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

# FIFTH SECTION

# DECISION

Application no. 8055/23
Václav ŽALUD
against the Czech Republic

The European Court of Human Rights (Fifth Section), sitting on 20 March 2025 as a Committee composed of:

Andreas Zünd*, President*,
Kateřina Šimáčková,
Mykola Gnatovskyy*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 8055/23) against the Czech Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 10 February 2023 by a Czech national, Mr Václav Žalud ("the applicant"), who was born in 1984, lives in Prague and was represented by Mr M. Nespala, a lawyer practising in Prague;

the decision to give notice of the complaint under Article 1 of Protocol No. 1 to the Czech Government ("the Government"), represented by their Agent, Mr P. Konůpka, from the Ministry of Justice, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

## SUBJECT MATTER OF THE CASE

1. The present application concerns the rent-control scheme in the Czech Republic as it operated until 31 December 1999. The applicant complains under Article 1 of Protocol No. 1 and Article 6 § 1 of the Convention.

2. Following the communist takeover in February 1948, a legal reform of private law, including in the field of rent control, was introduced by the Government. Under the rent-control scheme rents were administratively set under secondary legislation (Decree no. 60/1964) and landlord-tenant

relationships were determined by administrative decisions rather than lease contracts. The secondary legislation remained in force until 1 January 1994, when it was superseded by Decree no. 176/1993 of the Ministry of Finance providing, *inter alia*, for restrictive rent ceilings.

3. In November 1991 the applicant's father acquired, under the restitution legislation, an apartment house in Moravská Ostrava consisting of ten flats occupied by tenants with regulated rents.

4. In a judgment of 21 June 2000, the Constitutional Court (Pl. ÚS 3/2000) repealed Decree no. 176/1993, finding it to be unconstitutional and in breach of Article 1 of Protocol No. 1, as it froze rents on a level that made it impossible for landlords to cover their maintenance costs and to derive a profit from their property. It left the Parliament the period until 31 December 2001 to enact a new rent-control law. Instead, in 2002 the Ministry of Finance and the Government issued three regulations designed to fill up the *vacuum legis* created by the Constitutional Court's judgment. However, all these regulations were consecutively repealed by the Constitutional Court in December 2002 and March 2003, respectively.

5. In April 2004 the applicant's father lodged a claim for damages against the State under Article 11 § 4 of the Czech Charter seeking payment of 2,466,409 Czech korunas (CZK) (74,860 euros (EUR)[1]) as compensation for unconstitutional interference with his property rights lasting from 1 January 1992 until 31 December 2003.

6. The general courts decided against the applicant's father. However, on 6 September 2011, the Constitutional Court (IV. ÚS 423/08) quashed the general courts' decisions. It held that the general courts had erred in not considering whether the restriction of the property rights of the applicant's father during the relevant period did not reach the intensity to constitute an interference within the meaning of Article 11 of the Charter.

7. On 27 January 2014 the District Court partly granted the claim of the applicant's father, awarding him damages of CZK 265,545.20 (EUR 9,672) in respect of six flats during different periods from April 2001 to March 2003.

8. On 16 March 2016 the Prague Municipal Court altered the District Court's judgment by lowering the amount awarded to CZK 23,116.20 (EUR 855), based on the difference between the regulated rent and the rent that could have been achieved under the Unilateral Rent Increase Act (Law no. 107/2006), which had entered into force on 31 March 2006, and which provided for new rent ceilings and envisioned gradual annual increases of regulated rents, which at the end of 2012 reached the level of market rents.

9. On 19 February 2018 the Supreme Court quashed the Municipal Court's judgment and sent the case back to it because, in the meantime, the Court had clarified that compensation in resent-control cases was to be calculated as the difference between the market rent and the regulated rent

[1] Conversion into EUR is calculated at rates valid at the relevant time

(see *R & L and Others v. the Czech Republic*, no. 37926/05 and 4 others, judgment on just satisfaction of 9 February 2017, read in conjunction with the judgment on the merits of 3 July 2014), which the Municipal Court had failed to consider.

10. On 3 October 2018 the Municipal Court awarded the applicant's father, in addition to the amount already awarded (see paragraph 7 above), damages of CZK 85,662.40 (EUR 3,318) for rent-control restriction regarding the period from 1 January 2002 to 31 December 2003. It held that he was not entitled to compensation for the period from 1 January 1992 to 31 December 2001 because rent-control restriction could not be held unconstitutional for that period.

11. On 11 September 2019 the Supreme Court quashed the Municipal Court's judgment and again returned the case to it stating that the compensation should be granted from 1 January 2000 but not for the preceding period.

12. On 12 August 2020 the Municipal Court granted the applicant's father compensation in the amount of CZK 340,844 (EUR 13,013) for rent-control restriction in respect of four flats during different periods between 1 January 2000 and 31 December 2003. It calculated the amount as the difference between the controlled rent and the market rent based on an expert opinion. The court stated that the compensation claim for the period prior to 1 January 2000 could not be granted, since its existence was precluded by the continuing public interest in transforming the former occupancy arrangements for flats into an institution of protected leases. The applicant's father thus received damages totalling CZK 692,052 (EUR 26,422).

13. The applicant, as the successor in title to the applicant's father, who died on 23 November 2020, lodged an appeal on points of law which was declared inadmissible by the Supreme Court on 8 February 2022.

14. On 18 October 2022 the Constitutional Court (IV. ÚS 1213/22) declared a constitutional complaint by the applicant inadmissible stating, in particular, that:

> "15 ... [N]o [claim for compensation for the forced restriction of ownership within under Article 11 § 4 of the Charter] can be entertained in relation to the period prior to 1 January 2000 ... because the existence thereof was precluded by an enduring public interest in the transformation of former occupancy arrangements into the concept of protected leases, which would create an acceptable state of legal certainty for all existing legal relationships vis-à-vis flats which were based on the existence of a right to the personal use of a flat. If the assumption that by definition it is impossible to determine the exact moment at which rent-controlled legislation began to be unconstitutional is consistent with constitutional law, then the conclusion that the legislation in question was unconstitutional no later than the year in which the Constitutional Court decided to repeal it is also constitutionally acceptable. The Municipal Court and the Supreme Court sufficiently, convincingly, and comprehensibly justified this finding, including by reference to the Constitutional Court's case law, from which there is no reason to depart. On the same grounds, the

contested decisions, as the Supreme Court also reasoned, do not conflict with the Constitutional Court's decision no. IV. ÚS 423/08."

## RELEVANT DOMESTIC PRACTICE

15. The relevant domestic law and practice are described in *Vomočil and Art 38, a.s. v. the Czech Republic* ((dec.), nos. 38817/04 and 1458/07, §§ 21-26, 5 March 2013), and in *R & L, s.r.o. and Others v. the Czech Republic* (nos. 25784/09 and 4 others, § 42 and Annex II, 3 July 2014).

16. In addition, in judgment no. Pl. ÚS 37/93 of 22 March 1994, the Constitutional Court held that the transformation of the right to personal use of a flat into a lease was consistent with the constitutional order. It held that any inequality that might arise between tenants and landlords was justified by the need to protect the rights of tenants in the light of the prevailing extraordinary situation where the transition to a market economy had been accompanied by an acute housing shortage.

## THE COURT'S ASSESSMENT

17. The applicant complained, under Article 1 of Protocol No. 1 and Article 6 § 1 of the Convention, about the restriction of his property rights in the period from 1 January 1992 to 31 December 2003, consisting of the impossibility of renting the flats in his apartment house at a market rent, or at least at a rent which would make it possible to cover all the costs associated with the maintenance of the apartment house, which had imposed an unreasonable burden on him and also on his father. He mainly challenged the fact that he had been unable to obtain compensation from the State for the restriction of his property rights regarding the period from 1 January 1992 to 31 December 1999.

18. The Court, being the master of the characterisation to be given in law to the facts of the case, considers that the complaints fall to be examined under Article 1 of Protocol No. 1 only. It further considers that there is no need to rule on the preliminary objection of partial incompatibility *ratione temporis* raised by the Government since the application is in any event inadmissible for the reasons stated below.

19. The Court accepts that there was an interference with the applicant's (his father) property rights as a result of the rent-control scheme, which constituted control of the use of property under the third sentence of Article 1 of Protocol No. 1 (see *R & L, s.r.o. and Others*, cited above, § 108 with further references).

20. The Court examined the legal situation concerning the rent-control scheme and deregulation in *R & L, s.r.o. and Others* (cited above). It observed, in particular, that a legal vacuum had existed between at least 1 January 2002 and 30 March 2006 following the repetitive repeals by the

Constitutional Court of the rent-control legislation. Moreover, relying on the Constitutional Court's case-law urging the ordinary courts to decide on applications for rent increases despite the absence of special legislation for the period up to 31 December 2006, the Court found that the interference with landlords' property rights had lacked a legal basis even in the period from 31 March to 31 December 2006 (ibid., §§ 117-27).

21. In the present case the interference had a legal basis in Czech law as in force until 31 December 1999 (see paragraph 4 above).

22. As to the legitimate aim pursued, the Court, referring to the national courts' assessment, including the Constitutional Court's relevant jurisprudence, and considering the wide margin of appreciation reserved to national authorities in areas such as housing of the population, accepts that the relevant legislation governing the rent-control scheme pursued a legitimate aim of socio-economic policy in the transformation period in the area of housing as part of the transition from the communist regime to a democratic public order.

23. As to proportionality, the Court notes at the outset that, for the purposes of its assessment, the fact that the applicant's father acquired the tenement house by way of restitution is not decisive. Indeed, the protection provided by the Convention in rent-control cases was never made dependent on the way applicants had acquired their landlords' rights (ibid., § 103 with further references). Nevertheless, the Court finds it of relevance that at the time the applicant's father acquired the tenement house he must have been aware of its physical condition and the fact that the flats were occupied by tenants with regulated rents as well as the relevant legal regime.

24. The Court notes, in view of the information before it, that the applicant's father had an income from the whole apartment house which appear to cover or even exceed the costs of its usual maintenance, since the number of flats subject to regulated rent had decreased over the years[2], allowing the applicant's father to collect unregulated rents (only five flats were rented for regulated rent for the whole period of time). Moreover, one flat was, following its conversion into non-residential premises, rented at unregulated rent since August 1997. The Court further notes that although it understands the efforts made by the applicant's father to increase the value of the tenement house by way of its reconstruction and modernisation, it cannot but consider that costs incurred in that respect could not be attributed to the State.

25. The applicant's father was compensated by the domestic courts for the restriction of ownership caused by the rent-control scheme in respect of five flats regarding the relevant periods from 1 January 2000 to 31 December 2003. At the same time, they rejected his compensation claim

[2] Flats nos. 1, 2, 4, 9 and 10 were rented under regulated rent until 30 April 1997, 31 January 1996, 31 August 1998, 28 February 1996 and 30 April 1996, respectively.

for the preceding period on the grounds that the existence of such a claim was precluded by the continuing public interest in transforming the former occupancy arrangements for flats into an institution of protected leases. In the light of jurisprudential developments at national level, in particular the relevant case-law of the Constitutional Court in the field of the rent-control scheme (see paragraphs 15-16 above), these findings were neither arbitrary nor manifestly unreasonable, and the Court lacks any objective reasons, let alone cogent evidence, to call into question the assessment made at national level.

26. Having regard to all the foregoing considerations, emphasising above all the wide margin of appreciation that the respondent State enjoys in regulating complex property and social issues in the transition from the communist regime to a democratic legal order protecting private property, the Court does not find that the applicant's father had to bear an individual and excessive burden of the interference with his property rights.

27. It follows that the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

*Declares* the application inadmissible.

Done in English and notified in writing on 24 April 2025.

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| Martina Keller<br>Deputy Section Registrar | Andreas Zünd<br>President |