

**Execution of the judgment of the European Court of Human Rights
in case no. 51409/19 – *Macharik v. the Czech Republic***

Action Report submitted by the Czech Government on 13 November 2025

In the judgment of 13 February 2025, which became final in accordance with Article 44 § 2 (b) of the Convention, the European Court of Human Rights (“the Court”) found a violation of Article 8 of the Convention, on account of the unpredictability of the legal framework governing the acquisition of the content of the applicant’s email communications for the purpose of criminal proceedings. The Court did not find a violation of Article 6 § 1 of the Convention.

The present action report is intended to inform the Committee of Ministers of individual and general measures of execution of the judgment that had been already carried out.

I. INDIVIDUAL MEASURES

Just satisfaction awarded by the Court with regard to the costs and expenses in the total amount of EUR 2,500 was paid to the applicant on 31 July 2025.¹

Furthermore, the Constitutional Court Act offers a possibility to request reopening of the proceedings before the Constitutional Court following a judgment of the Court.² To the Government’s knowledge, the applicant has not made use of this possibility.

In view of the above, the Government believe that no other individual measures need to be adopted in the applicant’s case.

II. GENERAL MEASURES

A. RAISING AWARENESS AND ANALYSIS OF THE JUDGMENT

The Ministry of Justice has informed the public about the judgment immediately after its delivery in the form of a [press release](#). It has further published the Czech translation of the judgment in its online database of the international human rights case law ([mezisoudy.cz](#)).³ The

¹ Details could be requested from the Office of the Czech Government Agent.

² Article 119 of the Constitutional Court Act as amended by Act no. 404/2012 provides, *inter alia*, that if the Constitutional Court has previously ruled in a case in which an international court finds a violation of human rights or fundamental freedoms guaranteed by an international treaty, it is possible to file a request for reopening of the proceedings in which the ruling was given. Article 119b provides, *inter alia*, that if Constitutional Court’s previous judgment (*nález*) was inconsistent with the decision adopted by the international court, it must set it aside. If the Constitutional Court sets aside its judgment, it deals anew with the original constitutional appeal and the new judgment should be based on the legal opinion of the international court.

³ In June 2024 the Ministry of Justice officially launched a new website (<https://mezisoudy.cz/>) dedicated to international protection of human rights. The website is run by the Government Agent’s Office. It includes a database, which provides access to the case-law of the Court. The database contains all the judgments of the Court in the language in which the Court issued them. Above that, the database contains translations of all judgments of the Court against the Czech Republic, hundreds of translations of the most important judgments of the Court delivered against other States and more than 1 700 legal summaries compiled in the Czech language of other relevant and significant judgments and decisions of the Court. The database also connects the case-law of the Court with the

summary of the judgment was also published in the [Government Agent's Newsletter no. 3/2025](#).

The translation of the judgment and its summary in Czech were sent to the relevant domestic authorities, namely the District Court in Prague 3, the Prague Municipal Court, the High Court in Prague, the Supreme Court, the Constitutional Court, the Prosecutor General's Office, and the Legislative department of the Ministry of Justice. Between May 2025 and July 2025, all judges of the Prague Municipal Court, the Constitutional Court, all judges of the District Court in Prague 3 dealing with criminal matters, as well as the judges of the criminal division of the High Court in Prague and the Supreme Court, were informed of the judgment. The Prosecutor General's Office also inserted the Czech translation of the judgment and its summary into its internal database.

On 17 September 2025, representatives of the Office of the Government Agent addressed the judgment during a seminar held for Supreme Court judges and their assistants. On 20 November 2025, they will deliver a presentation on the judgment at the annual seminar organized by the Czech Judicial Academy for criminal judges and prosecutors.

B. MEASURES REQUIRED IN CZECH LEGAL ORDER

The Office of the Government Agent discussed the form of appropriate general measures to implement the judgment with the relevant domestic authorities: the District Court in Prague 3, the Prague Municipal Court, the High Court in Prague, the Supreme Court, the Constitutional Court, the Prosecutor General's Office, and the Legislative Department of the Ministry of Justice. In addition, the Action Report was circulated for written consultation among the members of the Committee of Experts on the Execution of Judgments of the Court and the Implementation of the Convention.

It follows from the above consultations that implementation of the judgment does not require the adoption of general measures. The issue identified by the Court has already been resolved through consistent domestic practice, which ensures legal certainty in the interpretation and application of provisions governing the acquisition of the content of email communications. This practice has been firmly anchored since the Constitutional Court's decision of 3 October 2013, no. III. ÚS 3812/12. The Court itself noted in its judgment that the case-law had been unified by the said decision of the Constitutional Court (§§ 23 and 41 of the Court's judgment). In that decision, the Constitutional Court confirmed that the acquisition of data stored on a computer could legitimately be carried out under Section 158d of the Act no. 141/1961 Coll., on criminal procedure (Criminal Procedure Code).

The publication of the Prosecutor General's interpretative opinion further contributed to consolidating this practice, explicitly confirming that the procedural tool set out in Section 158d of the Criminal Procedure Code is the proper legal basis for obtaining this type of electronic evidence.⁴

To illustrate this established and coherent practice, the Government refer to examples of domestic judgments concerning the acquisition of email communications pursuant to Section

case-law of the Constitutional Court of the Czech Republic and the jurisprudence of the European Committee on Social Rights and United Nations Treaty Bodies.

⁴ Prosecutor General's interpretative opinion No. 1/2015 Coll. v. s. NSZ. Available at: https://verejnazaloba.cz/wp-content/uploads/2020/03/1_SL_760-2014.pdf.

158d of the Criminal Procedure Code.⁵ The reference to above mentioned Constitutional Court's decision no. III. ÚS 3812/12 is also included in the commentary on the Criminal Procedure Code, which notes that authorisation to obtain electronic data may be granted under Section 158d of the Criminal Procedure Code, provided it concerns data already stored on the monitored computers.⁶ The consistency of this practice is further reflected in a number of scholarly articles⁷ addressing the issue.

III. CONCLUSION

The Government of the Czech Republic conclude that the judgment does not require any further individual or general measures to be taken and that all the necessary measures to execute the judgment were adopted. Therefore, they propose to the Committee of Ministers to close its supervision of the execution of the judgment.

⁵ For example, see the Constitutional Court's judgment no. I. ÚS 710/23 of 30 May 2023, the Supreme Court's judgment no. 4 Pzo 8/2022 of 29 June 2022, or the Supreme Administrative Court's judgment no. 3 As 58/2016-45 of 11 January 2017.

⁶ A. Drašík, J. Fenyk et al., *Trestní řád: Komentář* [Criminal Procedure Code: Commentary], Wolters Kluwer, 2025.

⁷ P. Staňková, *Vyšetřování kybernetické kriminality a její budoucí předpokládaný vývoj* [Investigation of Cybercrime and Its Expected Future Development], *Revue pro právo a technologie*, 2023, no. 28, pp. 31–60. Available at: <https://journals.muni.cz/revue/article/view/36826/32055>;

E. Marešová, *Problematika získávání informací z mobilních telefonů v rámci trestního řízení* [Issues Concerning the Obtaining of Information from Mobile Phones in Criminal Proceedings], *Trestněprávní revue*, 2021, no. 3, pp. 146–155;

O. Dostál, *Zajišťování důkazů u počítačové kriminality – sledování, důkazy od oznamovatelů (3. díl)* [Securing Evidence in Cybercrime Cases – Surveillance, Evidence from Informants (Part 3)], *Trestněprávní revue*, 2019, no. 5, pp. 104–109.