

[CZ] Radio listening for personal use in a shop is no violation of copyright

IRIS 2014-6:1/10

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On 15 April 2014, the Constitutional Court ruled that listening to the radio by the shop assistant in a shop does not violate the Copyright Act.

When a shop assistant in a store listens to his own radio, the shop owner does not have to pay fees to the collective rights management. Thus, the Constitutional Court upheld the complaint of the owner of a bike-shop. According to the earlier decision of the Regional Court in Hradec Králové, the shop owner should pay a fee to the Collecting society of sound engineers (OAZA) for the reproduction of music in his store. The complainant refused to pay because the shop assistant listened to the music at work only for personal use.

In the opinion of the Constitutional Court this form of use cannot be assumed to be an illegal distribution of the author's work. „Customers do not go there to listen to the music on the radio, but go there to do shopping; for that reason it would be formalistic to require a license“ the Court continued.

The Constitutional Court also invoked the Judgement of the European Court of Justice of 15 March 2012 in Case C-135/10, Società Consortile Fonografici/SCF (see IRIS 2012-6/3) and sent the case back to the Regional Court in Hradec Králové for further decision with a binding legal opinion.

Nález ústavního soudu České republiky č.j. II. ÚS 3076/13 z 15.4.2014

http://www.usoud.cz/fileadmin/user_upload/Tiskova_mluvci/Publikovane_nalezy/II._US_3076_13.pdf

Decision of the Constitutional court of the Czech Republic Nr. II. ÚS 3076/13 from 15 April 2014

