I.ÚS 111/12 of 28 November, 2013
"European Arrest Warrant - Speciality Rule"

CZECH REPUBLIC
CONSTITUTIONAL COURT
JUDGMENT

IN THE NAME OF THE REPUBLIC

HEADNOTES

Even though the speciality rule acts among the states, it should be noted that the prohibition of prosecution or deprivation of personal liberty expressed in it is also reflected in the scope of the rights of the person to be extradited (or surrendered). The provisions of Section 406, para. 1 of the Criminal Procedure Code establish the subjective right of the surrendered person not to be prosecuted or deprived of personal liberty for the criminal offence owing to which they have not been surrendered unless any of the expressly listed exceptions applies in their case. The right defined in this manner corresponds to the unambiguous wording and purpose of Art. 27 of the Framework Decision, whose interpretation in this respect the Constitutional Court does not at all question, even though it is a norm of the European Union law, and it perceives it as absolutely obvious (pursuant to the acte clair doctrine formulated by the Court of Justice of the European Union in the Judgment issued on 6 October 1983 in the case C-283/81 Srl CILFIT and Lanificio di Gavardo SpA v Ministry of Health). This remains unaffected even in the view of the issue of any potential collision of the national legal regulation with Art. 27, para. 1 of the Framework Decision, which, unlike the Criminal Procedure Code, provides for an exemption from the speciality rule even for the relations between those Member States which have notified the Secretariat General of the Council that consent is presumed to have been given for the prosecution, sentencing or detention with a view to the carrying out of a custodial sentence or detention order associated with a deprivation of personal liberty for an offence other than that for which he or she was surrendered and committed prior to his or her surrender, unless in a particular case the executing judicial authority states otherwise in its decision on surrender. Due to the fact that neither the Czech Republic, nor Italy made such a notification, this exemption is not relevant to the instant case. It may thus be summarised that failure to comply with the prohibition of deprivation of personal liberty pursuant to Section 406, para. 1 of the Criminal Procedure Code and Art. 27 of the Framework Decision by public authorities would result in violating the fundamental right of the surrendered person to personal liberty under Art. 8, para. 1 and 2 of the Charter.

VERDICT

The Chamber of the Constitutional Court, consisting of the Chairman of the Senate Judge Ivana Janů, Judge Rapporteur Pavel Rychetský and Judge Kateřina Šimáčková, held in the matter of a constitutional complaint against the prison sentence in Vinařice Prison, represented by Mgr. Vladimír Pavlis, attorney with head office in Kladno, T. G. Masaryka 108, against an order to serve a sentence issued by the District Court in Litoměřice on 19 June 2008, file reference 4 T 204/2002, and failure to act on the side of the afore-mentioned court consisting in the fact that it had not so far made a decision on releasing the complainant from serving the prison sentence which had been awarded to the complainant in the decision issued by the Regional Court in Ústí nad Labem on 30 June 2003, file reference 6 To 264/2003-93, with the participation of the District Court in Litoměřice acting as a party to the proceedings, as follows:

I. Owing to its failure to act consisting in the fact that after the presiding judge was notified that on 9 December 2010, the complainant had been delivered to serve the prison sentence which had been awarded to him by means of an final decision of the Regional Court in Ústí nad Labem issued on 30 June 2003, file reference 6 To 264/2003-93, the District Court in Litoměřice left the complainant to serve the sentence contrary to Section 406, para. 1 of Act No. 141/1961 Coll., on Criminal Proceedings (Criminal Procedure Code), as amended, and thus violated his fundamental right to personal liberty pursuant to Art. 8, para. 1 and 2 of the Charter of Fundamental Rights and Freedoms.

II. The District Court in Litoměřice shall be prohibited from continuing to violate the rights and freedoms of the complainant consisting in issuing an order to serve a prison sentence, which was awarded to the complainant by means of the final decision of the Regional Court in Ústí nad Labem issued on 30 June 2003, file reference 6 To 264/2003-93, and the court shall be ordered to repeal the order to serve the prison sentence awarded in the afore-mentioned decision immediately after the delivery of this judgment. The order to serve the prison sentence awarded in the afore-mentioned decision could only be issued after remedying the inconsistency of serving the sentence with Section 406, para. 1 of the Criminal Procedure Code.

III. The prohibition pursuant to the previous section shall not affect the possibility to serve the sentence awarded in other possible final decisions in which the complainant was sentenced for the criminal activity in relation to which he was surrendered to the Czech Republic on the basis of the European arrest warrant issued by the District Court in Litoměřice on 9 June 2009, file reference 6 T 338/2007.

IV. In the remainder, the constitutional complaint shall be dismissed as inadmissible due to the lack of jurisdiction.

REASONING

I.
Specification of the case

1. By means of a constitutional complaint, which was delivered to the Constitutional Court on 11 January 2012 and amended by a submission on 14 February 2012, the complainant sought that the Constitutional Court prohibited the District Court in Litoměřice from continuing, owing to its inaction, to violate his fundamental rights under Art. 8, 36, and 40 of the Charter of Fundamental Rights and Freedoms (hereinafter referred to as "the Charter") and ordered it to make a decision on releasing him from serving the prison sentence, which had been effectively awarded to him by means of a decision in the matter, file reference 4 T 204/2002. As a matter of fact, he was delivered to serve the sentence immediately after being surrendered to the Czech Republic despite the fact that the European arrest warrant, on the basis of which he had been surrendered, had been issued merely for the purposes of criminal prosecution in another criminal matter. For this reason, serving the afore-mentioned sentence is in violation with the prohibition of restricting or depriving an individual of their personal liberty arising from the speciality rule under Section § 406 of Act No. 141/1961 Coll., on Criminal Judicial Procedure (Criminal Procedure Code).

2. In the remainder of his argumentation, the complainant alleges that he had never been notified of the order to serve the afore-mentioned sentence pursuant to Section 321, para. 1 of the Criminal Procedure Code, whose annulment he has also sought in his constitutional complaint, as well as of the duty to appear to serve the sentence, and that the relevant decisions had never been served on him. For this reason, he was unable to express his statement on them or seek a legal remedy. In addition, he had been deprived of the possibility to make a statement on the surrender itself following arrival in the

territory of the Czech Republic, since he was immediately delivered to serve the sentence without being notified of anything.

II.
Summary of relevant facts

3. Upon a decision issued by Regional Court in Ústí nad Labem on 30 June 2003, reference number 6 To 264/2003-93, the complainant was found, in the criminal matter heard at the first instance before the District Court in Litoměřice under the file reference 4 T 204/2002, guilty of committing a partially accomplished and partially unaccomplished criminal offence of blackmail and was awarded a prison sentence of 4.5 years. On the basis of his application, the District Court in Chomutov held, by means of a resolution issued on 30 September 2004, reference number 2 PP 711/2004-10, under Section 61, para. 1, letter a) of Act No. 140/1961 Coll., Criminal Procedure Code, effective until 31 December 2009, on releasing him on parole, whereas apart from the afore-mentioned sentence, his sentence also included another three-year sentence awarded in another criminal matter. At the same time, he was also provided with a five-year probationary period and he was put under the corresponding probation. Owing to the fact that the complainant engaged in criminal activity even after that, the District Court in Chomutov held, by means of the resolution issued on 4 April 2008, reference number 2 PP 711/2004-64, under Section 64, para. 1 of the Criminal Act, that the complainant should serve the remainder of the afore-mentioned prison sentences (specifically 1,353 days) from which he had been released on parole. The Regional Court in Ústí nad Labem upheld this resolution, against which the complainant had filed a complaint, in the resolution issued on 22 May 2008, reference number 6 To 312/2008-72. Subsequently, the District Court in Litoměřice issued an order on 19 June 2008, file reference 4 T 204/2002, on serving the remainder of both sentences, which the complainant did not commence within the prescribed deadline.

4. On 14 March 2009, the complainant was arrested in Italy for theft and taken into custody, which was communicated to the relevant authorities in the Czech Republic. On the basis of this information, the District Court in Litoměřice subsequently issued a European arrest warrant on 9 June 2009, file reference 6 T 338/2007, for the purposes of criminal prosecution in another matter related to the further specified criminal activity of predominantly property character, which was to have occurred between May 2005 and April 2007. In the proceedings before the Italian judicial authorities, the complainant expressly stated that he opposed the surrender and did not waive the speciality rule. Since they nevertheless decided on the admissibility of his surrender, he was surrendered to the Czech Republic on 9 December 2010, being arrested upon arrival and taken under escort to the Detention Facility in Prague – Ruzyně pursuant to the order issued by the District Court Litoměřice on 20 August 2008, file reference 4 T 204/2002-137, i.e. the order issued within the first criminal matter mentioned above.

5. By means of a decision issued on 21 July 2011, reference number 6 T 338/2007-1356, which became effective on 12 August 2011, the complainant was convicted of the criminal activity related to the afore-mentioned European arrest warrant and awarded a summary prison sentence of 32 months, which subsequently included detention and another previously served sentence of 18 months. By means of an order issued on 18 August 2011, file reference 6 T 338/2007, serving this sentence was ordered with anticipated commencement on 23 August 2014, i.e. immediately upon serving the prison sentence awarded to the complainant in the matter file reference 4 T 204/2002.

6. On 27 April 2012, the Minister of Justice filed a complaint for violation of the law and directed against the decision of the District Court in Litoměřice, reference number 6 T 338/2007-1356, which was dismissed as inadmissible by a resolution of the Supreme Court issued on 9 May 2012, reference number 11 Tz 49/2012-23. In this decision, even though the Supreme Court mainly dealt with the question whether the European arrest warrant did not apply to a lower number of criminal offences than for which the complainant had been sentenced by means of the afore-mentioned decision, it also commented, in the form of obiter dictum, on the lawfulness of the procedure taken by the District Court in Litoměřice in the matter file reference 4 T 204/2002. In particular, it noted that contrary to the

speciality rule under Section 406 of the Criminal Procedure Code, the complainant had been surrendered to serve a sentence to which the surrender of the convict had not applied and that the presiding judge had not taken any measures on the basis of the information concerning these facts, while merely taking into account the findings of the office made on 20 December and establishing that the defendant had still been held in prison; and on 19 January 2011, it wrongfully repealed the already enforced European arrest warrant reasoning that the defendant had been delivered to serve the sentence in another criminal matter.

III.
Summary of the proceedings before the Constitutional Court

7. The Constitutional Court invited the District Court in Litoměřice to issue a statement and requested the files kept under the reference 4 T 204/2002 and 6 T 338/2007, corresponding to the afore-mentioned summary.

8. Owing to the fact that in the matter file reference 6 T 338/2007, the proceeding on the complaint for violating the statute had been initiated, in which an issue relevant to these proceedings was due to be dealt with, the Constitutional Court, by means of a resolution issued on 30 May 2012, reference number I. ÚS 111/12-18, decided to stay the proceedings. Having established that a decision on the afore-mentioned complaint had been issued, it decided to resume the proceedings by means of a resolution issued on 13 August 2012, reference number I. ÚS 111/12-28.

9. In his submission dated 19 July 2012, the complainant motioned that the Constitutional Court resume the proceedings, adding that he did not agree with the resolution of the Supreme Court, reference number 11 Tz 49/2012-23, nor the conclusions contained therein.

10. In its statement dated 3 August 2012, the District Court in Litoměřice merely referred to the reasoning behind the afore-mentioned resolution of the Supreme Court, to which the complainant had already issued his statement in his submission. For this reason, it was not necessary to invite the complainant to provide a reply.

11. Pursuant to Section 44 of Act No. 182/1993 Coll., on the Constitutional Court, as amended, the Constitutional Court held in the matter without listing an oral hearing, since it deemed the submitted written statements and the content of the requested files as sufficient to clarify the matter.

12. The original Judge Rapporteur appointed in the instant case was Judge František Duchoň, whose term of office expired on 6 June 2012. In accordance with the schedule, Judge Pavel Rychetský was subsequently appointed the Judge Rapporteur.

IV.
Assessing the admissibility and timely character of the constitutional complaint, as well as the jurisdiction of the Constitutional Court to hear it

13. Before examining the merits of the constitutional complaint, the Constitutional Court had to address the issue whether all conditions as stipulated by law had been met.

14. An order to serve a sentence pursuant to Section 321, para. 1 of the Criminal Procedure Code is not a decision, since it lacks both its formal and material elements. It is a measure by means of which the court merely notifies the corresponding penitentiary of the existence of the convict's duty to serve a prison sentence which was imposed on him on the basis of the (already) final court decision. On its own, however, it does not affect the complainant's rights and duties and since it cannot be deemed as any other encroachment pursuant to Art. 87, para. 1, letter d) of the Constitution, it lacks the capacity to be the subject matter of a review on the merits within the proceedings on constitutional complaints. In this extent, the Constitutional Court lacked jurisdiction to hear the complainant's application.

15. On the contrary, restriction of the personal liberty by a public authority represents an encroachment which the complainant may oppose directly by means of a constitutional complaint unless he may seek any other remedy to protect his right. In such a case, it may be filed during the whole period when such an encroachment occurs, whereas the Constitutional Court examines, within the corresponding proceedings, whether the statutory conditions of the encroachment have been met. However, if the personal liberty is restricted on the basis of a decision, which comes out as a rule except the cases of detention in criminal proceedings or delivery to and detention in a health care facility, then this decision cannot be subsequently (i.e. upon the expiry of the time limit to file a constitutional complaint directed against it) examined by means of a constitutional complaint directed merely against the encroachment in question. Within the proceedings, the Constitutional Court would only examine whether this decision has been issued and whether it is final and enforceable, or whether there is any statutory bar to enforcing it.

16. In the instant case, the complainant alleges that the restriction to his personal liberty occurred contrary to Section 406 of the Criminal Procedure Code, since he is serving a prison sentence awarded to him prior to the surrender to the Czech Republic on the basis of the European arrest warrant and the enforcement of which has not been approved by the requested country. The Constitutional Court states that the law does not provide the complainant with any procedural remedy on the basis of which a person serving a prison sentence may seek to be released for this reason. It was probably not within the contemplation of the legislature that such a situation might occur, which nevertheless does not have any effect that provided it has occurred, ordinary courts are obliged to provide the person with the protection of their fundamental rights and freedoms pursuant to Art. 4 and Art. 90 of the Constitution of the Czech Republic. Finally, pursuant to Section 321, para. 3 of the Criminal Procedure Code, the presiding judge is immediately notified of delivering the convict to serve the sentence.

17. The above means that if the complainant perceived the contested encroachment in the inaction of the competent court, which failed to decide on his release given the circumstances, he took the correct procedural approach and his constitutional complaint is not admissible pursuant to Section 75, para. 1 of the Act on the Constitutional Court. Due to the fact that the complainant filed the constitutional complaint while serving the prison sentence, and thus the alleged encroachment was supposed to exist at the material time when filing it, the corresponding time limit could not expire [for instance, cf. Judgment issued on 23 November 2004, file reference II. ÚS 599/02 (N 175/35 SbNU 343) or Judgment issued on 4 January 2006, file reference II. ÚS 507/05 (N 3/40 SbNU 31)]. For this reason, the constitutional complaint was filed on time in this respect and it could be examined on its merits.

V.
Subject matter of the review

18. The Constitutional Court became acquainted with the complainant's arguments and the content of the requested files, subsequently establishing that the constitutional complaint was well-founded in the section directed against restricting personal liberty.

19. In a number of instances, the Charter formulates the conditions under which personal liberty may be restricted. In particular, this is stipulated in Art. 8, para. 2, pursuant to which no one may be prosecuted or deprived of their liberty except on the grounds and in the manner specified by law. Obviously, a prison sentence awarded on the grounds of an final court decision (Art. 39 and Art. 40, para. 1 of the Charter) may be deemed as a legitimate reason for such an intervention; however, this applies only on condition that the law does not relate serving the sentence to meeting other conditions or that it does not prescribe the reasons amounting to an obstruction to serving it. Should that be the case, the intervention in question would have to stand the test from the perspective of the legal regulation as a whole, and thus it could not occur as a consequence of failure to observe the obstacles to serve the sentence as defined, regardless of the fact that they aimed at either protecting the rights of the affected individual or (any other) public interest.

20. The provisions of Section 406 of the Criminal Procedure Code, which is the transposition of Art. 27 of the Framework Decision of the Council of the European Union No. 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (hereinafter referred to as "the Framework Decision") prescribes, in paragraph 1, the speciality rule for criminal proceedings directed against a person surrendered to the Czech Republic from another EU Member State on the basis of a European arrest warrant. It particular, it stipulates that except the cases enumerated therein, a person surrendered may not be prosecuted, sentenced or otherwise deprived of his or her liberty for an offence committed prior to his or her surrender other than that for which he or she was surrendered.

21. The speciality rule, to which the afore-mentioned prohibition corresponds, developed in international law in relation to the extradition and over time, it has become included in a large number of bilateral or multilateral international treaties (cf. Art. 14 of the European Convention on Extradition, published under No. 549/1992 Coll.). In its essence, it expresses the obligation of the requesting country that once a person has been extradited, he shall not be prosecuted, restricted in or deprived of his personal liberty for any criminal offence in relation to which the surrendering country would not consent to the extradition. In fact, mutual acceptance of these obligations enables creation of a space so that countries consent to extraditing persons and allow for prosecuting and sentencing certain criminal activity without necessarily doing so even for acts whose punishability they do not recognise at all (there is a lack of mutual punishability) or they perceive it as at least questionable in particular cases.

22. In many respects, the surrender procedure under the Framework Decision differs from the classical extradition [cf. the Judgment issued on 3 May 2006, file reference Pl. ÚS 66/04 (N 93/41 SbNU 195; 434/2006 Coll.), sections 46 to 51]. This may be illustrated using the fact that its serves to implement the principle of mutual recognition (cf. section six of the reasoning behind the Framework Decision, as well as Art. 1, para. 2), which virtually encompasses the obligation of the Member States to comply with a European arrest warrant. In principle, they must or may refuse to execute it only in one of the cases listed in Art. 3 or 4 of the Framework Decision (cf. the Judgment of the Court of Justice issued on 1 December 2008 in the case C-388/08 PPU Leymann and Pustovarov, section 51). However, the above does not imply that the speciality rule lost its relevance in the given proceedings. It is the judicial authorities of the surrendering country that are competent to issue a decision on surrender, as well as any potential subsequent decision to give consent to prosecution or deprivation of liberty for any other criminal offence pursuant to Art. 27, para. 4 of the Framework Decision, whereas the requesting country cannot replace their decision on its own, provided such a decision is required. This competence may be regarded as a certain safeguard kept by the Member States even though the mechanism of the European arrest warrant is based on a high level of confidence between them. In fact, beyond the scope of Art. 3 and 4 of the Framework Decision, it is always possible to decide, in individual cases, to refuse the surrender when there are reasons to believe, on the basis of objective elements, that the European arrest warrant has been issued for the purpose of prosecuting or punishing a person on the grounds of his or her sex, race, religion, ethnic origin, nationality, language, political opinions or sexual orientation, or that that the person's position may be prejudiced for any of these reasons (cf. the twelfth section of the reasoning behind the Framework Decision). In the case that the Council has established, under Art. 7, para. 2 of the Treaty on European Union, a serious and persistent breach of the values referred to in Art. 2, the whole mechanism may even be suspended as a result of applying Art. 7, para. 3 of this Treaty (cf. the twelfth section of the reasoning behind the Framework Decision).

23. Even though the speciality rule in the concept outlined above acts among the states, it should be noted that the prohibition of prosecution or deprivation of personal liberty expressed in it is also reflected in the scope of the rights of the person to be extradited (or surrendered). The provisions of Section 406, para. 1 of the Criminal Procedure Code establish the subjective right of the surrendered person not to be prosecuted or deprived of personal liberty for the criminal offence owing to which they have not been surrendered unless any of the expressly listed exceptions applies in their case. The right defined in this manner corresponds to the unambiguous wording and purpose of Art. 27 of the

Framework Decision, whose interpretation in this respect the Constitutional Court does not at all question, even though it is a norm of the European Union law, and it perceives it as absolutely obvious (pursuant to the acte clair doctrine formulated by the Court of Justice of the European Union in the Judgment issued on 6 October 1983 in the case C-283/81 Srl CILFIT and Lanificio di Gavardo SpA v Ministry of Health). This remains unaffected even in the view of the issue of any potential collision of the national legal regulation with Art. 27, para. 1 of the Framework Decision, which, unlike the Criminal Procedure Code, provides for an exemption from the speciality rule even for the relations between those Member States which have notified the Secretariat General of the Council that consent is presumed to have been given for the prosecution, sentencing or detention with a view to the carrying out of a custodial sentence or detention order associated with a deprivation of personal liberty for an offence other than that for which he or she was surrendered and committed prior to his or her surrender, unless in a particular case the executing judicial authority states otherwise in its decision on surrender. Due to the fact that neither the Czech Republic, nor Italy made such a notification, this exemption is not relevant to the instant case. It may thus be summarised that failure to comply with the prohibition of deprivation of personal liberty pursuant to Section 406, para. 1 of the Criminal Procedure Code and Art. 27 of the Framework Decision by public authorities would result in violating the fundamental right of the surrendered person to personal liberty under Art. 8, para. 1 and 2 of the Charter.

24. What was decisive for the purposes of examining the constitutional complaint was the fact that the surrender on the grounds of the European arrest warrant of 9 June 2009, issued by the District Court in Litoměřice in the criminal matter kept under file reference 6 T 338/2007, did not at all affect serving the prison sentence which had been awarded to the complainant in the criminal case heard by the identical court under file reference 4 T 204/2002 (cf. also the identical conclusion of the Supreme Court contained in its Resolution reference number 11 Tz 49/2012-23, outlined in section 6 of this Judgment). At the same time, none of the statutory exemptions from the speciality rule was applicable. Already within the proceedings before Italian judicial authorities, the complainant stated that he did not consent to his surrender and that he did not waive this rule. The constitutional complaint implies that he did not change his opinion even after the surrender. As for other exemptions, the relevant files do not imply that pursuant to Section 406, para. 3 of the Criminal Procedure Code, the afore-mentioned court subsequently requested consent of Italian judicial authorities to execute this sentence. The remaining exemptions under Section 406, para. 1, letters a) to c) of the Criminal Procedure Code will obviously be inapplicable in his case.

25. The afore-mentioned findings give reasons for the conclusion that since 9 December 2010, the complainant was restricted in his personal liberty due to serving the prison sentence which had been awarded to him by means of an final decision in the criminal matter heard before the District Court in Litoměřice under file reference 4 T 204/2002 contrary to Section 406, para. 1 of the Criminal Procedure Code. As a matter of fact, upon his surrender for the purposes of criminal prosecution related to another criminal matter the decision in question ceased to be enforceable in the section imposing the duty to serve the sentence on the complainant, and thus could not give grounds to restricting his personal liberty under Art. 8, para. 1 and 2 of the Charter. In view of the Constitutional Court, under such circumstances, the afore-mentioned court was obliged to respond to the situation at its own initiative immediately after being notified of surrendering the complainant to serve the sentence. Any restriction of personal liberty by a public authority, which takes the form of serving a sentence, yet takes place on the grounds of a non-existent, cancelled, ineffective or unenforceable decision, must be regarded, as a matter of principle and unless implied otherwise in the constitutional order, as a violation of the fundamental right to personal liberty pursuant to the afore-mentioned provisions. Since the court in question completed failed to notice this situation, the afore-mentioned assessment may also be related to its approach, regardless of the fact that such a conclusion may appear rather formalistic in view of the possibility of a custodial prosecution in the criminal matter for which he was surrendered. In a rule of law state, one may not in fact accept that on the one hand, the public authority unambiguously determines the conditions under which personal liberty may be restricted by means of the relevant statutes, in the sense also including the European Union law, while on the other hand, it fails to observe these conditions or approaches to them in a selective manner.

26. The afore-mentioned conclusions cannot be interpreted in the sense that the Constitutional Court relativized the sentence awarded to the complainant on the grounds of an final decision or that serving its remainder was absolutely inadmissible. For the purposes of making sure that the sentence was served, the District Court in Litoměřice should have requested the consent of Italian judicial authorities, as provided for under Section 406, para. 3 in connection with Section 405 of the Criminal Procedure Code [cf. also Art 27, para. 3, letter g) and para. 4 of the Framework Decision], whereas this Judgment does not prevent submitting a request for consent even after publishing it. If granted (which may be presumed), this would subsequently remedy (also retroactively) the inconsistency of serving the afore-mentioned sentence with Section 406, para. 1 of the Criminal Procedure Code. In that case, there would be no obstacles preventing the complainant serving the remainder of this sentence either. It remains to be added that these conclusions do not affect the possibility of serving sentences awarded in any other potential final decisions convicting the complainant of the criminal activity for which he was surrendered to the Czech Republic on the grounds of the European arrest warrant issued by the District Court in Litoměřice on 9 June 2009, file reference 6 T 338/2007. At the same time, the Constitutional Court has not drawn any conclusions concerning the issue of the enforceability of the prison sentence awarded to the complainant in the criminal matter kept under file reference 6 T 338/2007.

27. For all these reasons, the Constitutional Court, pursuant to Section 82, para. 2, letter a) of the Act on the Constitutional Court, granted the constitutional complaint in the section directed against the inaction of the District Court in Litoměřice (verdict I), and pursuant to Section 82, para. 3, letter b) of the same Act, it held as stated in verdicts II and III of this Judgment. Pursuant to Section 43, para. 1, letter d) of the Act on the Constitutional Court, it dismissed the constitutional complaint as inadmissible in the section directed against the order to serve the sentence (verdict IV).

Instruction: The Judgments of the Constitutional Court cannot be appealed.

In Brno, 28 November 2013