

## [CZ] Decision of the Supreme Court on television and radio fees

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*Jan Fučík*  
*Česká televize*

On 15 December 2020, the Czech Supreme Court decided that television and radio fees are a mandatory payment similar to tax, within the meaning of Section 240 of the Penal Code. The decision granted the appeal of the Supreme Public Prosecutor in the case of two entrepreneurs who had not paid a total of over CZK 300 thousand in television fees.

The criminal offense of evading tax, fees and similar mandatory payments, pursuant to Section 240 of the Penal Code, is committed by a person who evades tax, customs, social security premiums, contributions to the state employment policy, accident insurance premiums, health insurance premiums, fees or other similar mandatory payments to a great extent (ie by at least CZK 100 000).

On 12 August 2019, the defendants were first acquitted by a judge of the District Court in Prachatice, according to which their actions did not amount to a criminal offence and there was no reason to refer to the case.

On 22 July 2020, the Regional Court in České Budějovice also dismissed the prosecutor's complaint (which challenged the above-mentioned resolution in its entirety, to the detriment of the defendants) as unfounded.

However, the Supreme Public Prosecutor filed an appeal against both entrepreneurs. According to the Supreme Public Prosecutor, the television fee in favor of Czech Television (ČT) is not a private law relationship, but a mandatory payment by law. This legal relationship cannot be established or terminated by its participants by agreement, and a natural or legal person is obliged to pay a fee regardless of whether he / she receives a public service of the Czech Television in the field of television broadcasting. The amount of the fee is set at a flat rate and does not depend on whether and, if so, to what extent the service is actually accepted. It cannot therefore be regarded as a payment where the fee corresponds to the service provided, as would be the case in a contractual relationship between equal participants.

The Supreme Court came to the conclusion that television fees pursuant to Act No. 348/2005 Coll., on radio and television fees, are "another similar mandatory payment" within the meaning of Section 240, Paragraph 1 of the Penal Code. This conclusion can also be applied to radio fees according to the same law.

***Rozhodnutí Nejvyššího soudu č.j. 7 Tdo 1229/2020 z 15.12.2020***

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*Decision of the Supreme Court No., 7 Tdo 1229/2020 from 15.12.2020*

