

[CZ] Court Protects the Source of Journalists' Information

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In November 2011, the weekly magazine „Respekt“ announced that the police had called on it to hand over the document referred to in an article entitled "Destroy Document No 1439". From this document it became evident that the state attorney dealing with the corruption scandal at the State Environmental Fund was pressured not to deal with the case. The magazine refused to release the document to the police claiming that the police already had it and that they would be able to identify the source of the document. The magazine held that revealing a source would be an unpardonable offense and that there would be no reason to reveal its sources. The magazine feared that other witnesses would lose their trust in the media regarding protection from interference by the State.

Two months later, the police imposed a fine on the magazine and the author of the respective article, with a statement that further sanctions may be imposed. The magazine and the author submitted a complaint to the courts against this decision of the police. The District Court Praha 4 ruled in the complainants' favor. The Court's decision is considered as essential not only for the magazine concerned. The Court *inter alia* dealt with the question of whether a given action (fines for refusing to hand over case-related information by journalists) is in line with constitutional law and with the case-law and decision-making practice of the European Court of Human Rights (ECtHR). The Court could not depart from the concrete criminal proceedings and the circumstances that surrounded the publication of the referenced document. In the given case, it did not find important and serious issues justifying the imposition of fines. In this context, the Court pointed to the extensive recording material that would enable the bodies active in criminal proceedings to obtain sufficient additional knowledge and evidence, which may in this case satisfy their demand. It is not necessary to impose sanctions pursuant to the Criminal Code in order to obtain information on the origin of the document in question. The court is of the opinion that the results of the investigation in that case allow the authorities to make reasoned conclusions on the basis of the material already available to them. Therefore, it is no longer necessary to use methods that interfere with the fundamental rights guaranteed by the constitutional order and that arise from the practice of the ECtHR, respectively. On the basis of this, the Court reversed the decision concerning the fines.

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Decision of the Prague 4 District Court of 6 August 2012 - not yet published

