

**Execution of the judgment of the European Court of Human Rights
in case no. 37782/21 – Z v. the Czech Republic**

Action Report submitted by the Czech Government on 19 March 2025

In its judgment of 20 June 2024, which became final in accordance with Article 44 § 2 (b) of the Convention, the European Court of Human Rights (“the Court”) held that there was a violation of Articles 3 and 8 of the Convention due to the failure of domestic authorities to effectively apply a penal system capable of punishing non-consensual sexual acts. In particular, the Court emphasized that the authorities did not sufficiently examine the possibility that the applicant might have been in a situation of a special vulnerability and dependence vis-à-vis the alleged perpetrator who was a Catholic priest and her spiritual leader.

The present action report is intended to inform the Committee of Ministers of both individual and general measures that had been already carried out or are envisaged to be adopted to properly execute the above judgment.

I. INDIVIDUAL MEASURES

Just satisfaction awarded by the Court in the amount of EUR 26 000 was paid to the applicant on 8 November 2024.¹

The Government recall that the Constitutional Court Act offers the possibility to request the reopening of the proceedings before the Constitutional Court following the judgment of the Court.² The applicant availed herself of this possibility in January 2025, and her request is being processed by the Constitutional Court under no. [Pl. ÚS 2/25](#).

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 and its summary in its online database of the international human rights case law

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

² Section 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. Section 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.

(mezisoudy.cz)³ and the summary also in the Government Agent's Newsletter no. 4/2024.⁴ In addition, both the translation of the judgment and its summary have been sent to all the public authorities involved in the case.

After the delivery of the judgment, the Prosecutor General's Office inserted the Czech translation of the judgment and its summary into its internal database and informed about the judgment in the newsletter distributed to all Czech prosecutors.

The Supreme Court transmitted the judgment to the criminal divisions of all regional courts.

The execution of the judgment was further discussed at the [11th meeting](#) of the Committee of Experts for the Execution of Judgments of the Court and the Implementation of the Convention⁵ held on 11 December 2024.

B. MEASURES REQUIRED IN CZECH LEGAL ORDER

It follows from the written consultations carried out by the Government Agent's Office with all the relevant public bodies, as well as from the above-mentioned meeting of the Committee of Experts, that in order to implement the judgment, it is not necessary to amend the existing Czech legal regulation. This is mainly due to the fact that the case at hand was governed by the Criminal Code effective until 31 December 2009 (Act no. 140/1961). In the meantime, however, the Czech Republic has introduced a new Criminal Code (Act no. 40/2009) and its amendment (Act no. 166/2024) which are better aligned with the requirements contained in the Court's judgment.

1. ACT NO. 40/2009, THE CRIMINAL CODE (EFFECTIVE SINCE 1 JANUARY 2010)

In its judgment in the case at hand, the Court itself remarks that the new Czech Criminal Code and the related case-law of the Supreme Court represent a more appropriate State response in the given area (§ 59 of the judgment):

- In particular, the Court makes a reference to the offence of **rape** as defined by Section 185(1) of the Act no. 40/2009, Criminal Code, where, according to the

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 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 The Government Agent's Newsletter is available at: <https://mezisoudy.cz/zpravodaj-kvz>.

⁵ Established as a follow-up to the obligation to reinforce the implementation of the Convention at the national level agreed by and between the Contracting Parties to the Convention at the High-level Conference on the "Implementation of the European Convention on Human Rights, our shared responsibility" of 27 March 2015, it is the Government Agent's advisory body which serves as a forum for analysing and formulating recommendations to the authorities in terms of suitable measures to be adopted for the purpose of implementing the Court's judgments. It is composed of representatives of all ministries, both Chambers of Parliament, highest courts, Office of the Supreme Public Prosecutor, Office of the Public Defender of Rights, academic staff and members of various NGOs operating in the field of fundamental human rights. More details on the composition, terms of reference and activities of the Committee can be found at: <https://mezisoudy.cz/vykon-rozsudku-eslp-a-rozhodnuti-dalsich-mezinarodnich-lidskopравnich-organu/kolegium-expertu-pro-vykon-rozsudku>.

Supreme Court, in order for the definition of “force” to be met, “it is not necessary for the injured party to have put up evident physical resistance; it is sufficient that the injured party’s objection to the offender’s conduct must have been obvious to the offender” (Supreme Court’s decision no. 11 Tdo 294/2014 of 26 March 2014), while this objection might be expressed also nonverbally, e.g. by a body position (Supreme Court’s decision no. 8 Tdo 699/2021 of 4 August 2021) or by pulling away or passivity (Supreme Court’s decision no. 7 Tdo 1023/2021 of 10 November 2021).

- The Court’s judgment also draws attention to the fact that according to the domestic authorities involved in the case at hand, it might have been possible to assess the conduct of the suspect as an offence of **sexual coercion** in the sense of Section 186(2) of the Act no. 40/2009, Criminal Code. This offence, newly introduced by the Act no. 40/2009, Criminal Code, applies to all sexual acts where the perpetrator exploits the victim’s dependence or his or her own position and the trustworthiness or influence resulting therefrom. The above interpretation seems to be confirmed by the recent case-law of the Supreme Court which includes under the offence of sexual coercion also the conduct of a Catholic priest against adult members of the church who regarded the priest as a religious authority (Supreme Court’s decision no. 6 Tdo 450/2017 of 27 November 2017).

2. ACT NO. 166/2024, AMENDING THE ACT NO. 40/2009, CRIMINAL CODE (EFFECTIVE SINCE 1 JANUARY 2025)

The latest amendment to the Criminal Code brings three important changes in the area affected by the Court’s judgment:

- *First*, the new definition of **rape** under Section 185(1) of the Criminal Code covers not only sexual intercourse obtained by force or exploitation of victim’s defencelessness, but also sexual intercourse conducted “against the recognizable will” of the victim.
- *Second*, the amendment widens the scope of the offence of **sexual coercion** under Section 186(2) of the Criminal Code: according to the new definition, this offence relates not only to exploitation of the victim’s dependence or of the perpetrator’s position and the trustworthiness or influence resulting therefrom, but also to exploitation of the victim’s distress.
- And *third*, the amendment, in its newly introduced Section 119a, provides the definition of the concept of **defencelessness**, and includes here also the situations when the victim is “paralysed by strong stress”.

3. USING THE COURT’S JUDGMENT AS A GUIDELINE FOR APPLICATION OF CZECH LAW

In the light of this development of domestic legislation and jurisprudence, the Government are of the opinion that the execution of the Court’s judgment does not require to change the current legal regulation. Rather, it calls for employment of the principles contained in the judgment in the application of the existing legislation.

To this effect, the representatives of the Government Agent’s Office have already discussed the Court’s judgment in the case at hand within a lecture for Czech criminal judges in October 2024, and plan to further address this issue in the framework of a regular training for judges provided under the auspices of the Judicial Academy.

Furthermore, in April 2025, the Government Agent's Office will publish a Key Theme on the topic of the sexual violence. It will include an overview of general principles arising from the Court's case-law concerning criminalisation, investigation, prosecution and punishment of sexual offences, as well as of relevant domestic jurisprudence. This material will be available online on the new website Mezisoudy.cz ([Key Themes](#)) and transmitted to all relevant domestic bodies so that they are aware to what aspects they should pay particular attention.

III. CONCLUSION

On the basis of the above, the Government of the Czech Republic are of the opinion that the individual and general measures taken are sufficient and propose to the Committee of Ministers to close its supervision of the execution of the judgment.