SUMMARY

The Freedom of Expression versus the Protection of Personality Rights

The dissertation thesis deals with a collision in interpreting and applying two crucial values of Euro-American legal culture – the freedom of expression and the protection of personality.

The right to the freedom of expression is one of the most important civil and political rights, which could be shortly defined as the right to receive and impart information without interferences of public authority and regardless of frontiers. However, as any other right or liberty, the right to freedom of expression has its limits, which could be located at the point, where a different public or private interest prevails. The process of defining these limits must be carried out with a great deal of caution and restraint, with due regard for an enormous significance of the freedom of expression/speech for the development of human individuality and democratic society.

The right to the freedom of expression often collides with the right to the protection of personality, understood as an integral unity of moral, physical and social characteristics. In the Czech Republic, the principle of the protection of personality is regulated by sections 11-16 of the Civil Code, where protected attributes of personality are enumerated. These are: life, mental and physical health, body, civil honour and human dignity, private life and name. Another key legal document concerning the issue is the European Convention on Human Rights, which must be observed by all member states of the Council of Europe. This is monitored by the European Court of Human Rights.

The freedom of expression and the protection of personality are essentially equal values and it is impossible to reassure a privileged position of either of them. It is often quite demanding to define exactly limits of the freedom of expression in relation to the protection of personality, for there is no single valued solution to be found in the legislation. Therefore, a crucial role in solving the issue is frequently assigned to the courts, which take concrete decisions in individual cases, always keeping in mind a balanced proportionality between the two values. In the Czech Republic the issue is regulated by the Civil Code, which indirectly specifies the limits of the freedom of expression relating to the personality rights.
The introductory part of this thesis contains the analysis of general and topical issues connected to the legal institutes of the freedom of expression and the protection of personality. Then the author goes on to characterize his objectives and methods used in his research (1st chapter). At the same place he also briefly describes the content of each chapter of the thesis. The second chapter focuses on common traits, as well as differences in the interpretation of the freedom of expression in Europe and the USA, where the limits of this liberty are generally understood in broader sense. The key clauses of the Charter of Fundamental Rights and Liberties and the European Convention on Human Rights dealing with the freedom of expression are also analysed in this part of the thesis.

In the following chapter the author characterizes the protection of personality and contemplates its most important constitutional regulations. Then concrete examples of conflicting interpretations of the two constitutional values are presented on concrete causes (4th chapter). The 5th chapter briefly deals with the most important legal regulations of the freedom of expression and the protection of personality. Then the author characterizes the prerequisites for the creation of the "general personality rights" as defined by the Civil Code. He pays particular attention to the relevant subjects of the general personality rights (6th chapter).

The essential part of the work is the following 7th chapter (divided into many specific subchapters and divisions), where the key values of the protection of personality are analysed in the same order as they are presented in the demonstrative enumeration in § 11 of the Civil Code. Another protected values of personality are also pointed at here. These have been recently gaining in importance, which means that the Czech courts are obliged to take them into account during their decision-making. In the 8th chapter, the "general and specific means of the legal protection" as applied by the Civil Code and Civil Process Code are presented. Certain suggestions are made, which could be considered de lege ferenda, when improving legal regulations in this area in the future. Then the author deals with the judicial practice in the field of protection of personality at the Regional Court in Ústí nad Labem - Branch Office in Liberec, while emphasizing the mistakes made by claimants during drawing up suits concerning the issue.

The author concludes that the current legal regulations of personality rights in the Czech Republic are in essence adequate and corresponding to the standards of a democratic and legally consistent state. The author, however, finds certain equivocality and discrepancies in
the jurisprudence and practice which could possibly lead to a legal uncertainty. He also opposes the judicial institute of financial compensation, for the sums acknowledged by the Czech courts are comparatively small, even in cases when they should have a strong preventive effect. The author proposes that the decision-making of the courts in this area should be modified, either by a plain change of a course of a case law (jurisprudence) or by updating the existing legal regulations.