

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES



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Meeting: 1318th meeting (June 2018) (DH)

Item reference: Action report (05/04/2018)

Communication from the Czech Republic concerning the case of Beranek v. Czech Republic (Application No. 45758/14)

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Réunion : 1318^e réunion (juin 2018) (DH)

Référence du point : Bilan d'action

Communication de la République tchèque concernant l'affaire Beranek c. République tchèque (requête n° 45758/14) (**anglais uniquement**)

**Execution of the judgment of the European Court of Human Rights
in case no. 45758/14 – *Beránek v. the Czech Republic*
Action Report submitted by the Czech Government on 5 April 2018**

In its judgment of 5 October 2017, which became final on the same day in accordance with Article 28 § 2 of the Convention, the European Court of Human Rights (hereinafter “the Court”) held that there had been a violation of Article 6 § 1 of the Convention on account of an erroneous dismissal of the applicant’s constitutional appeal due to the Constitutional Court’s incorrect assessment of the compliance of that appeal with the statutory time-limit.

The present report is intended to inform the Committee of Ministers of individual and general measures of execution of the judgment.

I. INDIVIDUAL MEASURES

First, the Court made no financial award under Article 41 of the Convention.

Second, Article 119 of the Constitutional Court Act gives the applicant a possibility to request reopening of the proceedings before the Constitutional Court. The applicant filed such request on 3 April 2018. In the light of the nature of the violation established by the Court, this constitutes an adequate *restitutio in integrum* in the case at hand.

II. GENERAL MEASURES

The Constitutional Court was duly informed about the Court’s judgment and was provided with its translation. This translation along with a legal summary of the judgment was published in the Court’s case law database on the website of the Ministry of Justice (<http://eslp.justice.cz/>). The case was discussed at the Constitutional Court’s plenary meeting on 20 February 2018 and at the 4th meeting of the Committee of Experts on the Execution of Judgments of the Court held on 28 February 2018.

Given that:

- about 4,000 constitutional appeals are lodged a year;
- a similar situation to that assessed in the judgment at hand may have occurred once or twice in the almost 25-year history of the Czech Constitutional Court (see final resolution CM/ResDH(2009)122 of 3 December 2009, in particular with regard to the cases of *Zedník v. the Czech Republic*, no. 74238/01, judgment of 28 June 2005; and *Zemanová v. the Czech Republic*, no. 6019/03, judgment of 13 December 2005);
- the occurrence of a similar violation of the right to a court, erroneously committed by a judge, may never be ruled out with an absolute certainty; and
- in any event, there is no appearance of a structural or systemic problem,

the Government deem it appropriate to declare that the two above-mentioned debates, raising awareness amongst relevant national bodies, constitute a sufficient response to the judgment and that no other general measures of execution are required.

III. CONCLUSION

The Government of the Czech Republic conclude that the judgment does not require any further specific individual or general measures to be taken.

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