

Conformity assessment of the Czech compensation remedy for unreasonably lengthy proceedings in the light of the ECtHR's jurisprudence with proposed measures capable of eliminating the identified shortcomings

Abstract

In the most general terms, the thesis at hand aspires to assess the compatibility of the Czech compensation remedy for excessively lengthy proceedings with obligations stemming from the European Convention on the Protection of Human Rights. For this purpose, its introductory part is dedicated to duly examining each individual requirement contained in the relevant case-law of the European Court of Human Rights. As a next step, the thesis attempts to acquaint a reader with relevant provisions of the Czech legal order and analyse the functioning of the mechanism designed to provide the victims of judicial delays with compensation in practice. Against this background, it further evaluates the Czech legislation and case-law of the domestic authorities, especially courts, in the light of the applicable European standards. By way of comparison, the author arrives at the conclusion that the existing compensation remedy is marked by various defects which may expose the Czech Republic to the risk of being held responsible, in the proceedings on individual applications, for a violation of its international commitments to which it had voluntarily adhered by ratifying the European Convention.

Apart from the afore-said, the thesis describes the contemporary developments in the area which were instigated by a series of applications lodged against the Czech Republic where the applicants no longer assert a mere violation of their right to a proceedings determined within a reasonable time under Article 6 § 1 of the Convention, but at the same time, having regard primarily to the length of the compensation proceedings alone and the insufficient sum of compensation provided, they contend that there has been also a violation of their right to an effective remedy as enshrined in its Article 13. Being a member of a working group set up to ascertain whether these applications reveal systemic defects of either domestic law or judicial practice, the author strives for presenting to a reader its activities and conclusions. On the basis of the working group's findings there have been adopted several partial but important measures supposed to streamline the existing remedy.

In the concluding passages of the thesis, its author expresses his conviction that the measures eventually adopted, albeit undoubtedly constituting a shift towards a right direction,

are not in themselves sufficient. That is the reason why he formulates some other measures that could help to put the compensation remedy for excessively lengthy proceedings in compliance with the European Court's relevant jurisprudence.