

CZECH CENTRE FOR HUMAN RIGHTS AND DEMOCRACY

# Czech Democracy & Rights Bulletin



Dear readers,

We are pleased to present the second 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 Marie Kmecová, who shares her experience at the Ombudsperson's Office, the CPT, and the broader human rights field with readers. Giving advice to those interested in pursuing a career in the human rights field.

Subsequently, Jakub Dubják details the Constitutional Court's ruling regarding the investigation of the tragic shooting at Charles University to the victims' families. This decision reasserts victims' families' right to transparency and participation in investigations of state actions. Gabriela Tomečková then analyzes the State's responsibility for a death in a police cell. The contribution presents the facts of the death and the Supreme Court's argument in favor of the injured party.

Jakub Dubják then examines a ruling of the Constitutional Court on suspending a prison sentence for a mother of a newborn, emphasizing that courts must respect fundamental rights and the child's right to care. Following the article, Gabriela Tomečková examines a phenomenon of so-called "undeclared coalitions" in parliamentary elections. What is the future structure of political competition in the Czech Republic?

Aneta Cermanová then provides an in-depth analysis of a recent amendment to the Criminal Code, which changes the regulation of the criminal offense of neglecting child support. Aneta Cermanová concludes with a few remarks on personnel changes in the Constitutional Court and the Government Commissioner for Human Rights and sheds light on the recent approval to ban those with a Russian Diplomatic passport from entering the Czech Republic.

We hope this edition provides readers with valuable insight into current developments shaping human rights, legal accountability, and democratic governance in the Czech Republic.

**Editors of the Czech Democracy & Rights Bulletin**

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Marie Kmecová in the CPT Presidency, source: Marie Kmecová's archive. Edited: cropped.

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 for the Bulletin - Marie Kmecová



*Pavel Doubek, translated  
by Anna Slezáková*

When the Office of the Public Defender of Rights established a new oversight department in 2005, Marie Kmecová was among its first lawyers. She later went on to head the “detention” department, also known as the National Preventive Mechanism (NPM), thus setting the course for the prevention of torture and ill-treatment in places of deprivation of liberty (here, we worked together for some time). In 2015, she was elected to the European Committee for the Prevention of Torture (CPT) on behalf of the Czech Republic, and since 2025 she has served as its First Vice-President. This year, she also received the prestigious FLAMMA Award (a prestigious Czech award recognising inspiring women lawyers).

**Marie, from your time at Office of the Public Defender, I’ve known you as an experienced “human rights lawyer.” But in the past, when you were studying at the Faculty of Law in Brno, did you know that you wanted to specialize in human rights? What led you, at that time, to decide to begin your professional career at the Office of the Public Defender of Rights?**

It was actually the Office (today the Office of the Public Defender of Rights and the Defender of Children’s Rights) that steered me toward human rights. I joined after finishing my studies more or less by chance - they were simply hiring people for a new agenda at the time. (Which, by the way, is still true in 2025; check the Office’s social media.) It may sound banal, but I wanted to use my legal education in a way that would be useful to society, and beyond that, I was open to wherever it might lead.

**Do you view human rights issues the same way you did at the beginning of your legal career twenty years ago? How has your perception of human rights evolved over time?**

Twenty years ago, I threw myself enthusiastically into the specific tasks we were working on - we were developing our monitoring methodology, learning legal and other standards, spending an enormous amount of time travel-



Marie Kmecová [1]

ling, visiting institutions, building contacts, and getting to know our international partners. It was only later that I had more time to read and study human rights, mainly through the ECtHR’s case law and philosophy.

When I later joined the CPT, I realized that this combination of fieldwork and academic study had well prepared me. However, if I want to truly understand why things happen the way they do in the Committee of Ministers of the Council of Europe or in UN bodies, it would require something more.

### About the work at the Office of the Public Defender

**As a lawyer at the Office of the Public Defender, you visited around a hundred facilities where people are deprived of their liberties—prisons, psychi-**

**atric hospitals, institutions for children, and so on. Do you recall any moment from these visits that has stayed with you permanently, whether in a positive or a negative sense?**

There are truly many vivid memories and vivid dreams as well. I clearly remember, for example, our joint investigation in a social care facility for older people and people with mental disorders. There were too many deficiencies there, and we needed airtight findings. We returned there after working hours and interviewed a care worker who was solely responsible for 50 clients and was completely new, probably on his third shift. While handing out night medication, he had been unable to wake one of the clients, and he told us he would “try again in the morning.” Only after our intervention, when we pointed out that by morning it might be too late, he called the ambulance. When the paramedics forced their way into the client’s room, a confused bat flew in through the open window as well, and we decided it was best to step back. (The ending was a good one; the man was eventually woken up.) I also often think of specific people I spoke with in the facilities. Even after years, I am still moved by a rehabilitation worker who showed me how she practiced the Vojta method (a physiotherapy method often used in children with motor impairments) with a tiny little girl; she invested so much energy into a child living in an institution.

**There are many approaches to defining torture and ill-treatment. How do you personally understand these concepts?**

I am probably aligned with the CPT or the ECtHR. I understand ill-treatment as a qualified, serious interference with a person’s integrity or dignity. I dislike lowering or circumventing the minimum level of severity that the ECtHR requires for the prohibition of ill-treatment to apply in a given case. In my view, over the long term, it does not strengthen the protection of victims of rights violations if every injustice or indignity is labelled as torture or ill-treatment. I write about this topic from time to time. What I find even more interesting, and far more promising, is the prevention of ill-treatment, that is, the state’s obligations to adopt positive measures to prevent it.

**In places of detention, one encounters troubled human stories, loneliness, and suffering. How did you mentally prepare for these visits? Over time, did you develop your own strategies for maintaining emotional distance while still preserving empathy?**

Being aware of the task at hand helps me maintain distance in the moment: Gathering solid information, not overlooking “the elephant” in the room, making the most of the time and resources available during the visit. With the CPT, we can be in the field for 12 days straight, from morning until evening, we are either collecting information or analysing it, and weekends don’t count. It requires total commitment. But absorbing these experiences is sometimes truly difficult. You often empathize with the staff as well, and alongside the hardships you mentioned, there is also the reality of roughness and violence of all kinds, and the hopelessness of systemic problems. The Office of the Public Defender and the Defender of Children’s Rights offers supervision to its staff. For me, it was always important to process these experiences with colleagues and let time pass. “Time heals all wounds”, one prisoner once told me as unsolicited advice. But I cannot do this work indefinitely, and that is why I left the NPM.

**According to you, what is the most serious and the most persistent issue in Czech detentions?**

The problems differ across various sectors. In the prison system, for example, it seems to me that politicians and authorities have become accustomed to long-term overcrowding and staff shortages, which do not allow for the rehabilitation of prisoners. Not to mention the material conditions dating back to the last century. When you haven’t experienced the reality in countries with good practices, and you read the CPT reports from Eastern and Southern Europe, you might get the impression that the situation in the Czech Republic is quite normal. But it is not. I also think, for example, that the Czech Republic is lagging behind in systemic safeguards for long-term nursing care. Violence and neglect in this area are difficult to uncover and address. Prevention is more effective.

**During your time at the Office, you have met all four Czech ombudspersons: Otakar Motejl, Pavel Varvařovský, Anna Šabatová, and Stanislav Křeček. Which of them do you remember most fondly?**

Every ombudsperson respected the NPM agenda. But Anna Šabatová stood out for her knowledge and vision. Overall, she challenged us to think more creatively and thus do more good.

**Which moment from your work at the Office of the Public Defender do you consider the most crucial or groundbreaking?**

It’s difficult to name a single moment, but over the years, I have seen a huge shift towards professionalism in the



Marie Kmecová in the CPT Presidency [2]

Office. The texts issued by the Ombudsperson are also better and more comprehensible. We were always greatly encouraged when a court ruled in our favour in a case - for example, the ECtHR judgment in the case of V v. the Czech Republic, is based on the findings and assessments I had systematically worked on.[1]

### About the work at the CPT

**Now let's move to the European level, to your membership in the CPT. Could you briefly describe this institution for our readers and elaborate on your specific role in its activities?**

The Committee is a Council of Europe body established by the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in 1989, as a complement to the European Court of Human Rights in the area of protection against ill-treatment. Specifically, it focuses on places of detention, where the risk of ill-treatment is particularly high. States at the time wanted to do something to ensure that the prohibition of torture did not remain just on paper. While the ECtHR is reactive and primarily delivers individual justice, the Committee is a preventive body focused primarily on general measures. The tools entrusted to it – conducting visits and issuing reports to governments – allow it to gain first-hand knowledge from places where few complaints reach Strasbourg, and to pressure governments to fulfill their obligations under Article 3 of the European Convention. Although the implementation of these obligations is an ongoing process, and we see periods of regression, governments, surprisingly, continue to cooperate with the Committee even after 35 years and, with rare exceptions, allow the publication of visit reports, even when they are

highly critical. This is truly unique. Furthermore, the Committee's reports inform the ECtHR and serve as the basis for many condemnatory judgments.

The Committee is a body of independent experts, one from each contracting state (the position for the Russian Federation has been vacant for a few years, and in August, reports spread about their intention to withdraw from the Convention). They include lawyers, doctors, psychologists, criminologists, police officers, academics, and practitioners. With the vital support of a professional secretariat, we conduct visits to countries (about 20 per year) and, within them, detention facilities of all kinds. We meet three times a year and, among other things, adopt the visit reports prepared by the individual delegations in the meantime. When we have the capacity, we generalize the findings and into standards for preventing ill-treatment. It's a wonderful blend of investigative and legal work, in which my involvement has increased over time.

**What did your journey to the CPT look like, and how long does the selection process take?**

Members are elected by the Committee of Ministers of the Council of Europe for a four-year term. It is up to the government to submit a candidate list of three names in time, which then undergoes screening in the Parliamentary Assembly. The main focus is on the independence and professional competence of the candidates, as well as the gender balance of the shortlist. Specifically, in the Czech Republic, this is handled by the Ministry of Foreign Affairs, in cooperation with the Government Council for Human Rights' Committee against Torture. When I applied, it was the Office (of the Ombudsperson) that stood up for me. That journey started in the NPM.

**Are there significant differences in the treatment and conditions in detention facilities across Council of Europe countries? And what differences do you see between the Czech Republic's approach to preventing ill-treatment and that of other countries?**

The differences are huge. In terms of good and bad practices, available resources, expert capacity, social reality, corruption, and even geographical conditions. For example, in recent years, I have visited many forensic psychiatric facilities and realized what a problem it is for countries that are completely unfamiliar with this field of expertise. It is then difficult to provide people who have been ordered by criminal courts to undergo protective treatment with dignified conditions and hope for release. I think the Czech Republic has a tradition of

caring for public goods and services, including institutions that involve deprivation of liberty. However, I often do not see the ambition to improve more quickly. Czechia could learn from Slovenia or Finland, for example. They are not enthusiastic about all the CPT's recommendations either. However, the approach of their authorities is often focused on finding ways to improve, rather than the opposite.

**Are the visited countries willing to accept the CPT's recommendations? Have you encountered significant resistance or ignorance from the countries you have visited?**

You can see for yourself which countries have unpublished reports from visits, or read the report on visits to foreign detention centers in Bulgaria in September 2024. It's partly about people - some ministers want to show their power, so they take a stand against the committee, but the delegation that arrives in two years may encounter a more cooperative approach. Most often, countries acknowledge the problems but fail to take effective measures to change them.

**What has been your most difficult experience so far during visits to facilities abroad?**

Facilities for people with psychosocial disabilities in Romania, Serbia, and Albania. Interviews with people serving very long sentences in Turkey. From a visit to another unnamed country, I remember an experience where I could physically feel the animosity of the staff towards us, the inspection body; I had the feeling that they would even let prisoners risk committing suicide just so they could say that he died because of us. But as a delegation, we were able to handle it.

**This year, the CPT published a report on its visit to the Czech Republic. How did this report reflect on the Czech Republic? And was there anything in the report that surprised you?**

The report is not surprising, because in its core topics (police detention, prisons), it follows up on previous recommendations and communication about them. The issue of institutional care has been reopened again, based on a visit to a facility that was not problematic, while the delegation did not visit psychiatry or facilities for foreigners this time. Unfortunately, it is also unsurprising that in some respects the Czech Republic's response is unnecessarily defensive. To avoid speaking too abstractly about the report, although the CPT itself did not encounter cases of police violence (which is good), it does note cases

being dealt with in the courts. It points out the critical staffing situation in prison healthcare as well as in work with prisoners more generally (In Prague, a secure detention unit had to be closed because of this). The Committee again reminds us that we lack a complete legal framework for treatment without consent. I would add that a CPT member is not allowed to take part in the visit to their own country or in the work on the report from this visit.

**In 2025, you were elected First Vice-President of the CPT. What does this mean for you?**

My colleagues placed their trust in me. It is a great honor and a commitment, because I have in mind many excellent professionals who handed the Committee down to us. I care deeply about the Committee and appreciate the multidisciplinary approach practiced there. I want to maintain that tradition. The position is, of course, also a form of satisfaction for me, for the work I have done within the Committee and during many visits.

**Generally about work in the human rights field**

**What do you think is currently the greatest threat to the observance of human rights in the Czech Republic (Europe)? And what can we do about it?**

Unfortunately, the first question is not difficult to answer: Populism and instability prevent governments from pursuing projects that are not immediately popular, and, worse still, disparaging vulnerable people scores political points. Then there is the long-term weakening of institutions whose social mission is not directly to support material gain. And most recently, there have been crude attacks on the values of democracy and the rule of law in several European states. As for the second question, there is no simple answer. I think it is necessary to tirelessly present human rights issues as beneficial to society, as something that unites us. And to speak about solidarity within society, as a pillar on which we all depend.

**Does Czech society, in your view, have an understanding of the human rights agenda, or does it need to be systematically "explained" further?**

It seems to me that many experts and the public at large bristle at human rights claims, but when we discuss the values behind them, consensus can be found. That is good, but a solid and positive awareness of human rights still needs to be built. This is certainly one of the tasks for the national human rights institution, which, since this year, is the Public Defender of Rights.



Marie Kmecová with Irish CPT colleague Mark Kelly [2]

### Could you name three qualities a person should have to become a good “human rights lawyer”?

Above all, they should be good lawyers. The good human rights lawyers I know are characterized by the ability to cooperate and also by the ability to connect with people - even those with difficult behavior.

**Our Bulletin is read mainly by students and young lawyers, many of whom surely aspire to become professionals in the human rights field. What advice would you give our young readers?**

Work hard. And don't immediately picture yourself in the top positions of some ivory tower, as the European Court of Human Rights is sometimes nicknamed. But if you devote yourself to something consistently, the fruits will come.

### Notes

- [1] Judgment of the ECHR, *V. v. Czech Republic*, no. 26074/18, of 7 December 2023.

### Photographs

- [1] Marie Kmecová, source: archive of Marie Kmecová.  
 [2] Marie Kmecová in the CPT Presidency  
 [3] Marie Kmecová with Irish CPT colleague Mark Kelly; source: Marie Kmecová's archive Edited: cropped.

## The Tragic Shooting at the Faculty of Arts, Charles University - Two Years Later



Jakub Dubják, translated by  
Anna Slezáková

The Constitutional Court recently had the opportunity, in its recent ruling, to impose an obligation on the General Inspection of Security Forces (the GISF) to make the file from its investigation available. In addition to expanding knowledge about the right to an effective investigation and the so-called supplementary investigative duty, it once again reopened, in the eyes of the public, the wound brought by the shooting at the Faculty of Arts of Charles University. How did the Constitutional Court address the fact that the General Inspection of Security Forces refuse to make its investigation file accessible? What conclusions does its ruling bring for the relatives of the victims?

The tragic incident on December 21, 2023, prompted the Police to adopt several measures in response. For example, the basic training program was revised to ensure that officers are familiar with procedures for intervening against an active attacker (this topic has now been incorporated into the regular training of, for instance, public order and traffic police). Continued attention is also being devoted to the training of so-called soft targets (public places with high crowd density and low security, vulnerable to terrorist or violent attacks). Last but not least, in response also to last year's floods, the development of a Cell Broadcast system has been launched, designed to provide rapid warnings in the event of emergencies.

In its recent ruling [1], the Constitutional Court (CC) had the opportunity to deal with the complaint of the father of a girl who became a victim of the shooting at the Faculty of Arts of Charles University. He sought access to the file of the General Inspection of Security Forces (GISF) concerning the investigation of police conduct during the intervention at the scene of the shooting. He succeeded in this claim before the CC. The ruling is all the more noteworthy as it represents the third (so far published) decision of the CC whose operative part is directed specifically against GISF [2].



The obligation of additional investigation is not limited solely to the criminal law dimension [1]

In the case No. I. ÚS 860/15, the CC had already emphasized that GIBS, when investigating ill-treatment, bears a special duty to secure evidence “*that enables the drawing of convincing conclusions, with all due care, thoroughness, and speed.*” In case No. I. ÚS 1042/15, the Court pointed out that “*if GISF is predominantly staffed by former members of the corps it is supposed to investigate, its independence may be purely illusory.*” This ruling is the first in which the CC has ever ordered GIBS to grant the complainant access to its file.

### Events Preceding the Constitutional Complaint

In June 2024, the father (complainant) turned to the GISF with a request to access the file regarding the investigation of the Police's conduct during the intervention at the faculty. GIBS, however, denied such access, reasoning that it did not conduct the proceedings under the Crimi-

nal Procedure Code [3] but rather pursuant to § 2 paragraphs 4 and 5 of the Act on GISF [4]. GIFS thus referred the complainant to the criminal proceedings, which were conducted by another police body (the relevant Regional Police Directorate). Those proceedings, however, were discontinued, given the fact that the shooter had committed suicide.

The complainant subsequently filed a motion with the public prosecutor's office to review GISF's conduct. He argued that even though GISF had not initiated criminal proceedings, this did not prevent the prosecutor from ordering the police authority to carry out the steps necessary to clarify the matter. Above all, he objected that, as an injured party, he was *"entitled to demand from the police authority access to files, including those in which criminal proceedings had not been initiated."* The prosecutor's office, however, informed him that GIFS had not conducted a criminal investigation but had merely collected and assessed materials under the Act on GIFS.

The complainant then turned to the High Public Prosecutor's Office in Prague. He argued that *"without the possibility of access to the file, he cannot verify whether GISF and the prosecutor assessed all relevant information in an objective manner,"* referring also to his right to an effective investigation. His application was dismissed there as well. He therefore brought the matter before the Constitutional Court, seeking to assert his right to an effective investigation and the fulfillment of the state's obligations regarding public oversight.

## Two (Essential) Steps Before the Constitutional Court's Decision

The key issue was whether the Constitutional Court (CC) could order GISF to grant access to the file requested by the complainant. In light of its previous case law, the CC considered whether to apply the rule that *"a constitutional complaint against a decision generally takes precedence over a complaint against an intervention."* In the case of an intervention complaint, the matter would concern the challenge of a so-called other intervention by a public authority within the meaning of Article 87(1)(d) of the Constitution, which, among other things, falls outside the usual review proceedings. In this case, the intervention was GISF's denial of access to the file. From a formal standpoint, however, under the above rule, the complaint should have been directed against the decisions of the public prosecutor's offices, not against GISF's intervention. The CC found this to be an expression of impermissible



The Building of the Constitutional Court. [2]

formalism and concluded that such an approach would deprive the complainant of his only effective means of protecting his fundamental rights.

During the proceedings, the CC also directly asked GISF to comment on the matter in light of the case of Ribcheva and Others v. Bulgaria. In that case, the European Court of Human Rights, in the context of an investigation into alleged failings during a police operation, held that a mere general statement that certain shortcomings had been identified and that those responsible had been disciplined was insufficient, given the requirement of public oversight of the exercise of public authority. According to GISF, this requirement was met on June 6, 2024, through a public session of the Chamber of Deputies' Security Committee.

## Reasoning of the Constitutional Court

In its reasoning, the CC drew heavily on the case of Ribcheva and Others v. Bulgaria. In that matter, the brother of the applicants, a member of the security forces, had died. Their objections concerned the fact that the investigation did not assess whether his death had been contributed to by negligence or omission on the part of the police in planning and conducting the operation. The European Court of Human Rights there applied the concept of the so-called additional investigative duty, which need not necessarily be of a criminal-law nature. In cases of negligent acts, civil or disciplinary proceedings may suffice.

The CC summarized that the right to additional effective investigation in this case lay in transparency and the sufficient involvement of the victim's relatives. Both of these criteria had to be fulfilled simultaneously, without the necessity that the matter, in the context of negligent failings, be of a criminal-law nature. The additional investigative duty thus extended also to the examination of possible negligent shortcomings, with the CC emphasizing that the victim's father was simply demanding "*that the investigation conducted, regardless of its outcome, be carried out transparently.*"

The manifestation of transparent investigation was to be the disclosure of the GIBS file, which did not occur—not even through the session of the Chamber of Deputies' Security Committee. Nor did GISF's generally accommodating approach in the matter lead to the desired result. The CC therefore concluded that, given its definition of the additional investigative duty in relation to this case, that GISF violated the complainant's right to effective investigation deriving from his right to life [5].

The CC, however, stressed that the right of access has its limits. Certain documents or data may, for example, be classified under special legal regimes. Referring to its own case law, the CC added that another exception concerns materials that are "*merely internal aids and working documents of law enforcement authorities.*" It thus remains an open question what material the father of the tragically deceased student ultimately received.

## Notes

- [1] Judgment of the Constitutional Court of 4 August 2025, file no. II. ÚS 470/25.
- [2] The Constitutional Court had already done so in cases No. I. ÚS 860/15 and No. I. ÚS 1042/15, in both of which the matter concerned the right to effective investigation, or its violation.

- [3] In the course of its inquiry, GISF did not establish facts that would have entitled it to initiate criminal proceedings under the Criminal Procedure Code.
- [4] The activity of GISF in this context is intended to lead to proposals for measures to prevent unlawful conduct, particularly by members of the security forces, or to the issuance of methodological recommendations for the activities of individual security forces. The task of GISF here is therefore not, for example, the investigation of criminal activity under § 2(2) of the Act on GISF.
- [5] The foundation here is the right to life enshrined in Article 6 of the Charter of Fundamental Rights and Freedoms and in Article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms

## Sources

- Abbasi, K. (2025, srpen). Pozůstali po obětech střelby na Filozofické fakultě UK mají právo na informace z šetření inspekce bezpečnostních sborů [tisková zpráva]. Dostupné z: <https://www.usoud.cz/aktualne/pozustali-po-obetech-strelby-na-filozoficke-fakulte-uk-maji-pravo-na-informace-z-setreni-inspekce-bezpecnostnich-sboru>.
- Bocán, J. (2024, prosinec). Tragická střelba na Filozofické fakultě UK – rok poté [tisková zpráva]. Dostupné z: <https://policie.gov.cz/clanek/tragicka-strelba-na-filozoficke-fakulte-uk-rok-pote.aspx>.
- Rözler, A. (2025, květen). Česko získá systém pro rychlé varování obyvatel při mimořádných událostech. Cell Broadcast umožní přesné varování přes mobilní telefony [tisková zpráva]. Dostupné z: <https://mv.gov.cz/bsmv/clanek/cesko-ziska-system-pro-rychle-varovani-obyvatel-pri-mimoradnych-udalostech-cell-broadcast-umozni-presne-varovani-pres-mobilni-telefony.aspx>.
- Act No. 341/2011 Coll., on the General Inspection of Security Forces and on Amendments to Related Acts, as amended.

## Photographs

- [1] The obligation of additional investigation is not limited solely to the criminal law dimension. Historical pillar (Zadar), author: Jakub Dubják, 27. 8. 2025. Edited: cropped.
- [2] The Building of the Constitutional Court. Budova Ústavního soudu (2), author: Jakub Dubják, – November 24, 2023.

## Supreme Court: State's responsibility for death in a police cell



*Gabriela Tomečková, translated  
by Kryštof Urban*

On October 9, 2025, the Supreme Court (SC) delivered a judgment that annulled the decisions of the Municipal Court in Prague and the District Court for Prague 2 in the case of L. P.'s action, which seeks compensation for the harm caused by the death of her partner P. K. in a police cell. The SC returned the case for further proceedings, as the state is bound by the duty to protect the lives of persons deprived of liberty.

In this case, P. K. committed suicide in January 2016 in his cell using the drawstring of his hoodie, which the police had not taken away from him. In both internal and court investigations, four police offenses were identified. Firstly, no escort leader was appointed, nor was anyone responsible for guarding the cell. Furthermore, it was found that the defendant had been placed in the wrong cell and his hoodie had not been removed. According to the court expert, however, it would have been possible to make a ligature from any other item. Therefore, the cell itself was not the main issue. The lower courts dismissed L. P.'s action mainly because no causal link was proven, as indicated by the expert opinion.

The SC, however, adopted a different legal interpretation: If the state violates a protective norm intended to safeguard life, a so-called presumption of causal connection arises. It is up to the state to prove beyond doubt that the death would have occurred even if the legal regime had been observed. The SC described the expert's conclusions as too general and hypothetical: In order to exclude responsibility, the state would have to demonstrate that there was a specific alternative method of suicide under the given conditions that would independently have led to death.

### Argumentation of the SC

WIn its reasoning, the SC also relied on the European Court of Human Rights' case law in *Osman v the United Kingdom*. According to it, the state has a special duty to take reasonable preventive measures to protect the lives of particularly vulnerable persons deprived of their liberty. It must be demonstrated that (1) the state authorities knew or ought to have known of the existence of a real



The Supreme Court annulled a decision by the Municipal Court in Prague, which had ruled on a suicide case [1]

and immediate risk to the life of the person concerned, and (2) they failed to take measures that could reasonably be required to prevent that risk. If these duties are not fulfilled, it cannot be properly accepted that the state could escape responsibility by referring to a hypothetical situation in which the victim could have strangled themselves on something else.

The SC judgment thus strengthens the position of the injured party: in cases where a protective norm was violated by the state, the mere general possibility of committing suicide in another way will not be sufficient - the state bears a higher burden of proof. In this case, the District Court for Prague 2 will have to re-examine whether P. K.'s death occurred as a result of police error, and in more detail than before.

### Sources

Judgment file no. 30 Cdo 3495/2024. Available at: [https://www.nsoud.cz/fileadmin/user\\_upload/Uredni\\_deska/UD\\_-\\_civilni/Vyhlas.\\_zneni\\_rozsudku\\_30\\_Cdo\\_3495\\_2024.pdf](https://www.nsoud.cz/fileadmin/user_upload/Uredni_deska/UD_-_civilni/Vyhlas._zneni_rozsudku_30_Cdo_3495_2024.pdf).

Nejvyšší soud vrací k novému projednání případ sebevraždy v policejní cele, NSS, October 9, 2025. Available at: <https://www.nsoud.cz/pro-verejnost-a-media/tiskove-zpravy/detail/nejvyssi-soud-vraci-k-novemu-projednani-pripad-sebevrazdy-v-policejni-cele>.

### Photographs

[1] The Supreme Court annulled a decision by the Municipal Court in Prague, which had ruled on a suicide case. Budova Nejvyššího soudu(2), author Jakub Dubják. Edited: cut.

## (Non)suspension of the execution of a prison sentence and the right to childcare



*Jakub Dubják,  
translated by Kryštof Urban*

In its recent ruling, the Constitutional Court provided a constitutionally compliant interpretation of Section 325(2) of the Criminal Procedure Code. In the case of the applicant, the convicted mother of a newborn, both civil and criminal courts participated in the violation of her fundamental rights. According to the Constitutional Court, what limits cannot be exceeded when applying the provisions of Section 325(2) of the Criminal Procedure Code, and, besides the mother, who else could be affected by potential mistakes?

The applicant turned to the Constitutional Court (CC) after unsuccessfully requesting a suspension of her prison sentence. She did so because she had given birth to a daughter. However, the regular courts did not grant her request, mainly because she was not caring for her child. At that time, the daughter was in foster care; however, the reason for placing her in foster care was the applicant's detention and subsequent imprisonment. In the end, the CC, in its ruling [1], granted the applicant's request and clarified the interpretation of Section 325, paragraph 2, of the Criminal Procedure Code.

### Suspension of sentence execution in case of pregnancy and childcare

The provision of § 325(2) stipulates that the suspension of imprisonment occurs based on a court decision *“for a pregnant woman after the completion of the 12th week of pregnancy and for a mother caring for a child under one year of age, who has been convicted of a crime other than a particularly serious offense, and that for a period of one year after giving birth.”* In general, this suggests two possible scenarios: I) the convicted woman gives birth before starting her prison sentence, and II) the convicted woman gives birth (or completes the 12th week of pregnancy) after beginning her prison sentence.

As a first example, the aforementioned and below analysed ruling of the Constitutional Court can be mentioned. As a second example, a report on the investigation con-



The Regional Court concluded that the mother did not care for her daughter [1]

ducted by the Public Defender of Rights (Ombudsman) in case 1310/2020/VOP/JM can be cited. This involved a woman being tried who had begun serving her sentence while pregnant.

She ultimately had a spontaneous miscarriage in the prison's internal department. The Ombudsman found that the prison erred by not *“proceeding in a way that would have informed the court of the applicant's pregnancy immediately,”* which could *“also constitute an interference with the right [...] to family life.”* Had they done so, the court would have been obliged to immediately decide on the suspension of the sentence.

## The essence of the matter and key arguments

The applicant gave birth to a daughter while in detention (September 2024). She requested permission to care for her and have her with her during detention. Her request was denied, and the court subsequently decided to place the newborn girl in foster care, reasoning that neither the applicant in detention nor any of her family members could care for her.[2] In February 2025, the applicant was then convicted and sentenced to 22 months of imprisonment.

In April 2025, the applicant filed a request to suspend the sentence under § 325 paragraph 2 of the Criminal Procedure Code. She justified it by stating that her daughter was not yet even one year old, and she did not agree with foster care and demanded that her daughter be with her. However, the relevant district court [3] dismissed the applicant's request, and the appeals to the Regional Court [4] were ultimately not granted. The applicant then filed a constitutional complaint against their rulings.

The district court rejected the request with the reasoning that *“the applicant is not a mother caring for a child under one year of age within the meaning of § 325 paragraph 2 of the Criminal Procedure Code,”* pointing out that she had been a drug user and had an older daughter in the foster care of her grandmother, whom she also did not care for. Furthermore, the court noted that the foster care was supposed to benefit the daughter.

The Regional Court then justified its dismissal by stating that a change had occurred through the amendment of § 325 paragraph 2 of the Criminal Procedure Code – *“Previously, it was at the court’s discretion to suspend the execution of a sentence of imprisonment for a mother caring for a child under one year of age”*. [5] According to the Regional Court, the court was not obliged to suspend the sentence for every mother, but only for one who cares for her child. It emphasized that even if the sentence were suspended, the applicant could not provide direct care for her daughter. The court concluded that the applicant was not caring for her daughter, and therefore, the legal conditions were not met.

The applicant's key argument was based on the mutual conflict between civil and criminal decisions in the entire matter. The civil courts first placed her daughter in foster care due to her detention. The criminal courts then rejected her request for a suspension, noting that she did not have custody of her daughter. The person most harmed was the daughter herself, as, according to the appellant, this procedure deprived her of her right to her mother.



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

## Reasoning of the CC

The CC primarily held that the fulfilment of conditions within the framework of enforcement criminal proceedings, to which the suspension of the execution of a sentence under Section 325(2) of the Criminal Procedure Code belongs, should be assessed primarily by the general courts.

It emphasized, however, that even in these matters it is necessary to fulfil the guarantees of the convicted person's right to judicial protection in light of their right to a fair trial pursuant to Article 36(1) of the Charter of Fundamental Rights and Freedoms (the Charter). In addition, it noted the applicant's right to the protection of her private and family life under Article 10(2) of the Charter, and her right to care for and raise a child under Article 32(4) of the Charter.

Regarding the very institution of suspending a sentence in the case of a mother providing care, the CC found that it represents “*to some extent a balancing by the legislator of the public interest in protecting society and the right to private and family life (or the best interests of the child).*” According to the CC, the mechanism adopted and specified by the legislator is intended to ensure the possibility of suspending imprisonment “*for the purpose of protecting the right to family life, which should prevail in situations specified by law.*”

The CC concluded that if a court decides under Section 325(2) of the Criminal Procedure Code on the suspension of the execution of a sentence and the legal conditions are met, and the convicted person has been sentenced for a crime other than a particularly serious crime, the suspension of the execution of the sentence is mandatory. Regarding the question of whether a convicted person can be considered as caring for a child in the event that the child is placed in foster care, the CC emphasized that the general rule applies here: “*Once the obstacle preventing parents from providing personal care is removed, the parent may request the child back into their care, and the court will grant it if it is in the best interest of the child.*” In the case at hand, this obstacle was the custodial sentence being served.

On the alleged mutual contradiction between the decisions of civil and criminal courts, the CC summarized that general courts cannot reject any request for suspension of execution of a sentence solely on the basis of a reference to a decision placing a child in foster care. Such a state cannot be considered the result of a constitutionally compliant interpretation of Section 325(2) of the Criminal Procedure Code. In this regard, the Constitutional Court reproached the general courts for failing to adequately explain why they expanded the statutory conditions. It pointed to the appropriateness of the principle of *in favorem libertatis*, or in favor of liberty.

The Constitutional Court also noted the different purpose of criminal proceedings compared to guardianship proceedings. In this case, according to the CC, the criminal courts “essentially replaced the decision-making of guardianship courts.” For example, in a proceeding concerning the care of minors, the participant in the proceedings would primarily be the child itself (possibly represented by the child protection authority), who would also be the focus of interest. Criminal proceedings, however, aim at entirely different goals and do not have the appropriate tools to “substitute” the role of courts within guardianship proceedings.

According to the CC, criminal courts should not base their decisions to suspend a sentence solely on their doubts about the convicted person’s parental abilities. The CC also emphasized that separating children from their parents should be understood as a last resort, and in this case, the general courts, through their actions, effectively prevented the applicant from regaining custody of her daughter, thereby violating her right to family life.

## Notes

- [1] Ruling of the Constitutional Court dated October 13, 2025, file no. I. ÚS 2405/25.
- [2] The CC subsequently determined from the requested decision that the detention of the applicant was the main reason for placing her daughter in foster care.
- [3] District Court in Havlíčkův Brod.
- [4] Regional Court in Hradec Králové – Pardubice branch.
- [5] The explanatory memorandum to Act No. 165/2020 Coll., which amended the Criminal Procedure Code, states in this regard that “[t]he aim of the submitted bill is to exclude the automatic postponement of imprisonment for women who have been convicted of particularly serious crimes due to pregnancy or childcare until the child reaches one year of age.”

## Sources

- Ruling of the Constitutional Court dated October 13, 2025, file no. I. ÚS 2405/25. Available at: [https://www.usoud.cz/fileadmin/user\\_upload/Tiskova\\_mluvcy/Publikovane\\_nalezy/2025/1-2405-25\\_AN.pdf](https://www.usoud.cz/fileadmin/user_upload/Tiskova_mluvcy/Publikovane_nalezy/2025/1-2405-25_AN.pdf).
- Parliamentary Print 657/0. Amendment to the Act – Criminal Procedure Code – RJ. Bill including the explanatory memorandum: Act of ... 2020, amending Act No. 141/1961 Coll., on criminal judicial proceedings (Criminal Procedure Code), as amended, and some other laws. Available at: <https://www.psp.cz/sqw/text/orig2.sqw?idd=166325>.
- Report on the investigation by the Public Defender of Rights regarding the procedure of the prison following the discovery of pregnancy in a convicted person and family visits in prison dated July 7, 2020, file no. 1310/2020/VOP/JM, ref. no. KVOP 25301/2020. Available at: .

## Photographs

- [1] The Regional Court concluded that the mother did not care for her daughter. Budova krajského soudu v Hradci Králové focená z levé strany, author: Jan Bouzek. Edited: cropped.
- [2] Building of the Constitutional Court. Ústavní soud focený večer, author: Jakub Dubják. Edited: cropped.

## Where does cooperation end and circumvention of the law begin?



*Gabriela Tomečková, translated  
by Anna Slezáková*

**In recent weeks, the judgments of regional courts concerning loose political groupings have been a frequent topic in the public sphere. Do these candidate lists circumvent the electoral threshold, or are they truly not coalitions?**

This year's election campaign stirred debate about so-called "hidden coalitions." Two political parties, Volt Czechia and Czech Republic First, brought this issue before the administrative courts. They requested that the courts annul the candidate lists of the movement *Enough! (Stačilo!)* and the joint candidate list of political party *Freedom and direct democracy (SPD)* and its partners, arguing that these arrangements represent a clear circumvention of the law.

This phenomenon appears across the political spectrum. For example, under the banner of *Stačilo!*, Communist Party of Bohemia and Moravia (KSČM) and the Social Democrats are attempting a return to the Chamber of Deputies, together with representatives of smaller parties such as Moravané or Czech National Social Party (ČSNS). SPD has adopted a similar strategy, with its candidate lists including representatives of Trikolóra, the Free Citizens' Party, and movement PRO. The petitioners also pointed to the Pirates party's candidate lists, noting that in some regions they feature representatives of the Green party.

Under current legislation, political coalitions must overcome a much higher electoral threshold than individual parties. While a party needs only five percent of the vote, a coalition of two entities requires eight percent, and a coalition of three or more parties must reach as much as eleven percent. The petitioners believe that these limits are being circumvented by parties formally uniting under a single label without creating an official coalition.

The courts adopted divergent, yet ultimately consistent, positions on this matter. Although the vast majority rejected the motions to annul registrations, reasoning that such practices are common and long-tolerated in Czechia, some panels sided with the petitioners.



The Building of the Constitutional Court [1]

The debate on hidden coalitions thus reopens the question of whether the current electoral law remains fair and whether it should more clearly define what still constitutes cooperation and what already amounts to an obvious circumvention of the law.

### Decision of the Regional Court in Brno

Almost all regional courts followed the same line, but the Regional Court in Brno was the only one to side with the petitioners, acknowledging that there are two possible interpretations of the electoral law. The first interpretation relies solely on the parties' subjective declarations as to

whether they constitute a coalition. The second interpretation allows the court to determine this on the merits.

According to the court, this grouping violated the electoral law by constituting an undeclared coalition of several political entities. In such a case, the candidate list should be designated as a coalition list and subject to the higher electoral threshold. The court thus, for the first time, openly admitted that the practice of several parties “hiding” under a single label without formal designation is contrary to the law.

Despite this conclusion, the court did not annul the *Stačilo!* candidate list. It justified this by invoking the principles of legal certainty and predictability: similar examples had appeared in Czech politics in the past and had not been challenged. Therefore, according to the court, it was not possible to intervene shortly before the elections in a way that could have a fundamental impact on electoral competition and equality of opportunity.

In the past, informal coalitions frequently took the form of joint candidate lists. For example, from the 2002 elections through 2017, candidates of the KSČM candidate lists. Similarly, in the elections of 2010 and 2013, members of the political movements Mayors and Independents (STAN) and Mayors for the Liberec Region appeared on the TOP 09 candidate lists.

### Pavel Rychetský and the “Silently Respected Rule”

According to former President of the Constitutional Court Pavel Rychetský, the phenomenon of undeclared coalitions is present in every Chamber of Deputies election. In an interview with Czech Radio, he described this phenomenon as a “silently respected rule” tolerated by the courts. The reason, he explained, is primarily the courts’ reluctance to interfere with the freely expressed will of citizens in elections, which should be absolutely exceptional – only in extreme cases when defending democracy.

Associate Professor Koudelka added that the law does not prevent parties with similar political views from cooperating and supporting each other in elections without having to formally create a coalition. He believes that annulling candidate lists would lead to uncertainty and disrupt the entire electoral process.

Constitutional lawyers Ondřej Preuss and Marek Antoš told ČTK that annulment of the *Stačilo!* The movemen-

t’s candidate list before the October parliamentary elections is unlikely. However, they noted that the reasoning of the Regional Court in Brno – according to which *Stačilo!* created an undeclared coalition for the parliamentary elections and thereby violated the law – may serve as a challenge for authorities and courts to address undeclared coalitions in the future.

### Constitutional Court

The Constitutional Court (surprisingly for many) rejected the constitutional complaints of the political party Volt Czechia. The Court stated that the law defines a coalition formally, not materially, and that the procedure of the regional authorities and courts was correct. Different treatment of “declared” and “undeclared” coalitions stems from their differing legal status and is not unconstitutional. The choice between the two forms of cooperation is a free decision of the parties.

The complainant, in both constitutional complaints joined into a single proceeding, pointed to the ambiguity and inconsistency in case law regarding the admissibility of candidate lists submitted by “undeclared” coalitions. She argued that these political parties and movements materially constituted a coalition and that the majority approach of the courts, which refused to address this issue, was formalistic. She also sought annulment of relevant provision of § 31(1) of the Act on Elections to Parliament, claiming that its wording was ambiguous and had led to differing legal opinions among the general courts that assessed the matter.

The Constitutional Court examined two questions. The first was whether the regional authorities and subsequently the regional courts violated the complainant’s fundamental rights when they interpreted the term “coalition,” used in § 31(1) of the Act on Elections to Parliament, solely with regard to formal features and, on that basis, registered the candidate lists of the electoral groups *Stačilo!* and SPD as lists submitted by a single political party, not a coalition. The second was whether the very statutory regulation under which the authorities proceeded was itself contrary to the complainant’s fundamental rights or to constitutional principles of political competition.

The Constitutional Court recalled that the legislature had chosen to define coalitions by means of formal criteria.

## Conclusion

The Constitutional Court rejected the constitutional complaints of the political party Volt Czechia, thereby essentially confirming the formal interpretation of the law. I believe that if the interpretation truly takes hold – that coalitions will only be those which declare themselves as such – then a situation will arise in the Czech Republic where no new coalitions will be formed. It is therefore worthwhile to reopen the debate about what kind of parliamentary democracy we need: Whether we prefer a parliament composed of a few parties or of several dozen. The history of the “First” Czechoslovak Republic (1918 – 1938) shows that, in Czech politics, it is better to keep the number of parties in parliament to a minimum. Although the Constitutional Court has permitted the exact opposite. What this will bring us after the elections, however, remains to be seen.

## Sources

- Kroc V., (2025, September), Rychetský: Nepřiznané koalice jsou v každých volbách do Sněmovny. Bylo to mlčky respektované pravidlo, irozhlas., Available from: [https://www.irozhlas.cz/zpravy-domov/rychetsky-nepriznane-koalice-jsou-v-kazdych-volbach-do-snemovny-bylo-mlcky\\_2509051754\\_ako](https://www.irozhlas.cz/zpravy-domov/rychetsky-nepriznane-koalice-jsou-v-kazdych-volbach-do-snemovny-bylo-mlcky_2509051754_ako)
- Koudelka Z. (2025, September). Proč soudy neruší kandidátky Stačilo a SPD? Roli hraje jednoduché pravidlo, vysvětluje Koudelka. Česká justice. Available from: <https://www.ceska-justice.cz/nazory/proc-soudy-nerusi-kandidatky-stacilo-a-spd/>.
- ČTK, (2025, September). Volt žádá po Ústavním soudu výklad definice koalice, nebo zrušení části zákona o volbách. iRozhlas. Available from: [https://www.irozhlas.cz/zpravy-domov/ustavni-soud-bude-resit-nepriznane-volebni-koalice-obdrzel-podnet-strany-volt\\_2509161042\\_pik?recombee\\_recomm\\_id=c6629cd9323cd3a0084bfd177c8a7436](https://www.irozhlas.cz/zpravy-domov/ustavni-soud-bude-resit-nepriznane-volebni-koalice-obdrzel-podnet-strany-volt_2509161042_pik?recombee_recomm_id=c6629cd9323cd3a0084bfd177c8a7436).
- Decision of the Regional Court in Plzeň delivered on 2. 9. 2025, Ref. No. 55 A 51/2025-91
- Decision of the Regional Court in Plzeň delivered on 2. 9. 2025, Ref. No. 55 A 49/2025-155
- Decisions of the Regional Court in Brno delivered on 3. 9. 2025, Ref. No. 67 A 6/2025-207, 67 A 5/2025-76, 66 A 8/2025-47, 66 A 7/2025-77.
- Reasoning of the Decision of the Regional Court in Brno delivered on 2. 9. 2025, Ref. No. 73 A 5/2025-61
- Decision delivered on 2. 9. 2025, Ref. No. 73 A 6/2025-39
- Decision of the Constitutional Court, File No. Pl. ÚS 36/25

## Photographs

- [1] The Building of the Constitutional Court. Budova Ústavního soudu (3), author: Jakub Dubják, – November 24, 2023.

## Decriminalization of Non-Payment of Child Support: A Change Brought by the Amendment to the Criminal Code



Aneta Cermanová, translated  
by Anna Slezáková

Starting in early 2026, an amendment to the Criminal Code will come into effect, changing the regulation of the criminal offense of neglecting the duty of child support. From now on, the mere non-payment of child support will not be considered a crime, provided it does not endanger the child's basic living needs. The aim of the change is to reduce the inefficient use of criminal law and to strengthen the role of civil enforcement mechanisms for child support.

### Why is the amendment necessary?

At the beginning of 2026, an amendment to the Czech Criminal Code will come into effect, introducing fundamental changes regarding the criminal offense of neglecting the duty of maintenance (§ 196 of the Criminal Code). This offense has long been one of the most frequently committed in the Czech Republic. The problem lies not only in the failure to pay child support, but also in the current legal framework's insufficient effectiveness. Instead of leading to a remedy, it often results in repeated offenses, which burden the judicial and prison systems and, most importantly, fail to adequately protect the entitled individuals. These are often the most vulnerable among us: minor children.

### The Amendment Introduces Decriminalization and Depenalization

According to the approved amendment, criminal liability for neglecting the duty of maintenance will be limited in two specific cases. It will no longer be a criminal offense to intentionally or negligently fail to fulfill the maintenance obligation, provided that such failure does not endanger the basic living needs of the entitled person. This means that if someone does not meet their maintenance obligation, the entitled party must assert their rights through civil proceedings under the Civil Code and the Act on Substitute Maintenance.



### The Amendment to the Criminal Code Brings a Change in the Punishment of Non-Payment of Child Support [1]

Criminal sanctions will remain in place if the obligated person exposes the entitled individual to a state of emergency, for example, when a child lacks the financial resources for basic living needs. However, penalties will be reduced: the maximum prison sentence will be reduced from the current 3 years to 2.

The amendment also includes transitional provisions concerning individuals who have already been convicted. For those punished solely for failing to pay maintenance without endangering the basic living needs of the entitled person, the execution of their sentence will cease. In practice, this means that some convicted individuals may be released earlier than under the previous legislation. For those convicted of multiple offenses, their sentences will be proportionally reduced.

Furthermore, the amendment reflects the principle that criminal law should serve only as a last resort to protect legal interests. If the primary purpose of criminal complaints in these matters is not the punishment of the

offender or the protection of society, but rather the enforcement of unpaid maintenance, the question arises whether this goal can be achieved through instruments of other branches of law – namely, civil proceedings.

## Arguments for the Change

The Czech prison system has long struggled with two closely related problems: domestic prisons are often overcrowded, and the sentences served there frequently fail to achieve rehabilitation. In matters of child support, imprisonment proves particularly ineffective, as this specific sanction carries extensive social consequences. When a person is sent to prison, it usually results in the loss of employment, further deterioration of an already precarious financial situation, and consequently an inability to repay debts, making reintegration into normal life difficult or even impossible.

Moreover, in approximately 50% of cases, imprisonment leads to recidivism. The negative impact of incarceration is felt not only by the convicted individual but also by the entitled person, who, in many cases, is a minor child. The situation further exacerbates the overload of the police, judiciary, and prison systems.

## Potential Risks of the Amendment

At first glance, imprisonment may appear to be a tool that motivates debtors to fulfill their maintenance obligations. In practice, however, the opposite is true—incarceration does not lead to the assumption of responsibility, nor does it address the financial needs of the child. A contentious point of the amendment concerns the definition of when a child is considered exposed to a threat to their basic living needs. This threshold may, in practice, create difficulties and generate legal uncertainty. The entitled parent or their representative will often face the question of whether to seek protection of rights through civil proceedings or whether criminal proceedings are warranted.

## Conclusion

The amendment to the Criminal Code represents a step in the right direction—it targets the most serious cases while eliminating ineffective repression in situations where imprisonment fails to serve its purpose. Neglect of maintenance obligations thus becomes a matter of civil

and family law, with criminal law remaining a measure of last resort. Decriminalization has the potential to ease the burden on prisons, reduce recidivism, and limit the negative social impacts on obligated individuals and their families. Its true benefits, however, will only become evident in practice. The success of the amendment will depend on whether available civil instruments can be effectively utilized.

## Sources

- Clovekvpravu.cz. . *Criminal Prosecution*. Retrieved from: <https://clovekvpravu.cz/prirucka/5-rodinne-pravo/vyzivne-vymahani-vyzivneho/trestni-stihani/>
- Csu.gov.cz. . *Prisoners*. Retrieved from: <https://csu.gov.cz/vezni?počet=10&start=0&podskupiny=083&razeni=-datumVydani>
- Explanatory Report of November 13, 2024 on the Draft Law Amending Act No. 40/2009 Coll., the Criminal Code, Act No. 141/1961 Coll., on Criminal Procedure (Criminal Procedure Code), and Other Related Laws. Retrieved from: <https://www.zakonyprolidi.cz/cs/2025-270/souvislosti>
- Glogar, M. (September 10, 2025). Amendment to the Criminal Code and Criminal Procedure Code. [Blog post on Pravniprostor.cz]. Retrieved from: <https://www.pravniprostor.cz/zmeny-v-legislativne-vyslo-ve-sbirce-zakonu/novela-trestniho-zakoniku-trestniho-radu2>
- Šedová, N. (August 28, 2025). *Failure to Pay Child Support Will No Longer Be a Crime. Over 500 People Will Be Released from Prison*. [Blog post on Dostupnyadvokat.cz]. Retrieved from: <https://dostupnyadvokat.cz/blog/neplaceni-alimentu-uz-nebude-trestnym-cinem>
- Ministry of Justice of the Czech Republic. (December 20, 2024). *Major Updates from the Ministry of Justice: Amendments to the Criminal Code and the Act on Courts and Judges*. Available at: <https://msp.gov.cz/web/msp/rozcestnik/-/clanek/z%C3%A1sadn%C3%AD-novinky-z-pera-ministerstva-spravedlnosti-novelizace-trestn%C3%ADho-z%C3%A1kon%C3%ADku-a-z%C3%A1kona-o-soudech-a-soudc%C3%ADch-1>
- Veselá, M. & Duchoslav, J. (August 19, 2025). *Neglect of Maintenance Will No Longer Be a Crime. More Than 500 Convicts Will Be Released*. Irozhlas.cz. Retrieved from: [https://www.irozhlas.cz/zpravy-domov/zane-dbavani-vyzivneho-uz-nebude-trestne-na-svobodu-se-dostane-vice-nez-500\\_2508191200\\_akp](https://www.irozhlas.cz/zpravy-domov/zane-dbavani-vyzivneho-uz-nebude-trestne-na-svobodu-se-dostane-vice-nez-500_2508191200_akp)

## Photographs

- [1] The Amendment to the Criminal Code Brings a Change in the Punishment of Non-Payment of Child Support. Criminal Law – Commentary, author: Aneta Cermanová, October 22, 2025.

## Czech Section News



*Aneta Cermanová, translated  
and updated by Kryštof Urban*

### The Constitutional Court welcomed two new faces - Michal Bartoň and Martin Smolek

The Senate Committee on Human Rights supported the nomination of lawyers Michal Bartoň and Martin Smolek as constitutional judges, and both have been afterwards appointed to the bench. They succeed Jaromír Jirsa, whose ten-year term ended in October 2025, and Josef Fiala, who left the office in December 2025. Michal Bartoň comes from an academic background and served as the head of the Department of Constitutional Law at the Faculty of Law of Palacký University in Olomouc. Martin Smolek brings experience from the Court of Justice of the EU, where he served as a government agent.

Michal Bartoň spoke before the Senate on digital rights and privacy protection. He was critical of the European Commission's proposal known as chat control, which would allow widespread monitoring of electronic communications to combat sexual abuse of children. According to him, such a measure would be contrary to constitutional privacy guarantees and would resemble a return to the practice of opening letters or eavesdropping on phone calls.

In his address to the senators, Martin Smolek emphasized the importance of protecting freedom of speech while also noting the need to balance it with the state's security interests. He pointed out that misinformation and lies in the public sphere can pose a security threat, yet it is necessary to carefully distinguish between opinion and factual statements that can be sanctioned. He reminded that the Constitutional Court took a similar approach in March 2025, when it annulled the monetary penalty imposed for a false claim about an alleged Czech nuclear attack.

Smolek also stated that when annulment of legal regulations occurs, the Constitutional Court should not advise the legislature on how to draft new legal provisions in order to preserve its independence for potential future reviews. He pointed out that his main mission is the protection of constitutionally guaranteed rights, as well as the stability of the legal system. He also emphasized his wish to offer the Constitutional Court his experience from public administration and administrative judiciary, which, according to him, can contribute to more effective decision-making and a better understanding of



Building of the Constitutional Court [1]

the functioning of public authority. Both agree that the Constitutional Court should decide consistently, fairly, and with regard for the long-term stability of the legal system.

### The Government Commissioner for Human Rights is leaving office

Following the October 2025 elections, Klára Šimáčková Laurenčíková decided not to continue in her role as the government commissioner for Human Rights. She explained her departure by citing a divergence between the approach of the newly formed government coalition and its commitment to protecting human rights, especially for the most vulnerable groups in society. She assumed the position in 2022 after Helena Válková (ANO), who was dismissed by Prime Minister Petr Fiala's government.

During her tenure, she focused primarily on supporting children's rights, promoting inclusive education, and, since February 2023, also on issues related to the adaptation and integration of Ukrainian refugees.

Effective December 16, 2025, Taťána Malá (ANO) has been appointed as the new Government Commissioner for Human Rights.

### The Czech Republic has banned entry into the country with a Russian diplomatic passport

In September 2025, Prime Minister Petr Fiala's government approved a proposal by Foreign Minister Jan Lipavský that would bar holders of Russian diplomatic and service passports from entering the territory of the Czech Republic. Compliance with this measure will be ensured through checks at six Czech international airports, which form the external border of the Schengen Area.

According to Minister Lipavský, this is a long-term effort to establish reciprocity in diplomatic relations with Russia. While Czech diplomats must apply for a visa to travel to Moscow, Russian diplomats have so far been able to take advantage of free movement within the Schengen Area. The measure also follows previous government steps aimed at limiting the influence of the Russian Federation after its aggression against Ukraine. The entry ban applies to all holders of Russian diplomatic and service passports, except for diplomats accredited in the Czech Republic and those merely transiting through Czech territory to their country of assignment or to meetings of international organizations.

### Resources

- Držitelé ruských diplomatických pasů budou mít zákaz vstupu do ČR. (September 30, 2025). *ceske-noviny.cz*. Available at: <https://www.ceskenoviny.cz/zpravy/2727528>.
- 'Mají opačný přístup k ochraně zranitelných.' Vládní zmocněnkyně pro lidská práva končí s Fialou. (October 10, 2025). Available at: [https://www.irozhlas.cz/zpravy-domov/maji-opacny-pristup-k-ochrane-zranitelnych-vladni-zmocnenkyne-pro-lidska-prava\\_2510102043\\_job](https://www.irozhlas.cz/zpravy-domov/maji-opacny-pristup-k-ochrane-zranitelnych-vladni-zmocnenkyne-pro-lidska-prava_2510102043_job).
- Paseková, E. (September 30, 2025). Konec zneužívání diplomatického krytí. Česko zavírá dveře ruským pasům. *ceska-justice.cz*. Available at: <https://www.ceska-justice.cz/2025/09/konec-zneuzivani-diplomatickeho-kryti-rusko/>.
- Prezident Pavel navrhl do Ústavního soudu Bartoně a Smolka. (August 26, 2025). *ct24.ceskatelevize.cz*. Available at: <https://ct24.ceskatelevize.cz/clanek/domaci/prezident-pavel-navrhl-do-ustavniho-soudu-bartone-a-smolka-364402>.
- Senátní výbor podpořil nominaci Bartoně a Smolka na ústavní soudce. (September 23, 2025). *ceske-noviny.cz*. Available at: <https://www.ceskenoviny.cz/zpravy/senatni-vybor-podporil-nominaci-bartone-a-smolka-na-ustavni-soudce/2713021>.
- Veřejný ochránce práv. (November 4, 2025). Vidíte problém, který by neměl zůstat bez povšimnutí? Podělte se s námi o témata, která podle vás potřebují pozornost ombudsmana či dětského ombudsmana. Available at: [https://www.ochrance.cz/aktualne/vidite\\_probleem\\_ktery\\_by\\_nemel\\_zustat\\_bez\\_povsimnuti\\_podelte\\_se\\_s\\_nami\\_o\\_temata\\_ktera\\_podle\\_vas\\_potrebuji\\_pozornost\\_ombudsmana\\_ci\\_detskeho\\_ombudsmana/](https://www.ochrance.cz/aktualne/vidite_probleem_ktery_by_nemel_zustat_bez_povsimnuti_podelte_se_s_nami_o_temata_ktera_podle_vas_potrebuji_pozornost_ombudsmana_ci_detskeho_ombudsmana/).

### Photographs

- [1] Building of the Constitutional Court. Author: Jakub Dubják. Edited: cut.

## Monitoring of human rights publications



*Jakub Dubják*

### Domestic law

Šámal, P. Judikatura Ústavního soudu k dobrým mravům. právní obzor 5/2025.

Křištofik, A. Využitie podporných systémov založených na umelej inteligencii v justícii ako porušenie práva na spravodlivý proces. právní obzor 5/2025.

### International law and European Union law

Denka, J. Dismissals of the Court Presidents in the Visegrad Group Countries in the Light of Article 6(1) of the European Convention on Human Rights. Časopis pro právní vědu a praxi 3/2025.

Jimramovský, P. Úprava environmentálních inspekcí v právu Evropské unie a její budoucí vyhlídky. Časopis pro právní vědu a praxi 3/2025.

### Political science, international relations, and foreign policy

Brunclík, M. More than Informal Institutions? A Typology-Based Analysis of Constitutional Conventions. Czech Journal of Political Science 3/2025.

Gniazdowski, M. Panslavizmus Svetozára Hurbana Vajanského a jeho vzťah k Poliakom a poľskej otázke. Studia Politica Slovaca 1/2025.

Maděj, M. Women's Protests in Poland in 2015-2021 in the Context of Charles Tilly's Approach to Social Movements. Czech Journal of Political Science 3/2025.

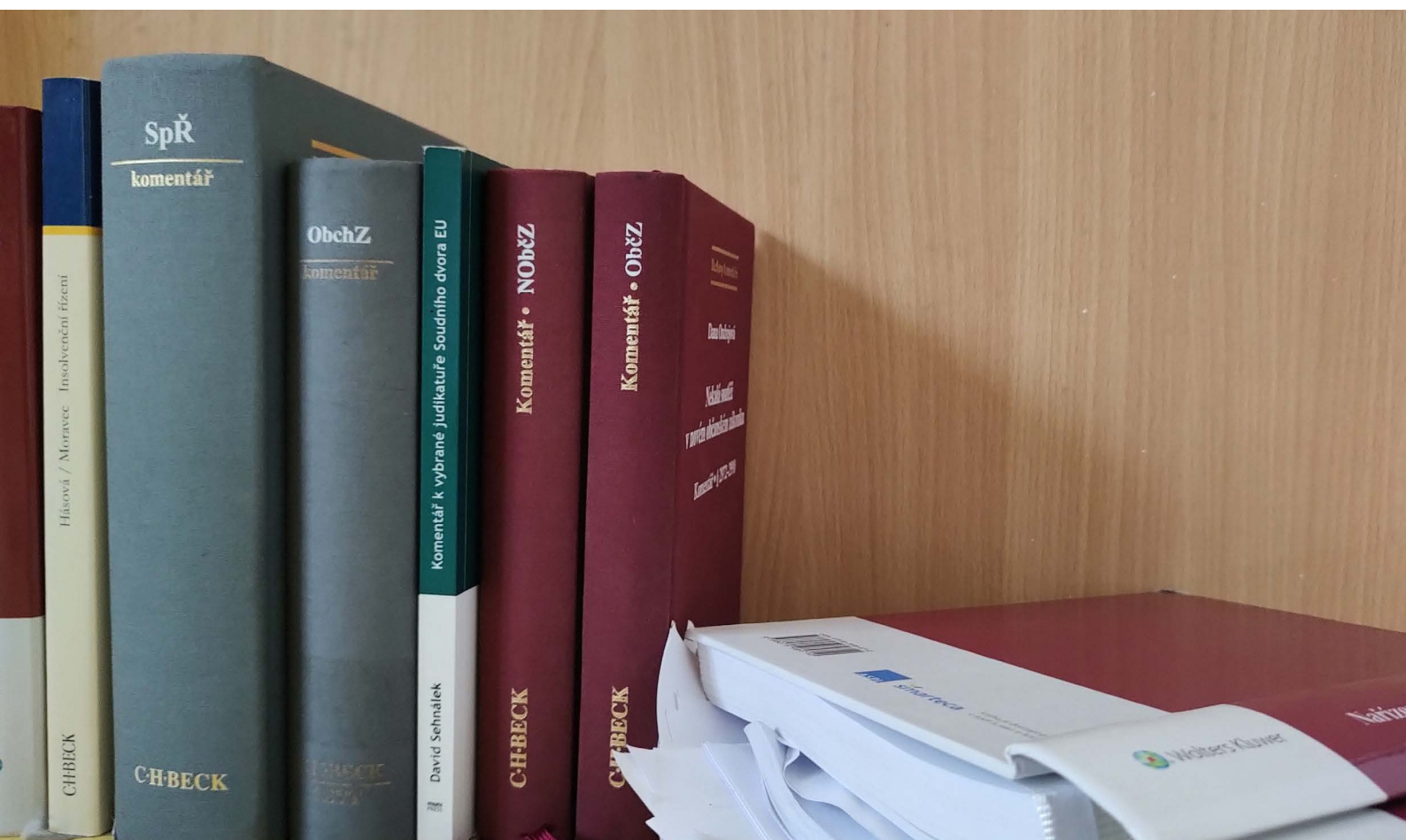
Matuš, Ž. Témy, mobilizácia a vývoj zastúpenia politických skupín v Európskom parlamente. Komparácia vybraných aspektov volieb do Európskeho parlamentu v rokoch 2019 a 2024. Studia Politica Slovaca 1/2025.

Szabolcs, H. Polarized trust and democratic decline. Rethinking resilience in the V4 countries. Acta Politologica 2/2025.

### Photos

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

Illustrative photo [1]



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Pavel completed his doctoral studies at Masaryk University's Faculty of Law. He has worked at the Office of the Ombudsman in Brno, the Czech Government's Compatibility Department in Prague, and contributed to establishing Taiwan's national preventive mechanism through postdoctoral projects. He has also taught at Soochow University and provided consultancy to the National Human Ri-

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