

# Czechia

## EXECUTION OF THE EUROPEAN COURT OF HUMAN RIGHTS' JUDGMENTS

### MAIN ACHIEVEMENTS IN MEMBER STATES

The present survey presents short summaries<sup>1</sup> of a selection of the main reforms and achievements reported in final resolutions since the Convention system was amended in 1998 by Protocol No. 11, with a clear focus on recent reforms referring, however, also to important earlier developments.

In view of the wealth of cases closed, the selection concentrates on those which have led to changes of legislation or government regulations or the adoption of new policies or general guidelines from superior courts. As a rule, the survey does not cover information on measures aiming at providing individual redress to applicants.

The presentation is organised country-by-country and reforms are, in principle, presented in the order corresponding to the thematic domains used in the Council of Europe's specialised database HUDOC EXEC and the Committee of Ministers' Annual Reports on the Supervision of the Execution of the European Court of Human Rights' judgments.

Many reforms address issues which appear to be on-going challenges in the member State. The effects of reforms adopted at one point in time may thus need to be monitored and possibly re-evaluated as conditions change.<sup>2</sup>

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<sup>1</sup> The summaries are the sole responsibility of the Department for the execution of the judgments of the European Court of Human Rights.

<sup>2</sup> The presentation is limited to the information provided at the time of the adoption of the final resolution. It is recalled in this context that the Committee of Ministers has issued [Recommendation \(2004\)5](#) on the verification of the compatibility of draft laws, existing laws and administrative practice with standards laid down in the European Convention on Human Rights.

### ➤ Risk of ill-treatment in case of expulsion

The Asylum Law was amended in 2011, regulating the procedure and deadlines for decisions on the right to enter and introducing judicial review proceedings for refusals to enter.

In 2014, the legal framework related to issues of asylum and residence of aliens was amended to provide that a court's revocation of the Ministry of the Interior's refusal of an alien's entry (and thus ordering his/her detention at the reception centre in the transit zone of the airport) entails the immediate release of the alien and his/her transfer to an asylum centre within the Czech territory.

*Rashed* (298/07)

[Final Resolution  
CM/ResDH\(2014\)99](#)

*Buishvili* (30241/11)

[Final Resolution  
CM/ResDH\(2015\)98](#)

### ➤ Right to liberty and security

#### ➤ Length of detention on remand

Safeguards against excessive length of pre-trial custody were strengthened in the Code of Criminal Procedure in 2002 and maximum periods for different categories of offences fixed in this respect. The principle of a "detention hearing" allowing the defendant to appear before a judge was introduced in 2012.

*Punzelt* (31315/96)

[Final Resolution  
CM/ResDH\(2004\)33](#)

*Husak* (19970/04+)

[Final Resolution  
CM/ResDH\(2013\)120](#)

*Sýkora* (23419/07)

[Final resolution  
CM/ResDH\(2015\)75](#)

#### ➤ Placement in social care institutions

Amendments to the Act on Social Services and to the Act on Special Court Proceedings of August 2016 detailed the conditions under which a guardian of an incapacitated person can resort to his/her placement in a social care institution. Prosecutor's offices are now empowered to enter any social care institution, talk in private with any client of the institution and have access to all documentation in order to ascertain whether the legal conditions are met. In January 2019, the Ministry of Labour and Social Affairs published guidance for providers of social care services and public guardians under the new legislation. Previously, the new Civil Code of 2012 had strengthened the legal status of persons suffering from mental illness providing for a larger array of support measures and defining restrictions of legal capacity as measures of last resort.

*Cervenka* (62507/12)

[Final Resolution  
CM/ResDH\(2019\)273](#)

### ➤ Functioning of justice

#### ➤ Access to a court

A judicial review of decisions by administrative authorities was extended in two steps through changes of the Code of Civil Procedure in 2001 and 2003.

The right of appeal to the Constitutional Court was improved by special legislation in 2004 in order not to compel applicants to first have recourse to "extraordinary appeals" as the admissibility of such appeals was a question of discretion.

*Kilian* (48309/99)

[Final Resolution  
ResDH\(2006\)70](#)

*Beles and Others*

(47273/99)

[Final Resolution  
CM/ResDH\(2007\)115](#)

#### ➤ Remedies in case of excessive length of proceedings

The possibility to obtain compensation in case of excessively lengthy judicial proceedings was introduced in the Act on Liability for Damage caused in the Exercise of Public Authority in 2006.

*Borankova and Hartman*

(41486/98+)

[Final Resolution  
CM/ResDH\(2013\)89](#)

➤ *Fairness of criminal proceedings*

Following the Court's judgment, the impugned proceedings were reopened and the applicant was acquitted. His demands for compensation were settled in an out-of-court-agreement and he received an official apology for the illegal prosecution and execution of the prison sentence. The Constitutional Court developed its case-law to prevent the occurrence of similar cases on multiple remittals.

*Tempel* (44151/12)  
[Final resolution  
CM/ResDH\(2023\)95](#)

➤ ***Protection of private and family life***

➤ *Custody and public care of children*

Child custody proceedings, including enforcement matters, were improved in 2008, notably through enhanced co-operation of local authorities. Decision-making was accelerated and a possibility of mediation was introduced. These options were further strengthened in 2011. Public care of a child can no longer be ordered solely because of the inadequate housing conditions or the poor financial situation of his/her parents and, in parallel, vulnerable families were granted improved rights to subsidised housing. As to international child abduction, the procedures under the Hague Convention were centralised in one court to ensure better respect of the strict time limits laid down.

*Reslova* (7550/04+)  
[Final Resolution  
CM/ResDH\(2011\)99](#)  
*Bergmann* (8857/08+)  
[Final Resolution  
CM/ResDH\(2013\)155](#)  
*Wallova and Walla*  
(23848/04+)  
[Final Resolution  
CM/ResDH\(2013\)218](#)  
*Macready* (4824/06)  
[Final Resolution  
CM/ResDH\(2012\)21](#)

➤ *Rules on discharge from hospital*

Following new guidelines by the Minister of Health on the procedure for discharging mothers and their new-borns, mothers with low-risk pregnancies may leave hospital shortly after birth.

*Hanzelkovi* (43643/10)  
[Final Resolution  
CM/ResDH\(2017\)258](#)

➤ *Filiation / paternity actions*

The Special Judicial Proceedings Act was amended in 2017 to provide for the possibility to file an action for reopening of proceedings concerning declaration or denial of paternity even after the expiry of the statutory three-year time-limit after the contested decision became final. This possibility is notably afforded if "new evidence arises which relates to new scientific methods that could not have been used in the original proceedings".

*Novotný* (16314/13)  
[Final Resolution  
CM/ResDH\(2019\)87](#)

➤ *Secret surveillance*

The conditions under which the police may have recourse to secret audio and video surveillance were regulated in detail in 2002 together with a requirement of prior authorisation by a judge in case home or correspondence were affected.

*Heglas* (5935/02)  
[Final Resolution  
CM/ResDH\(2011\)98](#)

➤ ***Protection of property rights***

➤ *Protection of minority shareholders*

Statutory bodies of actors in the financial markets (e.g. boards of banks, investment or insurance companies) were granted the right to lodge appeals to courts against the imposition of receivership in 2006. Furthermore, the possibility under the Commercial Code for shareholders of more than 90% of the company shares to take over the remaining shares at a price decided by arbitration, although the minority shareholders wished a court decision, was abolished in 2008. The possibility for minority shareholders to challenge a decision to wind up

*Druzstevni Zalozna PRIA  
and Others* (72034/01)  
[Final Resolution  
CM/ResDH\(2013\)122](#)  
*Suda* (1643/06)  
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CM/ResDH\(2012\)18](#)

a company or to transfer its assets to the main shareholder was introduced in 2011.

➤ Rent control

New legislation on unilateral rent increases was passed in 2006 allowing landlords to raise controlled rent gradually. Furthermore, an amendment to the Civil Code in 2011 boosted the landlords' position in tenancy relationships, which was further strengthened in a new Civil Code in 2014.

*R & L, S.R.O. and Others*  
(37926/05+)  
**Final Resolution**  
**CM/ResDH(2018)17**

## ► Protection of private and family life

### ▢ Custody and public care of children

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