

[CZ] Protection of Information Source

IRIS 2001-6:1/34

Jan Fučík
Česká televize

In March 2001, the Public Prosecutor's Office abandoned its criminal action against two daily newspaper journalists (under Czech criminal law, the public prosecutor can decide, after an investigation, whether a case should be brought before a court or abandoned).

The journalists had reported on an alleged attempt to discredit a popular government politician, which was said to have come from within her own party. The report had been the subject of libel proceedings. Both journalists had been called as witnesses and had refused, under the terms of the Press Act, to divulge the source of their information. As a result of their silence, they were both charged with aiding and abetting a criminal, although the actual libel case was subsequently dropped.

In October 2000, the President of the Czech Republic had exercised his right to issue a pardon at that stage of the proceedings. However, both journalists refused to accept the pardon and insisted that the case go ahead.

The legal background to this case is the new Czech Press Act (see IRIS 2000-3:15), which brought in new standards for the protection of information sources relating to news published in newspapers and magazines. The same protection also applies to broadcasting. Under the Act, persons involved in gathering or processing journalistic information are allowed to withhold from a court or other authority information that might reveal the identity of a source. However, this does not apply to the obligations set out in a special Act, under which criminals may not be aided and abetted and offences must be prevented or reported, nor does it apply to the legal obligations that apply during criminal proceedings.

The public prosecutor's decision, however, was based on the view that no crime had been committed, since neither journalist had intended to aid and abet a criminal. Rather, they had merely been seeking to perform their duties as journalists. The public interest in revealing information likely to identify a source had, in this case, not outweighed the overriding importance of freedom of opinion.

