

European Court of Human Rights: *Tožičková v. Czech Republic*

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On 5 September 2020, in one of several protests held that year, a group of environmental activists had protested at the Vršany coal mine in Czechia by occupying an excavator. They had been protesting against the continuous mining of coal and the government's lack of action to mitigate its adverse effects on the environment. Since public access to the mine had been prohibited, the police had intervened and apprehended the activists, who had refused to leave upon the police's request.

The applicant in the subsequent case before the European Court of Human Rights (ECtHR), Alexandra Tožičková, had been at the site to report on the protest, without participating in it herself. Her press badge had been visible on her clothing. The police had also ordered her to leave the premises, but she had refused to comply with this request, claiming that her role as a journalist meant that she should be allowed to remain on site. The police had therefore apprehended and detained her. She had been taken from the premises and held for two hours, during which time she had not been allowed to film further video footage. She had filed an administrative lawsuit, citing unlawful and disproportionate interference with her rights by the police.

The national proceedings

The Prague Municipal Court had upheld the applicant's claim that the restrictions on her right to freedom of expression had been disproportionate, considering that she had been identifiable as a journalist, had not posed a risk to the police or hindered its work, and had been reporting, in her capacity as a journalist, on matters of public concern. Nevertheless, the police's order had been legitimate and the applicant's refusal to follow it weighed heavier than the disproportionality of the police's interference with her rights. The Municipal Court had therefore concluded that the police had not acted unlawfully. Prohibiting the applicant from filming during her arrest had, however, been unlawful. The Supreme Administrative Court had upheld the Municipal Court's ruling, adding that the freedom of expression could not generally be interpreted as exempting journalists from obeying the law. The Constitutional Court had found the applicant's complaint against the Supreme Administrative Court's ruling manifestly unfounded. It had ruled that all relevant circumstances had been examined and weighed sufficiently, including the fact that the applicant had

attended the protest in her capacity as a journalist.

The complaint in more detail and the assessment of the ECtHR

The applicant complained to the ECtHR about the way in which the police had treated her during and after the protest. She recognised that entering the mine had been unlawful, but stressed that the mine had not been in operation that day and that the security risks had therefore been low. In addition, she had not obstructed the police's work and the police had not been obliged to arrest and detain her when she had failed to comply with their request to vacate the mine. Moreover, and most importantly, she had acted in accordance with the law because she had been fulfilling her responsibilities as a journalist in accordance with the ethical principles of journalism. The authorities had not, in the applicant's view, taken due account of her role as a journalist. In particular, she believed that the police had wanted to remove her so they could intervene without a journalist present.

The ECtHR pointed out that Article 10 of the European Convention on Human Rights protected everyone's freedom of expression, especially that of journalists acting in their capacity as "public watchdogs" (e.g. *Magyar Helsinki Bizottság v. Hungary*), stating that journalists occupied a special position in democratic society. Journalists played a particularly important role in ensuring that the public could meaningfully exercise its right to receive and impart information. In view of this watchdog role, which helped to ensure that authorities were held accountable for their actions, as well as the fact that journalists were expected to act in accordance with the law (e.g. *Stoll v. Switzerland & Amaghlobeli and others v. Georgia*), any interference with their right to freedom of expression had to be closely scrutinised (e.g. *Pentikäinen v. Finland*).

The Court identified three measures taken by the police that might have constituted interference: ordering the applicant to leave the premises, removing her from the mine following her arrest, and preventing her from making video recordings during and after her arrest. The first and third of these measures had been considered unjustified by the national courts, which had accepted the police's right to remove the applicant from the premises. According to the ECtHR, however, the applicant's removal and detention had irreversibly prevented her from witnessing the events that had unfolded at the mine and gathering information necessary for her journalistic work. She had been prevented from filming during and after her arrest in order to stop her documenting the police's actions. Gathering information was, however, a necessary preparatory step in journalism and a vital aspect of journalistic freedom. Therefore, the applicant's rights had clearly been interfered with.

The main question was whether this interference had been necessary. The national courts had admitted that the applicant should not have been ordered to

leave the premises in the first place. At the same time, they had held that her detention had nonetheless been justified because she had refused to comply with the order. The ECtHR took the view that, in making their assessments, the national courts had failed to strike a balance between the different interests concerned, i.e. the maintenance of public order on the one hand and the journalistic interests of the applicant and the public's right to receive information on the other. In fact, the applicant's role as a journalist seemed to have added little weight in these assessments. It should have been clear to the police that she would have left the premises with the protesters, since she had been there in order to report on the protests. While these factors had played a role in the assessment of the proportionality of the police order, they had not been taken into account in the assessment of the arrest. The Court found that, since there had been no pressing social need for the applicant's arrest, the interference had not been "necessary in a democratic society". The actions of the police had unduly hindered the applicant from fulfilling her role as a "public watchdog".

The Court therefore ruled that Article 10 of the European Convention on Human Rights had been violated.

Cour européenne des droits de l'homme, Tožičková c. République tchèque, Requête n° 21512/23, 28 mai 2026

<https://hudoc.echr.coe.int/?i=001-250212>

European Court of Human Rights, Tožičková v. the Czech Republic, No. 21512/23, 28 May 2026

European Court of Human Rights, Magyar Helsinki Bizottság v. Hungary, No. 18030/11, 8 November 2016

<https://hudoc.echr.coe.int/?i=001-167828>

European Court of Human Rights, Stoll v. Switzerland, No. 69698/01, 10 December 2007.

<https://hudoc.echr.coe.int/eng?i=001-83870>

European Court of Human Rights, Amaghlobeli and others v. Georgia, No. 41192/11, 20 August 2021

<https://hudoc.echr.coe.int/?i=001-210015>

European Court of Human Rights, Pentikäinen v. Finland, No. 11882/10, 20 October 2025

<https://hudoc.echr.coe.int/?i=001-158279>

