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Meeting: 1537th meeting (September 2025) (DH)

Item reference: Action Plan (10/07/2025)

Communication from the Czech Republic concerning the case of Machalicky v. the Czech Republic (Application No. 42760/16)

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Réunion : 1537^e réunion (septembre 2025) (DH)

Référence du point : Plan d'action (10/07/2025)

Communication de la République tchèque concernant l'affaire Machalicky c. République tchèque (requête n° 42760/16) (*anglais uniquement*)

Execution of the judgment of the European Court of Human Rights in Case no. 42760/16 – *Machalický v. the Czech Republic*

Action Plan for the Execution of the Judgment submitted by the Government of the Czech Republic on 10 July 2025

In its judgment of 10 October 2024 in *Machalický v. the Czech Republic* (no. 42760/16), the European Court of Human Rights (“the Court”) held, unanimously, that there had been a violation of the applicant’s right to the presumption of innocence under Article 6 § 2 of the European Convention on Human Rights (“the Convention”) in the context of proceedings for compensation in respect of his criminal prosecution. The reasoning and wording of the civil courts’ decisions imputed criminal liability to the applicant, despite the fact that his criminal prosecution had previously been discontinued on the grounds that the offence was time-barred. The civil courts rejected the applicant’s action by applying, by analogy, section 12(1)(b) of Act no. 82/1998 on State liability for damage caused in the exercise of public authority by a decision or incorrect official procedure (“the State Liability Act”), which sets out exclusions from the State’s liability for damage in connection with criminal proceedings.¹

This action plan is intended to inform the Committee of Ministers of the Council of Europe of the individual and general measures that have been taken to execute the above judgment.

I. INDIVIDUAL MEASURES

On 25 March 2025, the just satisfaction awarded by the Court was paid to the applicant in full.²

On 11 February 2025, pursuant to section 119 *et seq.* of the Constitutional Court Act, the applicant moved to reopen the proceedings before the Constitutional Court in the wake of the Court’s judgment.³

On 9 July 2025, the Constitutional Court rejected his motion.⁴ It held that the consequences of the violation of the applicant’s rights no longer persisted, as they had been sufficiently remedied by the Court’s finding of a violation of the Convention in the present case. The Constitutional Court concurred with the Court’s conclusion that the mere finding of a violation constituted sufficient redress for any non-pecuniary damage. As regards the pecuniary damage claimed by the applicant, the Constitutional Court held that it was not causally linked to the established violation of the presumption of innocence. Indeed, the Convention does not guarantee a right to compensation for pecuniary damage caused by criminal proceedings that were discontinued. In response to the applicant’s argument that the consequences of the violation persist due to the continued public availability of the judicial decisions breaching the presumption of innocence, the Constitutional Court stated that such decisions cannot be “erased from history” as they form part of the case file and public case-law databases. However, the

¹ Section 12(1)(b) provides that no entitlement to compensation for damage arises for anyone “who was acquitted or whose criminal prosecution was discontinued solely on the grounds that he is not criminally responsible for the offence committed, or that he was granted a pardon, or that the offence was covered by an amnesty”.

² Further details may be obtained from the Office of the Government Agent.

³ The reopening proceedings are pending under file no. Pl. ÚS 4/25. The original constitutional appeal lodged by the applicant was registered under file no. III. ÚS 1391/15.

⁴ The Constitutional Court’s judgment of 9 July 2025, no. Pl. ÚS 4/25.

problematic parts of the decisions no longer carry any legal significance precisely due to the Court's authoritative finding that those passages violated the principle of the presumption of innocence. There is therefore no further interference with the presumption of innocence, and their annulment would be redundant.

II. GENERAL MEASURES

A. DISSEMINATION OF THE JUDGMENT

The Ministry of Justice, through the Office of the Government Agent for the Representation of the Czech Republic before the Court ("the Government Agent's Office"), disseminated information about the judgment by publishing a [press release](#) and posting on social media. It also published a Czech translation of the judgment, together with a summary, in its newly launched online [database](#) of case law of the European Court of Human Rights.⁵ The summary of the judgment was also published in issue no. 2/2025 of the Government Agent's Office bulletin, [Zpravodaj KVZ](#).

The Government Agent's Office notified the judgment to the domestic courts that had adjudicated the above-mentioned case, specifically the Prague 2 District Court, the Prague Municipal Court, the Supreme Court, and the Constitutional Court. These are also the courts most frequently having jurisdiction to hear claims for compensation in respect of unlawful criminal prosecution.⁶ All the courts concerned responded that they had brought the judgment and its legal conclusions to the attention of judges and their judicial assistants who deal with similar cases. Other relevant authorities, specifically the Compensation Department of the Ministry of Justice and the Supreme Prosecutor's Office, were also informed of the judgment.

The Constitutional Court also contributed to the dissemination of the *Machalický* judgment. In point 20 of its decision no. IV. ÚS 88/24 of 23 October 2024, it expressly referred to the judgment and pointed out that "*Civil courts must not, in the reasoning of their decisions, attribute guilt to an appellant for an offence for which he has not been convicted, or otherwise suggest that he committed a criminal offence. To do so would amount to a violation of Article 6 § 2 of the Convention, which provides that everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.*"

Execution of the judgment was also discussed at the [11th meeting](#) of the Expert Panel for the Execution of Judgments of the Court and Implementation of the Convention,⁷ held on

⁵ In June 2024, the Ministry of Justice officially launched a new website (<https://mezisoudy.cz/>) run by the Government Agent's Office dedicated to the international protection of human rights. It contains a database of the Court's case law, including all judgments in their original language. In addition, the database holds translations of all judgments delivered in cases involving the Czech Republic, hundreds of translations of the Court's key judgments concerning other States, and more than 1,700 legal summaries of other relevant and significant judgments and decisions rendered by the Court, prepared in Czech. The database also links the Court's case law to that of the Constitutional Court of the Czech Republic, and decisions and conclusions issued by the European Committee of Social Rights and UN human rights committees.

⁶ Jurisdiction *ratione loci* is determined by the ordinary court having jurisdiction over the defendant, which, in cases involving an unlawful decision or incorrect official procedure attributable to the conduct of the courts, is the Ministry of Justice based in Prague 2.

⁷ This body was established as part of the commitment to strengthen the implementation of the Convention at national level, as agreed by the Contracting Parties at the high-level conference "The implementation of the European Convention on Human Rights: our shared responsibility" on 27 March 2015. It is an advisory body to the Government Agent and serves as a forum for the analysis and the formulation of recommendations to authorities on appropriate measures to be taken to implement the Court's judgments. It is composed of representatives of all ministries, both chambers of Parliament, the highest courts, the Office of the Supreme

11 December 2024. The remedial measures taken and the further steps planned in the execution of the judgment were subsequently presented at the [12th meeting](#) of the Expert Panel for the Execution of Judgments of the Court, held on 15 May 2025.

B. AMENDMENT BEING CONSIDERED TO THE STATE LIABILITY ACT

Following the delivery of the judgment, the Government Agent's Office contacted the relevant authorities, including the Supreme Court and the Compensation Department of the Ministry of Justice, in order to determine how common cases like this are in practice. It also enquired whether the present case represented an isolated incident or whether it is generally difficult, in similar situations, to avoid wording in the reasoning of decisions that may suggest the individual's guilt, and whether further general remedies beyond those mentioned above might therefore be appropriate.

The responses from the authorities indicated that such cases arise, at most, a few times per year.

At the same time, the authorities acknowledged that, although civil courts could conceivably exercise greater caution when formulating their reasoning in decisions in similar cases, it would be desirable to explicitly include the "discontinuation of criminal prosecution on the grounds that the offence was time-barred" to the list of exclusions from entitlement to compensation for unlawful criminal prosecution under section 12(1)(b) of the State Liability Act, for the following reasons:

- awarding compensation to an individual whose criminal prosecution is discontinued on the grounds that the offence was time-barred may lead to awards that would be *contra bonos mores* and the general understanding of justice, since no conclusion is reached as to whether or not the offence was committed;⁸
- the analogous application of the above-mentioned provision will, in practice, invariably invite problems in terms of the presumption of innocence, as the reasoning of civil courts' decisions in such cases often rests on the notion that, but for the statutory limitation, the commission of the offence would have been proven, or at least that it cannot be ruled out that the offence was committed; were the courts able to rely on an express statutory exclusion, they would not need to tread the line of the presumption of innocence so closely in their reasoning;
- the use of analogy is also problematic in that it extends the catalogue of exceptions to the State's liability for damage, which, under section 2 of the State Liability Act, is intended to be absolute and objective.

In the Government's view, legislative amendments are not strictly necessary in order to ensure proper execution of the judgment. An appropriate general measure to prevent similar violations of the Convention in future would be to ensure widespread awareness of the judgment, reinforced by the Constitutional Court's guidance to the ordinary courts to refrain from using inappropriate wording in the reasoning of their decisions. The plenary of the Constitutional Court will again have the opportunity to point out this need in its forthcoming decision on the applicant's motion to reopen the proceedings. In light of the submissions by the authorities concerned, the Government consider that an amendment to the State Liability Act would nonetheless be desirable.

Prosecutor, the Office of the Ombudsman, members of the academic community, and representatives of various non-governmental organisations active in the field of fundamental human rights.

⁸ See, for example, the Supreme Court's judgment no. 28 Cdo 605/2012 of 17 September 2012.

The Government Agent's Office consulted the Legislation Department of the Ministry of Justice on an appropriate legislative solution. The department proposed reflecting the current judicial practice directly in the legislation and suggested a minimalist amendment to section 12 of the State Liability Act in the following wording:

(1) The right to compensation shall not apply to a person:

- (a) who was himself responsible for his pre-trial detention, conviction, or the imposition of protective measure; or*
- (b) who was acquitted or whose criminal prosecution was discontinued **on the grounds that the offence was time-barred, or solely on the grounds that he is not criminally responsible for the offence committed, or that he was granted a pardon, or that the offence was covered by an amnesty.***

The proposed wording is consistent with the Court's case law, in which the Court has reiterated, including in the present judgment, that the Convention does not guarantee a right to compensation for unlawful criminal prosecution to a person accused of having committed a criminal offence. The fact that a compensation claim is rejected on the grounds that the discontinuation of criminal prosecution due to statutory limitation does not imply that the prosecution was unlawful, does not in itself amount to a violation of the presumption of innocence. However, the reasoning of such decisions must steer clear of inappropriate language suggesting the person's guilt, which would be contrary to the principle of the presumption of innocence (see § 62 of the judgment).

The proposed wording of section 12 of the State Liability Act is also consistent with the constitutionally guaranteed right to compensation under Article 36 § 3 of the Charter of Fundamental Rights and Freedoms. An accused person who is convinced of his innocence and whose criminal proceedings are to be discontinued on the grounds that the offence is statute-barred may, pursuant to section 11(4) of the Code of Criminal Procedure, insist on the continuation of the proceedings in order to obtain full rehabilitation.⁹ Upon acquittal, such a person may seek compensation for unlawful criminal prosecution.¹⁰ By insisting that the case be heard with a view to clearing his name, the accused does not, in light of section 227 of the Code of Criminal Procedure, run the risk of being convicted and sentenced.¹¹ Another safeguard, derived from the case law of the Constitutional Court, lies in the possibility for civil courts to decline to apply this exclusion in cases where the criminal proceedings were initiated or conducted arbitrarily.¹²

The proposed amendment was also discussed at the [12th meeting](#) of the Expert Panel for the Execution of Judgments of the Court, mentioned above, which endorsed its adoption.

The proposed amendment to the State Liability Act will be submitted by the Ministry of Justice for interdepartmental consultation procedure and will follow the standard legislative process. The forthcoming elections to the Chamber of Deputies of the Czech Republic in

⁹ Section 11(4) of the Code of Criminal Procedure provides that, where a criminal prosecution has been discontinued on the grounds that the offence was statute-barred, the proceedings shall continue "*if the accused declares, within three days of being notified of the decision to discontinue the criminal prosecution, that he insists on the case being heard. The accused must be advised of this.*"

¹⁰ See, for example, the Constitutional Court's judgment no. III. ÚS 1391/15 of 19 January 2016.

¹¹ Section 227 of the Code of Criminal Procedure provides that, where a prosecution is discontinued on the grounds that the offence was statute-barred, and proceedings are continued solely because the defendant insisted on the case being heard, "*the court, if it finds no other ground for acquittal, shall enter a finding of guilt but shall not impose a sentence.*"

¹² See the Constitutional Court's judgment no. III. ÚS 1391/15 of 19 January 2016.

October 2025 mean that it is not currently possible to indicate a projected timeline for the adoption of the amendment.

III. CONCLUSION

The Government consider that, having regard to the nature of the violated right, the payment of just satisfaction, together with the Constitutional Court's examination of the applicant's motion to reopen the proceedings, constitutes an adequate form of individual redress.

As for the general remedial measures, the Government have taken steps to ensure broad awareness of the judgment. In its case law, the Constitutional Court has underlined the need for civil courts to refrain from using inappropriate language, from the perspective of the presumption of innocence, in the reasoning of their decisions. While these measures appear sufficient to ensure the proper execution of the judgment, the Government, in light of the submissions from the relevant authorities, consider it desirable to amend section 12(1)(b) of the State Liability Act in the wording set out above.

The Government will continue their efforts to execute the judgment in accordance with the action plan above and stand ready to provide the Committee of Ministers with further information on the Constitutional Court's decision-making in the applicant's case and on developments in the intended amendment to the State Liability Act. Realistically, however, no progress in this regard can be expected before the second half of 2026.