

Interest License as a Ground Precluding Unlawfulness of Interference with Natural Human Rights

Abstract

This thesis deals with the interest license, which is one of the legal grounds precluding the unlawfulness of interference with the personal rights of an individual. The aim of this thesis is to explain the essence of the interest license and, in particular, to trace the development of judicial practice on the admissibility of secretly taken likenesses and image or sound recordings capturing personal expressions of an individual as evidence in civil proceedings, both under the Civil Code of 1964, when the interest license was not grounded in law, and under the Civil Code of 2012. For this purpose, key decisions, primarily of the Supreme Court and the Constitutional Court of the Czech Republic, are selected. The thesis also includes a brief excursion into two foreign legal systems of neighbouring states – Germany and Slovakia. Within the framework of this excursion, the regulation of personal rights in these selected legal systems is briefly introduced, with a particular focus on the legislation of the capturing of a person's likeness and personal expressions without their consent and the use of such materials as evidence.

The first two chapters provide a general introduction to the protection of personality, first at the constitutional and, subsequently, at the statutory level. The first chapter outlines the legislation of the protection of personality in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the Charter of Fundamental Rights and Freedoms. The second chapter then defines the basic concepts related to the protection of personality, provides a basic characteristic of personal rights, and is a necessary theoretical starting point for the examined issue. The core of the thesis is then found in the third and fourth chapters. The regulation of statutory licenses can be found in the Civil Code within the subsection on likeness and privacy. To understand the given issue in a broader context, the third chapter introduces the legal regulation of likeness and privacy, briefly presenting other licenses precluding the unlawfulness of interference with personal rights. It also deals with the collision of fundamental rights and freedoms and outlines the proportionality test, which must be applied when assessing the collision. The fourth chapter then analyses the approach of judicial practice to the admissibility of secretly taken records, from the late 1990s to the present. The issue of deep fakes, which are becoming increasingly important, is also outlined. The final fifth chapter then offers a brief insight into German and Slovak legal regulation related to the examined issue.

Keywords: interest license, collision of fundamental rights and freedoms, secretly taken record