

[CZ] The Constitutional Court and freedom of expression

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The First Chamber of the Constitutional Court upheld TV Nova's constitutional complaint that a fine from the Council for Radio and Television Broadcasting for the "Handbook on What Clothes in the Church" ("Příručka poradí, co do kostela") report violated TV Nova's right to freedom of expression. The Constitutional Court annulled the judgment of the Supreme Administrative Court, the judgment of the Municipal Court in Prague and the decision of the Council for Radio and Television Broadcasting relating to the violation of Article 17 (1) of the Charter of Fundamental Rights and Freedoms (freedom of expression).

The complainant was fined CZK 200 000 (equivalent to EUR 8 000) by the Council for Radio and Television Broadcasting (RRTV) for the report "The Handbook on What clothes in the Church", broadcast on TV on 24 August 2012. The RRTV stated that this report violated the obligation to ensure that the principles of objectivity and balance are observed in news and political-journalistic programmes (section 31, paragraph 3 of the Radio and Television Broadcasting Act). This decision was unsuccessfully attacked by an action before the Municipal Court in Prague and subsequently by a cassation complaint to the Supreme Administrative Court. The broadcaster then turned to the Constitutional Court with a constitutional complaint.

According to the complainant, the report complied with the topic and the views of the people interviewed in the report and was thus a protected exercise of freedom of expression. The complainant also defended the whole procedure by saying that the disputed report had a funny way of drawing attention to the existence of a guide to rules on dressing for church in the summer heat.

The Constitutional Court stated that the objectivity of the programme consisted in ensuring that the viewer is able to draw his or her own conclusions and not simply adopt the opinion of the editorial staff. The Broadcasting Council's requirements for a specific report exceed this minimum standard and do not attach sufficient importance to the commercial nature of the applicant's broadcasting. Freedom of speech as a fundamental political right not only protects the propagation of thought-sensitive messages, it also protects the right of each and every person to express his or her opinions in a humorous form, with a reasonable degree of exaggeration or irony. Therefore, the Constitutional Court confirmed the complainant's view.

Ústavního soudu (7.2.2018 č.j. I.ÚS 4035/14)

https://www.usoud.cz/fileadmin/user_upload/Tiskova_mluvci/Publikovane_nalezy/2018/I. US 4035 14 na web.pdf

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