CZECH CENTRE FOR HUMAN RIGHTS AND DEMOCRACY

Czech Democracy & Rights Bulletin

Dear readers,

We are pleased to present the first issue of the Czech Democracy & Rights Bulletin, which compiles recent developments and indicators on the state of human rights and justice in the Czech Republic.

The edition opens with an interview with Tomáš Langášek, a newly appointed Judge of the Czech Constitutional Court, who shares his beliefs on democracy, free speech, and judicial restraint, as well as what it means to be a Constitutional judge.

Following the article is an examination of how the Constitutional Court upheld its dedication to maintain the human rights of all individuals, as shown in the Court's decision not to transfer a mentally ill prisoner. This commitment is also demonstrated in the long-awaited accounting for the death of an Afghan soldier by Czech soldiers after seven years.

In addition, there are contributions with updates on previous cases, including: how the Constitutional Court must now face a retrial after a judgment of the European Court of Human Rights, and progress in the form of the so-called Crucifixion of Jesus Christ case before the Constitutional Court. The latter highlights the expansion of rights for crime victims.

Further contributions offer an analysis of the Security Information Service Annual Report, the Constitutional Courts' recent decision on Šantovka Tower, the Supreme Court's responses, an explanation of the use of AI in Administrative procedures, and the Supreme Court's response to the Šalamoun association.

We hope this edition offers an insightful view of the Constitutional Court's role in upholding human rights and the checks and balances within the European court system.

Editors of the Czech Democracy & Rights Bulletin

Content

Photo on the front page: Budova Ústavního soudu, autor Jakub Dubják. Edited: cut.

CZECH DEMOCRACY & RIGHTS BULLETIN IS A BI-MONTHLY UPDATE ON THE LATEST NEWS AND EVENTS IN HUMAN RIGHTS AND DEMOCRACY IN THE CZECH REPUBLIC. EACH ISSUE FEATURES SEVERAL SHORT, EASY-TO-READ ENGLISH ARTICLES THAT HELP STUDENTS AND THE GENERAL PUBLIC QUICKLY UNDERSTAND WHAT'S HAPPENING IN THE COUNTRY'S CIVIC AND POLITICAL LIFE

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Interview with Tomáš Langášek: The Role of a Constitutional Judge Is Not a Trophy, but a Task

Pavel Doubek, translated by Alexandra Eštoková and Kryštof Urban

He started at the Constitutional Court as an assistant to the President, Pavel Rychetský, later led the Analytical Department, and from 2009 to 2013 served as Secretary General. Afterwards, Tomáš Langášek found his place at the Supreme Administrative Court (SAC), where he also chaired the electoral and disciplinary chamber. After ten years, however, his path turned back to Joštova Street when, on June 25, 2024, he was appointed a judge of the Constitutional Court by the President of the Republic.

Let's start with a warm-up question. What kind of Constitutional Court judge is Tomáš Langášek? How do you assess the past twelve months in this role?

I cannot answer that myself, you would probably have to ask others. I am doing my best. And the year flew by incredibly fast. My weekly rhythm has changed; at the Constitutional Court you live from plenary to plenary, from Wednesday to Wednesday. Each plenary brings a complicated constitutional question. But I am grateful to be part of it. The discussions in plenary are very demanding, yet equally enriching. And I hope I have contributed my share to the protection of our constitutional order and fundamental human rights, perhaps also through my dissents. I do not see dissents as a sign of failure.

Looking back, since 2013 you served as a judge at the SAC. How do the roles at these two top courts differ in terms of working style or the philosophy with which you approach them?

I think I approach judging the same way in both places, only at the Constitutional Court the scope is much broader, with exponentially greater systemic impacts. Even at the SAC, I tried for us as judges to contribute to solving problems rather than creating new ones through sophisticated lawyering, to be concise and comprehensible and not to drown in resolving or even inventing procedural quirks. Procedure is just a tool, a path to grasping a problem, not an end in itself. I never rooted for complicated

Tomáš Langášek at a meeting of the Venice Commission [1]

procedural disciplines, for example on which ground for dismissing a petition takes precedence over another, and never otherwise. These debates are like GPS, the same destination, different routes, and the shorter one is not necessarily faster, cheaper, or safer.

A follow up: What do you miss from the SAC in your new position? And conversely, what would you like to one day take back from the Constitutional Court to the SAC?

At the Constitutional Court I miss specific colleagues from the Supreme Administrative Court; I have friendly ties with many of them. But fortunately, Moravské square is only a few steps away. Otherwise, I do not really miss anything here, perhaps just the view from the window of tourists trying to look at Róna's statue of the horse with Margrave Jošt from various interesting perspectives. That always amused me. And when I am back at the SAC in 108 months, I will miss the violin concerts I now hear through the open window from Professor Novotný's office at JAMU.

Is there a court decision domestic or foreign that outright "changed your thinking" and perhaps predetermined your approach to judging?

I do not know, it is probably not possible to be shaped as a judge by a single decision. Rather, I recall decisions that do not belong in the shop window.

As mentioned, you used to work at the Constitutional Court for a long time in the past. How much has the Court changed since you moved to the SAC? Did it feel like coming "home", or did it feel like an entirely unfamiliar institution? Did anything truly surprise you?

It is a different Constitutional Court, because it is made up of people and the people are different. Of course, in the first days I had the advantage of knowing the environment and internal workings of the Court, but later I began to perceive that more as a burden. It makes no sense to compare the present with the past, how things were done differently back then, because that is an experience only I have, tied to people who are no longer here. The leadership's style today naturally differs in some aspects from what I was not only used to but also co-created as Secretary General. Any nostalgia is not helpful. I can perhaps say only that the style of plenary discussions has changed quite a bit. More often than in the past, judges put their comments in writing in advance. There is a fast email exchange; the reporting judges then adjust the draft before the plenary, so what is discussed at the plenary for the first time is already the second or third, sometimes even the fourth version. Some judges do not manage or cannot, for various reasons, comment on the first version at all. Sometimes I feel the plenary sits permanently online before it actually sits. On the one hand, this means today's plenary judgments are much more polished and the course of the plenary is more predictable. But it can come at the cost of losing immediacy and directness of discussion, because some judges may already be, so to speak, too locked into the opinion they formed from the email exchange, and something essential may not be voiced at that stage, and once at the plenary, it can be too late. That is not a complaint, just a description.

As a reporting judge you must persuade the other two judges in the chamber, and in plenary matters the remaining fourteen Constitutional Court judges, of the solution you propose. Is it difficult to find consensus for example compared to the SAC? What are the most frequent friction points? And how do you find working with your colleagues overall?

Tomáš Langášek with the President of the Constitutional Court of Kosovo, Nexhmi Rexhepi [2]

Most of the time we agree on solutions without major difficulties. In a three judge chamber it is naturally easier simply because in a group of three the discussion is much more immediate and spontaneous. In the fifteen member plenary, it is more demanding. In such a large body the discussion needs order; you have to ask to be put on the list by the President, and before it is your turn, the debate has moved elsewhere. What you wanted to say has meanwhile lost its timeliness or punch, or the discussion starts going in circles. A year is probably too short for deep reflection, but it is clear the friction points most often appeared in cases of sexualized violence and the expansion of victims' rights in criminal proceedings. In those discussions our differing views on fundamental overarching questions become apparent. What is the role of the Constitutional Court, what should the separation of powers look like between the Parliament on one side and the courts on the other, as well as between the Constitutional Court and the ordinary courts, what does subsidiarity of protection provided by the Constitutional Court mean, and finally, what is the role of the European Court of Human Rights, which is currently a vocal actor in precisely these issues. Nevertheless, I believe that despite our differing views, we manage to keep the discussion at a substantive level.

What do you think constitutes the courage of a constitutional judge - and when can it turn into activism?

A constitutional judge should first and foremost be faithful to the Constitution. But that is easier said than done. Constitutions contain many general, open-ended concepts, which opens the door for, let's say, creative interpretation. But as I emphasized during my hearing in

Tomáš Langášek in Venice at a meeting of the Venice Commission [3]

the Senate, a Constitutional Court judge must not abuse his position to promote personal political views, and this must be reflected primarily in his restrained approach to interpreting constitutional laws. Our Constitution is relatively young and relatively flexible, amendable. Therefore, our interpretive approach to it should be as faithful as possible to its text as an expression of a recent broad political consensus. It is not our place to write new fundamental rights into the Charter by an activist, expansive interpretation, but the reverse also applies -a judge must not arbitrarily invent new grounds for limiting rights already guaranteed by the Charter. Nor should the Constitutional Court occupy the space reserved for authentic political debate about fundamental rights, which may culminate in a further historic consensus embodied in a new constitutional amendment or a partial revision. We have to respect that the Constitution and the Charter were constitutional political compromises whose actors included those with whom we do not entirely share our value orientation. The courage of a constitutional judge thus lies precisely in deciding with restraint, according to the Constitution as an anchor, not according to the wishes of the current majority of society or societal trends, which are often changeable.

If we counted correctly in NALUS, you have been the reporting judge in 230 cases so far. Mostly you issued dismissive rulings; in thirteen cases you upheld constitutional complaints, and five times you issued a rejecting decision on the merits. Can anything be inferred from these numbers?

Probably only that a Constitutional Court judge here has to devote a significant part of their energy and time to cases that are mostly manifestly ill-founded. That is not desirable, yet my numbers in this respect do not differ much from the others. I keep my own statistics; roughly 7 percent of my cases are decided by a judgment (*nález*), and when it is a judgment, then 80 percent are favorable and 20 percent rejecting. The proportion of rejections on my part may be a bit higher than it used to be, but that is probably due to my approach. I first identify the constitutional law problem and only then look for its solution. In other words, I do not retrospectively tailor the form of the decision to the desired outcome, and I do not decide based on my initial impression of the case.

Looking specifically at your decision making, which cases that you decided on, whether as a reporting judge or as a member of a chamber or the plenary, do you consider to be key?

From the chamber cases I would mention judgments concerning freedom of expression, especially in the context of criminalizing verbal conduct. Perhaps I really am, compared to others, more sensitive to protecting freedom of expression. I once spent a study stay at Cornell University Law School and attended the famous Professor Shiffrin's lectures on the First Amendment of the American Constitution regarding freedom of speech and religion, and I studied this area of constitutional law in depth. I am convinced that open and free debate is essential to preserving democracy. With clearly and predictably defined exceptions, it should remain outside the focus of law enforcement and criminal justice. I am of course aware of the new phenomenon of social networks, disinformation, and deep fake videos, abused by external and internal enemies, but the basic paradigm of protecting free speech does not change. I truly believe that the search for truth is a never ending endeavor whose essence is the constant verification of what we currently consider to be the truth. That is of course only a model, but our liberal order is built on it. And beautiful or mainstream speech does not need constitutional protection as much. History shows

that free speech stands or falls precisely on what the majority considers ugly, shocking, disturbing, or simply stupid. And the risks of abusing the suppression of such speech are simply too great. Our society has experienced this, and not so long ago. And so, following this logic, we granted the complaint of the publisher of the magazine *Legalizace*, who had been convicted of promoting drug addiction, among other reasons for publishing articles questioning the harmfulness of marijuana use; and by the same logic, the gentleman who dealt with facts rather idiosyncratically and painted doomsday scenarios when criticizing the government's decision to purchase American fighter jets also succeeded before us, after having been convicted of spreading an alarming message.

Several of your recent decisions have attracted media attention. How do you generally view the role of the media in reporting on judicial practice? Do judges need to appear on TV, or should they rather keep to the background?

For me, this is not up for debate. I consider it absolutely obvious that a judge must be able to justify his decision in a way that is understandable not only to lawyers but also, in simplified form, to the general public. Law cannot remain a cabinet discipline, and that applies especially to constitutional law. A year ago in the Senate I emphasized that the Constitutional Court also has an educational role, so that the protection of fundamental rights and freedoms is a lived experience for the general public, not merely a matter of theoretical debate among distant elites. And that is not possible without judges communicating clearly in the media and in public. If constitutional law and the protection of human rights were only understood by constitutional judges, if the Constitutional Court had a monopoly on their protection, constitutional democracy would not last long.

In the past year, have you noticed a case where public pressure or media shortcuts truly surprised you?

Surprised in the sense that I would not have expected it? Not really. It is natural for the public to sometimes react superficially and quickly, based on assumptions, ideas, and limited information, without knowledge of constitutional law limits, simply according to whether they like the result, whether it suits their interests. What I consider crucial is that we are able to persuade the public that, regardless of the outcome, we are, so to speak, refereeing fairly, especially in major plenary cases where the parliamentary opposition turns to the Constitutional Court in an effort to prolong political struggle by other means. However, if something does unpleasantly surprise me it is not the opinion of the general public but superficial or even demeaning criticism from legal professionals, who thereby show that they are far from professional. Unfortunately, such criticism occasionally appears in response to the Constitutional Court's decisions, especially on social media.

Let us pause at the already mentioned high profile case of a former organizer of anti-government demonstrations. He was convicted of the crime of spreading an alarming message when he stated, among other things, that our government wanted to attack the Russian Federation with nuclear warheads from fighter jets. In your judgment you concluded, in simplified terms, that even though the speech had elements of disinformation, it was political speech covered by freedom of expression. Are disinformation statements a type of expression that should be constitutionally protected? Is it not necessary to combat disinformation, especially those widely spread online, precisely by criminal sanctions?

In that judgment we emphasized above all that there is no category of speech to which Article 17 of the Charter, with its guarantees of freedom of expression, does not apply. That does not mean harmful speech cannot be legally countered. But the conditions of that article must always be met, first a sufficiently clear and foreseeable statutory basis, second constitutionally acceptable aims of the restriction, which the Charter lists, and third strict proportionality, that is, the necessity of penalizing the specific speech in a democratic society. So it should not be that someone says this is bad, low quality speech, it is not even speech protected by the Constitution, and therefore we need not examine whether Article 17's conditions for restricting such speech have been met, public power has free hands. Like when a special chamber of the Supreme Court in 1933 resolved that the laws on the protection of the Republic and of honor, allowing the suspension of periodicals, posed no problem for freedom of the press, because they supposedly targeted only bad press, whose freedom cannot be protected by the Constitution anyway, while the good press need not worry. Well, not like that. And is it necessary to fight disinformation? I am personally skeptical, both for practical and doctrinal reasons, but first and foremost that question must be addressed by the legislature, or rather by the government. Our Criminal Code does not currently target it deliberately, unless we are dealing with special cases such as the mentioned alarming message. And those offences are defined narrowly; it is not enough that something is disinformation or propaganda, even if we could reliably and without great risk of abuse assess it as such.

More generally, what role does or should the Constitutional Court play in protecting democracy? Does the Court have a place in the concept of a militant self-defending democracy?

Certainly, the Constitutional Court is part of the concept of a self-defending or militant democracy, because in the end it is up to its stance which anti-democratic measures can still be accepted constitutionally as acts of a democracy capable of defending itself, and which will remain what they were from the start, anti-democratic and unconstitutional. It is, however, a difficult and risky discipline. The concept is easily abused because it is controlled by those who hold the keys to the system; it tempts the current governing majority, which may start selectively suppressing the opposition or expressions of dissent. Every undermining of democratic rules in the name of preserving them erodes the regime's legitimacy and citizens' acceptance, and it is not easy to recognize when we are approaching the critical breaking point. And of course, the whole concept ceases to function when the supposedly dangerous political minority becomes the majority. Then the concept of a self-defending democracy can become a tool of oligarchization, because power concentrates in the hands of those who define what the threat is and what means may be used to suppress it. And so even the Constitutional Court can suddenly turn into a fig leaf for what is now only a formal constitutional democracy, unless its judges directly become active parts of the new oligarchy. No one is immune to the ever-present risk of succumbing to the temptations of power, especially when cloaked in the loftiest aims.

Related to this is the development in our neighboring country, Germany, where the Federal Office for the Protection of the Constitution (BfV) has classified the political party Alternative for Germany (AfD) as demonstrably far-right extremist, because its activities are aimed against the free and democratic order of the country. How do you assess this decision?

I cannot and will not assess this specific decision because, from what I gathered in the media and as I can imagine, it is a decision which depends on extensive factual findings and their evaluation, and moreover, I assume it will be the subject of court proceedings. However, I spoke about these risks in general. They are, I'm afraid, strongly present in this case as well.

Besides serving as a Constitutional Court judge, you are also an alternate member of the Venice Commission, where you can make recommendations to raise the standards of democracy, human rights, and the rule of law in 61 countries around the world. How do you generally assess developments in Europe in the field of democracy and human rights?

In Europe, after the horrors of world wars and totalitarian regimes, we have come a long way and have reasons to be proud. That does not mean everything is rosy or that it is not appropriate to look back and reassess some things. In recent years, criticism has been directed at the European Court of Human Rights (ECtHR), as well as other international institutions, including the Venice Commission, and it is not all baseless or malicious. The ECtHR's gradually growing influence on national politics naturally provokes resistance, especially due to its interpretation of the Convention as a "*living instrument*" that should adapt to the times and contemporary trends, and due to the expansion of the concept of states' so-called positive obligations. The problem is that their specific content depends directly on judges' ideas about what the state's duties and missions are. Yet that is primarily a question of politics and an age-old subject of political conflict. The interpretation of the Convention thus departs from the original text as an expression of common will and narrows the space for states and their political representatives to make decisions, despite the declarations about subsidiarity and the margin of appreciation that states ultimately even pushed into Protocol No. 15. It does not seem to have changed much. This manifests itself especially in sensitive areas such as morality, religion, or bioethics, which do differ across Europe. The effort to impose uniform standards from Strasbourg runs into disagreement and rejection and may ultimately lead to ignoring certain judgments. That would be the worst thing that could happen to the ECtHR. It is in our vital interest to preserve the ECtHR and the whole mechanism of European human rights protection for future generations, but that primarily means stopping the further illegitimate stretching of the bounds of fundamental rights purely through judge-made law. The expansion and creation of new rights should proceed exclusively via new protocols, with the involvement of governments and parliaments, that is, politics in the true sense. It is a great mistake to succumb to the notion that judges are the inventors and owners of fundamental rights; after all, the basic documents we interpret were won by enlightened political representatives of the past. Constitutional courts should also reflect ECtHR's judgments and, likewise, the Venice Commission's opinions critically. That means, on one hand, with respect for all parties to that judicial or human rights dialogue and their different roles, and on the other hand, with an awareness of their own legitimacy and responsibility for the state

and scope of human rights protection in their domestic jurisdictions. By uncritically and insensitively adopting them, we may in fact be doing our partner European institutions a disservice.

Beyond your work at the Constitutional Court and the Venice Commission, you probably do not have much free time left. How do you manage to balance work and family life? Do you manage to rest?

Oh yes. Rest is necessary. The foundation is to sleep well. I used to open my computer at home in the evening after the children fell asleep; now I avoid that and prefer to go to bed with them. There is nothing more beautiful and soothing.

If you had one day without work, email, legal texts, and family obligations, what would you do?

I probably would not be able to flip the switch to a completely different mode for just one day; the first day I would probably just lie down, or rather sleep, accompanied by a good book or music. But if I had more such days, I would set out on a walking or cycling pilgrimage.

What would Tomáš Langášek say to his younger twenty-year-old self?

There is no time to waste. But I have no illusions that it would help me. I have been fighting that all my life.

Is there a question you have wished someone would ask you in an interview, but no one ever has?

I only know of questions I would not want to get.

Our bulletin is primarily read by students and beginning lawyers, some of whom may be future constitutional judges. What advice would you give our young readers? And please do not say they should not study law.

First, do any job or role honestly and with commitment. If it doesn't make sense to you or doesn't bring satisfaction, change it rather than slack off. But do not confuse a lack of meaning or satisfaction with the ordinary routine inherent in every profession. Even routine tasks must be done diligently and with discipline. Second, do not study law solely with the goal of becoming constitutional, European, or other such judges, because it largely doesn't depend on you. Above all, it is not a trophy, but a task, and it is certainly not a reward for extraordinary effort,

Tomáš Langášek at a Venice Commission meeting with Professor Veronika Bílková and Ambassador Petr Válek [4]

expertise, or personal qualities. Those are prerequisites, but not necessary ones. Chance and luck also play a role, and sometimes something less exalted, because these are human and fully political decisions. Somewhere else, there will always be more industrious, educated, wise, and thoroughly suitable candidates, and maybe you will be among them, and yet you may not be chosen. That does not matter at all, because the true treasures lie elsewhere, in what transcends us and is reflected in our relationships with other people, in friendship, family, and children. Sacrifice yourself to that, not to a career.

Photographs

[1] Tomáš Langášek at a meeting of the Venice Commission. Source: Tomáš Langášek's private archive. Edited: cut.

[2] Tomáš Langášek with the President of the Constitutional Court of Kosovo, Nexhmi Rexhepi. Source: Tomáš Langášek's private archive. Edited: cropped.

[3] Tomáš Langášek in Venice at a meeting of the Venice Commission. Source: Tomáš Langášek's private archive. Edited: cut.

[4] Tomáš Langášek at a Venice Commission meeting with Professor Veronika Bílková and Ambassador Petr Válek. Source: Tomáš Langášek's private archive. Edited: cropped.

Transfer to a Prison with a Stricter Regime: The Constitutional Court Stood up for a Mentally Ill Prisoner

Filip Valoušek, translated by Alexandra Eštoková and Kryštof Urban

The decision on the type of prison in which a convicted person will be placed is not merely a matter of public interest or prison administration but an issue with a strong constitutional dimension. In a recent judgment, the Constitutional Court addressed this matter when it annulled a decision to transfer a prisoner with mental health problems to a prison with a stricter regime.

Criminal repression allows public authorities to punish undesirable and socially harmful behavior with a wide range of penalties. From the perspective of interference with the fundamental rights of prisoners, the most intensive measure is imprisonment, representing a means of *ultima ratio*. Given the intensity of interference with the autonomy and rights of prisoners, which is inevitably associated with imprisonment, it is necessary to ensure the proportionality of the punishment and sufficient protection of their fundamental rights. This applies in particular to members of vulnerable groups, such as those with disabilities, as they usually require specialized medical care or another form of special treatment.

In practice, however, situations often arise where such individuals, because of their handicap, are disadvantaged compared to other prisoners in the execution of their sentence, in a way that makes serving the sentence more difficult for them and disproportionately harsh without a legitimate reason.

This possibility is addressed by the Convention on the Rights of Persons with Disabilities, to which the Czech Republic is a signatory. The Convention provides that states have an obligation to adopt so-called reasonable accommodations to ensure that restrictions on liberty affect prisoners with mental or physical disabilities to the same extent as prisoners without disabilities and that they are not subjected to discrimination.

The Transfer of the Ill Prisoner before the Constitutional Court

But how should the situation be resolved when a mentally ill prisoner repeatedly violates prison rules and poses a threat to himself and fellow prisoners while being unable to control his behavior? Under what conditions is it permissible to transfer a mentally ill prisoner to a stricter type of prison, and what requirements can legitimately be placed on the decision making of prisons and courts in such a situation?

More intensive psychotherapeutic treatment is required in a prison with a stricter regime [1]

The Constitutional Court addressed these questions in its recent judgment.[1] It dealt with the case of a complainant -a mentally ill prisoner serving a prison sentence, who, after repeated incidents, such as stealing food and medication from fellow prisoners, swallowing chess pieces, or otherwise engaging in self-harm, was transferred to a higher security prison.

The complainant disagreed with this measure. In addition to procedural errors by the ordinary courts, and with reference to an expert opinion, he argued that instead of such a restrictive measure, it would have been more

appropriate for individual psychotherapeutic, social, and educational work to be conducted with him in the standard security prison where he had been placed until then. In his constitutional complaint, he also claimed that the real reason for his transfer was his health condition, while the state failed to meet its positive obligations to provide conditions of imprisonment that respected his specific needs. A chamber composed of President Daniela Zemanová, reporting judge Lucie Dolanská Bányaiová, and judge Jiří Přibáň upheld his arguments.

Proportionality of the Prisoner's Transfer

The Constitutional Court held that when transferring the complainant to a prison with a stricter regime, the ordinary courts had not respected the requirement of proportionality in interfering with the right to personal liberty. The complainant was transferred without considering less restrictive means of protecting his fellow prisoners and himself.

Moreover, the expert opinion showed that the transfer would probably have had the opposite effect than intended. The stricter and more restrictive regime of the high security prison would likely have had a negative impact on the complainant's mental health, which the ordinary courts ignored. Instead, and contrary to the expert opinion , they assumed that in a prison with a stricter regime, there would automatically be more intensive psychotherapeutic treatment for the complainant.

The expert opinion, on the other hand, stressed that improvement of his mental health required psychotherapy. Yet no such therapy had been provided in the prison where he had been placed; instead, he was simply transferred.

Even setting aside the inadequate treatment during his sentence, the most serious shortcoming of the Prison Service's approach was that the option of moving the complainant to one of the specialized units established for persons with mental disorders had not been considered at all.[2] These units are key for effectively fulfilling the state's positive obligations toward vulnerable prisoners, as they provide appropriate individual care tailored to their specific needs.

Notes

[1] Constitutional Court judgment dated 14 May 2025, file no. III. ÚS 3442/24.

[2] Section 94 of Decree of the Ministry of Justice No. 345/1999 Coll., issuing the Rules on Serving Custodial Sentences.

The Constitutional Court stands up for prisoners' rights [2]

Sources

Constitutional Court judgment dated May 14, 2025, file no. III. ÚS 3442/24.

Constitutional Court. (May 2025). Transfer of a prisoner suffering from mental illness or disability to a stricter type of prison [press release]. Retrieved from https://www.usoud.cz/aktualne/pre-razeni-odsouzeneho-trpiciho-dusevnim-onemocnenim-ci-mentalnim-postizenim-do-prisnejsiho-typu-veznice.

Photographs

[1] More intensive psychotherapeutic treatment is required in a prison with a stricter regime. Budova Ústavního soudu (2). Author: Jakub Dubják.Edited: cut.

[2] The Constitutional Court stands up for prisoners' rights. Budova Ústavního soudu (4). Author: Jakub Dubják.

Retrial before the Constitutional Court as a result of a judgment of the European Court of Human Rights

Aneta Cermanová, translated by Alexandra Eštoková and Kryštof Urban

A decision of the European Court of Human Rights can lead to a retrial before the Constitutional Court as well. The case of A. B., a victim of sexual violence who did not succeed before the Czech authorities, shows how the intervention of the international court opened the way to a re-evaluation of the constitutional complaint. The Constitutional Court subsequently acknowledged the seriousness of the errors made by law enforcement and criminal justice and reopened the case.

Retrial before the Constitutional Court

The extraordinary remedy of retrial can also be used before the Constitutional Court. These are situations in which the Constitutional Court decides a case, and a later review by an international court finds that a fundamental human right or freedom was violated. A participant in the proceedings in whose favor the international court decided may file a petition to retrial before the Constitutional Court. The Constitutional Court previously interpreted this standing requirement restrictively in the case *Heglas v the Czech Republic* (Pl. ÚS 11/07). It considers as having standing only the specific participant in the proceedings before the Constitutional Court who also filed the complaint with the European Court of Human Rights and in whose favor that court decided. According to that decision of the Constitutional Court, a petition cannot be filed by a person against whom the domestic proceedings were conducted jointly if that person did not file the international complaint.

Together with the petition for retrial, it is possible to submit a petition to annul a law or other legal regulation that led to the violation of a human right or fundamental freedom. Retrial is not possible if the consequences of the violation no longer persist, if redress has been provided and just satisfaction awarded. However, the Constitutional Court will not dismiss the petition if the matter is in the public interest and that interest substantially outweighs the interest of the petitioner.

The Constitutional Court reopened the case following an ECHR judgment [1]

The case of A. B. who became a victim of sexual conduct

While studying at secondary school, A. B.[1] became a victim of sexual conduct by a priest who touched her inappropriately when she was only seventeen. Later, when A. B. began studying at a faculty of theology in Prague, she met a lecturer, also a priest, who became the supervisor of her thesis. Over time, the lecturer gained her trust and A. B. confided in him about the traumatic memories of the touching during her secondary school years. The lecturer offered to help, but it later turned out that this help consisted of exposing and touching A. B.'s body. He repeatedly visited her under the pretext of spiritual conversation and demanded sexual intercourse, during which A. B. felt paralyzed. She managed to cut off contact with the lecturer only after completing her studies. This experience led to serious health problems, including post-traumatic stress disorder and secondary depression.

Failure before the criminal justice authorities

Criminal proceedings were initiated against the priest lecturer in a different matter than A. B.'s case. In that other matter, the priest had allegedly committed sexual abuse, but the prosecution was time-barred. In the course of those proceedings, A. B. was also questioned. Based on the information provided, in November 2019, law enforcement and criminal justice initiated another set of proceedings concerning A. B.'s case. In June of the following year, the police filed and disposed of A. B.'s case on the grounds that the suspect's conduct bore the features of the offence of sexual coercion under the Criminal Code, but the acts occurred before that legislation took effect. Therefore, the criminality of the act had to be assessed under the previous Criminal Code, and the elements of the offence were not fulfilled under that earlier statute. A. B. disagreed, considered the decision premature, and decided to turn to the Constitutional Court..

Proceedings before the Constitutional Court

A. B. filed a constitutional complaint against the decision, arguing that the law enforcement and criminal justice erred and infringed her right to personal inviolability, the prohibition of inhuman and degrading treatment, and the right to privacy. In her view, the authorities failed to address her arguments and did not sufficiently establish the facts. The public prosecutor's office and the reviewing prosecutor's office dealt with her case only formally and fully accepted the police conclusions. A. B. considered the conduct of the authorities insufficient and also unreviewable.

In May 2021 the Constitutional Court dismissed A. B.'s complaint as manifestly ill-founded. In its reasoning, the Constitutional Court stated that there had been no interference with constitutionally guaranteed rights. The Court stressed that it is not a further instance of the ordinary judiciary and does not reassess findings of fact unless there is a serious error. In its view, the authorities acted in accordance with the law in force at the time, and he did not find their conclusions arbitrary.

Proceedings before the European Court of Human Rights

After failing before the Czech authorities, A. B. used her last option and turned to the European Court of Human Rights. In her complaint, she argued that the Czech Republic had violated her rights under Articles 3 and 8 of the Convention[2], particularly by failing in its positive

Illustrative photo. European Court of Human Rights in Strasbourg [2]

obligation to conduct an effective investigation following the report of sexual violence. The European Court criticized the overly restrictive interpretation, even of the old legal framework, adopted by the domestic authorities. The Court upheld her complaint and found that the state had breached its positive obligation to criminalize and effectively prosecute all non-consensual sexual acts. The state has had this obligation at least since 2003, when the Court delivered its judgment in M. C. v Bulgaria. The Court awarded A. B. compensation for non-pecuniary damage as well as reimbursement of the costs of the proceedings.

Retrial before the Constitutional Court

After the European Court delivered its judgment, A. B. filed a petition to retrial before the Constitutional Court.

The Court first examined whether the conditions for initiating retrial were met under Sections 119 and following of the Constitutional Court Act. It found that the petitioner had been a participant in the original proceedings and that the international court had decided in her favor, which satisfied the standing requirement. The Court then examined whether the consequences of the violation persisted or whether redress and just satisfaction had already remedied them. It concluded that the violation had not been fully compensated, not even by the award of a relatively large amount as damages. Retrial was therefore in order.

In the proceedings about the possibility of retrial, the Constitutional Court annulled its original decision and stated that on the basis of the reopened case the original constitutional complaint would be heard again. Judge Tomáš Langášek issued a dissenting opinion, disagreeing with retrial before the Constitutional Court. In his view, the Court decided contrary to settled case law of the European Court, according to which retrial in this situation is inadmissible. He argued that the consequences of the state's failings, in particular those of the law enforcement and criminal justice , had been sufficiently compensated both by the award of just satisfaction and by the state's fulfillment of its positive obligation to adopt appropriate criminal legislation. The condition laid down in Section 119a of the Constitutional Court Act was therefore not met.

Conclusion

The case of A. B. is a significant example of the interconnection between domestic and international protection of human rights. It shows that the intervention of an international judicial body, in this instance the European Court of Human Rights, can lead to redress at the constitutional level through reopening proceedings. This extraordinary remedy thus becomes a tool to correct domestic failures in protecting fundamental rights. At the same time, the case demonstrates that the path to justice is often exceptionally demanding for victims - not only in terms of time but above all psychologically. In cases of sexual violence, there is the added sensitivity of the matter, which can lead to secondary victimization and a real hindrance to access to legal protection. The case of A. B. therefore shows not only the possibilities of the legal system but also its limits, and the need for it to be more accommodating and sensitive to victims of sexual violence and thus truly effective.

Notes

[1] This is a pseudonym.

[2] Article 3 provides that no one shall be subjected to torture or to inhuman or degrading treatment or punishment. Article 8 guarantees the right to respect for private and family life, the home, and correspondence.

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Photographs

[1] The Constitutional Court reopened the case following an ECHR judgment. ESLP Štrasburk. Author: Aneta Cermanová, date of photograph: December 18, 2024. Edited: cut.

[2] Illustrative photo. European Court of Human Rights in Strasbourg. Author: Aneta Cermanová, date of photograph: December 18, 2024. Edited: cut.

Restraint in the form of the so-called Crucifixion of Jesus Christ before the Constitutional Court

Jakub Dubják,
translated by Kryštof Urban

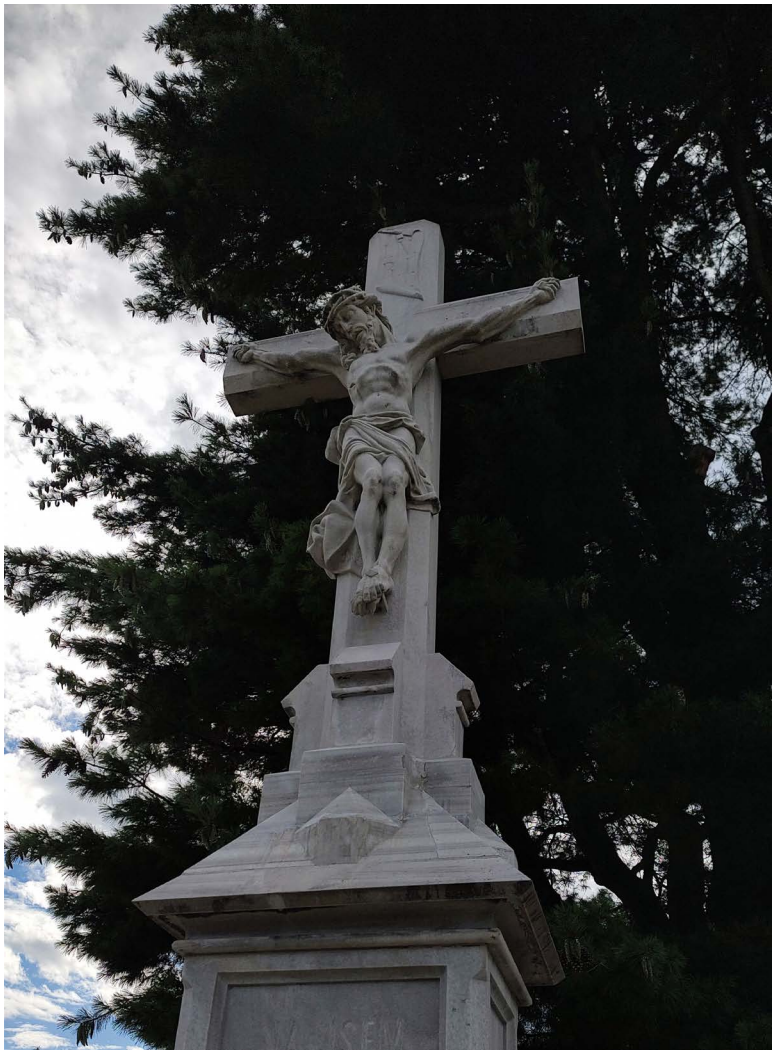
You might have already read about the case concerning restraint in the form of the so-called Crucifixion of Jesus Christ several times from the Center. Now, however, the case has (finally) reached the Constitutional Court. Thus, the Constitutional Court had another opportunity to express its opinion on the scope of the constitutional rights of victims of crime and injured parties, as well as on its competence to remedy any errors in this regard. So how did the Constitutional Court rule, for the first time in this case, and what considerations did it add to the discussion so far?

Regarding the case concerning restraint in the form of the so-called Crucifixion of Jesus Christ in the Světlá nad Sázavou prison, you may have read in our last report that the matter was referred to the director of the Světlá nad Sázavou prison for a decision in disciplinary proceedings, based on the third decision of the Regional Court in Hradec Králové – Pardubice branch (the regional court). [1] The injured party filed a constitutional complaint against this decision.

In its recent and relatively brief ruling [2], the Constitutional Court (CC) contributed to the case of (alleged) torture in the Světlá nad Sázavou prison. It ultimately overturned the final judgment of the regional court. This presented an opportunity to comment on the position of victims of criminal offenses before the CC and on the issue of legal error in the context of an inferred systemic error.

Arguments of the Injured Party and Statements of Others

The injured party argued that the guards' actions fulfilled the criteria for torture under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment – specifically, by restraining her in a manner intended to cause her pain and suffering (both physical and psychological). She further argued that the guards' knowledge is regularly tested, and that their claim of ignorance regarding the inappropriateness of their actions was therefore invalid, despite the prison



The case concerning restraint in the form of the so-called Crucifixion of Jesus Christ came before the Constitutional Court [1]

management's assertion that the use of restraints was "*only used to calm the prisoner, not to force an apology*".

Regarding the manner of (non-)punishment of the guards, which resulted in disciplinary proceedings before the prison director, the injured party objected that a thorough investigation of the matter should also include an assessment of the adequacy of the sanction. In the case of intentional interference [3] with the prohibition of torture under Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention), the injured party believes that a criminal legal response should follow.

The Regional Public Prosecutor's Office in Hradec Králové (RPPO) essentially agreed with the constitutional complaint. It emphasized that the guards' ignorance was not excusable given their official position. According to the RPPO, the use of physical punishment for the victim's previous inappropriate behavior in order to force

her to apologize was both illegal and "*directly contrary to the exercise of the authority entrusted to them*". It further pointed out that, according to the existing case law of the Constitutional Court, "*coercive measures must not serve as punishment*".

One of the guards mainly presented arguments against the injured party, but he also claimed that she wanted to use the whole matter to support her application for parole. According to him, the general courts deliberately overlooked this aspect so that they would not have to deal with the issue of possible false accusations.

Reasoning Given by the CC (in particular for overturning the contested judgment)

The CC found that the conduct under review – "*unlawful restraint for several hours in an uncomfortable position, as a result of which the complainant urinated and was subsequently forced to apologize*" – fell within the scope of Article 3 of the Convention. According to the CC, it was not necessary to qualify the conduct in question as torture, given the previous conclusions of the European Court of Human Rights.

Regarding the arguments of the regional court, the CC criticized them for not being systematically structured, with key arguments not being elaborated in sufficient detail. The decisive factor for the CC's considerations was its perception of the extent to which the alleged crime had been fulfilled by the indictment. The CC essentially accepted the conclusions of the general courts regarding the objective aspect. However, it pointed out that the regional court did not explicitly state its conclusion that it considered the objective aspect of the crime to be fulfilled in this case; however, the CC inferred this from its conclusions.

On the question of fulfilling the subjective aspect of the crime, the CC summarized the conclusions of the regional court by stating that it "*questioned the culpability of the accused prison service members, referring to the fact that the same unlawful conduct towards persons serving sentences was commonly committed by several of their colleagues and that the prison management approved their actions*". However, in the context of torture and prison guards, the CC considered such an argument to be completely inadmissible. As a possible way of interpreting the argument, the CC offered a legal provision on so-called legal error under Section 19 of the Criminal Code, on the basis of which it would hypothetically be possible to exclude the guards' culpability.

However, with regard to any considerations concerning

The CC also made key conclusions on the issue of possible systematic errors [2]

the application of legal provisions on legal error regarding the criminality of the actions of prison guards, the CC emphasized that, in view of legal certainty and the constitutional rights of victims of criminal offenses, any conclusion that the legal conditions have been met must be justified in detail.[4]

The CC was unable to infer any other reason from the regional court's judgment that would lead to the exclusion of the subjective element of the crime. It was therefore concluded that this error by the regional court, which interfered with the complainant's right to physical integrity and protection from torture and inhuman and degrading treatment, was so serious that it was necessary to overturn the contested judgment.

The CC also made key conclusions on the issue of possible systematic errors. First and foremost, it concluded that "*the entire 'system' was based on broad discretion on the part of individual guards, supported by management*", pointing to the obligations of guards in cases of orders that would lead to the commission of criminal offenses. As for the argument that the guards were unaware of the illegality of

their actions, the CC pointed out that some of them had themselves expressed doubts before the general courts about the functionality of the procedures laid down by law. Procedures that they themselves were supposedly not supposed to know about in the first place.

Reflections on the Constitutional Rights of Victims of Crime (and Injured Parties)

In its ruling, the CC followed up on previous developments in the area of the constitutional rights of crime victims and their options for rectifying any errors made by the courts. It first referred to its previous ruling Pl. ÚS 17/24, in which, however, it clearly stated that it did not intend to comment on the question of whether its legal opinion expressed therein "*also applies to factually and legally different constitutional complaints of injured parties against other decisions*". The question therefore, arises as to what extent this emphasis is still relevant.

However, in its ruling Pl. ÚS 17/24, the CC stated, regarding its relationship to the general courts, that it is not ideally situated to assess criminal policy settings or complex practical issues. It also highlighted the inappropriateness of centralizing in its own hands the power to quash final decisions based on constitutional complaints from injured parties, who otherwise lack procedural remedies with comparable effects within the criminal proceedings.

The CC also referred to three of its previous rulings. It pointed to ruling IV. ÚS 1993/21, in which it overturned the decisions of the courts because they had failed to fulfil their obligation to sufficiently clarify the facts of the case. It emphasized the state's obligation to provide the bereaved with "*means that they can invoke against the authorities involved in criminal proceedings*". It also referred to its ruling I. ÚS 443/23, in which it overturned a court judgment because it completely lacked written reasoning.[5]

Last but not least, the CC referred to its ruling III. ÚS 3006/21, in which it concluded that it was entitled, on the basis of a constitutional complaint filed by the victim, to review the constitutionality of court decisions that referred the matter to misdemeanour proceedings. Specifically, with regard to the principle of subsidiarity of criminal prosecution, the CC summarized that if "*it considers it necessary that, in the case of such serious expressions of hatred* [here]*, the human dignity and private life of the victims be protected by means of criminal law, it is not decisive whether the failure to provide such protection is the result of a decision by the public prosecutor or the court*".

It can therefore be summarized that the CC is gradually expanding the rights of victims of crime (and injured parties). How will the whole case proceed? Only time will tell.

Notes

[1] See the post on Centre's blog here: https://www.centrumlidskaprava.cz/blog/svetla-nad-sazavou-mnoho-povyku-pro-nic. The restraint itself was supposed to last 3 hours, 34 minutes, and 58 seconds.

[2] Ruling of the Constitutional Court dated July 10, 2025, file no. III. ÚS 1252/24. Available at: https://www.usoud.cz/fileadmin/user_upload/Tiskova_mluvci/Publikovane_nalezy/2025/3-1252-24_AN.pdf.

[3] It was precisely the absence of awareness on the part of the guards of the unlawfulness and illegality of the procedure that was one of the key conclusions of the general courts in their decisions to date.

[4] However, the CC expressed considerable doubts about this possibility, given the obligation of guards to familiarize themselves with all relevant regulations and to comply with them. For example, reference can be made to its ruling IV. ÚS 2352/22, in which even professional antique dealers did not invoke legal error when purchasing a large quantity of ivory products.

[5] CC concluded that the oral statement of reasons thus acquires extraordinary significance, or rather whether the decision is properly explained to the injured party.

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[1] The case concerning restraint in the form of the so-called Crucifixion of Jesus Christ came before the Constitutional Court. Pomník vzkříšení. Author: Jakub Dubják, date of photograph: August 8, 2025. Edited: cropped.

[2] The CC also made key conclusions on the issue of possible systematic errors. Budova Ústavního soudu. Ústavní soud focený večer, author: Jakub Dubják. Edited: cropped.

After seven years, Czech soldiers were charged with the death of an Afghan prisoner

Filip Valoušek, translated by Kryštof Urban

The case of Vahidullah Khan, an Afghan soldier who died immediately after being interrogated by Czech and American special forces, finally reached trial after almost seven years. The Regional Public Prosecutor's Office in Brno drew up an extensive indictment of four Czech soldiers suspected of, among other things, extortion, disobeying orders, and failure to provide help. However, the case was not concluded by a proper trial, but instead by presidential abolition.

In the fall of 2018, a tragic attack took place at the Shindand allied base in Afghanistan, killing Czech K9 officer Tomáš Procházka and injuring two other Czech soldiers. For reasons that remain unknown, they were attacked by Vahidullah Khan, a member of the Afghan armed forces deployed at the base alongside NATO troops. The attacker was initially suspected of having links to the Taliban, but these links were never confirmed.

Khan was detained immediately after the attack and interrogated by Afghan, Czech, and American soldiers. While no injuries were apparent after the interrogation by Afghan forces, the situation changed dramatically during the interrogation conducted by Czech soldiers. During the interrogation by Czech soldiers, screams could be heard from the interrogation room. When the interrogation was over, Khan's face was covered in bruises. This behaviour went against explicit orders prohibiting Czech soldiers from harming Khan in any way and requiring them to take photographs as evidence after the interrogation. The prisoner was then interrogated by American troops, who, together with two Czech soldiers who were standing guard outside the interrogation room at the time, handed him over, bloodied and unconscious, to members of the Afghan army. Six hours later, Khan succumbed to his injuries.

Criminal Prosecution of Czech Soldiers

We have already covered this unfortunate series of events and its investigation by Czech and US authorities in detail several times in our Bulletin (see Bulletin October 2021 and Bulletin November 2022). However, recently, there has been a significant development in the criminal proceedings – the Regional Public Prosecutor's Office in Brno has published an extensive indictment, provided in response to a request submitted under the Freedom of Information Act. The indictment accuses two Czech soldiers of extortion and disobeying orders, and two others of failure to provide help and breach of guard duty.

The Regional Public Prosecutor's Office in Brno has published an extensive indictment [1]

The indictment itself reveals several previously unknown details of the case and provides a vivid picture of that fateful day. For example, the prosecutor claims that after the interrogation, Czech soldiers had at least 75 minutes to provide Khan with the necessary medical help, even though they were located 300 meters from a medical facility. He also received psychological pressure from the Czech soldiers. The Americans were even more brutal – they banged Khan's head against the table, threw him against the wall, and twisted his testicles.

In addition to the accused soldiers, the Czech state, or rather the Czech Army, was also found to have acted improperly in this case. The Czech State failed to inform the Military Police of the incident in a proper and timely manner, merely appointing a four-member investigative

commission which, in its final report, repeated the statements made by the accused soldiers. The unwillingness to cooperate with the investigation also frustrated the American side, which informally threatened several times to refer the whole matter to the International Criminal Court in the Hague. However, after the commander of NATO in Europe negotiated a remedy, this did not happen.

Intervention by the President of the Republic

Assuming that the accused soldiers had confessed, the prosecutor proposed only suspended sentences due to the exceptional circumstances of the case. However, in view of the facts revealed in the published indictment, it is regrettable that even after seven years, we will not see a decision on guilt and punishment. President Petr Pavel exercised his power to halt criminal proceedings and granted the defendants abolition in mid-May.

The right to grant pardons is – despite possible justified criticism of this institution – the president's prerogative. Apart from the prime minister's countersignature in the aforementioned decision on abolition, the Constitution does not set any further conditions for this; it is therefore entirely up to the president and his own political responsibility to decide who to pardon. Nevertheless, doubts about the correctness and fairness of this decision cannot be avoided.

The Office of the President stated in a press release that the president in his decision took into account "*in particular the exceptional nature of the war situation in which the incident under investigation occurred and the fact that the soldiers are not primarily accused of violent crimes*" and "*also took into account the complex international context of the whole case and the length of the investigation to date.*" Some of these arguments are certainly legitimate. But was this situation really so extraordinary that it justified the absence of a proper trial? And didn't the public deserve to have the charges decided by an independent court in a healthy constitutional state?

The Czech state acted improperly [2]

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Photographs

[1] The Regional Public Prosecutor's Office in Brno has published an extensive indictment. Budova NSZ. Author: Centre for Human Rights and Democracy. edited: cut.

[2] The Czech state acted improperly. Ilustrační foto (Flags of CoE, author: Aneta Cermanová, December 18, 2024.

Security Information Service Annual Report for 2024 – Persistent Threats from the East and Radicalizing Youth

Anet Cermanová, translated by Kryštof Urban

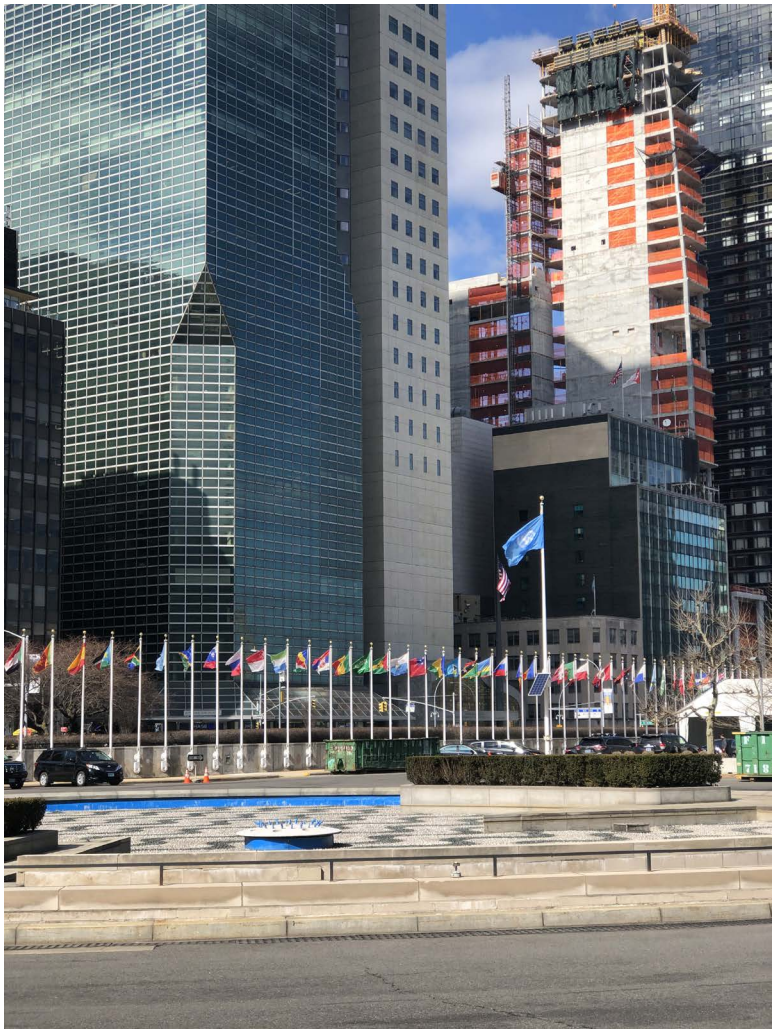
The Security Information Service Annual Report for 2024 highlights ongoing threats from Russia and China. According to Czech counterintelligence, the risks are primarily concentrated in the areas of influence operations, cybernetics, and sanctions evasion. Intelligence officers also warn against new methods used by hostile actors, such as the recruitment of so-called "telegram agents", and point to a disturbing trend of radicalization among young people in the online environment.

The Security Information Service, known by the acronym "BIS" (in Czech: "Bezpečnostní informační služba"), is a counterintelligence service operating in the Czech Republic. Its main task is to protect the state from espionage and other hostile activities by foreign powers or organizations. The activities, status, and powers of the BIS are regulated by the Czech Intelligence Services Act and the Security Information Service Act.

Russia as a Persistent Threat

According to the BIS Annual Report, the influence of the Russian Federation continues to pose a risk to the Czech Republic, as it has in previous years. Its goal is to destabilize EU countries and undermine trust in the institutions on which democratic society is based. An example of Russian activities on Czech territory is the work of Belarusian citizen Natallia Sudliankova. She lived in the Czech Republic for a long time as an asylum seeker and devoted herself to journalism aimed at the Russian-speaking audience.

When Russian entities were excluded from the tender for the completion of the Dukovany nuclear power plant in 2021, Sudliankova played a key role in promoting the interests of the Russian company Rosatom. In her articles, she also criticized Czech non-governmental organizations and the provision of aid to Ukraine. The journalist's activities in this area were directed and financed by Alexei Shavrov, a member of the Russian military intelligence service GRU. In 2024, Natallia Sudliankova focused on the alleged illegality of EU sanctions imposed on Russian oligarch Alisher Usmanov, who supports the war waged by Russia. Due to her activities, Natallia Sudliankova was added to the Czech national sanctions list in April 2025 and given 30 days to leave the country.



Radicalization of young people in the online environment grows [1]

Recruitment on Telegram

One of Russia's goals is to weaken European society's cohesion on the issue of support for Ukraine. For this reason, Russia has come up with a new tactic and started hiring people who are not directly connected to the Russian state but are intended to carry out attacks on selected targets. Advertisements for such jobs, which most often appear on the Telegram social network, do not specify the type of work, but promise easy money. Such "*Telegram agents*" take photos and videos of sensitive objects, such as military bases or transshipment points for military aid to Ukraine, or commit arson attacks. There have been several incidents in the Czech Republic. One of them was

BIS building on Nárožní Street [2]

the burning of a bus in the Klíčov depot in Prague. This attack was carried out by a Colombian citizen lured in by a financial reward, with Russia primarily targeting migrants from economically weaker countries in similar operations.

Evasion of Sanctions Against the Russian Federation

The year 2024 also confirmed the efforts of some Czech companies to circumvent sanctions against Russia. Despite Russia's ongoing military aggression in Ukraine, some Czech companies tried to find ways to supply goods to the Russian Federation last year, despite the sanctions imposed. Most often, they used re-export via third parties. The BIS recorded a case of a Czech manufacturer who initially sent his goods, destined for Russia, to a country that is a member of the Eurasian Economic Union, then to China, and only then did the goods reach Russia.

The BIS adds that the sanctions are not intended to completely isolate the Russian market, but rather to increase the cost of obtaining European goods. These must be transported covertly and via longer routes, which makes the whole process more expensive and complicates the expansion of Russian production capacities. Nevertheless, Moscow finds open support from China, Iran, and North Korea.

Radicalization of Young People on Social Media

In addition to foreign threats, the BIS also draws attention to an internal problem – the growing radicalization of young people in the online environment, which is closely related to the phenomenon of social networks. In 2024, the BIS recorded approximately two dozen individuals aged 13 to 21, predominantly boys of Czech nationality. Their radicalization manifested itself in searching for and disseminating Islamist or right-wing extremist material

on the internet. A fascination with violence and a desire to be part of a community of like-minded individuals played a key role, while the ideology itself was secondary. Most of these individuals were socially isolated or came from complicated family backgrounds.

While radicalization often took place autonomously without direct links to radical organizations, the BIS also recorded a case of a 21-year-old Czech citizen who was in contact with Islamic State (IS) actors. The BIS also monitored a right-wing extremist group of young people who were inclined towards the ideas of militant accelerationism and SIEGE culture, which interprets fascism and National Socialism in the most extreme way. The greatest real risk was a call for a terrorist attack on the Pride march in Bratislava. The police took action against the group and initiated criminal proceedings against the main actor.

The inclination toward extremism is often linked to personal isolation, a lack of social ties, and a lack of interest from those around. Deradicalization is therefore possible through a multidisciplinary approach involving parents, schools, social services, and, in extreme cases, security forces. In this regard, the BIS encourages the public to report individuals exhibiting signs of risky behavior to the BIS via email at prevence@bis.cz

Chinese Investment in Vlkoš, Moravia

Not only does the Russian Federation pose a security risk to the Czech Republic, but China does as well. One of the most jeopardizing activities of Chinese entities in Czechia was the investment by Emposat in the construction of a ground satellite station. The Chinese company Emposat, in cooperation with a Czech partner, put into operation a satellite antenna in the village of Vlkoš near Kyjov, intended for communication, control, and data collection from satellites over Central Europe. The goal of this investment was to establish communication with the Jilin satellite network, which is managed by the Chinese state-owned company Chang Guang Satellite Technology, now included on the EU and US sanctions lists for providing satellite images to the Russian Wagner Group, which operates in Ukraine.

Several security risks were identified during the project's assessment. Chinese companies are legally obligated to cooperate with the Chinese state, which poses a real risk that the satellite equipment may be used for military or intelligence purposes. This is clearly contrary to Czech security and foreign policy interests. Risks were identified in the areas of image and signal intelligence, threats to signal communications, and cybersecurity.

The case met the definition of a risky foreign investment, and therefore, the Ministry of Industry and Trade (MPO) initiated a review process. Based on the identified risks, the Czech Telecommunications Office did not grant Emposat a license to use radio frequencies. At the end of 2024, the Emposat case was still being resolved. However, in May 2025, the satellite station was removed in accordance with the MPO's decision, following a government resolution that prohibited the continuation of this investment. The BIS handled this case as the first of its kind in Czechia.

Conclusion

The year 2024 was marked by continuing and newly emerging threats, particularly from Eastern powers. In addition to traditional influence operations and cyberattacks, new forms of threats emerged, such as the recruitment of Telegram agents and attempts to control satellite infrastructure. The instrumentalization of artificial intelligence for disinformation campaigns and the growing radicalization of young people on social networks were also serious issues.

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Czech Section News

Jakub Dubják, translated by Alexandra Eštoková and Kryštof Urban

Šantovka Tower will (for now) not appear before the Constitutional Court

The Constitutional Court (CC), in its recent decision III. ÚS 1071/25, dismissed as inadmissible the constitutional complaint of the company Šantovka Tower a.s. The ruling of the Supreme Administrative Court (SAC), which had upheld the Ombudsman's action in the public interest concerning Šantovka Tower in Olomouc, thus remains in force.[1] The reason was suspicion of systemic bias among the deciding officials and disruption of the city's historical panorama. The SAC concluded that "*systemic bias is in the present case such a serious flaw in the administrative decision that it justifies its annulment without further ado*".[2]

In its constitutional complaint, the company pointed out the SAC's continued authority to apply the doctrine of systemic bias in administrative proceedings. It stressed that in this case, the SAC "*substantially expands and blurs*" the doctrine of systemic bias. However, the Constitutional Court did not find that the matter exceeded the interests of Šantovka Tower as itself and, since the case was to be decided again before the administrative courts, concluded that all statutory remedies had not yet been exhausted. The constitutional complaint was therefore dismissed, though the Court did not exclude its possible admissibility in the future.

AI in the Administrative Procedure Code?

The Chamber of Deputies is currently discussing Parliamentary Paper No. 845[3]. Primarily, it is an amendment to the Municipal Establishment Act, but it also contains changes to the Administrative Procedure Code. It introduces Section 15a, establishing so-called "*Automated Proceedings*", and Section 49a, regulating the possibility for administrative authorities to use videoconferencing equipment. According to the proposal, when considering whether automated proceedings should apply, the nature of the matter, the protection of the rights of the persons concerned, or the public interest should be taken into account. Its use is excluded in advance, for example, in appeals proceedings and where administrative discretion is exercised.

The explanatory memorandum to the proposal[4] states that the expected benefits of automation will be "*faster, simpler, cheaper, and more efficient public administration*". The advantages are expected to benefit both citizens and offices, primarily by reducing the administrative burden. The explanatory memorandum admits that the proposed regulation is general in nature to avoid the need to amend other provisions of the Administrative Procedure Code. It should also be noted that automation may apply to individual acts as well as to proceedings as a whole, including final decisions on the merits. The proposal thus opens up the possibility of official decisions being made without officials.

The Supreme Court [1]

The Supreme Court responds to the Šalamoun association

In the much-discussed Bitcoin case, the Supreme Court (SC) and its decision to release seized electronic devices, including bitcoins, came under criticism. The Šalamoun

association, for example, issued a critical opinion[5], pointing to a possible conflict with earlier case law of the SC confirmed by the Constitutional Court. Specifically, it referred to SC resolution file no. 3 Tdo 992/2022 concerning the penalty of forfeiture of property.[6]

In that ruling, regarding a seized data disk that could allow the accused to access proceeds of crime and convert them into bitcoins, the SC found that the penalty of forfeiture of property had been lawfully imposed. The SC ruled out that the item was a direct or indirect criminal profit, but concluded that "*if the gain in question served the accused to 'invest' funds obtained from crime into cryptocurrency, then the use of this disk at the very least facilitated the commission of conduct fulfilling the element of enriching himself and obtaining substantial benefit*".

The Šalamoun association thus concluded that the encrypted device could not be returned in the current case, and that through its ruling file no. 11 Tdo 324/2023[7], the SC opened the door to so-called sophisticated money laundering of criminal proceeds. The SC responded by stressing that it had not ruled on the current Bitcoin case but had merely corrected erroneous decisions of lower courts. It also emphasized the difference between the penalty of forfeiture of property and the protective measure of seizure of property, which was at issue here. It therefore excluded any possible conflict with earlier case law. It added that in a rule of law, decisions leading to irreversible interference with property rights cannot be based on mere assumptions.

Notes

[1] The action was initially filed with the Regional Court in Ostrava in 2020, at a time when Anna Šabatová was serving as Ombudsman. The cassation complaint with the Supreme Administrative Court was then filed in 2022 by Stanislav Křeček.

[2] Judgment of the Supreme Administrative Court dated January 29, 2025, file no. 1 As 146/2024–93. Available at: https://www.ochrance.cz/aktualne/nejvyssi_spravni_soud_dal_za_pravdu_ombudsmanovi_ve_veci_santovka_tower_olomoucky_magistrat_nebyl_nestranny/rozhodnuti_nss_29.1.2025.pdf.

[3] Parliamentary Paper No. 845 is available at: https://www.psp.cz/sqw/historie.sqw?o=9&t=845

[4] The original proposal with explanatory memorandum, see in particular p. 36 et seq., is available at: https://www.psp.cz/sqw/text/orig2.sqw?idd=247665.

[5] Statement dated June 5, 2025, is available at: https://spoleksalamoun.com/2025/06/05/reakce-spolku-salamoun-na-vyjadreni--predsedy-nejvyssiho-soudu-cr-v-kauze-jirikovsky/.

[6] Resolution of the Supreme Court dated November 22, 2022, file no. 3 Tdo 992/2022. Available at: https://www.zakonyprolidi.cz/judikat/nscr/3-tdo-992-2022.

[7] Resolution of the Supreme Court dated July 26, 2023, file no. 11 Tdo 324/2023. Available at: https://www.zakonyprolidi.cz/judikat/nscr/11-tdo-324-2023.

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Photographs

[1] The Supreme Court. Budova Nejvyššího soudu (2). Author: Jakub Dubják.

Monitoring of human rights publications

Jakub Dubják

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Photos

[1] Illustrative photo. Právní literatura (1), autor Jakub Dubják, 6. 8. 2025.. Edited: cropped

Illustrative photo [1]

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