[CZ] Administrative Court Bans Advertising of Dietary Supplement

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The Supreme Administrative Court of the Czech Republic banned advertising of a dietary supplement in a ruling of 29 January 2009.

The Czech Advertising Regulations Act prohibits advertising that claims that dietary supplements are able to cure or prevent human illnesses. Liability for advertising lies with the contractor. The Broadcasting Council is responsible for regulating television advertising.

The company Mediarex Communications and Consulting s.r.o. had commissioned television advertising of the dietary supplement *Preventan akut* . In the advertising, the product was described as having medicinal properties such as the ability to cure influenza, for example. A pharmacist was shown in the advertising spot, saying: "Preventan akut rapidly gets the body's defences working and fights viruses and bacteria."

On 29 August 2007, the Broadcasting Council fined Mediarex after this spot had been broadcast several times. Mediarex appealed, claiming that the product had not been described as a medicine. It argued that the advertisement concerned a dietary supplement and did not contain any reference to healing or preventing illness.

Prague Municipal Court rejected the appeal on 16 April 2008 on the grounds that the advertising spot had portrayed the product primarily as a medicine. Mediarex appealed again.

This appeal was dismissed by the Supreme Administrative Court on the grounds that the product had been presented as being capable of curing or preventing human illnesses. It should be remembered that the decisive factor is not whether the product actually has healing or preventive properties, but whether it is characterised as a medicine.

The ruling of the Supreme Administrative Court is final.

Rozsudek Nejvyššího správního soudu č.j. 9 As 52/2008 ze dne 29.1.2009

Ruling of the Supreme Administrative Court, No. 9 As/2008, 29 January 2009

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