

[CZ] Constitutional Court Rules on Freedom of Expression in Broadcasting

IRIS 2012-6:1/13

Jan Fučík
Česká televize

On 8 March 2012, the Constitutional Court rejected the complaint of FTV Prima Ltd. against the judgment of the Supreme Administrative Court of 14 September 2011, the judgment of the Municipal Court in Prague of 17 March 2011 and the decision of the Council for Radio and Television Broadcasting of 22 June 2010.

In the constitutional complaint delivered to the Court the petitioner sought the annulment of the above decisions, because of a breach of the constitutionally guaranteed fundamental right to freedom of expression, as protected by Art. 17 of the Charter of Fundamental Rights and Freedoms and Art. 10 of the European Convention on Human Rights and Fundamental Freedoms. The complainant alleged in particular the violation of editorial freedom and independence of the media. FTV Prima stated that both the Council for Radio and Television Broadcasting and subsequently the ordinary courts applied the standard sub-constitutional law, particularly §32 para. 1 pt. g) of Act No. 231/2001 Coll. on radio and television broadcasting, without duly considering the constitutional dimension of this case. The general courts opposed these objections and did not recognise any interference arising from their decisions with the constitutionally protected rights of the petitioner.

In the present case the complainant was punished for a report about the group Jackass Praha, whose behaviour is generally as well as in terms of aesthetic (and in some cases even of moral) values hardly acceptable. The complainant was convinced that the inclusion of reports showing the performance of the above-mentioned publishing and editorial work belongs to a democratic state and independent media and is generally covered by the freedom of speech. A fine in the amount of CZK 3,000,000 (EUR 120,000) could therefore undoubtedly be regarded as intervention in the legal sphere of the complainant.

After having examined the files, evidence and legal status the Constitutional Court concluded that the petition was clearly unfounded since the alleged infringement of constitutionally guaranteed rights by the institutions mentioned had obviously not occurred. The Supreme Administrative Court had agreed with the opinion of the Council for Radio and Television Broadcasting that showing instances of gambling with one's own health and life, the endangerment of the health of other persons and the inadequate presentation of hazards and risks by the complainant was contrary to the general ethical values as accepted by most

of Czech society, and that therefore the report was capable of endangering the physical, mental and moral development of minors. The Constitutional Court on the objection of the petitioner noted that the matter was not an evaluation of the broadcast from the perspective of journalistic ethics, nor of journalistic resources and techniques. The law empowered the administrative authority to examine the content of reports only from the perspective of its impact on the physical, mental or moral development of minors as defined in §32 para. 1 pt. g) of Act No. 231/2001 Coll. because it was a show broadcast during the period from 06.00 to 22.00 h at a time when television is subject to the above-cited provision. The petitioner did not state any other facts that would justify the alleged violation of constitutionally guaranteed rights. Given that the Constitutional Court found no violation of the fundamental rights of the complainant, the relevant constitutional law or international agreements binding the Czech Republic, the complaint was rejected.

Rozhodnutí Ústavního soudu č. I. ÚS 3628/2011 z 8. března 2012

<http://nalus.usoud.cz/Search/ResultDetail.aspx?id=73503&pos=1&cnt=2&typ=result>

Decision of the Constitutional Court No. I. US 3628/2011 of 8 March 2012

