





# YEARBOOK OF THE CONSTITUTIONAL COURT OF THE CZECH REPUBLIC 2023





CONSTITUTIONAL COURT  
OF THE CZECH REPUBLIC

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# YEARBOOK OF THE CONSTITUTIONAL COURT OF THE CZECH REPUBLIC 2023

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# FOREWORD FROM THE PRESIDENT

*Last year marked the 30th anniversary of the establishment of the Constitutional Court of the Czech Republic. I am pleased to see that over the past three decades, it has earned a reputation as an independent and respected institution, despite facing numerous challenges. These included grappling with the state's communist past, transforming the country's legal and institutional landscape, navigating restitution and privatisation or weathering health crisis during the recent pandemic. I believe the Constitutional Court has proven resilient through these tests of time.*

*Being resilient, however, does not always mean being popular. In cases where rights collide, or two parties or values protected by the constitution conflict, it falls to the Constitutional Court to make definitive rulings on what is in accordance with the constitution and what is not, irrespective of popularity or any external interests. To maintain its credibility, the Court must stand as a paragon of independence, impartiality, and unwavering dedication to its constitutional duty: the protection of constitutionality and fundamental rights.*

*Since last August, I have had the honour of heading the Constitutional Court. I have pledged to uphold the values and principles laid down by my predecessors. Furthermore, I aim to make the Court more open and accessible. Our decisions must be clear and well-articulated, as transparency is fundamental to securing public trust. Without this trust, our work would be meaningless.*

*This Yearbook provides insight into our work and efforts over the past year.*

*I hope you enjoy reading the book.*

*Josef Baxa*





01

# ABOUT THE CONSTITUTIONAL COURT







*Photo of the building  
upon its completion 1878*

## HISTORICAL OVERVIEW

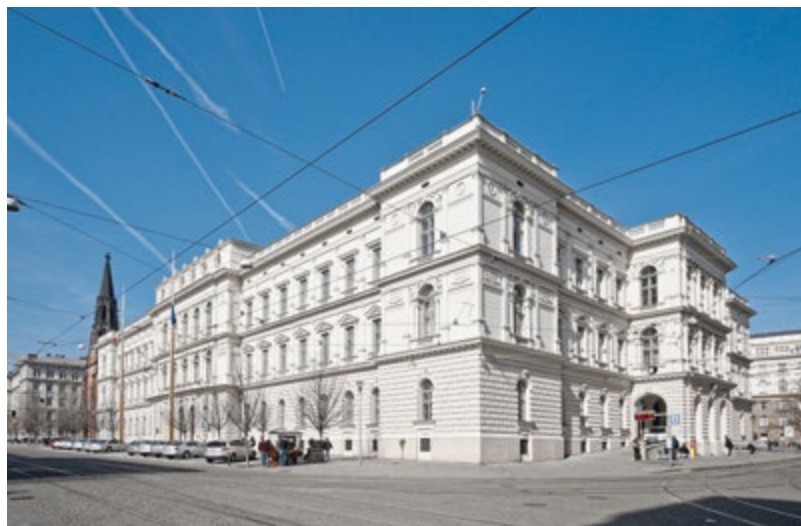
The roots of constitutional judiciary on Czech soil trace back to just after the formation of Czechoslovakia. A specialised judicial body, the world's first to bear the name "Constitutional Court," was established by the Constitution of 1920. Its primary role was to review the constitutionality of laws.

While the Czechoslovak Constitutional Court's impact on the legal-political framework was minimal, its significance is better appreciated in the historical legacy that its successors have built on since the fall of totalitarianism in 1989.

Post-1948 and 1960 Constitutions did not envisage a constitutional court, for reasons that were quite clear at the time. An unusual situation arose after the country was federalised in 1968, with plans for a federal constitutional court as well as constitutional courts

for both national republics. Nonetheless, these courts were never created.

It was only after the collapse of the communist regime that a genuinely operating Constitutional Court of the Czech and Slovak Federal Republic was established pursuant to the Federal Constitutional Act of February 1991. Though short-lived, this body reviewed over a thousand cases, laying a foundation for the work of the Constitutional Court of the now independent Czech Republic, which began its operations on 15 July 1993.



*... the same view  
of the building from  
2019*

## PRESENT DAY

The Constitutional Court is the judicial body responsible for the protection of constitutionality. Its role and jurisdiction are defined directly in the Constitution. Despite being termed a court, it operates outside the general court system.

Its mission is to safeguard constitutional principles, fundamental rights and freedoms, and to guarantee the constitutional character of the exercise of state power. Among its most noticeable responsibilities are to adjudicate on the constitutionality of laws and other legal provisions, and to address constitutional complaints against final decisions or actions of public authorities that infringe on constitutionally protected rights and freedoms.

While the first constitutional court in Europe had a mere two powers (both related to the review of legal norms), modern constitutional courts possess a much broader array of powers. The Constitutional Court of the Czech Republic has a total of 14 different competences, although most of them are used rather infrequently, and are de facto "sleeping competences".

An overwhelming majority of all proceedings before the Constitutional Court are proceedings on constitutional complaints (over 95%), and the other significant group is proceedings examining the constitutionality of legal norms.

The activities of the Constitutional Court are governed by a number of legal regulations. In addition to constitutional laws and law regulating, to a greater or lesser extent, the actual proceeding before the Constitutional Court, there are a host of laws and decrees providing for the operations of the Constitutional Court, as is the case with any other public authority. As already mentioned, the Constitutional Court is a judicial body for the protection of constitutionality. However, in addition to the Constitution of the Czech Republic proper, the constitution includes, in a broader sense,

other constitutional laws, in particular the Charter of Fundamental Rights and Freedoms.

The Czech constitution further includes:

- Constitutional Act No. 1/1993 Sb., on the Creation of Higher Territorial Self-Governing Units,
- Constitutional Act on the Security of the Czech Republic,
- Constitutional Act on the Referendum on the Czech Republic's Accession to the European Union,
- other constitutional acts adopted pursuant to the Constitution of the Czech Republic,
- constitutional acts relating to the break-up of Czechoslovakia and the establishment of the Czech Republic as a new successor state,
- constitutional acts delineating the Czech Republic's borders with neighbouring states.

The sum of constitutional acts, i.e., the constitution in a broader sense, is thus collectively referred to as the Constitutional Order of the Czech Republic. Apart from the constitutional order, the Constitutional Court also applies ratified and promulgated international treaties on human rights and fundamental freedoms as a reference criterion.

The actual proceeding before the Constitutional Court is governed by Act No. 182/1993 Sb., on the Constitutional Court. This particular act stipulates who and on what terms is entitled to file a motion for the initiation of proceedings, and sets forth other rules of proceedings before the Constitutional Court. The provisions of the Rules of Civil Procedure, and in special cases, also the provisions of the Criminal Justice Code relating to court proceedings, apply in proceedings before the Constitutional Court *mutatis mutandis*.



The Constitutional Court has jurisdiction (pursuant to Article 87 (1) and (2) of the Constitution):

- to abrogate statutes or individual provisions thereof if they are in conflict with the constitutional order;
- to abrogate other legal norms or individual provisions thereof if they are in conflict with the constitutional order or a statute;
- over constitutional complaints made by the representative body of a self-governing region against unlawful encroachment by the state;
- to decide jurisdictional disputes between state bodies, state bodies and bodies of self-governing regions, and between bodies of self-governing regions, unless that power is vested by statute in another body;
- over constitutional complaints of natural or legal persons against final decisions or other encroachments by public authorities infringing on constitutionally guaranteed fundamental rights and basic freedoms;
- over remedial actions against decisions concerning the certification of the election of a Deputy or Senator;
- to resolve doubts concerning a Deputy or Senator's loss of eligibility for office or incompatibility under Article 25 of some other position or activity with holding the office of Deputy or Senator;
- over a constitutional charge brought by the Senate against the President of the Republic pursuant to Article 65 (2);
- to decide on a petition by the President of the Republic seeking the revocation of a joint resolution of the Assembly of Deputies and the Senate pursuant to Article 66;

- to decide on the measures necessary to implement a decision of an international tribunal which is binding on the Czech Republic, in the event that it cannot be otherwise implemented;
- to determine whether a decision to dissolve a political party or other decisions relating to the activities of a political party is in conformity with constitutional acts or other laws; and
- to decide on the conformity with the constitutional order of a treaty under Article 10a or Article 49, prior to the ratification of such treaty.

The Constitutional Act on the Referendum on the Czech Republic's Accession to the European Union (No. 515/2002 Sb.) entrusted two further powers to the Constitutional Court, which, in view of the results of the actual referendum held in 2002, are no longer applicable [the jurisdiction stipulated in Article 87 (1) l) and m) has been formally repealed by Constitutional Amendment No. 71/2012 Sb.], namely:

- to make decisions on remedial actions against a decision of the President of the Republic declining to call a referendum on the Czech Republic's accession to the European Union; and
- to determine whether the manner in which the referendum on the Czech Republic's accession to the European Union was held is in harmony with Constitutional Act No. 515/2002 Sb., and with the statute issued in implementation thereof.

The Court cannot initiate proceedings autonomously; it acts solely upon requests from petitioners.





02

# JUSTICES OF THE CONSTITUTIONAL COURT







**Milada TOMKOVÁ**

Vice-president of the Constitutional Court  
(from 3 May 2013 to 3 May 2023)



**Jaroslav FENYK**

Vice-president of the Constitutional Court  
(from 7 August 2013 to 3 May 2023),  
Justice of the Constitutional Court  
(from 3 May 2013 to 3 May 2023)



**Jan FILIP**

Justice of the Constitutional Court  
(from 3 May 2013 to 3 May 2023)



**Vladimír SLÁDEČEK**

Justice of the Constitutional Court  
(from 4 June 2013 to 4 June 2023)



**Pavel RYCHETSKÝ**

President of the Constitutional Court  
(from 6 August 2003 to 7 August 2023)



**Ludvík DAVID**

Justice of the Constitutional Court  
(from 7 August 2013 to 7 August 2023)



**Radovan SUCHÁNEK**

Justice of the Constitutional Court  
(from 26 November 2013  
to 26 November 2023)



**Jiří ZEMÁNEK**

Justice of the Constitutional Court  
(since 20 January 2014)



**Vojtěch ŠIMÍČEK**

Vice-president of the Constitutional Court  
(since 4 May 2023),  
Justice of the Constitutional Court  
(since 12 June 2014)



**Tomáš LICHOVNÍK**

Justice of the Constitutional Court  
(since 19 June 2014)





**David UHLÍŘ**

Justice of the Constitutional Court  
(since 10 December 2014)



**Jaromír JIRSA**

Justice of the Constitutional Court  
(since 7 October 2015)



**Josef FIALA**

Justice of the Constitutional Court  
(since 17 December 2015)



**Jan SVATOŇ**

Justice of the Constitutional Court  
(since 15 February 2023)



**Pavel ŠÁMAL**

Justice of the Constitutional Court  
(since 20 February 2020)



**Josef BAXA**

President of the Constitutional Court  
(since 8 August 2023),  
Justice of the Constitutional Court  
(since 5 June 2023)



**Jan WINTR**

Justice of the Constitutional Court  
(since 5 June 2023)



**Kateřina RONOVSKÁ**

Vice-president of the  
Constitutional Court  
(since 4 August 2023)



**Veronika KŘEŠŤANOVÁ**

Justice of the Constitutional Court  
(since 8 August 2023)



**Zdeněk KÜHN**

Justice of the Constitutional Court  
(since 19 December 2023)



**Daniela ZEMANOVÁ**

Justice of the Constitutional Court  
(since 5 June 2023)



**Lucie DOLANSKÁ  
BÁNYAIOVÁ**

Justice of the Constitutional Court  
(since 19 December 2023)

# APPOINTMENT OF JUSTICES AND CHANGES IN THE COMPOSITION OF THE CONSTITUTIONAL COURT IN 2023

A citizen of the Czech Republic is eligible for appointment as a Justice of the Constitutional Court provided that (s)he has reached at least 40 years of age, has an university degree in law and has been active in a legal profession for at least ten years.

The office of Justice of the Constitutional Court is incompatible with the office of President of the Republic, member of Parliament or other office in public administration or any other paid office or profitable activity (other than scientific, teaching or artistic one). Moreover, a Justice of the Constitutional Court may not be member of any political party or political movement.

The Constitutional Court and its Justices have immunity ensuring their independence. A Justice of the Constitutional Court cannot be criminally prosecuted without the approval of the upper chamber of the Parliament and may be arrested only if caught committing a crime or immediately afterwards.

According to the Constitution, the Justices of the Constitutional Court are appointed by the President of the Republic with the consent of the Senate of the Parliament of the Czech Republic. The President of the Republic selects a candidate whose name is then sent to the Senate with a request to express its consent to her/his appointment as a Justice of the Constitutional Court. Consent to the appointment is given if a simple majority of senators present vote in favour.

If the Senate grants consent, the President appoints the candidate as a Justice of the Constitutional Court, and the candidate thereby becomes a Justice of the Constitutional Court. The Justice's appointment becomes effective upon taking the oath of office prescribed by

the Constitution and administered by the President of the Republic.

The President and two Vice-Presidents of the Constitutional Court are also named by the President of the Republic, who chooses them from among the Justices of the Constitutional Court and does not need approval from any other body for their appointment.

The term of office of Justice of the Constitutional Court is ten years; however, the Constitution does not forbid repeated appointment and does not specify any upper age limit.

The year 2023 was extraordinary as the ten-year mandate of seven of the fifteen Justices expired.

The changing of the Constitutional Court's body of Justices began on 15 February when President Miloš Zeman appointed Jan Svatoň, ushering in what could be described as the Constitutional Court's fourth decade. On 3 May, the terms of office of

Vice-Presidents Milada Tomková and Jaroslav Fenyk, along with Justice Jan Filip, came to an end. The following day, President of the Republic Petr Pavel appointed Vojtěch Šimíček as Vice-President of the Constitutional Court. Justice Vladimír Sládeček's mandate expired on 4 June. On 5 June, President Petr Pavel appointed Josef Baxa, Jan Wintr, and Daniela Zemanová as Justices of the Constitutional Court. On 4 August, Kateřina Ronovská was named a Justice and simultaneously Vice-President of the Constitutional Court. That same day, effective from 8th August, Josef Baxa was appointed as the President of the Constitutional Court. The terms of office of Justice and President of the Constitutional Court, Pavel Rychetský, and Justice Ludvík David, concluded on 7 August 2023. Veronika Křesťanová took up her role as a Justice of the Constitutional Court on 8 August. Justice Radovan Suchánek's term of office ended on 26 November. The full complement of fifteen Justice was once again achieved on 19 December with the appointments of Lucie Dolanská Bányaiová and Zdeněk Kühn.

## JUSTICE'S OATH:

“ I pledge upon my honour and conscience that I will protect the inviolability of natural human rights and of the rights of citizens, adhere to constitutional acts, and make decisions according to my best convictions, independently and impartially. ”





*Jan Svatoň's appointment as  
a Justice of the Constitutional  
Court on 15 February 2023*



*Appointment of Justices  
of the Constitutional  
Court Josef Baxa, Jan  
Wintr and Daniela  
Zemanová  
on 5 June 2023*



*Appointment of Vojtěch  
Šimíček as Vice-President  
of the Constitutional Court  
on 4 May 2023*







*Veronika Křestánová's  
appointment as a Justice  
of the Constitutional Court  
on 8 August 2023*



*Appointment of Josef  
Baxa as the President  
of the Constitutional  
Court and Kateřina  
Ronovská as a Justice  
and Vice-President  
of the Constitutional  
Court on 4 August  
2023*



*Appointment of Justices  
of the Constitutional Court  
Lucie Dolanská Bányaiová  
and Zdeněk Kühn  
on 19 December 2023*





03

# STRUCTURE OF THE CONSTITUTIONAL COURT AND ORGANISATION OF WORK





# STRUCTURE OF THE CONSTITUTIONAL COURT AND ORGANISATION OF WORK

The Constitutional Court is comprised of fifteen Justices: President, two Vice-Presidents, and twelve other Justices. In the President's absence, the two Vice-Presidents act as his deputies, and with consent of the Plenum, the President may delegate some of his duties to them. The President of the Constitutional Court represents the Court vis-à-vis third parties, performs the Court's administrative work, convenes and chairs meetings of the Constitutional Court's Plenum, sets the agenda for the plenary meetings, appoints chairs of the Constitutional Court's panels, and performs other duties placed upon him by statute.



The Constitutional Court's internal structure is such that it has a Plenum, which comprises all Justices, and four three-member panels. The Act on the Constitutional Court lays down which matters are to be decided by the Plenum and which by the panels. The Justice Rapporteur, assigned to each matter of the Court's agenda, can also be considered as one of the Court's organisational components, as her/his task is to prepare the matter for deliberation, unless she/he finds that there are preliminary grounds for rejecting the petition.

Each Justice has three legal assistants who prepare the groundwork for decision-making, including decision drafts, as instructed by the Justice. The assistant is tied to the Justice to whom they are assigned.

The President of the Constitutional Court appoints a Secretary General, who oversees the activities of the court's judicial agendas section and the court's administration section. The judicial agendas section, directly subordinate to the Secretary General, is divided into analytics, judicial, and external relations and protocol departments. The Secretary General supervises the court's administration section through a director appointed by the President of the Constitutional

Court. This section includes human resources and legal department; information technologies department; construction and technical work department; and operations and economic activities department.

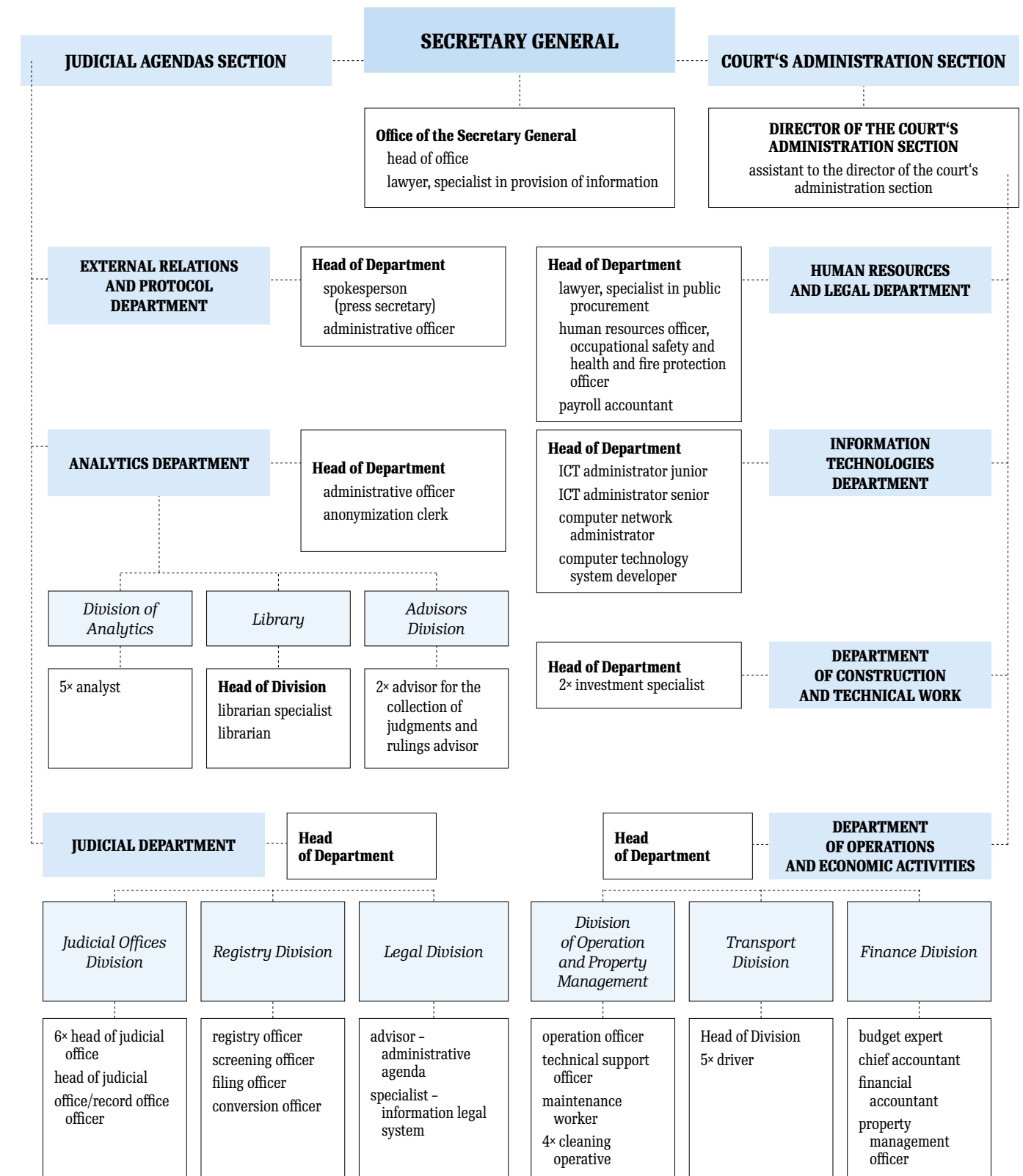
A petition to initiate proceedings before the Constitutional Court is allocated to one of the Justices according to a work schedule, making that Justice the Justice Rapporteur. The Justice Rapporteur gathers the necessary information for a decision and presents a proposal for a decision to her/his colleagues or in certain cases, decides to reject the petition to initiate proceedings herself/himself. The Constitutional Court makes its most significant decisions through the Plenum. These include, for instance, petitions to annul laws or other legal regulations, jurisdictional disputes, constitutional charges against the President of the Republic (impeachment), proposals for the Plenum to adopt a decision to overturn a legal opinion previously held by the Court, and other matters reserved for plenary decision-making. The majority of constitutional complaints and other petitions to initiate proceedings are definitively decided by three-member panels. Decisions of the Constitutional Court are final and cannot be appealed.







# ORGANIZATIONAL CHART









# STATISTICS

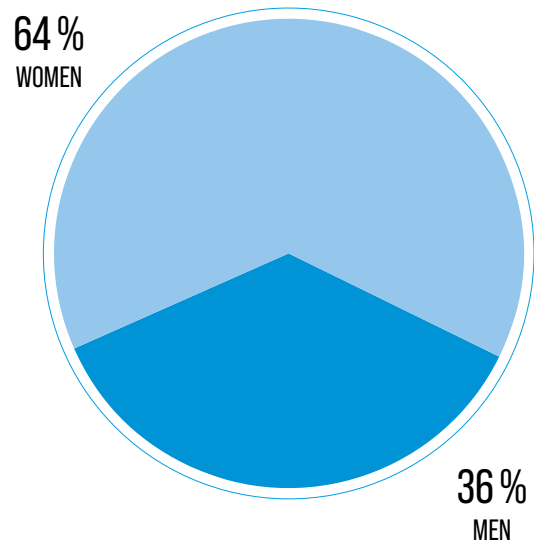
The Constitutional Court is allocated 129 positions, with the adjusted average number of employees reaching 119.77 and the recorded number of job positions 124.88 at the end of 2023. The number of actual employees (regardless of full-time equivalents or multiple job holdings) was 144, and the following charts are based on this indicator.

The total expenditure for the Constitutional Court in 2023 was approved at 241,412,885 CZK, with 241,844,101.77 CZK being expended by 31st December 2023.

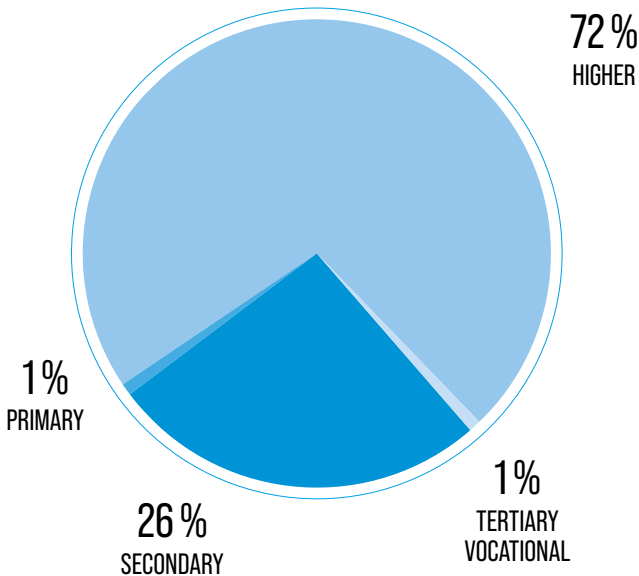
The budget structure is described in three expenditure groups: (1) funds for salaries and the Social and Cultural Needs Fund – SCNF (Justices and employees’

salaries, other personal expenses, severance payments, benefits, mandatory insurance paid by the employer, compensation, and the cultural and social needs fund); (2) operational funds (expenses for materials, water, fuels, energy, services, etc.); and (3) investment funds (capital expenses for acquiring long-term tangible and intangible assets).

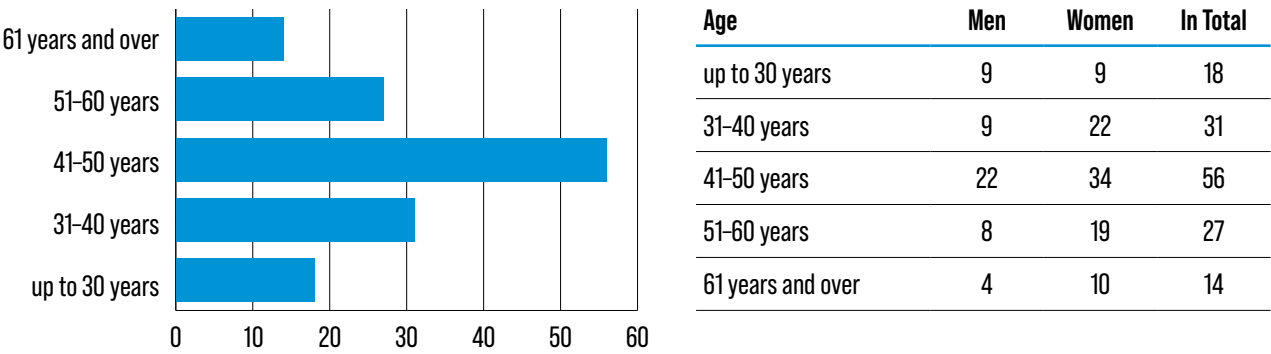
EMPLOYEES OF THE CONSTITUTIONAL COURT BY SEX



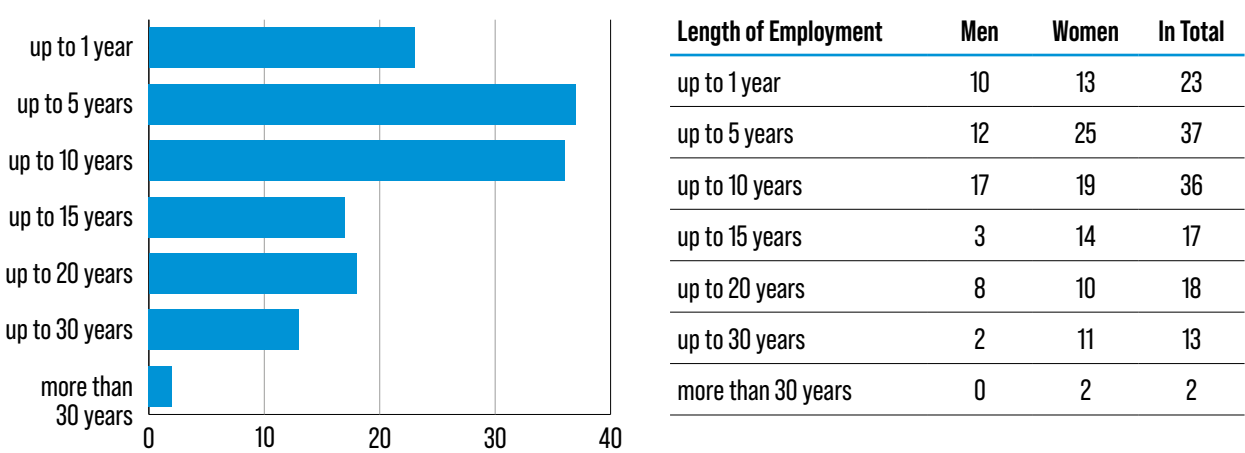
EMPLOYEES OF THE CONSTITUTIONAL COURT BY LEVEL OF EDUCATION ACHIEVED



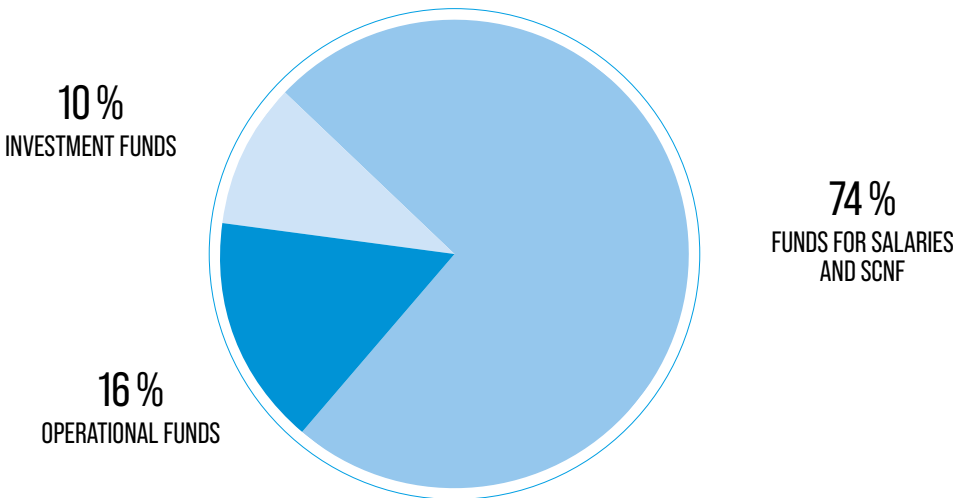
AGE STRUCTURE OF EMPLOYEES OF THE CONSTITUTIONAL COURT



EMPLOYEES BY LENGTH OF EMPLOYMENT AT THE CONSTITUTIONAL COURT



STRUCTURE OF THE CONSTITUTIONAL COURT BUDGET BY EXPENDITURE GROUPS (actual as of 31 December 2023)







04

# DECISION-MAKING IN 2023



# DECISION-MAKING IN 2023

The decision-making activity naturally differs every year according to matters the Constitutional Court is addressed with by the complainants. The decisions described below may thus follow up on case-law from the previous years but also reflect current trends and bring new topics and perspectives.

The present overview of case-law represents the most interesting matters the Constitutional Court dealt with in 2023. However, you can get a full picture only by looking up the decisions on the website of the Constitutional Court or in the Collection of Judgments and Resolutions (SbNU).

## FUNDAMENTAL CONSTITUTIONAL PRINCIPLES

### DEMOCRATIC STATE RESPECTING THE RULE OF LAW

The Czech Republic is defined as a democratic state respecting the rule of law in Art. 1(1) of the Constitution of the Czech Republic ("Constitution"). This article represents a general and introducing principle, connected to a number of sub-principles, of which some are regulated expressly at the constitutional level and some are inferred by the Constitutional Court's case-law. The provision in Art. 1(1) of the Constitution combines two principles in itself – the democratic and the rule of law principles. In the conditions of the Czech Republic, democratic principles are mixed with the requirements of constitutionalism, which has its main source in liberal political thinking of modern times. Therefore, it is agreed that no regime other than a democratic regime may be considered as legitimate [judgment file No Pl. ÚS 19/93 of 21 December 1993 (N 1/1 SbNU; 114/1994 Sb.)] and that it is necessary to

take into consideration the priority of a citizen over the state, and hence also the priority of fundamental civil and human rights and freedoms [judgment file No Pl. ÚS 43/93 of 12 April 1994 (N 16/1 SbNU 113; 91/1994 Sb.)]. Therefore, it is also necessary, as follows from judgment file No Pl. ÚS 29/11 of 21 February 2012 (N 34/64 SbNU 361; 147/2012 Sb.), to interpret our democracy in a substantial manner.

In the past year, the Constitutional Court dealt with a key principle of the rule of law, which is the separation of powers (on a horizontal level). In its judgment file No Pl. ÚS 22/22 of 9 May 2023 (160/2023 Sb.) the Plenum annulled the provisions regulating the remuneration of members of local government councils. The legal regulation that allowed the government to issue government regulations was considered ambiguous, enabling two different approaches. Given that the assessed laws (municipal constitution, regional constitution, and the Act on the capital city of Prague) lacked a mechanism for determining the remuneration of council members and for their increase, these remunerations could be set by the government either too low (disproportionately compared to other public officials) or too high, potentially "devastating" the budgets of territorial self-governing units.

### OBLIGATIONS ARISING FROM EU AND INTERNATIONAL LAW

The Constitutional Court typically had to address cases subsequently referred to the European Court of Human Rights (ECHR). Reflecting on 2023, the

outlook is positive, as the ECHR found Convention violations in only two cases – *V v. the Czech Republic* (No 26074/18) and *Janáček v. the Czech Republic* (No 9634/17). Implementing the judgment in the former might necessitate a thorough analysis and systemic changes in the care for mentally ill patients. Conversely, the *Janáček* judgment addressed the issue of the adversarial process before the Constitutional Court. Immediate internal corrective measures were adopted, hence such situations, where the applicant is not provided with the requested response from the opposing party, should not recur.

As in the previous year, the Constitutional Court dealt once again with a petition to **reopen proceedings after a decision of the ECHR**. In the case of *Pálka and others*, the issue concerned fair compensation for expropriated lands. After the ECHR's 2022 judgment, the Constitutional Court initially ruled in favour of the complainants, ordered a retrial, and annulled its own prior resolution. Subsequently, by judgment file No Pl. Pl. ÚS 20/22 of 4 April 2023, it granted the original constitutional complaint, overturning the decisions of the general courts, which now must re-examine the case anew.

In the last year, the Constitutional Court also delved into matters of **EU law**. For instance, in its judgment file No I. ÚS 1675/23 of 19 September 2023, it reaffirmed its case-law position that a general court infringes on a participant's right to a fair trial if it ignores their proposal to refer a preliminary question to the Court of Justice of the EU, or if it does consider the proposal, but the justification is flawed or arbitrary.

## FUNDAMENTAL RIGHTS AND FREEDOMS

### RIGHT TO LIFE

In recent years, one of the most important human rights, the right to life as guaranteed by Article 6 of the Charter of Fundamental Rights and Freedoms ("Charter"), has been a focal point of the Constitutional

Court's decision-making, especially regarding the duty to conduct effective investigation in cases where life is at risk. However, the past year took a different turn, with the Court delving into borderline cases related to life-and-death issues at the intersection of various rights. In its judgment file No III. ÚS 39/22 of 25 July 2023, the Court addressed compensation for a daughter following an accident that resulted in her mother's death. The Constitutional Court concluded that the complainant was entitled to a compensation for the period when her mother was in a vegetative state before her death.

In its judgment file No I. ÚS 1594/22 of 31 July 2023, the Constitutional Court examined the issue of a patient's previously expressed wish not to be resuscitated (do not resuscitate, DNR). Patients should be informed by doctors about the option to consent in advance to forego futile treatment when they are still capable of understanding the consequences of such a decision and can give truly free and informed consent. Although the attending physicians erred by issuing a unilateral DNR order without consulting the patient or her relatives, this did not mean they violated her right to life. Not prolonging the process of dying of a terminally ill patient cannot be equated with direct killing. Thus, the Constitutional Court dismissed the constitutional complaint filed by the relatives of the deceased patient.

### PROHIBITION OF TORTURE, PROTECTION OF PHYSICAL INTEGRITY

The inviolability of the person and their privacy, guaranteed by Article 7 of the Charter, includes issues of compensation for various types of suffering. In this context, in 2023, the Constitutional Court focused on compensations for other than proprietary harm to individuals harmed by criminal activities. In its judgment file No II. ÚS 297/22 of 26 June 2023, the Court concluded that the general court has a duty to strive for fulfilling the conditions for awarding damages already in the criminal (adhesion) proceedings, especially when the injured party is also a particularly vulnerable victim. In this case, the appellate court referred the minor victim of a racially motivated



crime to civil proceedings without adequate justification, leading the Constitutional Court to overturn this decision. In its judgment file No I. ÚS 1222/22 of 27 June 2023, the Court overturned an appellate court's decision that awarded a minor complainant minimal compensation for harm, referring her to civil proceedings for the remainder of her claim, despite there being no need for further evidence and the possibility for the court to decide on its own.

## PROTECTION AND GUARANTEES OF PERSONAL FREEDOM

Protection of personal freedom, one of the most important fundamental human rights, is enshrined in Article 8 of the Charter. This is reflected in a wide range of different personal freedom restrictions, such as detention (imposition of custody), sentence of imprisonment (custodial sentence), or deciding on detention of a foreigner national.

Last year, the Constitutional Court continued its previous extensive decision making activities related to this area.

In its judgments file Nos IV. ÚS 487/23 of 11 April 2023 and III. ÚS 630/23 of 9 May 2023 in a **detention case**, the Court criticised complaint courts for not waiting for the announced justification of the accused's blanket complaint on the grounds that the courts wanted to speed up the processing of criminal cases. In doing so, the courts violated accused's right to judicial protection, since this requirement is set precisely set to protect the person against whom the criminal proceedings is pending. The Constitutional Court found insufficient justification for a detention decision in judgment file No III. ÚS 1664/23 of 17 October 2023, stating that when **deciding on the detention of several accused persons**, it must be clear from the court's reasoning how it individually applies to each of them. The accused cannot be detained "collectively"; the conditions for its use must be fully met and their fulfilment clearly explained in relation to each accused, especially when assessing the personal circumstances of the accused, non-individualised conclusions constitute a violation of Article 8(5) of the Charter.

A decision restricting a complainant's personal freedom by **pre-trial detention** also could not be upheld for lack of proper reasoning, as addressed in judgment file No III. ÚS 2698/22 of 14 February 2023. The Constitutional Court recalled that when deciding on the grounds for detention, courts must assess both the long-term tendency of the accused to commit the type of crime for which they are (he/she is) being prosecuted and the accused's current situation. In its judgment file No I. ÚS 21/23 of 18 April 2023, the Constitutional Court stated that taking an accused into **collusion custody** violates the right to personal freedom and a fair trial if specific witnesses who would be at a real risk of being influenced by the accused are not identified, along with specific facts from which the risk of accused's collusive behaviour could be inferred.

In its judgment file No IV. ÚS 222/23 of 3 April 2023, the Constitutional Court, in line with its previous case law, reiterated that if there is a delay of more than six weeks between **personal hearings of the accused** and the accused requests a custody hearing, the request must be granted (with certain exceptions). However, the ordinary courts denied the complainant accused the opportunity for a personal hearing when deciding on further detention. This was because they failed to inform him that a decision on further detention would be taken and failed to give him time limit to request a detention hearing.

The Constitutional Court has consistently held that the best interest of a child must be primary consideration in any activity concerning children, whether carried out by public or private social welfare institutions, courts, administrative or legislative bodies.

The best interests of child of the accused must be taken into account by the court, inter alia, when deciding on **substituting detention by other institute**, precisely for the purpose of ensuring the care of the child. This principle was emphasised by the Constitutional Court in its judgment file No III. ÚS 2461/22 of 14 March 2023, where the specific family circumstances of the accused precluded detention. The court, in this instance, failed to substantiate its decision to forego alternatives to detention, not providing specific reasons why detention was deemed necessary to achieve the purpose of the

criminal proceedings or why these objectives could not be achieved otherwise. In its judgment file No I. ÚS 631/23 of 27 June 2023, the First Panel expressed that when **imposing a custodial sentence** on a parent, the child's best interests must be taken into account, along with all specific circumstances of the case. In this regard, the court must consider particularly carefully the application of Section 58 of Act No 40/2009, the Criminal Code, on the exceptional reduction of a custodial sentence provided such procedure is applicable, and must give careful reasons for its decision in that regard.

The Constitutional Court has addressed the issue of counting the restriction of personal freedom by replacing detention as part of the execution of a prison sentence in its judgments file Nos II. ÚS 2879/22 of 26 June 2023 and IV. ÚS 1462/22 of 15 August 2023. It concluded that the courts could not disregard, when counting the sentence, the period of restriction of personal freedom during which the convicted was required to stay at a specified dwelling for a specified period of time.

In relation to the requirements for **arrest warrants and European arrest warrants**, the Court's decision in judgment file No IV. ÚS 3290/22 of 26 April 2023 expressed its opinion that an arrest warrant must contain a precise description of the reasons for which the warrant was issued, a mere citation of legal provisions is not sufficient. The absence of specific facts justifying the issuance of the arrest warrant constitutes an unreviewable decision issued in breach of Section 69(2) of Act No 141/1961, on Criminal Procedure (Code of Criminal Procedure), thereby violating the Charter's provisions, namely Article 8(1), (2) and (4). Such a decision would lead to deprivation of liberty (freedom) on the grounds and in a manner not prescribed by law. This was further reflected in judgment file No I. ÚS 759/23 of 11 July 2023, where an ordinary court violated the complainant's right to personal freedom by justifying an arrest warrant solely on the grounds of unknown residence and consequent inability to serve a court summons, especially to a person not subject to criminal prosecution (who had not been prosecuted) and unable to understand the significance of the criminal proceedings due to her health limitations.

The last of the selected judgments in the field of protection and guarantee of personal freedom – judgment file No II. ÚS 2065/23 of 24 October 2023 – addressed the issue of assessing the ability of a conditionally released person to pay compensation for damages during the probationary period. The Constitutional Court found that if the conditionally released person was obliged to "pay damages according to their abilities," courts could not decide on the enforcement of the remainder of the prison sentence based solely on the non-payment of damages. Instead, they must examine whether the convicted person had a real possibility to pay anything.

## POLITICAL RIGHTS

The Constitutional Court has issued rulings on **statutory exemptions from the obligation to provide information** in two cases. Judgment file No Pl. ÚS 25/21 of 17 January 2023 concerned a request for information regarding the statistical number of deaths of persons for the years 2014–2019, addressed to the Institute of Health Information and Statistics of the Czech Republic (hereinafter "IHIS"). Judgment file No III. ÚS 836/21 of 11 April 2023 concerned another request for information addressed to IHIS on the number and circumstances regarding births in Czech maternity hospitals in the years 2014 and 2015.

In both rulings, the Constitutional Court determined that obligated entities cannot restrict one's right to information solely based on the explicit wording of the law, as the formal condition of this limitation. Instead, the obligated entity must always first identify the competing public interest or other constitutionally guaranteed right, and balance them against each other, for example, by applying a proportionality test. No law can generally override the protection of fundamental rights and freedoms, and therefore, there may be cases where the right to information outweighs the mentioned values.

The **borderline between freedom of expression and election agitation** was defined by the judgment file No Pl. ÚS 92/20 of 11 April 2023. The Constitutional Court assessed provisions of the Act on Parliamentary



Elections that required the registration of “third parties” within the Office for Economic Supervision of Political Parties and Political Movements. The Constitutional Court stated that the contested legislation is aimed at preventing the circumvention of election campaign spending limits and preserving the neutrality of public power in electoral competition, rather than limiting freedom of expression. The Court emphasized that the general limits of freedom of expression in an election campaign must be tailored to the purpose of political competition, which primarily aims at mobilizing voters within a limited period. Therefore, electoral competition in a democratic state governed by the rule of law necessitates specifying the time frame, the competitors (candidates), and those involved in the competition by influencing it.

**Political speech involving Nazi symbols** was the subject of judgment file No III. ÚS 771/22 of 6 February 2023. The core of the former dispute concerned internet video clips in which the complainant criticized the current economic system, using symbolism related to concentration camps.

The Constitutional Court recognized that while political speech enjoys the highest protection, the complainant went beyond the borderline of generally accepted rules of decency. As the general courts already pointed out, the denigration of Nazi crimes, including their downplaying by labelling opponents as Nazis, must be unequivocally condemned, regardless of the committer.

The fact that the speech was premeditated and prepared in advance, the complainant’s creation of a photomontage in which he dressed the intervener in a Nazi uniform, and the targeting of a foreign audience by translating video clips into English all worked against the complainant.

However, the Constitutional Court disagreed with the damages awarded. The reasoning for the damages should always take into account the value affected, the intensity of the interference, the circumstances on the part of the perpetrator, as well as the circumstances on the part of the victim.

## PROTECTION OF PROPERTY RIGHTS

In 2023, the Constitutional Court dealt with a number of cases impacting individuals’ property rights. For instance, in its judgments file Nos I. ÚS 3281/22 of 8 March 2023, I. ÚS 1750/23 of 7 November 2023 and III. ÚS 2040/22 of 13 December 2023, it focused on **calculating a lawyer’s fee** or determining the tariff value in accordance with the Ministry of Justice Decree No 177/1996, on lawyers’ fees and compensation for providing legal services (the Lawyers’ Tariff), if the subject matter of the proceedings is monetarily assessable. The Constitutional Court Justices stated that in such cases, Section 8(1) of the Lawyers’ Tariff should primarily be used for calculating the fee, not Section 9(1) of the same regulation, which applies to all other cases where the subject of legal aid cannot be subsumed under another provision of the Lawyers’ Tariff. If the general court does not proceed in accordance with these rules, it violates the right of a party to the protection of property in accordance with Article 11(1) of the Charter and the right to judicial protection in accordance with Article 36(1) of the Charter.

In its judgment file No II. ÚS 2029/22 of 26 June 2023, the Constitutional Court addressed the **moderation of the fee of a bailiff** in accordance with the Ministry of Justice Decree No 330/2001, on the remuneration and compensation of bailiffs (the Bailiffs’ Tariff). The Court concluded that, alongside the cases anticipated by Section 11(1) of the Bailiffs’ Tariff, under conditions defined by its binding case law, the enforcement court may reduce the rate of the bailiff’s fee only in cases worthy of special consideration. The court must substantiate its decision on the grounds of specific exceptional circumstances of the case. In other instances, the enforcement court is not entitled to reduce the fee rate of the bailiff based on its own discretion. If it does so, it violates his or her constitutionally guaranteed right to property protection.

The Constitutional Court once again examined a range of issues relating to the confiscation of property after World War II, restitutions, and the redress of injustices – thus addressing **restitution cases** that seem to be a kind of judicial evergreen. In its judgment file No II. ÚS 3447/21 of 27 June 2023, concerning

the release of agricultural and other lands as part of the **Bouzov Castle area**, the Constitutional Court stated that if the property was confiscated from the legal predecessor of a church entity before the decisive restitution date of 25 February 1948, the current church restitutions do not apply to this property. It concluded that the decisions of the general courts in this case do not represent a violation of the church entity’s property rights.

In the case of the **restitution of property belonging to the Liechtenstein family** (judgment file No II. ÚS 657/22 of 6 April 2023), the Constitutional Court noted that it respects the legislature’s competence to set the boundaries for applying restitution legislation. Although in these cases greater or lesser injustice may be argued, the Constitutional Court is not the body to actively create legislation and adjust time limits at its own discretion. Doing so would interfere with the separation of powers in a constitutional democracy. It lies solely within the legislature’s discretion to decide which injustices to redress. Though such decisions may be challenged, they will withstand judicial review if they are based on objective criteria that respect fundamental rights and freedoms and the rule of law principles.

In its judgment file No II. ÚS 2042/22 of 19 October 2023, the Court dealt with the “functional connection” under Act No 428/2012, on property settlement with churches and religious societies. It stated that the non-release of land in restitution to a church entity due to a disputed construction on that land would lead to an unconstitutional disruption of the functional connection with other properties owned by the entitled entity provided that the concerned land forms part of a functionally interconnected set of properties.

The issue of determining the **amount of financial compensation for lands** not released under the Land Act (Act No 229/1991, on regulation of ownership relations to land and other agricultural property) was addressed by the Constitutional Court in its judgment file No IV. ÚS 2827/22 of 15 November 2023. Referring to its case law, it reiterated that in determining the amount of financial compensation for confiscated and non-released lands, administrative authorities and general courts must base their decisions on three conditions: (1) reasonable and fair

amount of compensation; (2) compensation need not necessarily be the equivalent of the current market price; (3) the amount of compensation must fulfil the purpose of restitution legislation, i.e., compensation or mitigation of property injustices as if the property had been released. Although the financial compensation need not necessarily be equivalent to the current market price of the land, in order to comply with constitutional requirements for compensation, the relevant authorities must also take into account the rise in real estate prices as land is a specific type of property, and justify their calculation in detail. A procedure that does not sufficiently take these criteria into account violates individuals’ fundamental rights to property protection and judicial protection.

Protection of property rights in the context of **criminal proceedings**, specifically the **destruction of cultivated cannabis as a “dangerous” item** during the pre-trial proceedings, was the subject matter of judgments file Nos IV. ÚS 1714/22 of 21 March 2023 and IV. ÚS 1236/23 of 13 June 2023. The Constitutional Court concluded that the prosecuting authorities infringe the fundamental right of the affected individual if they decide to destroy an item not listed in the illustrative list under Section 81b of the Code of Criminal Procedure, unless they prove, based on evidence, that the item in itself poses a danger to people or property. Such an interference with property rights protected under Article 11(1) of the Charter must be proportionate to the objective pursued by this measure as it is a measure of last resort. If a court upholds the prosecutor’s decision to destroy the object, despite not all conditions for such a decision being met, it amounts to inadmissible arbitrariness causing a violation of the constitutionally guaranteed rights of the property owner to judicial protection and property protection.

**The imposition of a disciplinary fine** in criminal proceedings for failing to comply with a request to surrender the contents of email communication was addressed by the Constitutional Court in judgment file No I. ÚS 710/23 of 30 May 2023. If a police body imposes a disciplinary fine on an entity holding data under Section 66(1) of the Code of Criminal Procedure, even though it is clear that the entity did not explicitly refuse its request for information, this infringes the property rights of such entity.



Given the inconsistency in its own decision-making practice regarding the **awarding of costs in proceedings for the annulment and settlement of joint ownership**, the Constitutional Court adopted a unifying stance on this issue [opinion file No Pl. ÚS-st. 59/23 of 13 September 2023 (302/2023 Sb)]. It stated that in proceedings for the annulment and settlement of joint ownership, characterised as *iudicium duplex*, if the lawsuit is not dismissed, it is usually not possible to ascertain which party achieved complete success in the case [Section 142(1) of Act No 99/1963, Code of Civil Procedure]]. Therefore, the general principle for deciding on the costs of proceedings in compliance with the protection of property rights is that no party should have the right to compensation for the costs of proceedings against another, unless there are special reasons for it. The conclusions of this opinion were then reflected in judgment file No III. ÚS 1470/23 of 18 October 2023.

In judgment file No I. ÚS 2482/23 of 6 December 2023, **the Constitutional Court dealt with the compensation of costs of appeal proceedings concerning adequate compensation for non-pecuniary damage**, the amount of which was determined by judicial discretion. Referring to its previous case law, the Court emphasised that if a plaintiff proves the existence of non-pecuniary damage caused by the unlawful exercise of public authority or incorrect official procedure (i.e. the basis of his or her claim), yet does not receive full compensation sought, the process of deciding on the costs must adhere to Section 142(3) of the Code of Civil Procedure. This principle is similarly applicable when deciding on the costs of appeal proceedings if the basis of the plaintiff's claim is not successfully challenged therein. Should the general court fail to do so without justifying why, given the specific circumstances of the case, it infringes the plaintiff's right to judicial protection and property protection.

## ECONOMIC AND SOCIAL RIGHTS

A significant portion of the Constitutional Court's decision-making activity is devoted to jurisprudence concerning the protection of rights guaranteed under the fourth head of the Charter, specifically economic,

social, and cultural rights. The Court has the opportunity to address some of these rights rather occasionally, while others have traditionally formed a substantial part of its decision-making activity. The latter especially applies to rights enshrined in Article 32 of the Charter, which guarantees the protection of parenthood, family, children, and adolescents and will therefore be addressed first.

In its judgment file No I. ÚS 3350/22 of 8 February 2023, the First Panel reminded the general courts to avoid using general arguments against **awarding custody of a child in alternating custody** and stressed the necessity of considering specific reasons that might make this care model unsuitable in a particular case. Alternating custody was also addressed in judgment file No I. ÚS 3522/22 of 30 March 2023. In this judgment, the same Panel criticized the approach of a court that failed to consider the specific impacts of potential travel between the parents' places of residence and the method of education (switching between different educational settings) on the child and did not contemplate the alternative of so-called asymmetrical alternating custody, which could account for, or eliminate, these impacts.

In its judgment file No III. ÚS 794/22 of 3 April 2023, the Constitutional Court identified errors in the court's decisions that dismissed, without adequate factual basis, the **complainant's request for pre-adoptive care** when the biological father consented to the adoption and the minor had lived her entire life with the mother and the complainant in a common household. The Court emphasized the importance of stability in the educational environment, aligning with which the complainant should have been granted the possibility of future adoption of the minor. The Court rejected the approach of the courts that, due to the "prematurity of his request," referred the complainant to an indefinite future, thereby depriving him of a real chance for the early adoption of the minor.

A fundamental cornerstone of jurisprudence related to arrangements for minor children is the principle of **the best interests of the child**. Courts are required to ascertain the child's best interests in any action concerning children and to evaluate the suitability of any contemplated solution through this lens;

however, they do not always do so, as confirmed by the decisions selected below.

In its judgment file No III. ÚS 484/23 of 25 April 2023, the Constitutional Court annulled the resolutions of the general courts that, in deciding on placing a minor into institutional care, did not adequately consider his best interests. Similarly, in judgment file No IV. ÚS 147/23 of 26 April 2023, it annulled the decision of the appellate court in the part that determined the place for handing over the minor for contact with his father. The Court emphasized that the obligation to ascertain the child's best interests and, if necessary, to balance them with other important interests and rights applies not only when deciding about custody and contact but also when deciding on the conditions of their implementation. Such obligation applies especially in the situation when the court intends to designate a place for the exchange of the child between parents that is significantly distant from the child's residence. In this context, it is also worth mentioning judgments file Nos IV. ÚS 2884/22 and I. ÚS 1609/23, both promulgated on 29 August 2023, in which the Constitutional Court dealt with the (non)fulfilment of the requirement to **ascertain the minor's opinion in proceedings**. At the conclusions of their reasoning, it then alerted the legislator that the current legal regulation of appeals (its inadmissibility against decisions in most family law matters) does not adequately serve the declared purpose of maintaining legal certainty, as the unification of case law in this area is shifted to an organ outside the court system, even though the Supreme Court would be more appropriately tasked with this role. Ascertaining the opinion of the minor also pertains to the last judgment mentioned in this thematic section, judgment file No II. ÚS 1192/22 of 7 September 2023. Here, the Constitutional Court further specified that when courts ascertain a child's opinion in proceedings, they should do so directly, i.e., by hearing the child themselves. To this end, they must create the most suitable conditions for the child to freely formulate and express their opinion or wishes. Only if, in a specific case, they conclude that directly ascertaining the child's opinion is not in his/her best interests, may they proceed to ascertain it indirectly, which, however, must also be justified.

Another group of interrelated constitutionally guaranteed rights falling within the domain of economic rights includes rights enshrined in Article 26 of the Charter, covering the **right to free choice of a profession** and preparation for it, the right to engage in business and other economic activities, and the right to acquire the means of one's livelihood by working.

In this context, at least judgment file No Pl. ÚS 17/22 of 21 February 2023 (90/2023 Sb.) can be mentioned. The Plenum of the Constitutional Court unanimously agreed that the obligation of financial institutions to provide free establishment and management of a protected bank account in accordance with the third sentence of Section 304c(1) of the Code of Civil Procedure does not constitute an unconstitutional restriction on the right to conduct business, as it does not affect the core of this right, pursues a legitimate aim, and reasonable means were chosen to achieve this aim. The State's obligation to restrict business activities in the interest of protecting the rights and freedoms of others, and the related legislative space for statutory restrictions on business activities, is significantly broader in the area of financial services than in other, less regulated business sectors.

The right to acquire the means of one's livelihood by working, mentioned above, is substantively followed by the **right to fair remuneration for work** and to satisfactory working conditions, guaranteed by Article 28 of the Charter. Its violation was found, for instance, in judgment file No I. ÚS 1706/23 of 19 September 2023. The court of first instance, without having the authority, appointed defence counsel for the convicted person to file a constitutional complaint and subsequently awarded the counsel remuneration and reimbursement of expenses. However, the appellate court annulled the decision of the court of first instance because decisions on free legal aid and reimbursement of costs cannot be made in proceedings concerning a constitutional complaint. The Constitutional Court concluded that the counsel - the complainant essentially had no choice but to accept his appointment, and having provided the convicted person with necessary legal assistance, he was entitled to remuneration and reimbursement of expenses. However, when the court of appeal refused to award him remuneration for the work he had done, on the grounds that the decision on the free defence



and the order appointing a lawyer were unjustified, it violated both the aforementioned right of the lawyer to fair remuneration for his work and his right to judicial protection.

Among purely social rights, it is worth mentioning at least judgment file No II. ÚS 2533/20 of 25 April 2023 as amended by resolution of 10 May 2023 and judgment file No I. ÚS 463/23 of 27 June 2023, relating to Article 30 of the Charter, which guarantees citizens' right to adequate material security and everyone's right to assistance in material need. In the first of these decisions, the Constitutional Court concurred with the conclusions of the general courts and confirmed that the **right to housing**, for which the complainants sought protection, is not explicitly included in the Charter. While it is possible to infer it as falling under Article 30(2) of the Charter, this does not change the fact that such a right cannot be directly enforced in courts and can only be sought within the limits of the laws. In this context, the Constitutional Court appealed to the legislator to no longer delay and take active steps towards adopting comprehensive legislation in the form of a "social housing law", which would set out specific measures and tools for municipalities to satisfy the housing needs of their citizens. An approach that leaves vulnerable individuals solely in the care of charity, volunteers, or non-profit organisations runs counter to the state's international obligations. In the second mentioned judgment, the Constitutional Court pointed to constitutional requirements regarding the allocation of the burden of proof. The Court emphasized that if an employer seeks to adjust or be relieved of the obligation to pay an injured employee **compensation for loss of earnings** after incapacity for work, it is the employer who must prove the change in circumstances of the employee, decisive for determining the amount of compensation, not the employee, who is also the weaker contractual party.

At the very end of the year, the Plenum of the Constitutional Court managed to express, in its judgment file No Pl. ÚS 7/23 of 20 December 2023, its opinion on the constitutionality of Section 23a(3) of Act No 100/2001, on environmental impact assessment and amending certain acts (hereinafter referred to as "the EIA Act"), as amended by Act No 413/2021. This amendment added to the examined provision in

such a way that the binding opinion on the environmental impacts of a priority transport project must be valid at the time of issuing the decision in subsequent proceedings at the first instance. Despite the complainant's objections, the Justices concluded that the contested provision stands up to the rational basis test. Potential claimed irrational consequences (especially the hypothetical risk of accepting an outdated opinion in subsequent proceedings), which could lead to a violation of the **right to a favourable environment** in accordance with Article 35(1) of the Charter, could not, according to the opinion of the Plenum, be presumed without further circumstances. Conversely, if the contested provision were to be annulled, it would by default prevent the fulfilment of the purpose of the entire Section 23a of the EIA Act, even though it was not established that in every individual case, the interest in protecting a favourable environment would necessarily outweigh the protection of pursued legitimate objectives.

## RIGHT TO JUDICIAL AND OTHER LEGAL PROTECTION

### RIGHT TO A FAIR TRIAL

The right to a fair trial is undoubtedly one of the fundamental pillars of a democratic rule of law. The basic mission of the right to a fair trial is to ensure the necessary procedural legal standard of protection of fundamental human rights and freedoms, which is why the Constitutional Court focuses on the protection of this right in many of its judgments every year.

In its Plenary judgment file No Pl. ÚS 44/21 of 24 January 2023 (38/2023 Sb.), the Constitutional Court commented on the **right of a participant to have a lawyer appointed** by the Czech Bar Association. It concluded that if the legislator limits the right of the complainant to apply to the Czech Bar Association for the appointment of a lawyer to provide legal services only in cases justified by income or property circumstances, it violates the complainant's right to access to a court. Therefore, by 31 December 2023,

the Plenum annulled Section 18c(1) in the words "whose income and property circumstances justify it, and" of Act No 85/1996, on advocacy.

In accordance to the Constitutional Court's case-law, the Second Panel decided in its judgment file No II. ÚS 2355/22 of 24 January 2023 that the purpose of **imposing a disciplinary fine** for unexecuted contact with a minor is to enforce the fulfilment of a duty imposed by the court, not to sanction the obligated party. If it is not possible to persuade a child through an appropriate educational influence to go to one of the parents, imposing fines is pointless and does not fulfil the purpose envisioned by the law. Moreover, although the fine was imposed on the mother, it was intended to force the mother to influence the minor's behaviour. The outcome of this proceeding was therefore crucial particularly for the minor, yet the general court did not hear her in the case.

An interesting judgment concerning the access to the Supreme Court is the judgment file No I. ÚS 308/23 of 28 March 2023, in which the Justices stated that the exception from the inadmissibility of an appeal on points of law in petty claims in accordance with Section 238(1)(c) of the Code of Civil Procedure where the limitation of the admissibility of the appeal on points of law does not apply when it concerns the relations arising from consumer contracts, does not concern only the appellant who is a consumer but all participants in the proceedings.

The issue of the **Czech courts' jurisdiction** was considered by the Constitutional Court in its judgment file No II. ÚS 859/23 of 23 August 2023. It concluded that the general courts are not entitled to suspend proceedings due to a lack of procedural conditions in a situation where the international jurisdiction of a foreign state is not clearly established. The court is required to ascertain the jurisdiction of the Czech courts beyond any doubt, and to do so, it is required to take an appropriate procedural measures, which may also involve taking evidence.

The Justices of the Fourth Panel dealt with the grounds for a measure of a general nature that **restricted the presence of students in schools** in their judgment of 31 October 2023 file No IV. ÚS 1642/22. They stated that the general court does not satisfy

the constitutional requirement to review a measure of a general nature if it finds such a measure lawful even though it does not contain a reviewable grounds for regulating a particular issue. The grounds cannot be derived from other measures, even if they contain a similar regulation.

According to the settled Constitutional Court's case-law, if execution is suspended because the decisions of the courts in the debt enforcement proceedings are not materially enforceable, it constitutes a failure of the state, and it is not by default possible to impose the **payment of costs** to the entitled party, who did not cause the closure of the debt enforcement proceedings. However, in the judgment file No I. ÚS 2449/21 of 8 November 2023, it was decided that this rule does not apply if the entitled party is a public authority, since from a constitutional point of view, it is irrelevant which part of the state power bears the (financial) responsibility for the costs of futile debt enforcement proceedings.

**The child's right to be heard** was the subject of the judgment file No III. ÚS 1068/22 of 15 November 2023. The Third Panel emphasised that the general courts have the duty to weigh very carefully when it is possible to restrict the participation rights of a minor on the grounds that he or she is unable to understand sufficiently the issue under discussion. A minor's disability must not be a reason in itself for denying him or her the right to be heard, in the exercise of which children with disabilities are entitled to assistance appropriate to their disability and age and should be able to use any means of communication necessary to express their opinions.

## SPECIFICS OF CRIMINAL PROCEEDINGS

The right to judicial protection includes the rights of accused persons, victims and other subjects of criminal proceedings. During 2023, the Constitutional Court continued to address this issue, tackling not only recurrent themes but also relatively new questions. Of particular importance in terms of victims' rights was judgment file No IV. ÚS 1971/23 of 1 November 2023, where the Constitutional Court addressed the **compensation of the complainant in a so-called adhesion proceedings**. The



Constitutional Court found a violation of the victim's right to judicial protection according to Article 36(1) and Article 38(2) of the Charter. Furthermore, the Constitutional Court concluded a violation of the right of equality in proceedings according to Article 37(3) of the Charter, as the victim had no opportunity to respond to the accused person's appeal on points of law against the verdict on compensation for damages and non-pecuniary harm. For the victim, this decision came as a complete surprise, as he was not informed about the appeal on points of law, which directly affected his legal sphere. The Constitutional Court emphasised that proper decision-making on damages is an inherent part of fulfilling the purpose of criminal proceedings, which also includes the protection of victims' rights. The Constitutional Court subsequently applied the same conclusions in judgments file No I. ÚS 1954/23 and I. ÚS 1942/23 both dated 29 November 2023.

The Constitutional Court throughout the year addressed the constitutionally guaranteed rights of the accused persons. In its judgment file No III. ÚS 2665/22 of 14 February 2023, the Constitutional Court commented on **the accused's right to be personally present at the trial hearing**. The general courts heard and decided the complainant's case in his absence, despite the complainant's declared mental health issues, which were supposed to justify the request to postpone the trial hearing. In determining the complainant's mental state, the general courts failed to request up-to-date medical reports or expert opinions and contented themselves with the opinion of the president of the chamber of another court. Thus, the general courts did not sufficiently clarify the complainant's mental state in an objective and professional manner, and could therefore not safely assess whether or not the accused's mental state allowed his full participation in the criminal proceedings. They thus infringed the complainant's right to judicial protection, the right to be tried in his or her presence, and the right to defence oneself.

The Constitutional Court has repeatedly been approached by complainants with decisions in which the general courts did not wait for **the supplementation of a preliminary (blanket) complaint**. They decided based on the requirement to expedite the processing of criminal cases, thereby infringing the

right to judicial protection. From the established case law of the Constitutional Court, it follows that a general court, which has received a blanket complaint with a notified supplementation of its reasoning within a specific set period, should either wait for the supplementation or invite the participant to supplement the complaint within a shorter period. Only exceptionally, if the current procedural situation does not allow for another course of action, may it decide on the complaint without further action. However, it must take into account both the subject matter of the proceedings and the specific circumstances of the case. At the same time, the requirement to expedite the processing of criminal cases cannot be such an exceptional reason, since it is laid down for the protection of the persons against whom the proceedings are brought. During the year 2023, the Constitutional Court had to reiterate these conclusions in its judgments file No IV. ÚS 487/23 of 11 April 2023, III. ÚS 630/23 of 9 May 2023 and IV. ÚS 1749/23 of 24 October 2023.

In its judgment file No I. ÚS 323/23 of 18 April 2023, the Constitutional Court found a **violation of the principle of the presumption of innocence** under Article 40(2) of the Charter and the complainant's right to a fair trial guaranteed by Article 36(1) of the Charter. The general courts failed to fulfil their obligation in deciding whether the offence of battery under Section 148(1) of the Criminal Code had been committed. The general courts failed to assess the extent to which the action of each individual contributed to the outcome and the fulfilment of the characteristic of violating an important duty, especially in terms of the gradation of causal connection. Since the general courts did not do so, and despite the expert opinion according to which it was not possible to determine with certainty which of the circumstances led to the consequence of the offence, the Constitutional Court considers that their conclusions of general courts could not be regarded as adequately proven and sufficiently reasoned. Constitutional Court also found that the principle of the presumption of innocence and the accused's right to due process had not been fulfilled in its judgment of 2 May 2023, Case No II ÚS 3044/22. The general courts found the complainant guilty of the crime of violence against an official person involving an attack by a dog on one of the

police officers called to intervene. The complainant, along with his girlfriend, claimed it was an unfortunate accident, while the police insisted that the complainant had set the dog on them. Instead of properly dealing with all the available evidence and carefully evaluating the evidence presented in their mutual logical contexts, the general courts based their conclusions only on the single direct evidence, the testimony of the police officers. The Constitutional Court found that the factual findings on which the decisions of the general courts were based were extremely contradictory to the evidence, which resulted in a violation of the complainant's constitutionally guaranteed rights under Article 36(1) and Article 40(2) of the Charter.

The Constitutional Court in its judgment file No IV. ÚS 2198/22 of 31 January 2023 found a violation of the right to a free defence. The general courts based their decisions solely on the so-called financial potential of the accused, rather than her actual financial situation. The complainant, an eighty year old pensioner with a monthly income of 14,000 CZK and housing costs of 6,000 CZK, was left with just 4,000 CZK to live on due to an ongoing execution. She sought entitlement to free legal defence under Section 33(2) of the Code of Criminal Procedure. The Constitutional Court found it absurd that the Regional Court deemed her not impoverished enough and denied her free defence, on the basis that she could secure additional financial resources in the future. Such a reasoning could not be regarded as constitutionally compatible and the Constitutional Court annulled it for violation of the right to defence and judicial protection.

The Constitutional Court has consistently stressed that the **duty of confidentiality held by attorney** is integral part of the right to legal aid and judicial protection. It can only be breached under legally specified conditions. This was reaffirmed in judgment file No IV. ÚS 662/23 of 21 November 2023. The Constitutional Court stated that this principle may be breached if the institution of confidentiality is used to commit a criminal offence or at the express request of the client, unless the waiver is obtained under duress. The fact that the complainant acted as substitute for her chosen counsel has no bearing on the matter. By imposing a procedural fine and

not referring the case to the disciplinary chamber according to Section 66(1) of the Code of Criminal Procedure, the courts violated constitutional rights of complainant to judicial protection and equal treatment in proceedings, as well as the *secundum et intra legem* principle.

## COMPENSATION FOR UNLAWFUL DECISION AND INCORRECT OFFICIAL PROCEDURE

In the past year, in several rulings, the Constitutional Court has dealt with the application and interpretation of Act No 82/1998, on liability for damage caused in the exercise of public authority by decision or improper official procedure and amending Act of the Czech National Council No 358/1992, on notaries and notarial activities (the Notarial Code), which at the sub-constitutional level guarantees the right of complainants to compensation for damage caused by an unlawful decision of a court, other state authority or public administration body or by an improper official procedure within the meaning of Article 36(3) of the Charter.

In its judgment file No Pl. ÚS 40/22 of 14 March 2023, the Court concluded that claims under Act No 82/1998 could be pursued for damage caused by the actions of an authorised inspector not corrected by the relevant building authority. In its judgment file No IV. ÚS 3398/22 on 11 April 2023, the Court cautioned that when awarding damages under this law, general courts should consider if the infraction proceedings were stopped due to a procedural error by a public authority through no fault of the complainant, as this effectively precludes damage compensation.

On 22 May 2023, two rulings addressed state liability for damage. In its judgment file No III. ÚS 3319/22, related to the prohibition of fathers' presence at births during the COVID-19 pandemic, the Court declared that the right to damage compensation under Article 36(3) of the Charter cannot be conditioned on exhausting legal remedies that could not provide effective correction or would worsen the individual's legal standing. This also applies to the eligibility to claim damages if caused by an unlawful



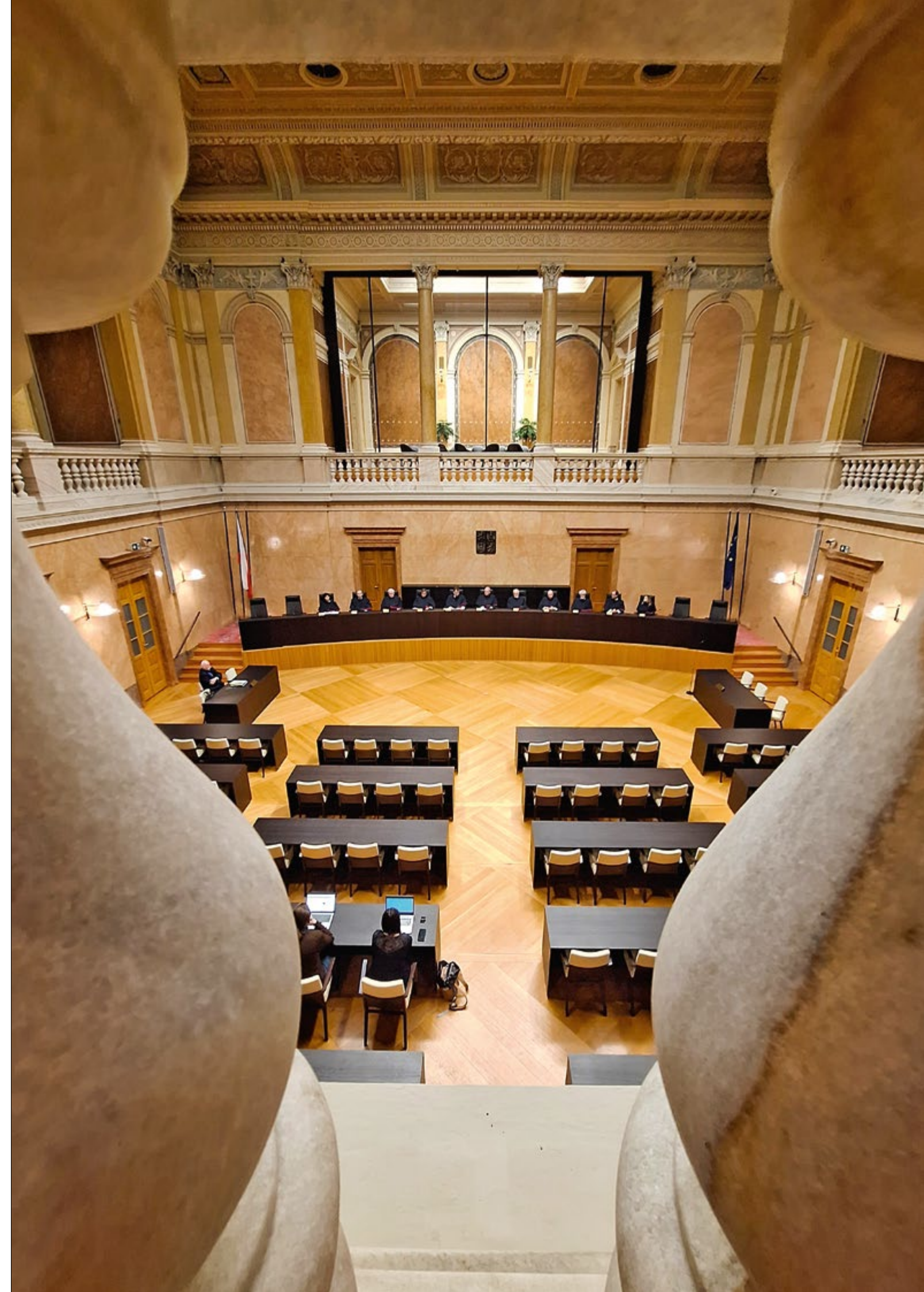
general measure in situations where its annulment was not possible. Similarly, in judgment file No III. ÚS 847/23, regarding the denial of compensation for the costs of a judicial executor for carried out execution, the Constitutional Court noted that one cannot formally insist on the annulment of a state body's decisions found unlawful by competent authorities when the affected party cannot legally or factually achieve such annulment.

In its judgment file No IV. ÚS 1126/22 of 23 May 2023, the Constitutional Court stated that compensation for damage due to incorrect official procedure, consisting of excessive length of judicial proceedings, cannot be denied because the injured party did not use legal means to protect their right when these were ineffective in the specific situation. In its judgment file No I. ÚS 1534/23 of 15 November 2023, the Constitutional Court expressed that once facts suggesting that a crime might have been committed by an official person come to light, the injured party in criminal proceedings must be properly informed about the possibility to claim damage compensation in accordance with the procedure provided under Act No 82/1998. If such instruction is not given and the claim for other than proprietary harm is made within the limitation period according to Act No 82/1998 at a body active in criminal proceedings, the state's statute of limitations objection against the injured party's claim for non-pecuniary damages will typically be considered contrary to good morals.

## RIGHT TO SELF-GOVERNMENT

Last year, the Constitutional Court reviewed several proposals to annul generally binding municipal decrees initiated by the Ministry of the Interior. Five proposals were ruled in favour and one was dismissed. These concerned the establishment of a municipal waste management system (municipalities of Tchořovice, Stachy, and Krásná Lípa) or the setting of night-time quiet hours (towns of Příbram and Loket). The reason for annulling these norms issued within the municipalities' independent power was either deviation from the parameters set by the relevant law or the establishment of more detailed criteria without a substantive reason.

Conversely, the municipality of Řepý set a coefficient for calculating real estate tax in a constitutionally conformed manner, thereby imposing higher taxation on selected properties. However, the Constitutional Court considered this to fulfil the constitutional principle of self-government and the subsidiarity of political power. It is precisely local governments that can effectively ensure that the level of property taxation reflects the negative externalities associated with them in a specific living area. The ability to individualise the amount of property tax to some extent thus aims to take into account the unequal burden on communal space and shared infrastructure in municipalities.





05

# STATISTICS OF DECISION- MAKING IN 2023





# STATISTICS OF DECISION-MAKING OF THE CONSTITUTIONAL COURT IN 2023

## DECISIONS IN 2023 IN TOTAL

3,456		
Judgements	Resolutions	Opinions of the Plenum
191	3263	2

## JUDGMENTS IN 2023<sup>i)</sup>

191		
Granted (at least partially)	Dismissed (at least partially)	Granted and dismissed
167	29	5

## RESOLUTIONS IN 2023 (INCLUDING PROCEDURAL ONES)<sup>ii)</sup>

3,263						
Manifestly unfounded	Proposal flaws	After deadline	Petitioner's ineligibility	Lack of competence	Lack of admissibility	Stayed
2,524	259	60	54	112	407	45
77 %	8 %	2 %	2 %	3 %	12 %	1 %

## DECISIONS OF THE PLENUM IN 2023<sup>iii)</sup>

54	
Judgements	Resolutions
17	37

## DECISIONS OF THE PANELS IN 2023

3,400	
Judgements	Resolutions
174	3,226

## PROCEEDINGS ON THE ANNULMENT OF LAWS AND OTHER LEGAL REGULATIONS – NUMBER OF DECISIONS

29			
Granted (at least partially)		Not granted (rejected)	
8		9	
Proposals to repeal a law	Proposals to repeal another legal regulation	Proposals to repeal a generally binding regulation	Proposals to repeal a municipal/regional regulation
15 (7 judgments)	2 (1 judgment)	10 (6 judgments)	1 (1 judgments)
Granted at least partially	Granted at least partially	Granted at least partially	Granted at least partially
1	0	5	1

## PROCEEDINGS ON CONSTITUTIONAL COMPLAINTS<sup>iv)</sup> – NUMBER OF DECISIONS

3,423											
Granted (at least partially)						Not granted (rejected at least partially)					
159						21					
The constitutional complaint was directed against: <sup>v)</sup>											
Court decision	Administrative decision	Another decision	Another intervention	Act	Another legal regulation	Generally binding regulation	Municipal/regional regulation	Decision of the Constitutional Court	Measure of a general nature	Internal regulation	Others
3279	116	124	63	94	2	1	0	2	2	1	12

## PROCEEDINGS ON MEASURES NECESSARY TO IMPLEMENT A DECISION OF AN INTERNATIONAL COURT – MOTION FOR RETRIAL – NUMBER OF DECISIONS

1	
Granted	Not granted
1	0

There were also two proceedings for **Opinion of the Plenum**. The Court did not decide on other types of proceedings in 2023.

Notes:

- <sup>i)</sup> Some judgments contain multiple rulings; hence, the sum of judgments in which the proposal was at least partially granted and the judgments by which the proposal was rejected does not correspond to the total number of findings. There were 3 “neutral” judgments (granted and simultaneously rejected), which is reflected in the table.
- <sup>ii)</sup> A significant number of resolutions contain multiple rulings. The table shows the number of individual rulings, the absolute sum of which does not equal the sum of adopted resolutions (similarly, this applies to the percentage expression, where the sum does not make 100%, and the number of individual types of rulings is related to the total number of resolutions, including procedural ones).
- <sup>iii)</sup> Besides Opinions of the Plenum (two were adopted in 2023).
- <sup>iv)</sup> Also includes proceedings on communal complaints according to Article 87(1)(c) and proceedings on the proposal of a political party or movement according to Article 87(1)(j) of the Constitution.
- <sup>v)</sup> Some submissions are directed against more than one type of act; therefore, the sum of the number of decisions in constitutional complaint proceedings does not match the number of proposals according to this part of the table.



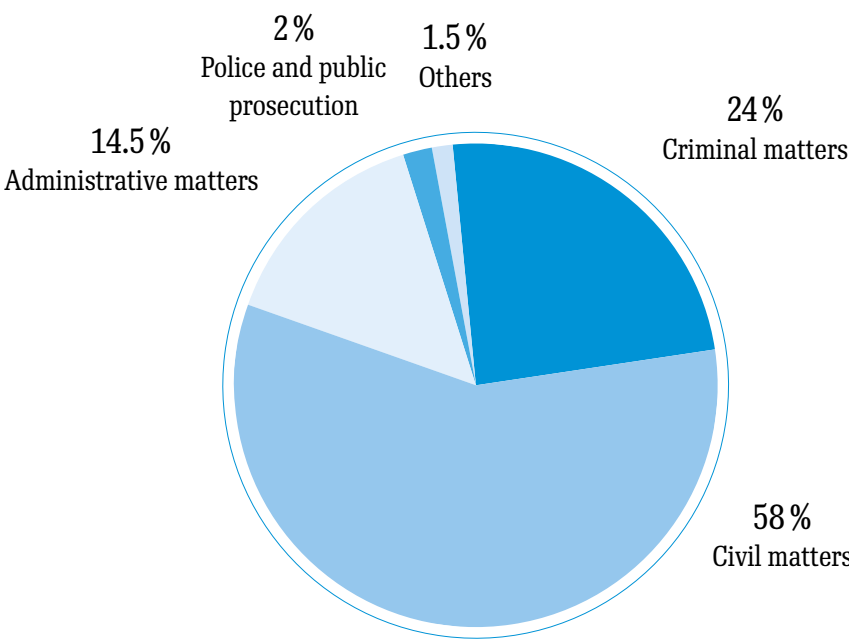
AVERAGE LENGTH OF PROCEEDINGS IN CASES COMPLETED IN 2007-2023

	Days	Months and days	
Average length of proceedings: In all matters	141	4 months	21 days
In matters for the Plenum	307	10 months	7 days
In matters for a panel	139	4 months	19 days
In matters decided upon by a judgment	356	11 months	26 days
In matters decided upon by a rejection for being manifestly unfounded	148	4 months	28 days
Other methods of termination of the proceedings	80	2 months	20 days

AVERAGE LENGTH OF PROCEEDINGS IN CASES COMPLETED IN 2023

	Days	Months and days	
Average length of proceedings: In all matters	89	2 months	29 days
In matters for the Plenum	173	5 months	23 days
In matters for a panel	88	2 months	28 days
In matters decided upon by a judgment	236	7 months	26 days
In matters decided upon by a rejection for being manifestly unfounded	86	2 months	26 days
Other methods of termination of the proceedings	59	1 month	29 days

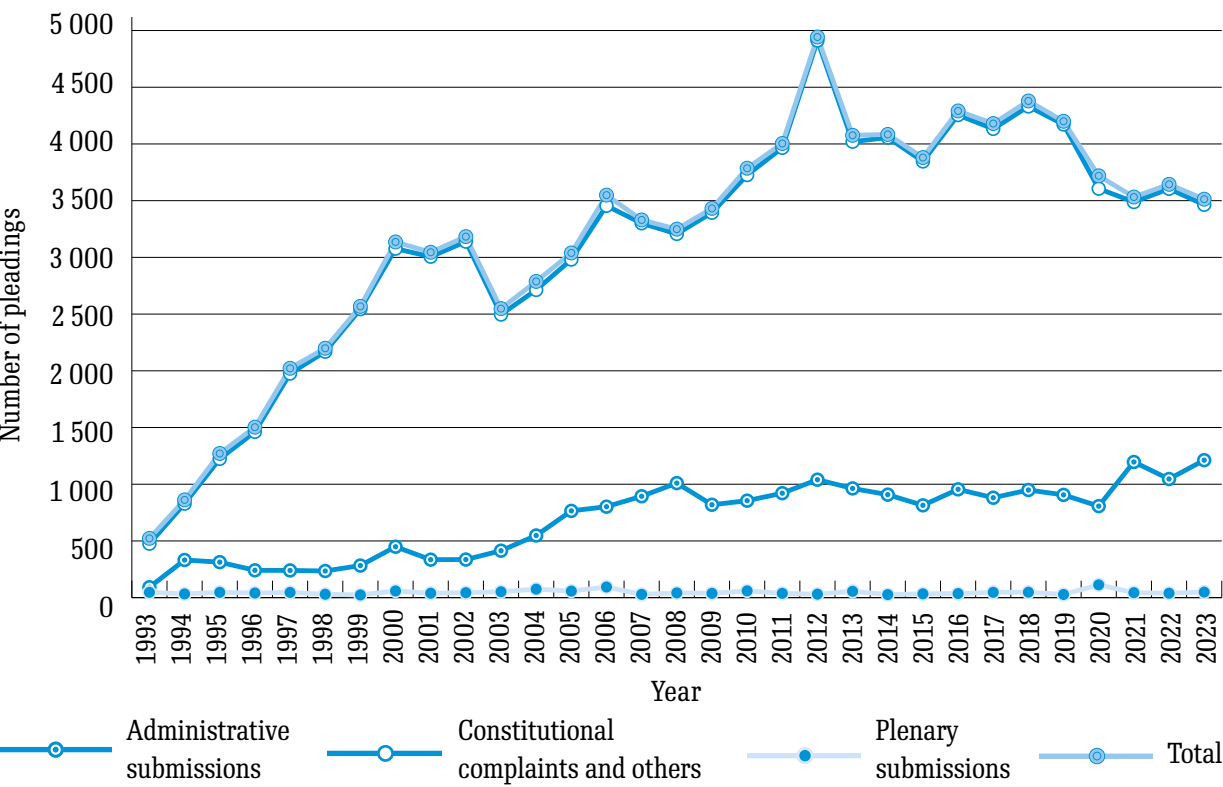
SUBSTANTIVE STRUCTURE OF PETITIONS TO INITIATE PROCEEDINGS IN 2023



STATISTICS IN TERMS OF PETITIONS TO INITIATE PROCEEDINGS AND OTHER SUBMISSIONS

NUMBER OF SUBMISSIONS					NUMBER OF SUBMISSIONS				
YEAR	Total	Pl. CC	Constitutional complaints and other	SPR (admin.)	YEAR	Total	Pl. CC	Constitutional complaints and other	SPR (admin.)
1993	523	47	476	92	2009	3 432	38	3 394	819
1994	862	33	829	332	2010	3 786	60	3 726	855
1995	1 271	47	1 224	313	2011	4 004	38	3 966	921
1996	1 503	41	1 462	241	2012	4 943	31	4 912	1 040
1997	2 023	47	1 976	240	2013	4 076	56	4 020	963
1998	2 198	29	2 169	235	2014	4 084	27	4 057	908
1999	2 568	24	2 544	283	2015	3 880	34	3 846	814
2000	3 137	60	3 077	449	2016	4 291	36	4 255	955
2001	3 044	38	3 006	335	2017	4 180	47	4 133	881
2002	3 183	44	3 139	336	2018	4 379	48	4 331	949
2003	2 548	52	2 496	414	2019	4 200	28	4 172	906
2004	2 788	75	2 713	548	2020	3 719	113	3 606	807
2005	3 039	58	2 981	765	2021	3 532	44	3 488	1 196
2006	3 549	94	3 455	802	2022	3 644	39	3 605	1 046
2007	3 330	29	3 301	894	2023	3 513	49	3 464	1 212
2008	3 249	42	3 207	1 010	Total	98 476	1 448	97 408	21 557

DEVELOPMENTS OF THE NUMBERS OF SUBMISSIONS 1993-2023





06

# INTERNATIONAL COOPERATION AND EXTERNAL RELATIONS





# INTERNATIONAL COOPERATION AND EXTERNAL RELATIONS

The Constitutional Court is the judicial body responsible for the protection of constitutionality. Its right to make decisions follows from this principal task. While international relations cannot be at the core of its activities, they certainly compliment and enrich its work.

The position of the Constitutional Court in the country's legal and political system is unique. On the national level, it lacks a partner that would have equivalent competencies. Furthermore, there is no authority above it. In this light, international cooperation is an important tool for the Constitutional Court to be able to consult on various issues with its counterparts in other countries facing similar questions and thus broaden its perspective. Sharing experience and insights with other constitutional courts may consequently help it deal more effectively with the particular issues that arise before it.

The Constitutional Court's international activities are of both a multilateral and a bilateral character. Multilateral collaboration takes place most often through the Conference of European Constitutional Courts. In 2017–2021, when the Constitutional Court of the Czech Republic chaired the aforementioned organization, its international relations were naturally even more prominent. The Constitutional Court of the Czech Republic is also one of the founding members of the World Organization on Constitutional Justice, which is an even broader (global) forum for international cooperation.

International conferences, seminars, and colloquia, be they academic, that is, focused on theoretical legal questions, or focused on practical issues in the application of the law, are a time-tested and undoubtedly useful format for multilateral cooperation. Also in 2023, the representatives of the Constitutional Court of the Czech Republic participated in a number of such events.

## INTERNATIONAL CONFERENCES

For instance, in early May, an international congress titled “Climate Change as a Challenge for Constitutional Law and Constitutional Courts” took place in Berlin, organised by the German Federal Constitutional Court. Representing the Czech Constitutional Court was Justice Jiří Zemánek.

Towards the end of August and beginning of September, representatives from the constitutional courts of EU Member States, the Court of Justice of the European Union, and the European Court of Human Rights convened at a conference called “EUnited in Diversity II. The Rule of Law and Constitutional Diversity.” This event continued the theme and format of an international meeting held in September 2021 in Riga, Latvia, co-organized by the Court of Justice of the European Union and the Latvian Constitutional Court. This time, alongside the Court of Justice of the European Union and with support from the European Commission, the Constitutional Court of Belgium, the Constitutional Court of Luxembourg, and the Supreme Court of the Netherlands took on the organising role, with the conference hosted in The Hague. Justice Tomáš Lichovník represented the Constitutional Court of the Czech Republic.

On 20 September, Josef Baxa, President of the Constitutional Court, and Vojtěch Šimíček, Vice-President



International Conference  
“EUnited in Diversity  
II. The Rule of Law and  
Constitutional Diversity”,  
The Hague, August 2023



International conference XII Constitutional Days, Košice, September 2023





*Conference of representatives of constitutional courts of EU Member States, Brussels, November 2023*

of the Constitutional Court, made a speech at the XII Constitutional Days international conference, organised by the Constitutional Court of the Slovak Republic and the Law Faculty of Pavol Jozef Šafárik University in Košice. This year's iteration of the annual event focused on the judicial and other protections of political rights.

A few days later, Justice of the Constitutional Court Jan Witr presented at an international scientific conference organised by the Faculty of Law and Economics at Jan Długosz University in Częstochowa, Poland. The conference explored the theme of past and present constitutional law studies in the Czech Republic and Poland.

On 13 October, the European Court of Human Rights held a seminar where representatives of European supreme, supreme administrative and constitutional courts discussed Protocol No. 16 to the European Convention on Human Rights. This Protocol allows the national highest courts of Council of Europe member states to request advisory opinions from the European Court on the application of the Convention. Justice Jiří Zemánek represented the Constitutional Court of the Czech Republic at the seminar.

On 10 November, the second meeting of representatives of the constitutional courts of EU Member States was held at the Brussels headquarters of the European Commission, organised by European Commissioner for Justice Didier Reynders. Once again, the high-level meeting took the form of an open discussion – a multilateral debate on two themes: 1. *How can constitutional courts of Member States contribute to the protection of the rule of law, upon which the EU's legal order is based and which reflects the constitutional traditions common to the Member States?* 2. *Forms of bilateral and multilateral cooperation of constitutional courts of EU member states – experiences, perspectives, and outlook for the future.* The Constitutional Court was represented at the conference by its Vice-President, Kateřina Ronovská.

## BILATERAL MEETINGS

The most tangible results, especially for practice, come from bilateral meetings. Direct discussions among Justices, or court's professional personnel, on matters related to the functions of constitutional courts can contribute to the more effective protection



*Working meeting with the Constitutional Court of the Slovak Republic, April 2023*

of constitutionality and human rights in the broadest sense. Thus, bilateral relations occupies an irreplaceable position in the sphere of the Constitutional Court's transnational activities.

In 2023, three bilateral meetings were held. At the first of these, the Constitutional Court of the Czech Republic welcomed a delegation from the Constitutional Court of the Slovak Republic. The meeting was strictly work-related and focused on operational and administrative topics. Therefore, the professional personnel of both courts were also part of both delegations. Topics discussed included the organisation of work at the constitutional court, rules for the division of agenda, practical experiences with the process of creating and publishing a collection of judgments and resolutions, the constitutional court's communication with the public, and the activities of analytics department and the library.



In the latter half of June, a second bilateral meeting took place, this time at the highest level, involving Justices. Representatives of the Constitutional Court of the Czech Republic welcomed a delegation from the Taiwan Constitutional Court to Brno. Given that this was the first bilateral meeting between the representatives of these institutions, the discussion initially focused on broader themes. Both parties shared insights into the history of constitutional judiciary in their respective territories and introduced each other to their contemporary constitutional legal systems, of which the Czech and Taiwan Constitutional Courts form a part, respectively. The conversation then shifted to the specific competencies of constitutional courts, especially the review of the constitutionality of laws and decision-making in individual constitutional complaints. The second part of the meeting focused on discussions about recent or

*Visit of the Taiwanese Constitutional Court delegation, June 2023*







*Bilateral meeting between the Constitutional Courts of the Czech Republic and Slovakia, Château Belá near Štúrovo, October 2023*

current case-law, including adjudication on measures taken by executives to address the COVID-19 pandemic. Despite the considerable geographical distance between Central Europe and East Asia, there are numerous parallels in the Czech and Taiwanese models of constitutionality protection and constitutional judiciary. This similarity is evident both in the scope of the constitutional courts' powers and regarding the issues they face.

The bilateral relations between the Czech and Slovak Constitutional Courts have long been exceptional. The shared history of the state, geographical and linguistic proximity, and similarities in the legal system in general and the model of the protection of constitutionality in particular are just some of the many phenomena behind this. Both courts directly continue the legacy of the Constitutional Court of the Czech and Slovak Federative Republic, which laid a solid foundation for modern constitutional review. Therefore, representatives of both courts meet more frequently, in various formats and on different occasions, allowing them to share valuable experiences and perspectives. The most significant and comprehensive platform for the exchange of knowledge and ideas are the joint meetings of the constitutional courts' plenums, which typically take place every year, with the hosting duties alternating between the courts. Last year, the Slovak side took on the hosting role, inviting their Czech counterparts to the welcoming environment of the Belianske Hills in southern Slovakia. The constitutional court Justices discussed two topics: the review of the constitutionality of the

legislative process and the effects of derogatory judgments in proceedings concerning the conformity of legal regulations.

It has become a tradition for heads of foreign missions, especially those from countries closely and amicably tied to the Czech Republic, to meet with representatives of the highest judicial bodies, including the Constitutional Court. Hence, this year, the President of the Constitutional Court welcomed several heads of diplomatic missions at the Court's premises. Among them were the Deputy Head of German Embassy Petra Dachtler, the Ambassador of the United Kingdom of Great Britain and Northern Ireland Matthew Field, the Polish Ambassador Mateusz Gniazdowski, and the Portuguese Ambassador Luís de Almeida Sampaio.



*Visit of the Ambassador of the United Kingdom of Great Britain and Northern Ireland Matthew Field, March 2023*



07

# FOUR SEASONS AT THE CONSTITUTIONAL COURT





# 30 YEARS OF THE CONSTITUTIONAL COURT OF THE CZECH REPUBLIC

23 February 2023





# FESTIVAL MEETING BRNO

29 June 2023







# VISIT OF THE PRESIDENT OF THE REPUBLIC

7 August 2023





# PUBLIC TOURS AT THE SEAT OF THE CONSTITUTIONAL COURT











08

# RELATIONS WITH THE MEDIA AND PROVISION OF INFORMATION



# RELATIONS WITH THE MEDIA

The Constitutional Court and its decision-making process frequently attract media attention. In 2023, the Court found itself under more spotlight than in previous years, largely due to the extensive changes in the composition of its body of Justices. Seven Justices were concluding their ten-year terms, necessitating the introduction of new members to the Court. This significant event was reflected in coverage by public media outlets such as the Czech News Agency (ČTK), Czech Television (ČT), and Czech Radio (ČRo).

The national press agency ČTK dedicated almost a thousand reports and other materials to the Constitutional Court in 2023, delivered to Czech and international editorial offices. Beyond the Court's decision-making activities, the agency's news coverage frequently focused on the appointment of new Justices, reporting on the work of the outgoing Justices and both successful and unsuccessful candidates for the position of a Justice of the Constitutional Court. The agency released nearly 50 high-priority reports related to the Constitutional Court, a noticeable increase from previous years where such coverage was at most half as extensive. The rise in 2023 is directly attributable to the aforementioned changes in the composition of the Court and related developments, with ČTK closely following the Senate's decisions on the appointment of individual candidates, including their consideration in committees. The agency also highlighted high-priority decisions from the Court's decision-making activity, such as those related to the presidential election or a judgment on the state's liability for the errors of an authorised inspector that a building authority failed to rectify. Similar attention was given to a judgment that annulled part of the existing remuneration scheme for local government officials. In 2023, news coverage also frequently focused on the Constitutional Court's proceedings to annul the reduced pension indexation, with a judgment promulgated in January 2024.

Czech Television (ČT) also often covers the judiciary in its news reporting, consistently monitoring

jurisprudence and events at the Constitutional Court. The ČT's Brno editorial office prepared a total of 10 specials on the Constitutional Court for the ČT24 news block in 2023. These specials covered topics such as the limits of freedom of speech, the electoral law, equal access to education, and issues surrounding school speech therapists. ČT also broadcast a special dedicated to 30 years of Czech justice on the occasion of the 30th anniversary of the Constitutional Court. Furthermore, several reports produced by the ČT's Brno news editorial were broadcast in the main news or regional news segments, including reports on the appointment of new Justices of the Constitutional Court, the end of the former Constitutional Court President Pavel Rychetský's term of office, and pension indexation. Former President of the Constitutional Court Pavel Rychetský and Justice of the Constitutional Court Jan Wintr were among the guests on ČT24's Interview programme last year.

Across all Czech Radio stations, more than 1,700 different contributions were prepared on the topic of constitutional judiciary (both in the Czech Republic and abroad), regardless of the number of broadcasts and stations. Compared to the previous year, this represents a significant increase (about 50%), driven not only by the serious topics related to constitutional judiciary but particularly by the aforementioned changes in the composition of the Court and the appointment of its new President. The topic was most prominently featured in the broadcasts of the news stations Radiožurnál







and Plus, and also on the airwaves of Dvojka and Czech Radio Brno. President of the Constitutional Court Pavel Rychetský appeared in more than two hundred different contributions across all public stations (regardless of the number of their repeats), including thematic programmes [Twenty Minutes programme (Dvacet minut Radiožurnálu) and other]. The increase was again related to changes in the composition of the Court and the fact that President Petr Pavel conferred a state decoration on Pavel Rychetský. Josef Baxa, new President of the Constitutional Court, achieved approximately the same figure, related in his case also to discussions about the leadership of the court and cases in which he acted as the Justice Rapporteur. However, most of the Justices of the Constitutional Court appeared in the broadcasts to varying extents. The topic of constitutional judiciary regularly appeared on the news website iRozhlas.cz as well.

Media-interesting or otherwise significant decisions are accompanied by press releases from the Constitutional Court to ensure their most accurate reproduction, as

the judgments themselves might not always be sufficiently comprehensible to journalists without a legal education. Press releases published on the Court's website in the Current Affairs section (available at <https://www.usoud.cz/en/current-affairs/>) are also significant for both the professional and general public, offering an easy way to quickly and operationally familiarise themselves with the main outlines of promulgated judgments. Besides its own adjudicative activities, the Court also informs the media and public about other interesting aspects of its work, foreign trips of officials and Justices of the Court, and visits by notable personalities. In 2023, a total of 92 press releases were published in Czech and 30 in English. During the past year, the Constitutional Court's website recorded a total of 244,445 visits from 112,652 users. The highest interest was directed at the sections Current Justices and Court Officials (92,658 visits), Court Agenda (42,778 visits), and Current Affairs (28,902 visits).

In 2014, the Constitutional Court of the Czech Republic was the first court in the country to establish its

official profiles on social networks Facebook (available at <https://www.facebook.com/ustavnisoud>) and Twitter, now X (available at [https://twitter.com/usoud\\_official](https://twitter.com/usoud_official)). In 2016, the Supreme Court (@Nejvyšsisoud) joined the social network X, followed by the Supreme Administrative Court (@nssoudcz) in October 2017 and the Supreme Public Prosecutor's Office in 2019. The aim of this step was to provide simple and immediate access to information not only about the Constitutional Court's decision-making activity for social media users, whose numbers are continually growing. An undeniable advantage is also the immediate feedback from information recipients. The majority of those interested in information published on the Constitutional Court's profiles comprise the professional public, law faculty and high school students, lawyers, media, but also ordinary citizens who do not want to rely solely on information mediated by mass media. Another benefit is the dissemination of published information among users through sharing individual posts or adding comments. The official profiles are regularly updated and followed by a large number of users. As of the last day of 2023, more than 10,500 people followed the happenings at the Constitutional Court via the Facebook social

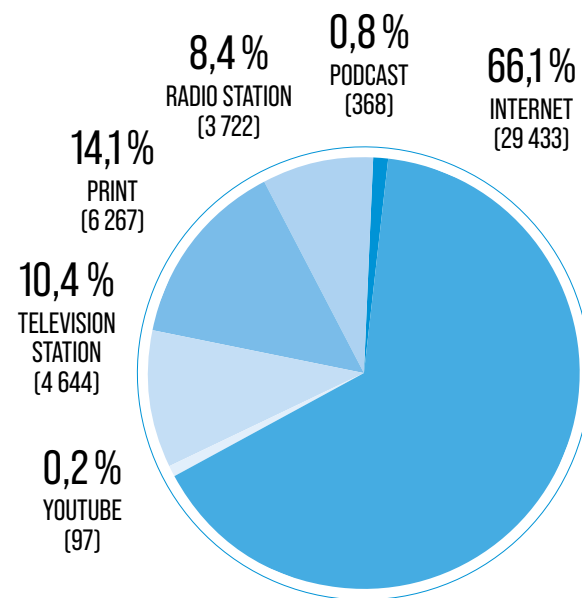


network. The Constitutional Court published a total of 159 posts in 2023. The total reach of the Constitutional Court's Facebook page over the past year was more than 128,800 users, which is 44.4% more than the previous year. The number of interactions (reactions, comments, shares, saves) exceeded 4,800, which is 85% more than in 2022. One of the posts that was most viewed and received the most reactions was about the appointment of Vojtěch Šimíček as the Vice-President of the Constitutional Court. The Constitutional Court's profile on the social network X was followed by over 15,000 users at the end of 2023, including individuals, political groups, authorities, and the media themselves. During the previous year, the Constitutional Court published a total of 155 brief reports on X. The trend of adopting these reports as official quotes in printed periodicals continues.

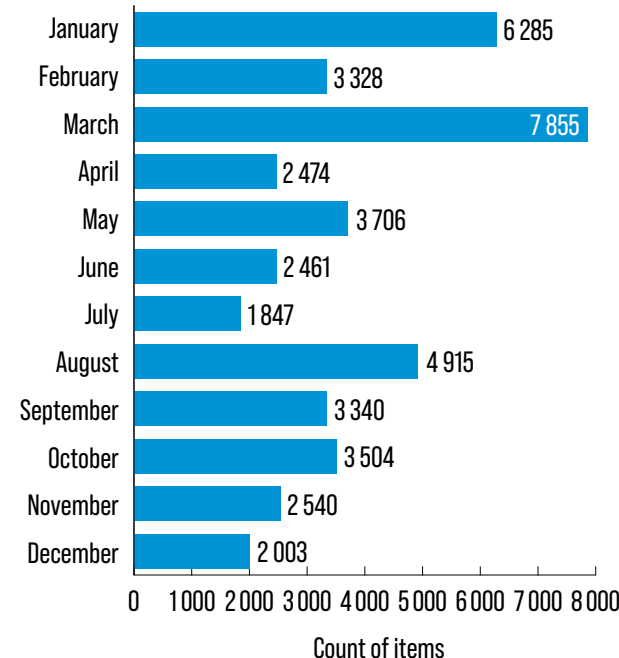




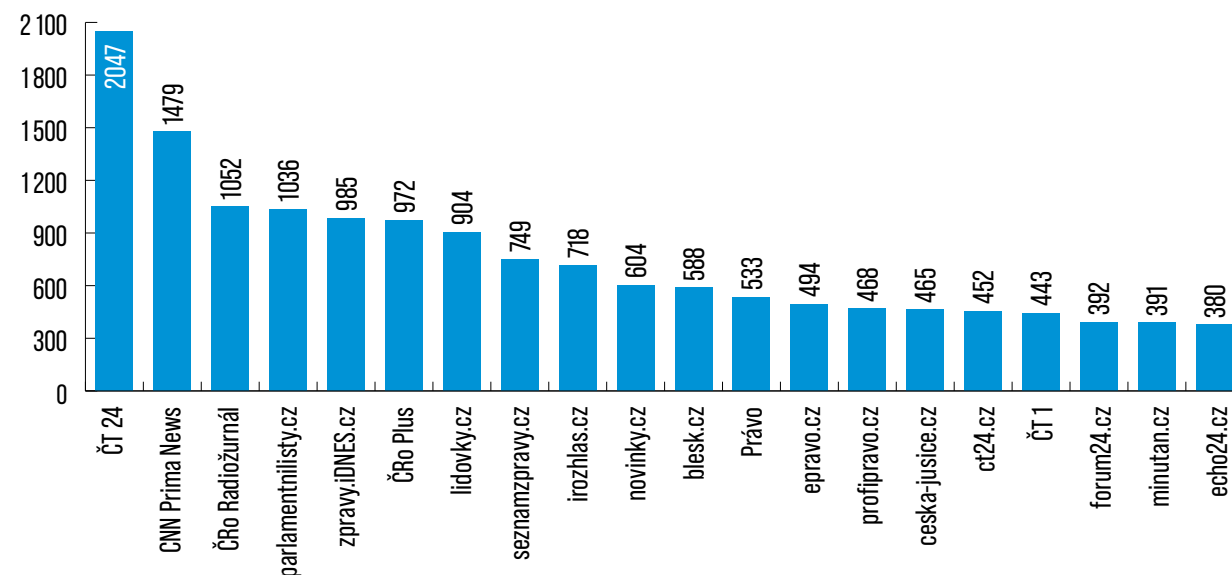
### SHARE OF DIFFERENT TYPES OF MEDIA IN REPORTING ON THE CONSTITUTIONAL COURT IN 2023



### DISTRIBUTION OF THE NUMBER OF REPORTS ON THE CONSTITUTIONAL COURT IN 2023



### TWENTY MEDIA OUTLETS THAT MENTIONED THE CONSTITUTIONAL COURT MOST FREQUENTLY IN 2023



## PROVISION OF INFORMATION

In 2023, the Constitutional Court provided information about its activities to the extent required by Act No 106/1999, on free access to information, as amended (hereafter “Act No 106/1999” or “FAIA”).

The Constitutional Court made basic information available within the meaning of Act No 106/1999 in several ways: through its website at [www.usoud.cz](http://www.usoud.cz), on the official board in the foyer of its premises at Joštova 8, Brno, as well as directly through its employees. Among the list of information resources, the NALUS internet database of the Constitutional Court, containing all decisions of the Constitutional Court and providing the professional public, media, and interested parties with further detailed information on the Court’s decision-making activity, cannot be overlooked.

In 2023, the Constitutional Court recorded (as in the previous year) a total of 108 written requests for information submitted under Act No 106/1999. In most cases, the requests for information were satisfied, and the requested information was provided. All requested information was provided by the Constitutional Court in 2023 free of charge.

In connection with the exercise of the right to information, a total of 21 decisions to deny requests were issued in 2023. The prevailing reasons for completely or partially denying requests for information were cases where the obligated entity did not have the requested information available. Effective from 1 January 2023, Section 11b was added (by Act No 241/2022), explicitly codifying this reason, which had until then been inferred for the factual non-existence of the requested information in accordance with jurisprudence utilising Sections 2(4) and 3(3) of Act No 106/1999. Accordingly, nine decisions were issued under Section 11b.

In four cases, decisions to deny requests were issued under Section 14(5)(b) of Act No 106/1999 due to their lack of specificity. The legal exclusion under Section 2(4) of Act No 106/1999, where applicants sought “clarification” of specific decisions of the Constitutional Court, legal advice, instructions, or interpretation of legal regulations, was applied in four cases. Referring to Section 11(4)(b) of Act No 106/1999, decisions were made in three cases because information on the Court’s decision-making activity was requested. In one case, the reason for issuing a decision to deny a request was the protection of privacy and personal data of the individuals involved, utilising the statutory limitation under Section 8a(1) of Act No 106/1999.

Three appeals against the obligated entity’s decision to deny a request were filed in 2023. Two appeals were dismissed by the Office for Personal Data Protection, which is the appellate body against decisions of the Constitutional Court to deny requests for information, and the procedure of the Constitutional Court was confirmed. The appellate body had not decided on the third appeal by the yearbook’s deadline.

In 2023, no complaints were filed against the procedure of the obligated entity in processing requests for information.

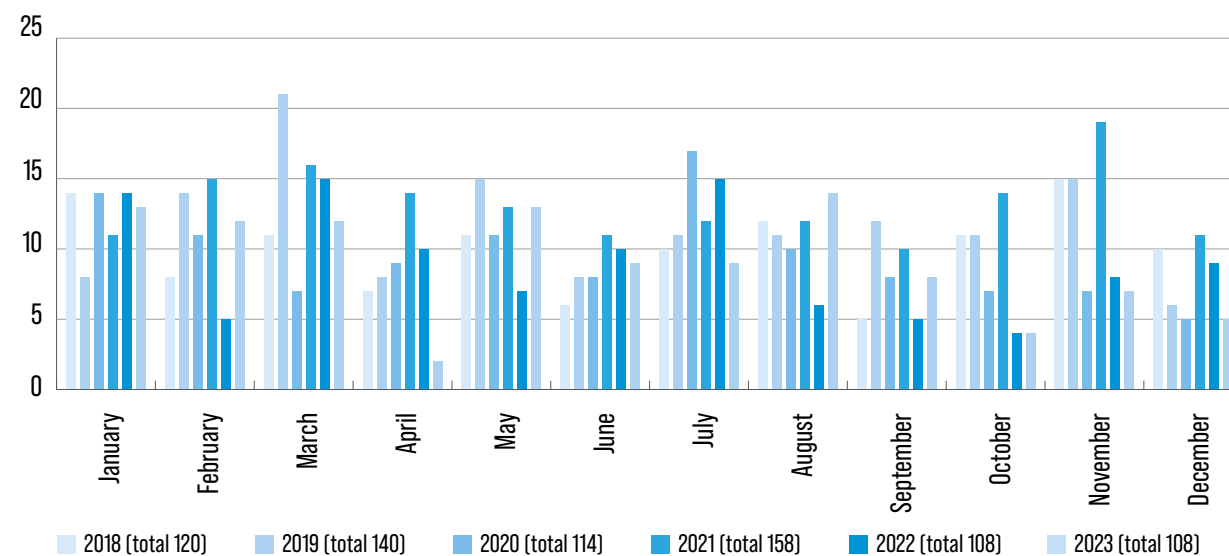
Eight requests for information were deferred because they did not relate to the scope of competence of the obligated entity.

In 2023, no exclusive licences were granted.

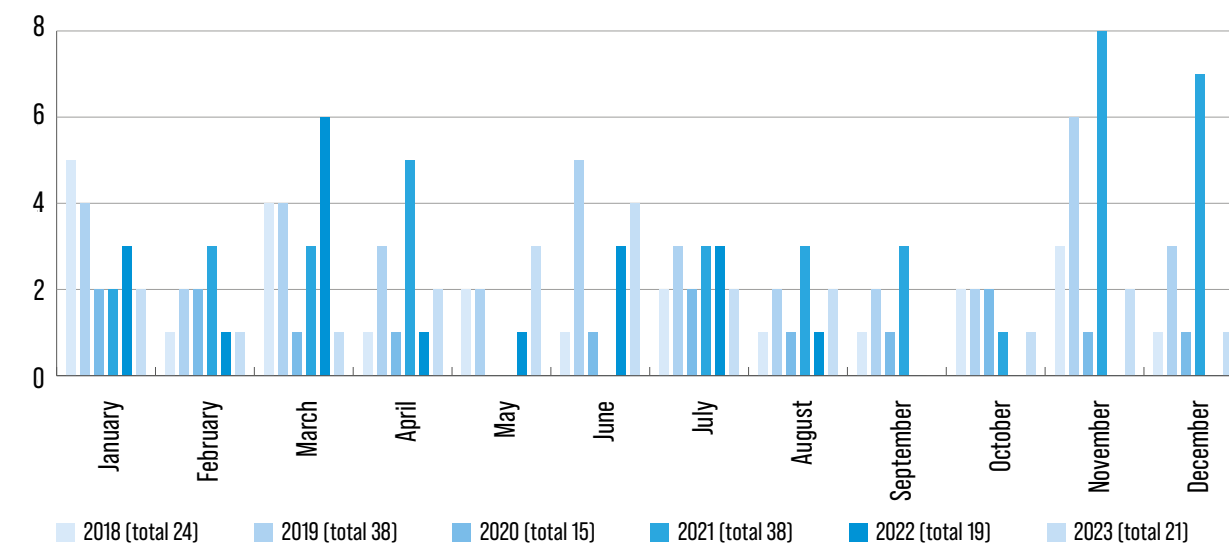


# STATISTICS OF INFORMATION REQUESTS IN 2023

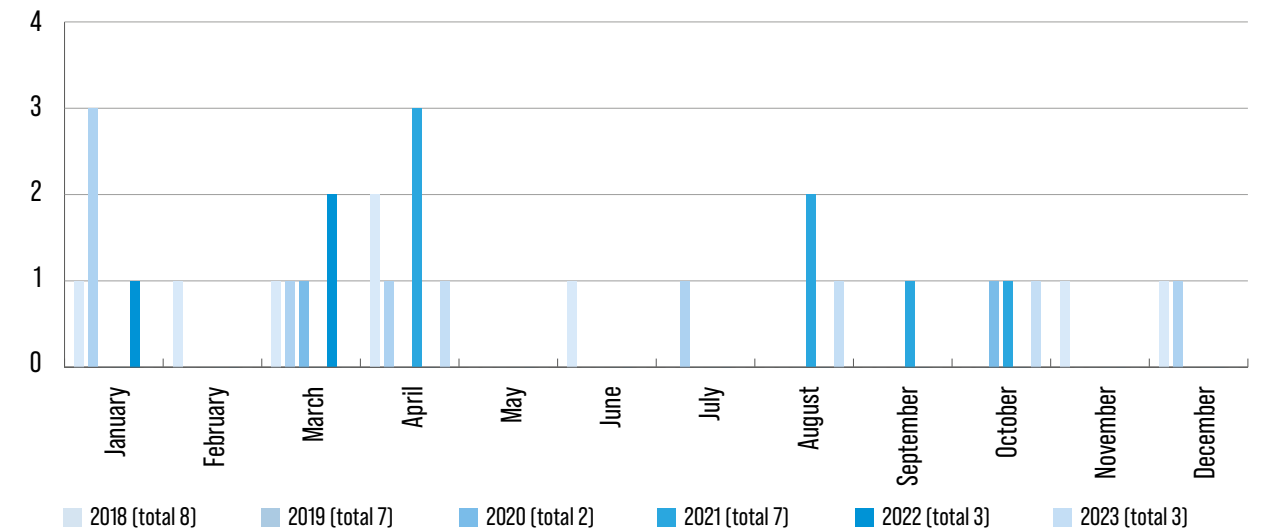
## NUMBERS OF INFORMATION REQUESTS SUBMITTED



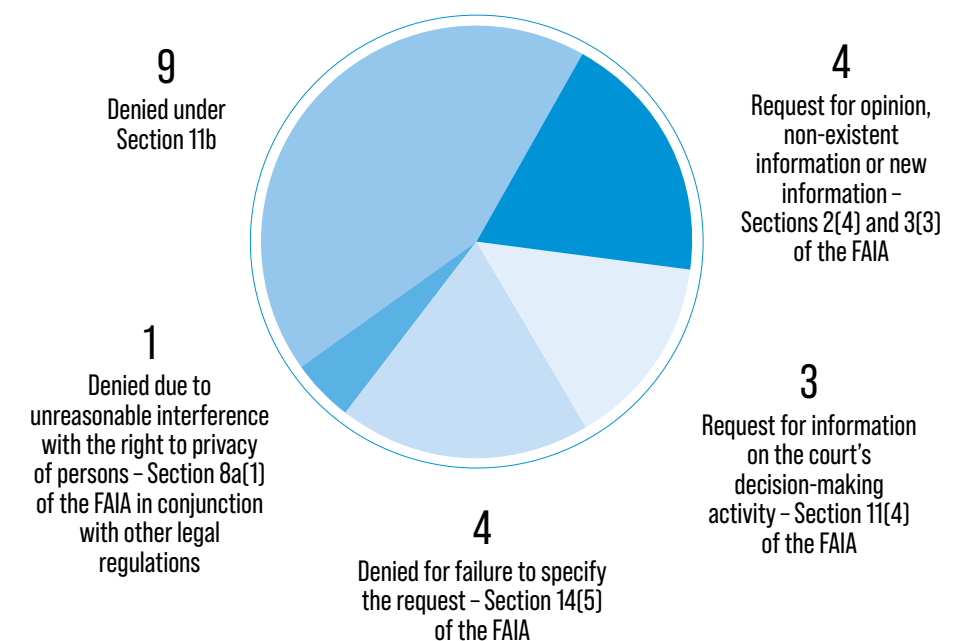
## DENIAL DECISIONS ISSUED



## APPEALS AGAINST A DECISION TO DENY A REQUEST



## REASONS FOR DENYING REQUESTS FOR INFORMATION IN 2023





09

# ABOUT THE SEAT OF THE CONSTITUTIONAL COURT







# ABOUT THE SEAT OF THE CONSTITUTIONAL COURT

The Constitutional Court building in Brno, located on Joštova Street, was constructed between 1875 and 1878 as the seat of the Moravian Diet. Designed in a historicising neo-Renaissance style by renowned Viennese architects Robert Raschka and Anton Hefft, the facade and interiors were embellished by notable artists of the era J. Schönfeld, A. Loos senior, and J. Tomola.

It has been the seat of the Constitutional Court of the Czech Republic since its establishment in 1993. The building was declared a cultural monument in 1964, and in 2014, the Constitutional Court applied for it to be listed as a national cultural monument, exemplifying monumental historicising palace architecture and as the most extensive still-intact structure on Brno's ring road.

The neo-Renaissance palace, built on a rectangular plan measuring approx. 90\*60 metres, encompasses four internal courtyards. Centrally located in the wing facing Česká Street, on the second and third floors, is the Assembly Hall accessible via a staircase from the so-called carriage entrance. The Assembly Hall, originally intended for sessions of members of the diet is today used for public oral hearings of

the Constitutional Court, the announcement of judgments of the Plenum of the Constitutional Court, and for hosting conferences, lectures, seminars, discussions, etc. Adjacent to the Assembly Hall is a vestibule and on either side, smaller rooms that originally served as the parliament's canteen and club. These are now utilised as courtrooms for announcing judgments of the panels of the Constitutional Court.

Thanks to its prominent location in the heart of the city of Brno, the building has never fallen into disrepair. However, its intensive use, the passage of time, and some less sensitive reconstruction or renovation efforts have adversely affected its condition. Therefore, in 2014, a comprehensive renovation of

the seat of the Constitutional Court began, aiming to preserve or restore the original construction elements of the elegant neo-Renaissance palace while creating a dignified and high-quality environment for the top-level judicial institution. Considering the ongoing operations of the Constitutional Court and the financial resources available, the reconstruction has been carried out gradually. The renovation of the library, which began in 2010, was followed by the renovation of the building's exterior, entrance hall, Assembly Hall and adjacent areas (foyer, courtrooms, galleries), basement spaces, carriage entrance, and most offices. In 2023, the reconstruction of the Grand Council Hall and surrounding rooms was completed.







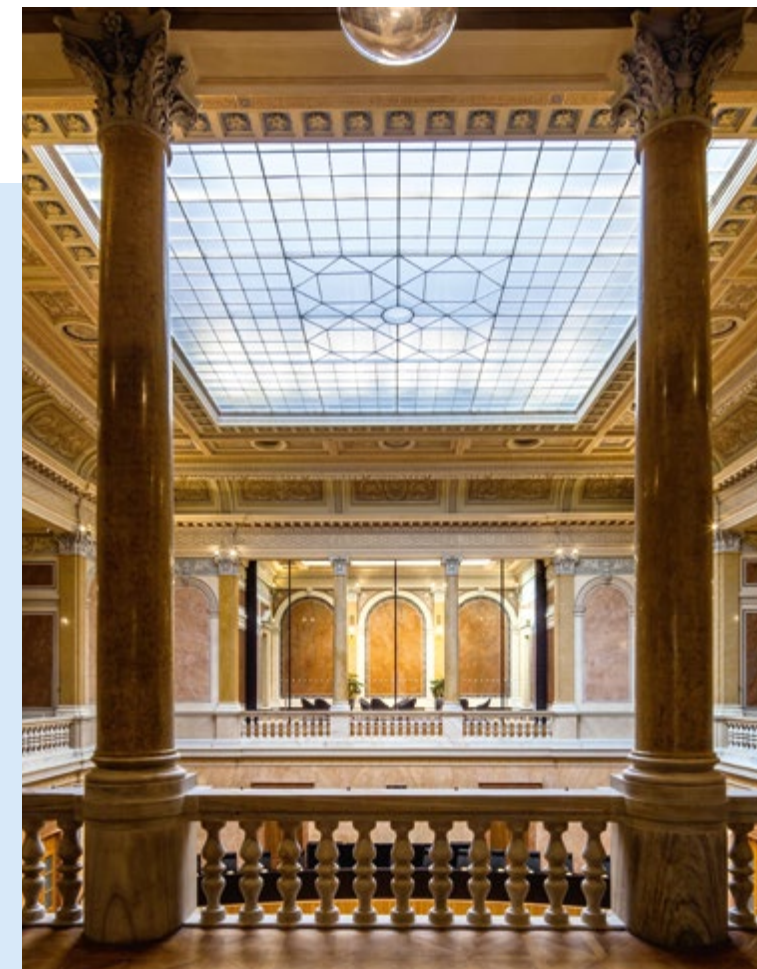
*The seat of the Constitutional Court after renovation of the façade*



*Library of the  
Constitutional Court*



*The Assembly  
(Plenary) Hall after  
restoration*





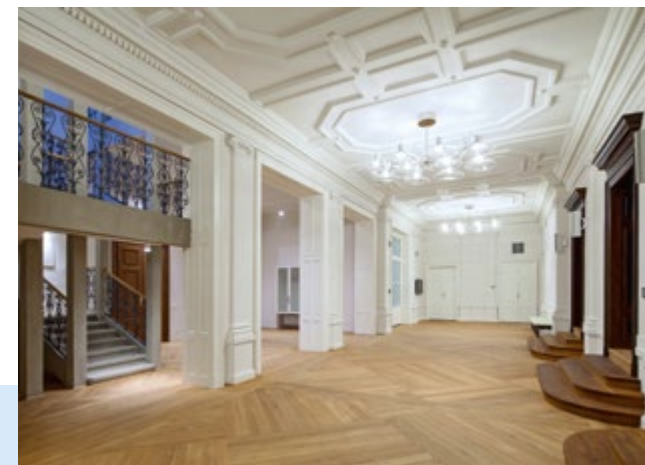


*Western gallery of the Assembly (Plenary) Hall*

*The carriage entrance*



*One of the two identical-looking courtrooms*



*The Vestibule of the Assembly (Plenary) Hall*



*The entrance to the Grand Council Room*



*The Grand Council Room*





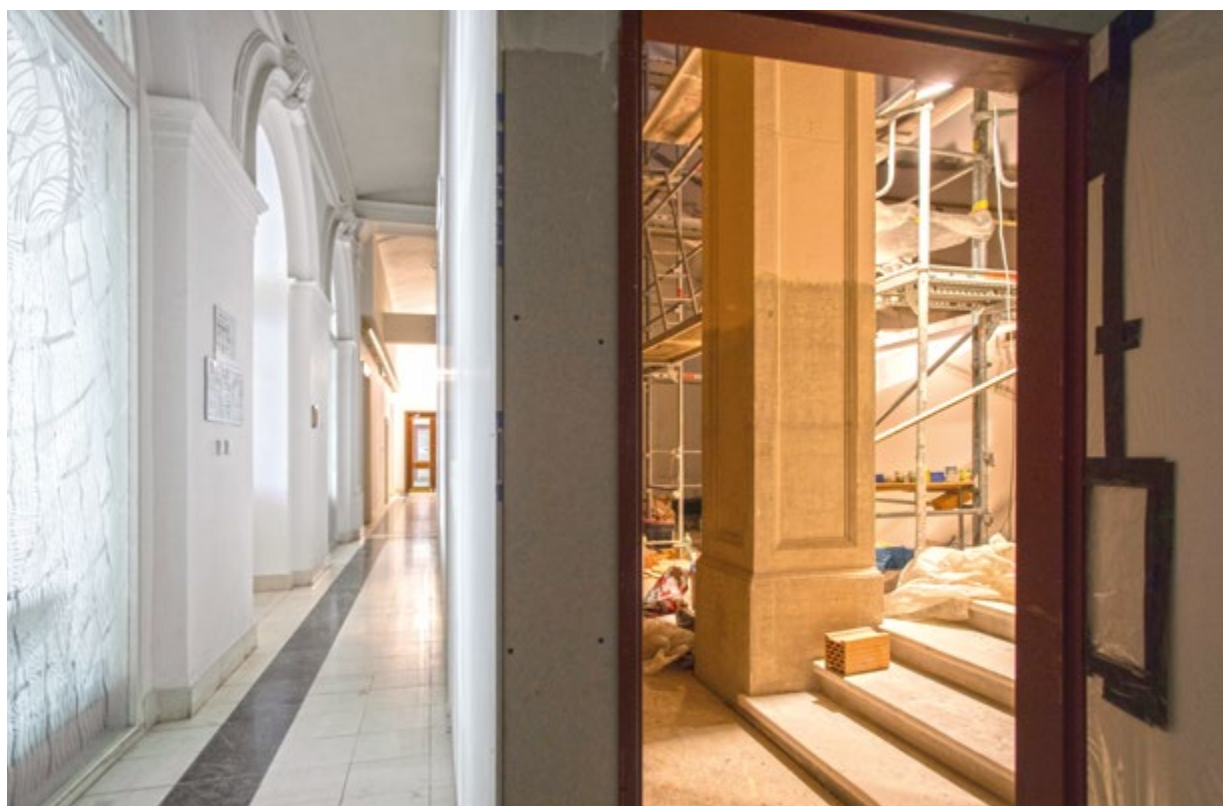
# CONSTITUTIONAL COURT WITHOUT BARRIERS

As part of the ongoing renovation of the seat of the Constitutional Court, the issue of removing physical obstacles preventing persons with disability from accessing and moving around the building could not be overlooked. This issue, while easy to solve elsewhere, is a complicated matter in the environment of a historic building.

In 2021, following a series of specific reconstructions and special adjustments, the last obstacles within the building were removed. Thus, the premises of the Constitutional Court became barrier-free. All spaces important for the Court's deliberations, delivery of judgments, and handling of documents (courtrooms, Assembly Hall, records office, archive, and library) are now accessible without barriers—allowing access and movement without the need for accompaniment.

As mentioned, such measures are standard in newly designed buildings. In older buildings, they are more challenging to implement but are becoming increasingly common, albeit requiring significant effort in planning and realization. The fact that the Constitutional Court is now barrier-free is a sign of care for its beautiful seat but at the same time and above all an expression of respect for all those who need to move around in the building.

*Renovation of the staircase area in the part of the building adjacent to Žerotín Square*

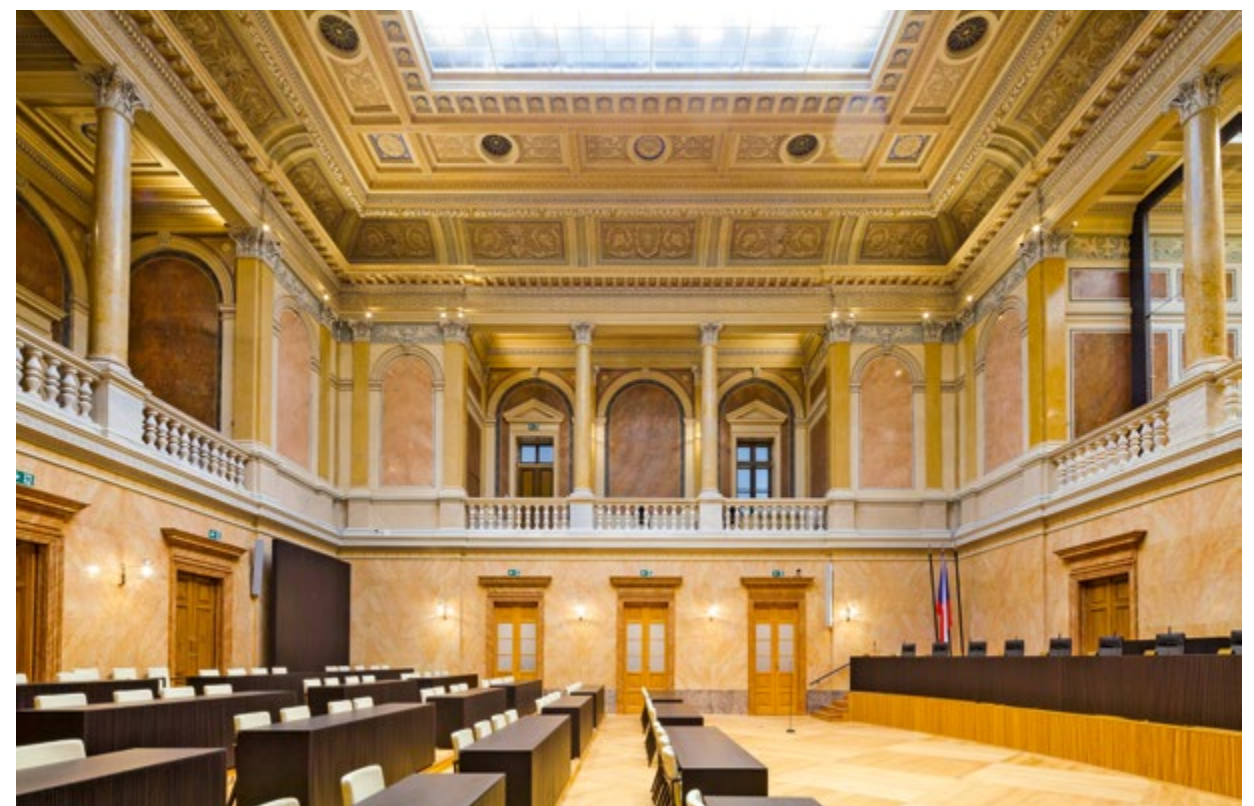


*New lift in the north staircase, which was built during the renovation of the staircase in 2021*



*The lift connects all floors in the building, which was not possible before; thanks to this, the newly built registry archives have been made wheelchair accessible*

*Removal of barriers in the Assembly (Plenary) Hall, which was originally designed in a tiered manner. The staircase was partially removed during the renovation and places for persons with physical disabilities were created in the first row.*







CONSTITUTIONAL COURT  
OF THE CZECH REPUBLIC

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