consistently held that it would be contrary to good morals and the general understanding of justice if people whose prosecution ended only due to the statute of limitations were entitled to compensation.²⁷ In the reasoning of their decisions, however, the courts face practical problems as to how to state both that the claimant is not entitled to compensation because he committed conduct that would have been a criminal offence but for the statute of limitations, and at the same time not state that the claimant actually committed the act. In the context of the execution of the *Machalický* judgment, this legal provision should therefore be amended, and an exclusion from compensation should be inserted into Section 12(1)(b) of the cited Act for cases where the prosecution was discontinued due to the statute of limitations.²⁸

The remaining two adverse judgments last year did not raise any broader issues in terms of the development of the Court's case-law or national law or judicial practice. In *Veselý v. the Czech Republic*,²⁹ the Court found a violation of Article 8 of the Convention, as the national courts did not award the applicant sufficient compensation for non-pecuniary

²⁶ Application no. 42760/16, judgment of 10 October 2024.

²⁷ See e.g., Supreme Court judgment of 17 September 2012, file no. 28 Cdo 605/2012.

²⁸ See the action plan for the execution of the judgment, which the Czech Republic submitted to the Committee of Ministers of the Council of Europe in July 2025, available at https://mezisoudy.cz/storage/files/tinyMCE/Machalicky%20proti%20CR_Akni%20plan%20vykonu%20rozsudku_Cz.pdf.

²⁹ Application no. 12431/22, judgment of 28 November 2024.

damage caused by a medical procedure performed *non lege artis*. After deducting the costs of legal representation before the Supreme Court, which he had to pay to the defendant hospital, the applicant received only CZK 5,500 for the pain and health complications caused by the incorrectly performed abdominal surgery. In *Crites and Rabinovitz v. the Czech Republic*,³⁰ the Court found a violation of the right of access to the Constitutional Court. The Constitutional Court had dismissed the applicants' constitutional complaint on the grounds that they should have first lodged an appeal on points of law, even though the value of their claim was less than CZK 50,000 and such an appeal was therefore inadmissible by law.

1.4 Climate litigation

At the pan-European level, the most significant decision of the Court last year concerning the Czech Republic was undoubtedly *Duarte Agostinho and Others v. Portugal and 32 other States*,³¹ in which our country was one of the respondent states. The applicants were six minors or young adults from Portugal who argued that the respondent states were failing to fulfil their obligations to prevent climate change, thereby violating their fundamental rights and freedoms protected by the Convention.

In regard to the Czech Republic, the main issue in this case was jurisdiction. That is, whether the Czech Republic can be held responsible under the European Convention on Human Rights for its possible failings in addressing the climate threat in relation to citizens of Portugal living in Portugal. The Court held that it could not. It recalled that jurisdiction under Article 1 of the Convention is essentially territorial. A state can be held responsible under the Convention for acts outside its territory only exceptionally – if it exercises effective control over an area outside its territory, or if its agents exercise power or control over certain persons abroad. The applicants argued that the urgent situation of global warming and climate change justified the Court establishing a new form of extraterritorial jurisdiction.

The Court did not accept this. It stated that the threat of climate change is existential for humanity. More fossil fuels extracted or burned anywhere in the world beyond what can be offset by natural carbon removal will lead to higher concentrations of greenhouse gases in the atmosphere and thus to a global worsening of the effects of climate change. Nevertheless, according to the Court, a new exception to extraterritorial jurisdiction cannot be inferred. The respondent states other than Portugal have no connection to the applicants, no link binds them. If the Court were to accept the applicants' argument, anyone in the world could seek protection under the Convention against any of its contracting states whom they considered not to be doing enough to prevent climate change. The Convention was also not intended to provide protection for the environment as such; that is the purpose of other international and national legal instruments. The Convention is not a global climate change treaty. The new exception to territorial jurisdiction proposed by the applicants would, according to the Court, represent a radical departure from the system of the Convention as established by the states.

Thus, in *Duarte Agostinho*, the Court refused to become a world court for climate change issues. This is to be welcomed. The opposite conclusion, involving a very significant expansion and development of existing case-law, would have been very difficult to accept in many European States. The legitimacy and respect for the Court would have been severely

³⁰ Application no. 54651/20, judgment of 20 June 2024.

³¹ Application no. 39371/20, Grand Chamber decision of 9 April 2024.

tested, which neither the Court nor the states might have withstood. In recent times, there have been calls in several states to reconsider their commitment to the Convention and the Court's case-law.³² A substantial expansion of the Court's jurisdiction in the area of climate change would have amplified these sentiments. Last but not least, the Court could have been overwhelmed by tens or hundreds of thousands of climate applications from around the world, which could have completely paralysed its functioning.

On the same day the *Duarte Agostinho* decision was issued, the Court also ruled on the case of *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*.³³ In this judgment, the Court found that the respondent state had failed to meet its positive obligation to adopt a legal and administrative framework of measures against climate change. The Court thus demonstrated that the European Convention on Human Rights is also relevant in the area of climate change. Article 8, which protects the right to respect for private life—including the protection of health – imposes an obligation on states to protect individuals living on their territory from harmful effects and risks caused by climate change. States must adopt and effectively implement in practice regulations and measures capable of mitigating the current and potentially irreversible future effects of climate change.

Specifically, the Court held that states must (i) adopt general measures setting a target timeframe for achieving carbon neutrality and an overall remaining carbon budget for the same timeframe, or another equivalent method of quantifying future emissions, in line with overarching national and/or global commitments; (ii) establish interim targets and emission reduction scenarios (by sector or other relevant methodologies) that can fulfil the overall national emission reduction goals within the relevant periods adopted under national policies; (iii) provide evidence that they have duly met or are meeting the relevant targets under (i) and (ii); (iv) update emission reduction targets with due diligence and based on the best available evidence; and (v) act in a timely, appropriate, and consistent manner in designing and implementing regulations and measures.³⁴

The Court also ruled in *Verein KlimaSeniorinnen Schweiz* that applications to the Court alleging a violation of the Convention due to insufficient state action against climate change may only be brought by qualified and representative associations defending the human rights of their members. Individuals may file a complaint only exceptionally, if they can demonstrate that they are personally and directly affected by the state's insufficient action and the adverse effects of climate change to a high degree, resulting in serious negative consequences.

Thus, last year the Court initially outlined its role in the climate agenda. Only qualified associations may approach it, they may challenge only the alleged insufficient action of the state in which they operate, and they must first have unsuccessfully approached that state's domestic courts. We shall see what future case law in this area brings. So far, the Court has communicated only one application to states – *Müllner v. Austria*³⁵ – in which the applicant

³² See e.g., the letter of nine prime ministers and heads of state from May 2025, joined by the Czech Prime Minister: <https://www.ceska-justice.cz/2025/05/strasburk-vykladem-prava-omezuje-demokracii-podepsal-fiala/>.

³³ Application no. 53600/20, Grand Chamber judgment of 9 April 2024.

³⁴ For how Switzerland is fulfilling these obligations following the judgment, see the supervision of the execution of the judgment by the Committee of Ministers of the Council of Europe: <https://hudoc.exec.coe.int/eng?i=004-65565>.

³⁵ Application no. 18859/21, details available at: <https://hudoc.echr.coe.int/eng?i=001-235058>.

suffers from multiple sclerosis, whose symptoms worsen in higher temperatures. In the Czech Republic, the issue is currently being addressed by the plenary of the Constitutional Court.³⁶

1.5 Significant judgments finding no violation of the Convention

Among the judgments finding no violation of the Convention, perhaps the most significant is *Mirzoyan v. the Czech Republic*.³⁷ The Court addressed the sensitive issue of the refusal to grant a residence permit on the basis of classified police information. The applicant, a Russian national, had lived and worked in the Czech Republic since 2006. He had a wife and four children. In 2011, the Ministry of the Interior refused to extend his residence permit, relying on classified police information indicating that his continued presence in the territory would be undesirable from a security perspective. The domestic courts upheld the Ministry's decision. The Strasbourg Court primarily examined whether the security interests of the state and the applicant's interest in respect for his family and private life were properly balanced. The key issue was procedural safeguards – whether it is permissible in such cases not to disclose classified information to the foreign national and how the courts should proceed in such proceedings. The Court applied, *mutatis mutandis*, the principles it had developed in *Muhammad and Muhammad v. Romania*³⁸ under Article 1 of Protocol No. 7, which enshrines procedural safeguards relating to expulsion of aliens. In the present case, it was not a matter of expulsion. The mere refusal to extend the residence permit did not yet entail an enforceable obligation to leave the state's territory. However, the applicant's stay in the Czech Republic became uncertain.

Consistent with its approach in *Muhammad and Muhammad*, the Court did not require that the applicant or his legal representative have access to all the information that formed the basis for the refusal and that was classified. The Court expressed understanding for the need to keep certain information secret to ensure security and eliminate the risk of compromising police operations. It thus considered the existence of sufficient procedural safeguards to be crucial. The Court was satisfied with the safeguards afforded to the applicant – he was informed of the substance of the reasons why the Ministry considered his stay a risk to public security, the courts had full access to all classified information and requested additional information from the administrative authorities to ensure that it was convincing, accurate, and credible and demonstrated the risk posed by the applicant. The applicant was represented by a lawyer, and his case was reviewed in an adversarial manner at oral hearings. The Court thus approved the practice of the Czech authorities and the possibility of revoking a residence permit on the basis of classified information, without such information having to be disclosed in full to the foreign national concerned.

The *Mirzoyan* judgment is also important in that the Court confirmed the practice of the Czech courts that, if a foreign national invokes their family life, it is primarily for them to specify the impact of the residence decision on their children and to explain to the courts how the situation will specifically affect their family's life. Merely pointing out that they have children is not sufficient.

³⁶ See proceedings file no. Pl. ÚS 6/25, more at <https://www.klimazaloba.cz/>.

³⁷ Applications nos. 15117/21 and 15689/21, judgment of 16 May 2024.

³⁸ Application no. 80982/12, Grand Chamber judgment of 15 October 2020.

The Court also found no violation of the Convention in *S. v. the Czech Republic*.³⁹ The case concerned the alleged insufficient provision of support measures to enable the applicant, who suffered from an autism spectrum disorder, to be educated at his catchment primary school. The Court subjected the case to thorough review and concluded that, although at the relevant time – i.e., before the amendment to the Education Act, which from 1 September 2016 enshrined the right of every pupil to receive support measures at the state’s expense at their catchment school – the provision of support measures was not without complications, the applicant’s catchment school did everything that could reasonably be required to enable the applicant to be educated at it. The Court found no violation neither in the fact that the courts did not hear the applicant in the proceedings on his anti-discrimination action. It took into account that the applicant had expressed concerns in his action about reviving negative memories, and therefore it could not be blamed on the judge that he required the applicant to submit an assessment by a doctor or psychologist that he could be heard without any harm, which the applicant did not do. The domestic courts could thus legitimately consider the absence of the hearing of the applicant as a protection of his interests and conclude that his participation in the proceedings was sufficiently ensured by his own written submissions and through his lawyer.

Finally, let us mention the judgment in *Rybářství Třeboň a.s. and Rybářství Třeboň Hld. a.s. v. the Czech Republic*.⁴⁰ The Court dealt with a long-standing case of church restitutions. The ponds at issue were acquired by the applicant company in the privatisation in 1992. However, this was property that had been confiscated from the church without compensation by the communist regime in 1949. According to the law, such property could not be privatised, as the legislature had already envisaged that there would be a property settlement between the state and the churches. This occurred 20 years later with the Church Restitution Act. In subsequent court proceedings, the church, the original owner of the ponds, succeeded in having it determined that the state was the owner and then took them over from the state. The applicant company received no compensation for the deprivation of the property after more than 20 years.

The Strasbourg Court, however, found that this procedure did not violate its property rights protected by Article 1 of Protocol No. 1 to the Convention. In matters of dealing with the past, states enjoy a wide margin of appreciation. Moreover, the applicant company did not acquire the property in good faith. It must have known that the inclusion of this property in the privatisation was contrary to the law, as it was former church property. It therefore had no legitimate expectation of being able to keep it. The applicant company also acquired the property free of charge and was able to keep all the fruits and benefits derived from the use of the ponds. It did not claim to have improved the land through investments. Thus, it did not bear an excessive individual burden.

2. Execution of judgments of the Court

Last year was not only rich in interesting new decisions of the Court. It also brought important developments in the execution of judgments from previous years.

³⁹ Application no. 37614/22, judgment of 7 November 2024.

⁴⁰ Applications nos. 18037/19 and 33175/22, judgment of 7 November 2024.

Execution of the Court's judgments of violation includes individual and general measures. The individual measures include the payment of the just satisfaction awarded by the Court and the possibility to request a reopening of the proceedings before the Constitutional Court pursuant to Section 119 of the Constitutional Court Act. The general measures are naturally of wider significance. Their essence consists in ensuring that a similar violation of the Convention will not occur in the future. General measures may take the form of changes in the case law of domestic courts, legislative amendments, changes in internal rules and practice, etc. The execution of the Court's judgments is supervised by the Committee of Ministers of the Council of Europe.

In 2024, the Czech Republic had seven judgments *on the table* for execution: *D.H. and Others*,⁴¹ *Komissarov*,⁴² *Pálka and Others*,⁴³ *B.Ů.*,⁴⁴ *Sládková*,⁴⁵ *Janáček*,⁴⁶ and *V.*⁴⁷ Last year, the Committee of Ministers closed its supervision of the execution of the judgments in *Pálka and Others*⁴⁸ and *Janáček*.⁴⁹ In the first cited judgment, the general problem had already been remedied before the Court's judgment by the adoption of the Expropriation Act in 2006. In the second, awareness of the issue of adversarial proceedings and internal working procedures within the Constitutional Court were strengthened.⁵⁰

Last year, we focused more closely on the execution of the judgments in *D.H. and Others* and *Komissarov*. This year, let us look at the remaining three.

The judgments in *B.Ů.* and *Sládková* raise the same issue – ensuring effective and independent investigation of arguable claims of ill-treatment by police officers. To strengthen the ability of members of the Police of the Czech Republic and the General Inspection of Security Forces (GISF) to recognise arguable claims of ill-treatment and to deal with them in accordance with the law, both institutions have amended their internal regulations. In May 2024, the GISF incorporated the issue of the definition and proper assessment of arguable claims and the obligation to conduct effective investigations in accordance with the requirements arising from the case-law of the Court and the Constitutional Court into the GISF Director's Regulation No. 47 on the performance of tasks in criminal proceedings. The amended version of the regulation provides that as soon as the GISF becomes aware of an arguable allegation of unlawful use of force or verbal humiliation by police officers, it will, without undue delay, verify the truth of the information and conduct an effective investigation to clarify the matter. The investigation must also meet the requirements of independence, impartiality, promptness, and must be thorough and adequate. Similarly, in February 2024, the Police President amended his Instruction No. 44/2018 on internal control, data collection, reference surveys, and handling of submissions. The revised instruction now includes the definition of an arguable claim. It also provides that if a police officer investigating a report assesses that it contains information that can be considered an

⁴¹ Application no. 57325/00, Grand Chamber judgment of 13 November 2007.

⁴² Application no. 20611/17, judgment of 3 February 2022.

⁴³ Application no. 30262/13, judgment of 24 March 2022.

⁴⁴ Application no. 9264/15, judgment of 6 October 2022.

⁴⁵ Application no. 15741/15, judgment of 10 November 2022.

⁴⁶ Application no. 9634/17, judgment of 2 February 2023.

⁴⁷ Application no. 26074/19, judgment of 7 December 2023.

⁴⁸ Further information on the closure of supervision is available here: <https://hudoc.exec.coe.int/eng?i=004-60715>.

⁴⁹ Further information on the closure of supervision is available here: <https://hudoc.exec.coe.int/eng?i=004-63253>.

⁵⁰ See §§ 33–34 of the Janáček judgment.

arguable allegation of ill-treatment, they are obliged to inform the GISF without undue delay. Finally, in April 2024, the GISF completed a practical guide for GISF and police officers to facilitate understanding of the issue of handling allegations of ill-treatment. It has been made available to all police officers and GISF members.⁵¹

The judgment in *V.* was placed under enhanced supervision by the Committee of Ministers. Alongside *D.H. and Others*, it is the only judgment against the Czech Republic subject to enhanced supervision. This is not because there have been delays or other complications in its execution. Rather, it is because the judgment concerns a serious issue – the death of a person in a psychiatric hospital following an intervention by a police officer who used a taser – and also because general measures of redress are needed in both the health and police sectors.

In 2024, a number of measures were adopted to eliminate the risk of a similar case occurring again in the future. Let us mention a few of the most important. In September 2024, an inter-ministerial working group was established at the Ministry of Health to develop a methodology for the joint action of health professionals and police officers in interventions against aggressive persons. In December 2024, cooperation was initiated between the Psychiatric Society of the Czech Medical Association of Jan Evangelista Purkyně and the Police Presidium to develop a methodology explaining how police officers can recognise a person in so-called excited delirium, a state usually caused by a mental illness attack or intoxication. In September 2024, a methodological recommendation was issued to unify and streamline the activities of police officers in preparing to use coercive means, with an emphasis on the issue of positional and compressive asphyxia. In August 2024, the Ministry of the Interior issued an interpretative opinion on Section 58(1) of the Police Act, according to which a ‘person with an obvious physical defect or illness’, for whom this provision establishes a stricter regime for the use of a taser, also includes a person with obvious signs of mental disorder and a hospitalised person. Further measures to ensure effective investigation, training of police officers and health care workers, and data collection and evaluation will be adopted this year as well.⁵² The first review and assessment of the execution of the judgment by the Committee of Ministers will take place in December 2025.

Conclusion

2024 brought a number of judgments of the Court that are important for Czech law and practice. The judgments in the area of prosecution of non-consensual sexual offences will help guide and improve the practice of law enforcement authorities. The judgments concerning detention and the presumption of innocence will lead to clarification and improvement of the legal framework.

The overall record of the Czech Republic is encouraging. Only two percent of violations in the context of more than 300 applications assessed is an excellent result. This testifies, first and foremost, to the good implementation of the Convention at the national level. Secondly, to the good decision-making of Czech courts. And last but not least, to the quality of the state’s representation before the Strasbourg Court. On the other hand, it should not

⁵¹ For the execution of the judgments *B. Ů.* and *Sládková*, see more at: <https://mezisoudy.cz/vykon-rozsudku-eslp-a-rozhodnuti-dalsich-mezinarodnich-lidskopravnich-organu/b-ue-a-sladkova-proti-cr>.

⁵² For the execution of the judgment *V.*, see more at: <https://mezisoudy.cz/vykon-rozsudku-eslp-a-rozhodnuti-dalsich-mezinarodnich-lidskopravnich-organu/v-proti-cr>.

be overlooked that a number of human rights issues may never reach the courts for various reasons.

Last year was also marked by significant steps in the execution of the Court's judgments. The developments in the activities of the police and GISF are particularly encouraging.

At the beginning of 2025, the Court had a number of very interesting and important applications before it. First and foremost, the inter-state application of Liechtenstein against the Czech Republic,⁵³ which has been awaiting resolution since 2020. Among individual complaints, let us mention cases pointing to possibly insufficient judicial protection of fundamental rights and freedoms during a state of emergency,⁵⁴ to the allegedly improper approach of law enforcement authorities to the investigation of hate crimes,⁵⁵ to the alleged unfairness of criminal proceedings involving a well-known politician,⁵⁶ to possible discrimination against same-sex couples in the recognition of adoption from abroad,⁵⁷ and many others. Thus, there is much to look forward to from Strasbourg in 2025 as well.

⁵³ Application no. 35738/20.

⁵⁴ *Bystřická v. the Czech Republic* (no. 40764/21), more at: <https://hudoc.echr.coe.int/eng?i=001-234562>, and *Mullis v. the Czech Republic* (no. 19273/22), more at: <https://hudoc.echr.coe.int/eng?i=001-234564>.

⁵⁵ *Karičková v. the Czech Republic* (no. 7411/24), more here: <https://hudoc.echr.coe.int/eng?i=001-236023>.

⁵⁶ *Rath v. the Czech Republic* (no. 34695/22), more here: <https://hudoc.echr.coe.int/eng?i=001-238257>

⁵⁷ *Bevan and Others v. the Czech Republic* (no. 27137/23), more here: <https://hudoc.echr.coe.int/eng?i=001-238620>.