2005/01/25 - III. ÚS 252/04: CONSTITUTIONALLY CONFORMING INTERPRETATION

HEADNOTES

The Constitutional Court recalls and reiterates that the tenor of its Judgment No. II. ÚS 405/02 rests on the respect for the constitutional principle of equality, that is, the exclusion of unjustified inequality, in the given case, between citizens of the Czech Republic. In a case in which a special incorporation clause, contained in § 61 of Act No. 155/1995 Sb., establishes the priority of a treaty over domestic law, where the application of law is governed by the interpretive principle, lex specialis derogat legi generali, as the Constitutional Court is not endowed with competence to review the constitutionality of ratified international agreements, this interpretive principle that specific rules take precedence over general rules must yield to the constitutional principle affecting the application and interpretation of the relevant ordinary law, that is, the principle of constitutionally conforming interpretation and application. In the matter under consideration, this constitutional principle is the fundamental right flowing from the constitutional principle of the equality of citizens and excluding any unjustified legal distinctions drawn between them.

To the extent that the Supreme Administrative Court in its judgment failed to reflect the constitutional interpretation set out in a Constitutional Court judgment, it violated the maxim arising from the sense and purpose of an effective and meaningful concentrated (specialized) constitutional judiciary, having a considerable function in unifying the jurisprudence in the area of constitutionally protected guarantees (the Constitutional Court itself may depart from a proposition of law declared in one of its judgments solely by means of the procedure initiated pursuant to § 23 of Act No. 182/1993 Sb), the maxim flowing from Art. 89 para. 2 of the Constitution, according to which enforceable decisions of the Constitutional Court are binding on all authorities and persons. The failure on the part of a public authority to respect the proposition of law announced by the Constitutional Court amounts, in addition, to a violation of the principle of equality, and also offends against citizens' legal certainty (judgments Nos. II. ÚS 76/95, I. ÚS 70/96, III. ÚS 127/96, III. ÚS 187/98, III. ÚS 206/98, III. ÚS 648/2000 and others). The stated admonition is also relevant for the position of the secondary party. From Art. 89 para. 2 also flows the maxim that arbitrary interpretations of Constitutional Court judgments are prohibited. This maxim applies fully to the legal opinion of the Czech Administration of Social Security contained in its pleading on the matter at issue and relating to the relevance and legal content of Constitutional Court Judgment No. II. ÚS 405/02.

CZECH REPUBLIC
CONSTITUTIONAL COURT

JUDGMENT

IN THE NAME OF THE CZECH REPUBLIC

On 25 January 2005, the Constitutional Court, in a panel composed of its chairperson, JUDr. Jiří Mucha, and Justices, JUDr. Pavel Holländer and JUDr. Jan Musil, in the matter of the constitutional complaint of A. W. . . . against the 19 February 2004 judgment of the Supreme Administrative Court, case no. 3 Ads 2/2003-60, rejecting on the merits the cassational complaint in the matter of the petition seeking the recognition of an „equalization adjustment“ in the context of social security, has decided, as follows:

The 19 February 2004 judgment of the Supreme Administrative Court, case no. 3 Ads 2/2003-60, is hereby quashed.

REASONING

I.

In a timely submitted constitutional complaint which contained no defects in respect of the other statutorily prescribed formal requirements, the complainant sought the annulment of the 19 February 2004 judgment of the Supreme Administrative Court, file no. 3 Ads 2/2003-60.

From the content of the file designated by the ordinary court as file no. 3 Ads 2/2003, as well as from the constitutional complaint, the following was ascertained:

In the above-mentioned judgment, the Supreme Administrative Court rejected on the merits the complainant’s cassational complaint against the 21 November 2001 judgment of the High Court in Olomouc, case no. 2 Cao 140/2001-38, which had, in her appeal, affirmed the 3 April 2001 judgment of the Regional Court in Ostrava, case no. 38 Ca 97/2000-24, which, in the complainant’s remedial action against the 10 April 2000 decision by the Czech Social Security Administration, No. 435 729 154, upheld that decision. That latter decision had turned down the complainant’s request to be granted an „equalizing adjustment“, amounting to the difference between the old-age pension to which she would be entitled under the law of the Czech Republic, the state of which she is a citizen and where she has permanent residence, and the old-age pension paid by the Slovak Social

Insurance Company pursuant to the Treaty on Social Security concluded between the Czech Republic and the Slovak Republic (published as No. 228/1993 Sb., hereinafter the „Treaty").

In the reasoning of its judgment, the Supreme Administrative Court stated that, with reference to Art. 20 of the Treaty, the cassational complaint could not be granted, for that article provides that the pension time earned prior to the dissolution of the Czech and Slovak Federative Republic is considered as pension time of that state party on whose territory the employer had its headquarters on the day of the dissolution of the Czech and Slovak Federative Republic or most recently prior to that day. On the basis of this construction of the legal rule, in conjunction with Art. 11 paras. 1, 2 of the Treaty, the party to the proceeding noted that in the given case, the fact that the state (Czech Republic) concluded an agreement on social insurance with another state is not to the detriment of the complainant's pension claims and does not curtail her statutory rights under Czech law. It stated that the complainant thus acquired, in the sense of Art. 20 of the Treaty, insurance time in its entirety in the Slovak Republic and her claim to pension thus arose in the Slovak Republic, taking into account the insurance periods acquired in that state. As regards, then, the complainant's request for an "equalizing adjustment", she could not be granted one, as there is no basis, either in statute or in the international agreement, to accord her one. In connection therewith, the Supreme Administrative Court also did not credit the complainant's objection, according to which she acquired the insurance periods in the common state, that is, first the unitary and subsequently federal republic.

In her constitutional complaint, the complainant emphasized that, in the years 1957-1992, her old-age pension had been insured in accordance with laws falling within the competence of the Czechoslovak Republic (from 1960 the Czechoslovak Socialist Republic, then the Czech and Slovak Federal Republic), and not on the basis of the national laws of the Czech or the Slovak republics, in which she accumulated only five years of insurance coverage. She objects that she did not pay contributions to any Slovak old-age pension fund towards her future „Slovak pension", rather she made payments into the budget of the unitary, and subsequently the federal, state. Had it not been for the Treaty, she would have become entitled to an old-age pension under the laws of the Czech Republic on 29 July 1999, when she reached the prescribed pension age (Act No. 155/1995 Sb., on Old-Age Pension Insurance). In this way, the Treaty works to her detriment in relation to pension claims and curtails her legal rights under Czech law. She considers the criteria chosen in Art. 20 of the Treaty to be absurd.

The complainant agrees that the „equalization adjustment" is not some special benefit of the old-age pension system. In her view, however, the recognition of it follows from a consistent application of the principle that citizens should not be harmed by the conclusion of treaties on social matters. She is of the view that she must be ensured at least such level of pension as that to which, but for the Treaty, she would have been entitled under the laws of the State in which since 1997 she has held permanent residence, for she has fulfilled all the conditions laid down in the Czech Republic for the claim to a pension that

is higher than that for which she qualified in the Slovak Republic.

The complainant concluded the detailed and particularized objections by stating that the Supreme Administrative Court thus denied her the right, guaranteed by domestic law enactments, to old-age security, which, according to the Act on Old-Age Pensions, must be commensurate only to the acquired periods of employment (insurance) and actually acquired income, but may not be reduced due to the fact that the Czech Republic concluded a social agreement with another state. She is of the view that the mentioned approach resulted in a violation of the principle of legal certainty, also in discrimination against her and in unequal treatment in comparison with other citizens, for she was demonstrably employed in the former Czechoslovakia and, under its laws, she was justified in expecting that the claims, resulting from this fact, for future old-age security was guaranteed to her by the state in which she permanently resided and which is a successor to „Czechoslovakia“. In substance she objects to a violation of the constitutional guarantees flowing from Art. 1 para. 1 of the Constitution of the Czech Republic (hereinafter „Constitution“) and from Art. 1, Art. 3 para. 1, and Art. 30 para. 1 of the Charter of Fundamental Rights and Basic Freedoms (hereinafter „Charter“). In support of her arguments, she refers also to the conclusions explicated in Constitutional Court judgment no. II. ÚS 405/02.

At the Constitutional Court’s request, pursuant to § 42 para. 4 and § 76 par. 2 of Act No. 182/1993 Sb., as amended, on 8 June 2004 the Supreme Administrative Court in Brno expressed its views on the constitutional complaint at issue, in which the panel chairwoman recapitulated the conclusions stated in the contested decision, which she considers fair and correct. In her statement of views, meanwhile, the panel chairperson in no way reacted to the reference to Constitutional Court judgment II. ÚS 405/02. She is convinced that the decision issued by the Supreme Administrative Court was not in conflict with the fundamental rights of the law-based state and proposed that the Constitutional Court reject the constitutional complaint on the merits.

At the Constitutional Court’s request, pursuant to § 42 para. 4 and § 76 par. 2 of Act No. 182/1993 Sb., as amended, on 7 January 2005 the Czech Social Security Administration also submitted its views on the constitutional complaint. It stated that the Treaty at issue is a treaty under Art. 10 of the Constitution and that, by the Czech Republic’s accession to the European Community, the mutual relations between the Czech Republic and the Slovak Republic are governed by a basic enactment on the coordination of the systems of social security, which is Council Regulation (EEC) 1408/71, while Art. 20 of the Treaty was incorporated into Annex III of the Regulation and is a part of the Treaty on the Accession to the European Community. The secondary party further states that the Regulation takes precedence not only over national statutes but also over international agreements (Art. 6) with the exception of the provisions of agreements which are expressly listed in Annex III to Regulation (EEC) 1408/71. It further makes reference to unspecified decisions of the European Court of Justice, according to which provisions of treaties in the mentioned Annex take precedence over provisions of the Regulation, from which it inferred that Art. 20 of the Treaty must thus be applied when deciding on pensions in cases to which it

applies. If Art. 50 of the Regulation contains the institute of equalization, then, according to the legal opinion expressed in the statement of views of the Czech Social Security Administration, it does not apply to this case: „According to the European Court of Justice this Article must be interpreted such the overall amount of the pension drawn by persons in their state of residence may not be lower than the minimum amount of pension provided for in these legal enactment“, while „to equalize the sum of the Czech and Slovak pension paid out to persons with residence in the Czech Republic with the theoretical amount to which he would be entitled if all periods of insurance were assessed in accordance with Czech legal enactments, that would be in conflict with the conclusions of the European Court of Justice“

In terms of constitutional law, the secondary party refers to Art. 41 in conjunction with Art. 30 para. 1 of the Charter and observes that Constitutional Court judgment no. II. ÚS 405/02 „relates to the resolution of a specific pension matter and does not contain a comprehensive proposition of law, as to how to proceed when applying the Convention in other cases.“

On the basis of the mentioned grounds, the secondary parties expressed in their statement of views its conviction that the Supreme Administrative Court had not erred when decided on the matter at hand.

Under § 44 para. 2 of Act No. 182/1993 Sb., as amended, the Constitutional Court may, with the consent of the parties, dispense with an oral hearing, if no further clarification of the matter can be expected therefrom. Both parties, namely, the complainant in her 20 December 2004 submission and the party to the proceeding in its 23 December 2004 memorandum consented to dispensing with an oral hearing. Despite an explicit request from the Constitutional Court (file for case no. III. ÚS 252/04, no. l. 12), the secondary party did not give its views on dispensing with an oral hearing (§ 63 of Act No. 182/1993 Sb. in conjunction with § 101 para. 4 of the Civil Procedure Code). In view of the explicit, as well the presumed, consent to dispensing with an oral hearing, also in view of the fact that the Constitutional Court is of the view that further clarification of the matter cannot be expected from a hearing, the oral hearing was dispensed with in this matter.

II.

The Constitutional Court is not at the summit of the system of ordinary courts and, in principle, is not empowered, without more, to intervene into those courts‘ decision-making, neither to interpret legal enactments, which as a rule falls entirely and above-all primarily within their exclusive jurisdiction. This maxim gives way only in the case that those courts have overstepped the bounds of the framework of the constitutionally guaranteed basic human rights [Art. 83, Art. 87 para. 1, lit. d) of the Constitution], to the extent that it would be to the complainant’s detriment, through even an extreme interpretation that does not conform to the legal order as a meaningful unit, thus

discordant with the safeguards flowing from the Fifth Chapter of the Charter.

It is not the main mission of the Constitutional Court to interpret legal enactments in the area of public administration, rather ex constitutione to protect the rights and freedoms guaranteed in the constitutional order. In contrast thereto, as far as concerns the interpretation of ordinary law, it is precisely the Supreme Administrative Court which is the body competent to unify the case-law of administrative courts, for which purpose a mechanism is prescribed in § 12 of the Administrative Court Procedure Code (hereinafter „ACPC"), alternatively in § 17 and following of the ACPC. Naturally, in exercising this jurisdiction, this public authority is also obliged, first and foremost, to interpret the particular provisions of ordinary law always in light of the purpose and significance of the protection of constitutionally guaranteed fundamental rights and basic freedoms (compare judgments nos. III. ÚS 139/98, III. ÚS 257/98, I. ÚS 315/99, II. ÚS 369/01, II. ÚS 523/02, III. ÚS 26/03, and others). Expressed in other terms, by this means it is not in any sense released from the imperative flowing from Art. 4 of the Constitution, as the protection of constitutionalism in a democratic, law-based state is not, and cannot be, solely the duty of the Constitutional Court, rather it must be the duty of the entire judiciary. In this context, it is within the constitutional judiciary's possibilities to stress the most important issues, alternatively to rectify the most extreme excesses.

In terms of the ordinary law that applies to the matter at hand and that is relevant for its constitutional assessment, it was necessary to consider the issue whether or not the Supreme Administrative Court, by concurring with the application to this case of Art. 11 paras. 1, 2 in conjunction with Art. 20 of the Treaty between the Czech Republic and the Slovak Republic on Social Security, encroached upon the complainant's rights protected by the constitutional order. The Constitutional Court has established such unjustified encroachment upon the complainant's fundamental rights did occur, which conclusion is in no respect modified by the consequences flowing for ordinary courts from Art. 95 para. 1 of the Constitution.

As early as its judgment, no. Pl. ÚS 31/94, the Constitutional Court declared its acceptance of the internationally recognized principle that the ratification of international agreements does not affect the more favorable rights, protections, and conditions that are provided for under, and guaranteed by, the domestic legislation.

Further, in its judgment no. II. ÚS 405/02 (published in The Constitutional Court of the Czech Republic: Collection of Decisions and Rulings – Volume 30, Issue 1, Prague, C. H. Beck 2003), the Constitutional Court declared the following, within the ambit of the supporting grounds of decision generally applicable to the issue before it: „The Czech and Slovak Republics came into being on 1 January 1993 with the dissolution of the common Czechoslovak state. That common state had a unitary system of old-age pensions so that, according to the law then in effect, it was entirely irrelevant in which part of the Czechoslovak state the citizen was employed, or where the employer had its headquarters. Art. 1 of Constitutional Act of the Czech National Council, No. 4/1993 Coll., on Measures connected with the Dissolution of the Czech and Slovak Federal Republic,

effected the reception of the legal order of the Czech and Slovak Federal Republic (hereinafter „CSFR") into Czech law in such a way that constitutional acts, statutes and other legal enactments of the CSFR valid and in effect in the Czech Republic on the day the CSFR was dissolved remained in effect. Thus, the Czech Republic accepted, on the constitutional plane, the principle of the continuity of the legal order. The mentioned constitutional act of the Czech National Council forms a part of the constitutional order of the Czech Republic, in the sense of Art. 112 para. 1 of the Constitution. Therefore, the period of employment for an employer with its headquarters in the Slovak part of the Czechoslovak state cannot be deemed ‚employment abroad'. In light of the above-stated reasons, the Constitutional Court considers discriminatory, as not resting on ‚objective' and ‚reasonable' grounds, such a distinction between citizens of the Czech Republic which is based on the fiction according to which employment in the Slovak Republic of the then common Czechoslovak state (or the employer's headquarters) is deemed ‚employment abroad'."

At the same time, the Constitutional Court also made reference in this judgment to the fact that „the bilateral social security convention with the Slovak Republic intrudes upon legal relations which arose and continued in being during the existence of the previous common state, at a time when Czechoslovak law, which was subsequently received into Czech law, was still in effect." It emphasized that „the Czech Republic's international obligations towards the Slovak Republic, the effects of which extend back into the past and into the legal relations of their citizens, which arose and developed within Czechoslovakia and the Czechoslovak legal order, must respect certain constitutional limits."

In this context and in view of the case it was then adjudicating, it accented the fact that, „while the common Czechoslovak state was still in existence, the complainant fulfilled the condition of a minimal number of years of insurance coverage required by § 31 para. 1 of Act No. 155/1995 Coll." and added that „the application of an international treaty on the basis of § 61 of the same statute cannot lead to the situation where the fulfillment of these conditions is retroactively negated. That would conflict with the principle of legal certainty and of the foreseeability of law, which form the very foundations of the concept of the law-based state."

Without the Constitutional Court in any way anticipating whether, as far as the merits of the matter are concerned, the complainant fulfills all requirements to qualify for an old-age pension under Czech legal enactments, the above-explicated conclusions also apply analogously to the full extent to the presently adjudicated case.

The Constitutional Court merely recalls and reiterates that the tenor of its judgment no. II. ÚS 405/02 rests on respect for the constitutional principle of equality, that is, the exclusion of unjustified inequality, in the given case among citizens of the Czech Republic. In a case in which a special incorporation clause, contained in § 61 of Act No. 155/1995 Coll., establishes the priority of a treaty over domestic law, where the application of law is governed by the interpretive principle, lex specialis derogat legi generali, since the

Constitutional Court is not endowed with competence to review the constitutionality of ratified international agreements, this interpretive principle that specific rules take precedence over general ones must yield to the constitutional principle affecting the application and interpretation of the relevant ordinary law, that is, the principle that such law be interpreted and applied in a constitutionally conforming manner. In the matter under consideration, the constitutional requirement at issue is the fundamental right flowing from the constitutional principle of the equality of citizens and the exclusion any unjustified legal distinctions drawn between them.

To the extent that the Supreme Administrative Court failed in its judgment to reflect the constitutional interpretation set out in a Constitutional Court judgment, it violated the maxim arising from the sense and purpose of an effective and meaningful concentrated (specialized) constitutional judiciary, which has a considerable function in unifying the jurisprudence in the area of constitutionally protected guarantees (the Constitutional Court itself may depart from a proposition of law declared in one of its judgments solely by means of the procedure initiated pursuant to § 23 of Act No. 182/1993 Sb), the maxim flowing from Art. 89 para. 2 of the Constitution, according to which enforceable decisions of the Constitutional Court are binding on all authorities and persons. The failure on the part of a public authority to respect the proposition of law announced by the Constitutional Court in one of its judgments amounts, in addition, to a violation of the principle of equality, and also offends against citizens' legal certainty (judgments Nos. II. ÚS 76/95, I. ÚS 70/96, III. ÚS 127/96, III. ÚS 187/98, III. ÚS 206/98, III. ÚS 648/2000 and others). The stated admonition is also relevant for the position of the secondary party. From Art. 89 para. 2 of the Constitution also flows the maxim that arbitrary interpretations of Constitutional Court judgments are prohibited. This maxim applies fully to the legal opinion of the Czech Social Security Administration contained in its pleading on the matter at issue and relating to the relevance and legal content of Constitutional Court Judgment No. II. ÚS 405/02.

As a general matter, it can be stated of the binding nature of judicial case-law that a previously made interpretation should be the starting point for decision-making in subsequent cases of the same type, unless in a later case the deciding court finds sufficiently relevant reasons grounded on rational and persuasive arguments which in their totality more nearly conform to the legal order as a meaningful whole and thus speak for a change in the case-law. This requirement results from the postulate of legal certainty, predictability of the law, the protection of justified reliance on the law (of legitimate expectations), and the principle of formal justice (equality).

Among the attributes of a law-based state is ranked the principle of legal certainty and the further principle flowing therefrom of the protection of justified reliance on law, which as an attribute and precondition of the law-based state in itself implies above all the effective protection of rights of all legal subjects in like cases in the same manner and predictability in the way the state and its organs proceeds.

It does not follow from the postulate of justified reliance in a given legal order and in the fact that public authorities will take an identical approach to factually and legally identical cases, where the subjects of rights hold the legitimate expectation that they will not be disappointed in their reliance, that the interpretation and application of law must be absolutely immutable, rather that, in respect of the specific circumstances of a case, such as objective development of societal conditions affecting the given factual situation (file no. IV. ÚS 200/96), any such change be foreseeable or, should it not be foreseeable at the time it is accomplished, that the change in interpretation be transparently substantiated and rest upon acceptable rational and objective grounds which naturally must also be responsive to the legal conclusion in the previous decisional practice regarding the asserted legal issue in question (file no. III. ÚS 470/97). Solely a thought process that is transparently explicated in this way, warranting an independent court or judge in electing a divergent approach, excludes arbitrariness in the application of law, within the limits of the humanly possible.

However, the Supreme Administrative Court judgment contested in the constitutional complaint lacks any sort of constitutional argumentation, much less one that could at least persuasively compete with the generally applicable thesis explicated in judgment no. II. ÚS 405/02. In this context, the Constitutional Court adds that it had not overlooked the proposition of law explicated in the 6 November 2003 judgment of the Supreme Administrative Court, no. Ads 15/2003-39 (published as no. 230 in the Collection of Decisions of the Supreme Administrative Court, No. 6/2004). In this decision, the Court distinguished the cases on the grounds that the facts in Constitutional Court judgment no. II. ÚS 405/02 concerned „a claim to early retirement pension, which does not exist in Slovak law“. Lastly, it must be noted that not even in this judgment did the Supreme Administrative Court respect the ratio decidendi , that is, explicated and applied supporting legal rule (grounds of decision) upon which the statement of judgment rested in the case in question.

To the extent that the secondary party advances an argument, in its statement of views, in reference to Council Regulation (EEC) 1408/71, such reference can only be designated as inapposite and inappropriate. Pursuant to Art. 7 para. 2, lit. c) of the Regulation, as amended and supplemented, „this Regulation does not affect the obligations resulting from the provisions of the social security conventions listed in Annex II" (not Annex III, which corresponds to the already amended version). It follows from the mentioned provisions that the relevant European law does not affect the problems associated with the evaluation of claims to social security of citizens of the Czech Republic whose employer, prior to 31 December 1992, had its headquarters in the Slovak Republic, then a part of the Czech and Slovak Federative Republic. This conclusion results without more from Art. 2 of the Regulation, which defines the class of persons to whom the Regulation relates.

Finally and merely as an obiter dictum in relation to the complainant's case, the Constitutional Court considers it appropriate to state that to the extent that a citizen fulfills all statutory conditions for the right to a pension to come into being, even without the existence of the Treaty, and that right would be higher than the right pursuant to the

Treaty, it is up to the carrier of Czech pension insurance to ensure that a pensioner draws a payment in an amount corresponding to the higher claim pursuant to the domestic laws and to decide that the amount of pension drawn from the other party to the Treaty be brought up to the level of pension claimable pursuant to Czech laws. At the same time it will bear in mind the amount of pension drawn in conformity with the Treaty from the other party to the Treaty such that it does not result in duplicitous drawing of two pensions of the same type granted for the same reasons from two different insurance carriers (similarly see the 5 September 1997 judgment of the High Court in Prague, file no. 3 Cao 12/96, published in Law and Employment [Právo a zaměstnání] No. 7-8/1998, Supplement, pp. III-VI). This approach to the problem corresponds to the general conception of justice that results from the substantive conception of the law-based state.

On a general plane in the context of the matter before it, the Constitutional Court draws attention to two further circumstances.
In assessing applications for the conferral of Czech citizenship, it is the duty of the competent state body – the Ministry of the Interior – to ascertain any possible economic grounds motivating that application, and „the conferral of citizenship at the request of a citizen of a foreign state is an expression of unrestrained state sovereignty, it takes place in a sphere of absolute discretion“ (the 29 December 1997 ruling of the High Court in Prague, case no. 6 A 77/99).

If Act No. 155/1995 Coll., as amended, allows for the assertion of claims arising under its terms without regard to citizenship, that is, linked to permanent residence, then from the perspective of constitutional law protection, the Constitutional Court considers as untenable inequality linked solely with a distinction between citizens of the Czech Republic in their social security claims not, however, in connection with further classes of natural persons.

For the above-stated reasons, that is, in view of the violation of Art. 1 para. 1 and Art. 89 para. 2 of the Constitution, and of Art. 1 and Art. 3 para. 1, in conjunction with Art. 30 para. 1, as well as Art. 36 para. 1, of the Charter, the Constitutional Court has quashed the 19 February 2004 judgment of the Supreme Administrative Court, case no. 3 Ads 2/2003-60 [§ 82 para. 1, para. 2 lit. a), and para. 3 lit. a) of Act No. 182/1993 Sb., as amended].

Notice: Decisions of the Constitutional Court cannot be appealed.

Brno, 25 January 2005