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# Business and human rights

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## 1. What kind of judicial protection do I have in your country as a victim of business- related human rights violations? Does this protection include compensation?

Victims of business related human rights violations are granted protection at the level of ordinary courts.

Persons whose rights have been violated can seek protection in either civil proceedings or criminal proceedings before ordinary courts; if relevant, subsequently before the Constitutional Court.

In case of violations of a civil nature, you can usually defend yourself by bringing an action for performance, via which the claimant can demand the performance of any legal obligation. Typically, the claimant can demand that the defendant give something to the claimant, that the defendant do something, that the defendant cease and desist from illegal conduct, or that the defendant tolerate certain conduct. The claimant can also seek the performance of the obligation to provide compensation for pecuniary or non-pecuniary damage caused by the defendant's culpable conduct.

Where rights have been violated by an act possessing the features of a crime, as a means of defence a criminal complaint can be lodged with any police authority, with a prosecutor's office or, orally, with a court. Further to the criminal complaint, the prosecutor can bring an action before a court, which then decides on guilt and punishment. In making its decisions the court is independent and only bound by law.

Where the victim has suffered damage to health or pecuniary or non-pecuniary damage due to the offence, or the offender has gained enrichment through the offence at the expense of the victim, the victim can move for the court to impose on the defendant, in its convicting judgment, the obligation to compensate financially the pecuniary or non-pecuniary damage suffered by the victim due to the offence (this is known as the adhesion procedure). [1] The victim must do so not later than before evidence taking during the trial or, at the very latest, during the first hearing on the agreement on guilt and punishment if such an agreement has been reached.

The victim of a human rights violation (referred to as the injured party) has no right to appeal against the court's judgment on grounds of claiming that the operative part (i.e. the decision itself) in the judgment is inaccurate. Nevertheless, the victim can appeal against the judgment's decision on financial compensation for pecuniary or non-pecuniary damage or that on the surrender of unjustified enrichment on the grounds of such decision being inaccurate, if the victim has raised such claim.

## 2. Do you have specific rules for gross human rights violations? Do these rules apply to environmental crimes or severe labour exploitations?

Cases of gross human rights violations are treated as offences under the Criminal Code. When the court determines the sentence it also takes into consideration the nature and gravity of the offences in addition to the offender's situation and the victim's interests protected by law. In general, the Criminal Code lays down more severe punishments and sentences for certain offences, classified therein, that possess a higher level of gravity for society. Such gravity may consist in rather serious danger to or harm to the victim of the offence, in the

manner of committing the offence, or in a particular motive. The above may include the intentional commission of an offence or an offence committed by gross negligence, repetitive offending, gaining a considerable benefit or a benefit of a large scale by committing the offence, or causing grievous bodily harm or death.

The Criminal Code contains a separate Title on environmental offences. Besides the fundamental facts constituting these offences, the Criminal Code also lays down certain qualified facts, which reflect a heavier gravity of the offences for society, and prescribes more severe punishments for them. The punishments may even include a prison sentence in the case of natural persons and the dissolution of the entity in the case of legal persons.

The above applies *mutatis mutandis* to labour exploitation. The Criminal Code does not contain the term 'labour exploitation' but slavery and serfdom [2], forced labour and other forms of exploitation [3], which are treated as the offence of trafficking in human beings, can be subsumed under this term. It can also mean particularly exploitative working conditions [4], which are one of the fundamental features of the facts constituting the offence of illegal employment of foreign nationals. Certain qualified facts, the existence of which in a case attracts more severe punishments, are also laid down for these offences.

**3. I am the victim of a human rights violation resulting from activities carried out outside the European Union by a European transnational corporation. Do I have access to the courts in your country if I am not an EU citizen or I don't live in the EU? Under what conditions can I claim a violation of my rights? Where can I find additional information?**

In general, the answer to Question 1 applies. Czech authorities primarily have the competence to deal with cases that have occurred in the Czech Republic, unless EU law or international treaties lay down otherwise.

**4. Can ombudsman institutions, equality bodies or national human rights institutions support victims of business-related human rights violations committed by European transnational corporations outside the European Union? Can these bodies investigate my case if I am not an EU citizen or I don't live in the EU? Are there other public services (such as a labour or environmental inspectorate) in your country that can investigate my case? Where can I find information about my rights?**

Under some of his competences, the Ombudsman can provide support and protection to victims of business related human rights violations. This includes, in particular, providing assistance to EU citizens, investigating complaints about state administration bodies, and providing cooperation and guidance to victims of discrimination. As regards the provision of assistance to EU citizens, all EU citizens can resort to the Ombudsman with applications for assistance in matters concerning their rights as employees and EU citizens. As part of this activity, the Ombudsman provides EU citizens with information about their rights, about the authorities they should contact, and about the steps they can take. The Ombudsman also provides guidance in cases of suspicion of discrimination on grounds of citizenship and in cases of the filing of motions for instituting proceedings on grounds of discrimination. The Ombudsman can communicate with the authorities having a similar role in other EU member states. In addition to the Ombudsman, victims of business related human rights violations can approach the Czech SOLVIT centre. The SOLVIT centre investigates complaints in cases where a public authority of an EU member state fails to proceed in line with European law and is damaging rights of persons [both citizens and businesses].

The Ombudsman also investigates complaints against the state administration bodies that are competent to oversee privately-held entities' performance of obligations (typically inspection and supervisory authorities). However, the Ombudsman cannot examine these privately-held entities' activities as such. Equally importantly, the Ombudsman is authorised as the national body for equal treatment and protection against discrimination. In this respect, the Ombudsman provides cooperation and guidance to victims of discrimination.

The Czech Republic also has national supervisory institutions in each sector of state administration. As a rule, these institutions accept suggestions and complaints from the public. Should they conduct a check and find a breach of the legislation they can impose, in particular, the obligation to remedy the situation, and they can levy fines in case of more serious breaches. These institutions include, without limitation, bodies of Česká obchodní inspekce [the Czech Trade Inspection Authority] covering the provision of goods and services, Státní zemědělská a potravinářská inspekce [the Czech Agriculture and Food Inspection Authority] and Státní veterinární správa [the State Veterinary Administration] for foodstuffs, and regional public health centres for cosmetic products and articles intended to come into contact with food. Furthermore, in respect of labour relations, it is Státní úřad inspekce práce [the State Labour Inspection Office] and regional labour inspection offices; in respect of the environment, Česká inspekce životního prostředí [the Czech Environment Inspection Office] can be contacted. The territorial competence of these institutions is usually limited to the Czech Republic.

**5. Does your country impose obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities? Do these obligations also apply to violations that occur outside the European Union? Who is in charge of monitoring these activities in your country? Are there public reports available providing information on the functioning of the system?**

Czech law does not impose any obligations on European transnational corporations to establish complaint mechanisms or mediation services for violations resulting from their business activities, or the obligation to monitor these activities. The Czech government has therefore at least recommended to businesses to consider implementing their own in-house due diligence mechanisms for identifying and eliminating human rights risks. [5] The involvement of the stakeholder groups – the employees and the public directly concerned – should be a required part thereof. However, this government recommendation is not legally binding.

**6. Do I have specific rights if I am a vulnerable victim seeking a remedy for business-related human rights violations? Can I have access to legal aid, and under which conditions? Which costs will be covered by the legal aid? Do I have access to legal aid under the same conditions if I am not an EU citizen or I don't live in the EU?**

Where a person seeks protection of their rights as a party to civil proceedings they can apply to the court for the appointment of a legal representative. The court appoints a legal representative provided that the party meets the conditions for exemption from the court fees where the appointment of a representative is necessary for protecting the party's interests. At the same time, the court only appoints a solicitor if the protection of the party's interests requires so (in particular in more complicated proceedings), or in case of appointing a representative for proceedings in which representation by a solicitor (notary) is obligatory.

In criminal proceedings, victims of crime are provided with specialist assistance, which includes psychological counselling, social advice, legal aid, provision of legal information, and restorative programmes. The victim also has the right of access to information about the case in which they have become the victim of an offence. As regards legal aid, this includes, without limitation, representation in proceedings before courts and other authorities, provision of legal advice, the drafting of documents, and the preparation of legal analyses.

The victim who has suffered grievous bodily harm caused by an intentional offence and the survivor of a victim whose death was caused by the offence can apply for legal assistance provided free of charge or for a reduced charge. The court affords legal assistance provided free of charge or for a reduced charge if the victim/survivor proves to be lacking the funds for paying the costs incurred in the appointment of an attorney. The court also makes the same decision where the victim/survivor has claimed compensation for damage and representation by an attorney is evidently not superfluous. In addition to the above, free legal aid is provided, on the basis of an application, to particularly vulnerable victims, who include the following: children, very old individuals and disabled individuals, and victims of offences specified in the law, including victims of human trafficking. The

above individuals have the right to free specialist assistance in general and also enjoy additional special rights such as the right to the prevention of their contact with the offender and the right to protection when being examined or when filing a submission.

Persons who are in a dispute with a person living or having their registered office outside the Czech Republic, and who lack the funds for paying the costs of the court proceedings, can apply for legal aid in cross-border disputes under [Directive](#) on legal aid in cross-border disputes. Such legal aid covers pre-litigation advice with a view to reaching a settlement prior to bringing legal proceedings, legal assistance in bringing a case before a court and representation in court and assistance with or exemption from the costs of proceedings.

Individuals who are not EU citizens and do not live in the EU but have become victims of human rights violations related to their business in the Czech Republic have access to legal aid under the same conditions as citizens of the Czech Republic.

[1] Section 43(3) of Act No 141/1961 on criminal proceedings (Code of Criminal Procedure)

[2] Section 168(1) and (2)(d) of the Criminal Code (human trafficking)

[3] Section 168(1) and (2)(e) of the Criminal Code (human trafficking)

[4] Section 342(1) of the Criminal Code (illegal employment of foreign nationals)

[5] National action plan for business and human rights for the period 2017-2022 [*Národní akční plán pro byznys a lidská práva na období 2017-2022*], page 30

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