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Meeting: 1531st meeting (June 2025) (DH)

Item reference: Action Report (28/05/2025)

Communication from the Czech Republic concerning the case of Vesely v. the Czech Republic (Application No. 12431/22)

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Réunion : 1531^e réunion (juin 2025) (DH)

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Communication de la République tchèque concernant l'affaire Vesely c. République tchèque (requête n° 12431/22) (*anglais uniquement*)

**Execution of the judgment of the European Court of Human Rights
in case no. 12431/22 – *Veselý v. the Czech Republic***

Action Report submitted by the Czech Government on 28 May 2025

In the judgment of 28 November 2024, which became final in accordance with Article 28 § 2 of the Convention, the European Court of Human Rights (“the Court”) found a violation of Article 8 of the Convention, on account that the domestic courts had failed to award the applicant adequate compensation for non-pecuniary damage caused by a medical procedure performed *non lege artis*.

The present action report is intended to inform the Committee of Ministers of individual and general measures of execution of the judgment that had been already carried out.

I. INDIVIDUAL MEASURES

Just satisfaction awarded by the Court in the amount of EUR 4 000 in respect of non-pecuniary damage and EUR 2 500 in respect of costs and expenses was paid to the applicant on 14 February 2025.

When determining the amount of compensation, the Court took into account the exceptional circumstances of the case, in particular the seriousness of the interference with the applicant’s physical integrity and the fact that the domestic legal framework in force at the material time did not provide a realistic opportunity to obtain effective redress, not even by means of a possible reopening of the proceedings before the Constitutional Court (§ 22 of the judgment).¹ In this regard, the Government submit that the applicant did not request the reopening of the proceedings before the Constitutional Court.

In view of the above, the Government believe that no other individual measures need to be adopted in the applicant’s case.

II. GENERAL MEASURES

A. RAISING AWARENESS OF THE JUDGMENT

The Ministry of Justice has informed the public about the judgment immediately after its delivery in the form of a [press release](#). It has further published the Czech translation of the judgment in its online database of the international human rights case law (mezisoudy.cz).² The

¹ Section 119 of the Constitutional Court Act as amended by Act no. 404/2012 provides, *inter alia*, that if the Constitutional Court has previously ruled in a case in which an international court finds a violation of human rights or fundamental freedoms guaranteed by an international treaty, it is possible to file a request for reopening of the proceedings in which the ruling was given. Section 119b provides, *inter alia*, that if Constitutional Court’s previous judgment (*nález*) was inconsistent with the decision adopted by the international court, it must set it aside. If the Constitutional Court sets aside its judgment, it deals anew with the original constitutional appeal and the new judgment should be based on the legal opinion of the international court.

² In June 2024 the Ministry of Justice officially launched a new website (<https://mezisoudy.cz/>) dedicated to international protection of human rights. The website is run by the Government Agent’s Office. It includes a database, which provides access to the case-law of the Court. The database contains all the judgments of the Court in the language in which the Court issued them. Above that, the database contains translations of all judgments of the Court against the Czech Republic, hundreds of translations of the most important judgments of the Court delivered against other States and more than 1 700 legal summaries compiled in the Czech language of other relevant and significant judgments and decisions of the Court. The database also connects the case-law of the Court with the

summary of the judgment will also be published in the [Government Agent's Newsletter](#) no. 2/2025.

The translation of the judgment and its summary in Czech were sent to the relevant authorities (the District Court in Třebíč, the Regional Court in Brno, the Supreme Court, the Constitutional Court, the Ministry of Health, and the Legislative department of the Ministry of Justice). Between December 2024 and February 2025, all judges of the Constitutional Court, all judges of the division of the Supreme Court responsible for deciding compensation disputes, judges of all specialised divisions of the Regional Court in Brno dealing with the relevant subject matter, as well as judges sitting in civil chambers of the District Court in Třebíč were informed of the judgment.

Furthermore, in the course of April and May 2025, the judgment was brought to the attention of judges sitting in the civil divisions of all regional courts of the Czech Republic.

Judges and judicial assistants have been, or will soon be, informed about the judgment also during seminars organised by the Judicial Academy, both in relation to the issue of costs in civil proceedings at the seminar held on 15 May 2025, and in relation to the Supreme Court's case-law on compensation for non-pecuniary damage to health at the seminar on 29 May 2025.

Information about the judgment will also be published in the editorial of the [electronic collection of the Supreme Court](#), "Selection of the European Court of Human Rights Judgments for Judicial Practice." The Selection is a well-known and respected periodical within the judiciary. It is prepared in close cooperation with the judges of the Supreme Court, the Government Agent for representing the Czech Republic before the European Court of Human Rights, and staff from the Analytical and Comparative Law Department of the Supreme Court. Its aim is to raise awareness among the professional legal community of recent and final judgments of the Court.

B. ANALYSIS OF THE JUDGMENT

The Office of the Government Agent consulted the form of appropriate general measures to implement the judgment and prevent similar violations in the future with the relevant domestic authorities: the Legislative Department of the Ministry of Justice, the Department of Legislation and Law of the Ministry of Health, the Supreme Court, the Constitutional Court, the Regional Court in Brno and the District Court in Třebíč.

The execution of the judgment was further discussed at the [12th meeting](#) of the Committee of Experts for the Execution of Judgments of the Court and the Implementation of the Convention³ held on 15 May 2025.

It follows from the above consultations and meeting that implementation of the judgment does not require an amendment to the applicable legal framework, but rather its thorough and constitutionally compliant application. The Czech legal order currently provides sufficient

case-law of the Constitutional Court of the Czech Republic and the jurisprudence of the European Committee on Social Rights and United Nations Treaty Bodies.

³ Established as a follow-up to the obligation to reinforce the implementation of the Convention at the national level agreed by and between the Contracting Parties to the Convention at the High-level Conference on the "Implementation of the European Convention on Human Rights, our shared responsibility" of 27 March 2015, it is the Government Agent's advisory body which serves as a forum for analysing and formulating recommendations to the authorities in terms of suitable measures to be adopted for the purpose of implementing the Court's judgments. It is composed of representatives of all ministries, both Chambers of Parliament, highest courts, Office of the Supreme Public Prosecutor, Office of the Public Defender of Rights, academic staff and members of various NGOs operating in the field of fundamental human rights.

instruments enabling the courts to take into account the individual circumstances of each case and to ensure fair and foreseeable decision-making.

1. DETERMINATION OF THE AMOUNT OF NON-PECUNIARY DAMAGE

The judgment of the Court in the case of *Veselý v. the Czech Republic* concerns the legal framework in force until 31 December 2013. This framework was replaced, with effect from 1 January 2014, by the adoption of the Civil Code (Act no. 89/2012), which in Section 2956 enshrines the obligation to provide compensation for non-pecuniary damage to a person's natural rights,⁴ in Section 2957 sets out the manner and amount of appropriate satisfaction,⁵ and in Section 2958 provides for monetary compensation for injury to health.⁶ The latter provision allows the amount of compensation to be determined on the basis of the principles of decency.

Since the law itself does not contain more detailed criteria for determining the amount of compensation, the Supreme Court, in cooperation with the Czech Society for Medical Law, representatives of insurers, and other legal and medical professionals, has developed the [Methodology for Compensating Non-Pecuniary Damage Resulting from Injury to Health](#) ("the Methodology"). Although the Methodology is only of a recommendatory nature, it has facilitated the legal profession's adaptation to the change in the approach to determining the amount of compensation for injury to health and has helped to standardise the assessment of injury to health sustained, including the quantification of compensation, so that judicial practice arrives at decisions that are mutually comparable and foreseeable.

A recent analysis of judicial practice⁷ has shown that, in the vast majority of cases, the ordinary courts provide compensation under Section 2958 of the Civil Code in accordance with the principles of decency. The Methodology contributes to this, as it is not merely a strict table, but a supportive tool with relatively broad parameters for the autonomous discretion of judges. In order to meet the requirements of foreseeability of judicial decisions, a publicly accessible

⁴ Section 2956 of the Civil Code provides that: "If an injurer incurs an obligation to redress harm caused to a person's natural right protected by the provisions of the first part of this Act, they shall compensate the injured party for both pecuniary loss and non-pecuniary damage; non-pecuniary damage shall also include any mental suffering caused."

⁵ Section 2957 of the Civil Code provides that: "The manner and amount of adequate satisfaction must be determined in such a way as to take account of circumstances deserving special consideration. These include intentional infliction of harm, in particular if the harm was caused through deceit, threats, abuse of the injured party's dependence on the injurer, the multiplication of the impact of the interference by making it public, or harm resulting from discrimination against the injured party on grounds of sex, state of health, ethnic origin, religion, or other similarly serious reasons. Consideration shall also be given to any fear on the part of the injured party of loss of life or serious impairment of health, if such fear was caused by a threat or other factor."

⁶ Section 2958 of the Civil Code provides that: "In cases of injury to health, the injurer shall compensate the injured party for loss or damage in the form of monetary compensation that fully countervails the pain suffered and other non-pecuniary damage; if the injury to health has impeded a better future for the injured party, the injurer shall also compensate the injured party for loss of amenity. Any amount of compensation that cannot be determined shall be determined in accordance with the principles of decency."

⁷ In the summer of 2023, the Supreme Court conducted an analysis of 762 decisions of first instance and appellate courts applying Section 2958 of the Civil Code. In March 2025, the Legislative Department of the Ministry of Justice also carried out a review of the decision-making practice of appellate courts concerning Section 2958 of the Civil Code. On the portal rozhodnuti.justice.cz, appellate court decisions were filtered to identify those containing "2958" either in the operative part or in the reasoning. Out of a total of 128 such decisions, those in which the court awarded any compensation for non-pecuniary damage under Section 2958 of the Civil Code, and in which the Methodology could therefore have been applied, were analysed in detail. In total, this concerned 48 decisions.

[database](#) of case-law on compensation for non-pecuniary damage resulting from injury to health is also being gradually developed.⁸

Under the current legal framework, the ordinary courts are able to ensure legal certainty and predictability of the law by means of standard tools: (i) constitutionally compliant interpretation of Section 2958 of the Civil Code, i.e. determining the amount of compensation for injury to health in accordance with the principle of full compensation and the principles of decency, always taking into account the individual circumstances of each case; (ii) reflecting the non-binding nature of the Methodology and its substantive limits in their reasoning; and (iii) the Supreme Court's tools for unifying case-law, should any inconsistencies in the case-law on this issue arise.

In this context, it is also significant that, in 2021, a *Permanent Conference on Compensation for Harm to Life and Health* was established under the auspices of the Faculty of Law of Charles University, bringing together experts from among judges, doctors, insurers, and other relevant fields. Its aim is to collect suggestions, analyse problems and seek solutions in the form of specific proposals for amendments to the Methodology. At its initiative, as of 1 January 2025, [amendments to the Methodology](#) were adopted to address certain interpretative issues, and new categories of injury to health for which compensation for pain and suffering is due, for example in the area of psychiatric harm, were introduced. The Methodology remains an interpretative aid of a recommendatory nature.

It can therefore be concluded that the adoption of the Civil Code, in particular Section 2958, represents a fundamental step towards preventing violations of the Convention resulting from disproportionately low compensation for injury to health. The new system, with higher and valorised scoring system, should ensure that disproportionately low awards of compensation, as sometimes occurred under the previous legal framework, no longer take place.

2. COSTS OF THE PROCEEDINGS

At the end of its judgment, the Court noted that the Supreme Court, like the lower courts which had exempted the applicant from court fees, should have taken into account the specific character of the proceedings before it when deciding on the costs of the proceedings (§ 18 of the judgment).

A decision that neither party is entitled to reimbursement of costs, even if such entitlement would otherwise arise from the outcome of the proceedings, may be adopted pursuant to Section 150 of the Code of Civil Procedure ("CCP"). Under this provision, the court may, exceptionally, refuse to grant reimbursement of costs in whole or in part, if there are reasons worthy of special consideration. The law does not link this procedure to a particular subject matter of the proceedings as such, but rather to the specific circumstances of the case arising from the property, social, personal, or other situation of the parties. The wording of Section 150 CCP thus allows the courts, in cases similar to *Veselý*, when deciding on costs, to also take into account whether the total amount which the claimant ultimately receives from the defendant medical facility is fair and adequate in relation to the harm suffered.

Moreover, in proceedings concerning compensation for non-pecuniary damage, the issue of costs, in particular before the first and second instance courts, may also be addressed under Section 142(3) CCP. According to this provision, the court may award a party full reimbursement of costs, even if the party was only partially successful, provided that the party was unsuccessful in only a relatively minor part, or where the decision on the amount of

⁸ The database is maintained by the Documentation and Case-law Analysis Department of the Supreme Court.

compensation depended on an expert opinion or on the court's discretion. Section 142(2) CCP complements Section 150 CCP. Section 150 CCP serves as a tool to mitigate the impact on a party who was unsuccessful in the proceedings. Section 142(3) CCP allows a party who was partially successful to be awarded full costs, for instance, because at the time of filing the claim, the party did not know the amount of damage or non-pecuniary damage, which was determined only by an expert during the proceedings.

From the statements of domestic authorities and from the analysis of case-law and the circumstances of the case, it follows that the current legal framework provides the courts with sufficient discretion to take into account the nature of the proceedings and all the circumstances of the case when deciding on costs. Therefore, the execution of the judgment does not require any change in judicial practice or procedural rules.

III. CONCLUSION

The Government of the Czech Republic conclude that the judgment does not require any further individual or general measures to be taken and that all the necessary measures to execute the judgment were adopted. Therefore, they propose to the Committee of Ministers to close its supervision of the execution of the judgment.