[CZ] Supreme Court Ruling - Problems with Telecoms Reforms

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On 24 July 2002, the Supreme Court of the Czech Republic quashed Decision no. 25 T 133/2000 of the Prague District Court (Praha 7). As a result of the Decision, the publisher of the book "Mein Kampf " (in Czech) had been sentenced to three years in prison suspended for a five year probationary period, and fined CZK 2 million (EUR 65,000) for supporting and promoting a movement which aimed to restrict citizens' rights and freedoms.

The Praha 7 District Court's original decision was made on 5 November 2001. The Prague Municipal Court then dismissed an appeal. The accused had consequently demanded a Supreme Court review. The Supreme Court upheld the appeal and quashed the original decision.

The Supreme Court's verdict was based on the following grounds. It was possible that promotion of, or support for, a particular movement could be expressed through the publication of a book and this could constitute an offence. However, the movement concerned had to exist at the time when the offence took place. The decision of the court of first instance had been based on an incorrect legal assessment of the alleged offence and on inaccurate factual observations. The court had not dealt with the facts that were relevant to whether an offence had taken place. It had therefore made factual observations that were irrelevant to the question of guilt and amounted to a personal interpretation of past or current events. In the Supreme Court's view, fascism was a movement that no longer existed. The law also required that an actual movement should be at issue, but the Supreme Court did not consider anti-Semitism to be a movement, but rather an ideology or opinion. Of course, there were various neo-fascist movements in Europe. However, the court had heard no evidence regarding these contemporary movements before making the original decision. More proof was therefore needed in this area. The case was referred back to the public prosecutor's office for Praha 7.

The views of the Supreme Court are legally binding on the public prosecutor's office and District Court. In the new proceedings, it will have to be shown what kind of movement was promoted or supported by the publication of the book. There have been varied reactions to the Supreme Court's decision, which has been criticised by the Czech Minister for Justice and the Minister of the Interior.

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