EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

DECISION

Application no. 20342/23
Vladislav VĚTROVEC
against the Czech Republic
(see appended table)

The European Court of Human Rights (Fifth Section), sitting on 19 June 2025 as a Committee composed of:

Andreas Zünd*, President*,
Diana Sârcu,
Mykola Gnatovskyy*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 16 May 2023,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The details of the applicant, a Czech national, are set out in the appended table.

2. The applicant was represented by Ms R. Židuliaková, a lawyer practising in Prague.

3. The applicant's complaint under Article 6 § 1 of the Convention concerning fairness of the proceedings before the Constitutional Court, which had followed criminal proceedings against him, was communicated to the Czech Government ("the Government").

THE LAW

A. The Government's request to strike out part of the application under Article 37 of the Convention

4. After the failure of attempts to reach a friendly settlement, the Government informed the Court that they proposed to make a unilateral

declaration with a view to resolving the issues raised by the complaint concerning the failure by the Constitutional Court to communicate to the applicant written observations submitted in reaction to his constitutional appeal by the regional prosecutor and the civil party. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The declaration provided as follows:

> "The Government hereby acknowledge that in case no. 20342/23, there was a violation of Article 6 § 1 of the Convention resulting from the failure by the Constitutional Court to communicate to the applicant written observations submitted in reaction to his constitutional appeal by the parties intervening in the proceedings no. I. ÚS 3416/22.
>
> The Government offer to pay the applicant the sum of EUR 1,000 (one thousand euros), covering any non-pecuniary damage, and the sum of EUR 500 (five hundred euros), covering all costs and expenses, plus any tax that may be chargeable to the applicant on these amounts, converted into CZK (Czech korunas) at the rate applicable on the date of payment. This sum will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the Convention. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.
>
> The Government consider the recognition of the violation and the payment of the specified amount to be the final and adequate resolution of the case before the Court.
>
> The Government note in this context that according to Article 3 § 4 (d) of Act. No. 586/1992, on income tax, payment of just satisfaction awarded by the Court or stemming from a settlement of the case before the Court based on a friendly settlement or a unilateral declaration made by the Government is not subject to personal income tax."

5. The Government observed, *inter alia*, that the violation of the Convention as acknowledged by them was virtually identical to the violation found by the Court in the case of *Janáček v. the Czech Republic* (no. 9634/17, 2 February 2023), and that the applicant did not claim that there would be any systemic shortcomings in the Constitutional Court's practice in this respect.

6. The Government further submitted that an adequate and just resolution of the case before the Court would also involve the Constitutional Court's consideration whether to reopen the domestic proceedings under Section 119 et seq. of the Constitutional Court Act, provided that the applicant avails himself of that opportunity. They noted in this context that the case-law of the Constitutional Court on this matter remains unsettled, admitting that the recent practice of the Constitutional Court (namely the decision of the plenary no. Pl. ÚS 8/22 of 26 April 2022) seems to indicate that the reopening of the

proceedings before the Constitutional Court is not possible following a decision by which the Court struck out an application on the basis of the Government's unilateral declaration.

7. They pointed out, nevertheless, that in January 2025, the Constitutional Court's plenary discussed such a possibility and concluded that reopening is, in principle, possible also in cases where the Government acknowledge a violation of the Convention, be it in a unilateral declaration or a declaration of friendly settlement, which is subsequently accepted by the Court in a strike-out decision. Thus, any such requests should be substantively assessed, with regard to all individual circumstances of the case, to determine whether reopening is required to provide full redress to the violation of the Convention acknowledged by the Government and accepted by the Court. They also enclosed a letter from the President of the Constitutional Court, dated 26 February 2025, indicating that if the applicant in the present case lodges a request for reopening of the proceedings before the Constitutional Court on the basis of the Court's strike-out decision accepting a unilateral declaration of the Government, the Constitutional Court will substantively examine this request.

8. In the light of those considerations, the Government were convinced that the applicant would have a real opportunity to have his proceedings before the Constitutional Court reopened, should he wish to file such a request.

9. The applicant was sent the terms of the Government's unilateral declaration several weeks before the date of this decision. He rejected the terms of the declaration, having considered inadequate the redress offered by the Government.

10. The Court observes that Article 37 § 1 (c) enables it to strike a case out of its list if:

> "... for any other reason established by the Court, it is no longer justified to continue the examination of the application".

11. Thus, it may strike out applications under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued (see, in particular, the *Tahsin Acar v. Turkey* judgment (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

12. The Court has established clear and extensive case-law concerning complaints relating to the adversarial proceedings before the Constitutional Court (see, for example, *Milatová and Others v. the Czech Republic*, no. 61811/00, ECHR 2005-V, and *Janáček v. the Czech Republic*, no. 9634/17, 2 February 2023).

13. The Court further observes, as also admitted by the Government (see paragraph 6 above), that the recent practice of the Czech Constitutional Court

seemed to indicate that the reopening of the proceedings before the Constitutional Court is not possible following a decision by which the Court struck out an application on the basis of the Government's unilateral declaration. It notes in this connection that a retrial or the reopening of the case, if requested, represents in principle an appropriate way of redressing the violation in cases where an individual has been convicted following proceedings that have entailed breaches of the requirements of Article 6 of the Convention (see, in particular, *Moreira Ferreira v. Portugal (no. 2)* [GC], no. 19867/12, §§ 50 et 52, 11 July 2017; and *Stassart v. France* (dec.), no. 79356/17, 4 April 2023).

14. It is also important to underscore that, in a spirit of shared responsibility on the part of States and the Court to ensure respect for Convention rights, applicants are entitled to expect the national authorities, courts included, to draw fair-mindedly the conclusions that follow from a unilateral declaration by the Government acknowledging a violation of the Convention and giving rise to a decision of the Court taking note of it (see, for example, *Boutaffala v. Belgium*, no. 20762/19, § 51, 28 June 2022, and *Deckmyn v. Belgium* (dec.), no. 44813/14, § 42, 7 November 2023). The Court observes that judicial practice in several countries has recently evolved on this point, with a view to enable the applicants to seek the reopening of domestic proceedings also on the basis of the Court's decision to strike out the case following the Government's unilateral declaration (see *Stassart v. France* (dec.), no. 79356/17, § 28, 4 April 2023, and *Dudek and Lazar v. Poland* (dec.), nos. 41097/20 and 39577/22, § 26, 8 October 2024). It thus welcomes the recent initiative of the Czech Constitutional Court mentioned by the Government (see paragraph 7 above).

15. The Court is thus of the view that if the applicant in the present case so wishes, he may seek reopening of the domestic proceedings before the Constitutional Court, asking the plenary to follow up on its recent discussion and to revise its current practice. In such a case, it will be for the Constitutional Court to assess and decide whether reopening of the proceedings would be possible (see, *mutatis mutandis*, *Ktistakis v. the Czech Republic* (dec.), no. 22245/22, 19 December 2024).

16. Thus, noting the admissions contained in the Government's declaration as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases, as well as taking account of the above considerations related to the possibility of the reopening of the proceedings before the Constitutional Court – the Court considers that it is no longer justified to continue the examination of the application in the part covered by the unilateral declaration (Article 37 § 1 (c)).

17. In the light of the above considerations, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application in that part (Article 37 § 1 *in fine*).

18. Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application may be restored to the list in accordance with Article 37 § 2 of the Convention (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

19. In view of the above, it is appropriate to strike this part of the application out of the list.

B. Remaining complaints

20. The applicant further complained about the breach of the principle of immediacy by the appellate court and the unforeseeability and insufficient reasoning of that court's decision.

21. However, the Court notes that at the heart of the applicant's complaint under Article 6 § 1 of the Convention lies the fact that the Constitutional Court dismissed his constitutional appeal, in which he had raised those complaints concerning the appellate court's decision, without giving him a possibility to comment on the arguments submitted in particular by the prosecutor in his observations.

22. In these circumstances the Court considers that the main legal issue raised by this application has been already dealt with (see paragraphs 4–19 above) and that, therefore, there is no need to make a separate ruling on the applicant's remaining complaints (see, *mutatis mutandis*, *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike the applicant's complaint concerning the proceedings before the Constitutional Court out of its list of cases in accordance with Article 37 § 1 (c) of the Convention;

Holds that there is no need to rule separately on the applicant's remaining complaints.

Done in English and notified in writing on 10 July 2025.

Viktoriya Maradudina
Acting Deputy Registrar

Andreas Zünd
President

APPENDIX

Application raising complaints under Article 6 § 1of the Convention (fair hearing)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Date of receipt of Government's declaration	Date of receipt of applicant's comments	Amount awarded for non-pecuniary damage per applicant (in euros)[1]	Amount awarded for costs and expenses per application (in euros)[2]
20342/23 16/05/2023	**Vladislav VĚTROVEC** 1967	Židuliaková Rebeka Prague	12/03/2025	11/04/2025	1,000	500

[1] Plus any tax that may be chargeable to the applicant
[2] Plus any tax that may be chargeable to the applicant