



Forthcoming Grand Chamber judgment in a case concerning a conviction for a continuous criminal offence

The European Court of Human Rights will be delivering in writing a **Grand Chamber** judgment¹ in the case of **Rohlena v. the Czech Republic** (application no. 59552/08) on 27 January 2015 at 11 a.m.

The case concerns the applicant's conviction and sentencing for the continuous criminal offence of abusing a person living under the same roof. He alleges in particular that his conviction encompassed his conduct before that offence was introduced into the law, in breach of Article 7 (no punishment without law) of the European Convention on Human Rights.

Principal facts and complaints

The applicant, Petr Rohlena, is a Czech national who was born in 1966 and lives in Brno (the Czech Republic).

In May 2006 Mr Rohlena was charged with, among other offences, abusing his wife on a regular basis between the year 2000 and 8 February 2006 while he was drunk. According to the public prosecutor, Mr Rohlena was guilty of the criminal offence of abusing a person living under the same roof; his actions prior to the introduction of that offence into the Criminal Code on 1 June 2004 amounted to the offence of violence against an individual.

In April 2007 the Municipal Court found the applicant guilty of the offence of abusing a person living under the same roof, committed between 2000 and 8 February 2006. It sentenced him to a suspended term of two and a half years' imprisonment and placed him on probation for five years. The applicant was also placed under supervision and ordered to undergo treatment for alcohol dependency.

The court adopted the classification of the offence as abuse of a person living under the same roof within the meaning of the provisions of the Criminal Code as in force since 1 June 2004, and took the view that this classification also extended to the acts committed by the applicant prior to that date since, at the time they were committed, they had amounted at least to the offence of violence against an individual or group of individuals under Article 197a of the Criminal Code.

Mr Rohlena appealed unsuccessfully to the Brno Regional Court.

In February 2008 the Supreme Court dismissed as manifestly ill-founded an appeal on points of law lodged by the applicant. It considered that Mr Rohlena's conduct prior to the amendment of the Criminal Code on 1 June 2004 had amounted at least to an offence punishable under Article 197a or Article 221 of the Criminal Code then in force, and held that his conduct disclosed the material element of continuation of the offence of abuse.

In June 2008 the Constitutional Court dismissed a constitutional appeal lodged by the applicant as being manifestly ill-founded and held that the decisions given by the courts had been logical and coherent and had not resulted in retroactive application of the law.

1. Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

On 3 January 2011, having committed another offence while on probation and having failed to undergo any treatment for his alcohol dependency, Mr Rohlena was required to begin serving the suspended prison sentence imposed on him. He was granted conditional release on 17 May 2012.

Relying on Article 7 (no punishment without law), the applicant complains that the Criminal Code was applied retroactively in his case, pointing out that he was convicted of a continuous offence of abusing a person living under the same roof and that the conviction encompassed his conduct before that offence was introduced into the law. He alleges that the courts did not duly examine whether his previous actions would have amounted to a criminal offence under the old law.

Procedure

The application was lodged with the European Court of Human Rights on 4 December 2008. On 11 July 2013 the applicant requested that the case be referred to the Grand Chamber under Article 43 of the Convention (referral to the Grand Chamber). On 9 September 2013 the panel of the Grand Chamber granted the request.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.