

# The Prohibition on Dawn Raids in the Czech Republic has Ended

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Last autumn, the Czech Antitrust Office had announced that it halted its dawn raids. The decision came from – what many felt – was a surprise decision of the European Court of Human Rights in Strasbourg (ECHR) dated 2 October 2014 (DELTA PEKARNY a.s.). The Court held that the Czech Republic had violated Art. 8 of the European Convention on Human Rights and Fundamental Freedoms in the course of a 2003 dawn raid.

On 18 March 2015 (and a few days before in off the record statements), the Czech Antitrust Office in a press release made it known that it will recommence dawn raids.

The argumentation why this is now happening, without any change in the law, can be summed up as follows:

The ECHR held that unless prior court control of dawn raids exists (which it does not in the Czech Republic), an effective legal ex-post control must exist. The ECHR had found that the practice of Czech courts was to refuse to grant protection against a dawn raid by not admitting complaints for protection against unlawful interference by state bodies.

The entertainment in the argument is as follows: As the European Convention is part of the legal order of the Czech Republic and must be respected (Art. 1 of the Czech constitution), courts of course have to respect it, including its Article 8. Therefore, in the event of someone in the future requesting ex post control of a dawn raid by Czech courts, the Czech courts (after the Antitrust Office has refused an internal appeal) will have to provide the possibility to file a complaint.

A very elegant argument which kicks the ball elegantly into another field which readers (especially those who have read their Good Soldier Svejk) will certainly agree. Or may consider this simply a pragmatic interpretation because no change of the law in the short term will be realistic and the Antitrust Office cannot relinquish the possibility of dawn raids. Let's therefore wait for the next dawn raids to end up at Czech administrative courts in order to see whether this interpretation was right.