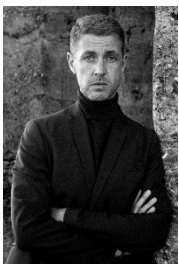




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LEGAL MEASURES RELATING TO THE FREEDOM OF SPEECH AND THE RIGHT TO PERSONALITY PROTECTION

Michal MASLEN – Martin SOLÍK

ABSTRACT:

The study focuses on the analysis of the constitutional and legal limits of the exercise of freedom of speech. This freedom forms one of the pillars of a democratic and legal state. However, the Constitution of the Slovak Republic and the Convention on the Protection of Human Rights and Fundamental Freedoms allow for its legitimate limitations. The authors therefore examine the limits of restrictions on freedom of expression under the conditions of Slovak legislation. The role of independence and autonomy of media are also emphasised, and a specific case demonstrates the interaction between the personality protection of a public figure and freedom of expression.

KEY WORDS:

Constitution of the Slovak Republic, Convention, freedom of speech, proportionality, right to personality protection

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1 Introduction

In democracy and rule of law the media play an inevitable role. They are often designated as the “guard dog” of democratic systems and support the implementation of the principle of transparency. Therefore, their role is to inform, educate, and also to entertain (Višňovský et al., 2023a). The importance of these tasks is emphasised by both media sciences and jurisprudence. For example, a recent research study by Čábyová and Javořík on “Disinformation in political advertising in the context of first-time voters’ advertising literacy” (2024) reached the conclusion of the importance of media education in the space of societal and political discussion. Another research study by Višňovský, Solík and Dúbravská on the “New legal regulation of publications in Slovak media environment” (2023b), drew attention to the need for media independence. Also, a research study by Panasenko, Krajčovič and Stashko on “Hard news revisited: A case study of various approaches to an incident at a primary school as reflected in the media” reaches

the scientific conclusion that “the role of media in informing the public about current topics is one of the most important that media play. Through news and journalistic contributions, they bring information about social, political, cultural, or economic issues” (2021, p. 126). And finally, the European Audiovisual Observatory in its new explainer report which unpacks the European Media Freedom Act (EMFA) entitled “*What’s the new European Media Freedom Act and how will it safeguard the independence and pluralism of media services in the European Union?*” (2024) summarises the meaning of legislation that provides for freedom of expression and autonomy of media in Europe.

In the Slovak Republic the freedom of speech is governed primarily by Art. 26, para. 1 and 2 of the Constitution of the Slovak Republic (Act No. 460/1992 Coll. Constitution of the Slovak Republic, 1992, hereinafter referred to as the “Constitution”).

(1) Freedom of expression and the right to information are guaranteed. (2) Everyone has the right to express their opinions in words, in writing, in print, in images or in any other way, as well as to freely seek, receive and disseminate ideas and information regardless of state borders. Publication of the press is not subject to the authorisation procedure. Business in the field of radio and television may be subject to a state permit. The conditions shall be established by law. (Act No. 460/1992 Coll. Constitution of the Slovak Republic, 1992, Art. 26, para. 1)

However, the Slovak Republic is also bound by Art. 10 para. 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Notice of Federal Ministry of Foreign Affairs, No. 209/1992 Coll. on ratification of Convention for the Protection of Human Rights and Fundamental Freedoms, protocols No. 3, 5 and 8, 1992) (hereinafter referred to as the “Convention”).

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. (Notice of Federal Ministry of Foreign Affairs, No. 209/1992 Coll. on ratification of Convention for the Protection of Human Rights and Fundamental Freedoms, protocols No. 3, 5 and 8, 1992, Art. 10, para. 1)

According to the jurisprudence of the European Court of Human Rights (hereinafter referred to as the “ECtHR”) laid down by the case *Handyside v. United Kingdom*, application No. 5493/72 (1976), freedom of speech and freedom of expression are one of the basic pillars of a democratic society.

One of the basic conditions for its development and for the self-realisation of an individual. It applies not only in relation to “information” and “ideas” that are received favourably, respectively are considered non-offensive and neutral, but also those that offend, shock or disturb the state or part of the population. It requires pluralism, tolerance and generosity, without which one cannot speak of a “democratic society”.

This jurisprudence is also being constantly followed by the Constitutional Court of the Slovak Republic and is constantly considered in its decision-making activities. However, in some situations, freedom of speech shall give way to its restrictions. Limiting clauses are enshrined in Art. 26 para. 4 of the Constitution of the Slovak Republic (Act No. 460/1992 Coll. Constitution of the Slovak Republic, 1992).

Freedom of speech and the right to seek and disseminate information can be limited by law if the measures are necessary in a democratic society to protect the rights and freedoms of others, the security of the state, public order, the protection of public health and morals. (Act No. 460/1992 Coll. Constitution of the Slovak Republic, 1992, Art. 26, para. 4)

The following provision is not a Slovak creation, but it arises from the requirements established by Art. 10 para. 2 of the Convention (Notice of Federal Ministry of Foreign Affairs, No. 209/1992 Coll. on ratification of Convention for the Protection of Human Rights and Fundamental Freedoms, protocols No. 3, 5 and 8, 1992), which explicitly states the reasons for restricting freedom of speech and freedom of expression. However, the restrictions mentioned by both the Constitution and the Convention must always correspond to the democratic nature of society and those must be implemented in a restrictive way.

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary. (Notice of Federal Ministry of Foreign Affairs, No. 209/1992 Coll. on ratification of Convention for the Protection of Human Rights and Fundamental Freedoms, protocols No. 3, 5 and 8, 1992, Art. 10, para. 2)

2 Measures Necessary to Protect the Rights and Freedoms of Others

In the field of legal measures concerning protecting the rights and freedoms of others, we mainly speak about the sphere of private law. However, the ground for their application establishes Art. 19 of the Constitution.

(1) Everyone has the right to the preservation of human dignity, personal honour, reputation and the protection of good name. (2) Everyone has the right to protection against unauthorised interference in private and family life. (3) Everyone has the right to protection against unauthorised collection, publication, or other misuse of personal data. (Act No. 460/1992 Coll. Constitution of the Slovak Republic, Art. 19, para. 1, 2, 3)

The criteria laid down by the Constitution are specified in Art. 11 and Art. 16 of Act No. 40/1964 Coll. The Civil Code (1964) (hereinafter referred to as “the Civil Code”).

A natural person has the right to the protection of its personality, especially life and health, civil honour and human dignity, as well as privacy, their name and expressions of a personal nature. Whoever causes damage by unauthorised interference with the right to the protection of personality is responsible for it according to the provisions of this legislation on liability for damage. (Act No. 40/1964 Coll. The Civil Code, 1964, Art. 11, 16)

These guarantees mentioned by the Constitution and by the Civil Code protect private individuals from unauthorised interventions by other private individuals or the state. Based on the binding nature of the Constitution for all public authorities, not excluding general courts, the Supreme Court of the Slovak Republic presented in its *Judgement of the Supreme Court of the Slovak Republic, no. 5 Cdo 55/2008* (2009) on the application of the above-mentioned provision of the Act No. 40/1964 Coll. The Civil Code (1964).

The protection of freedom of speech and freedom of expression must always be considered when deciding disputes in matters of personality protection – at least within the scope of its constitutional guarantees. The mentioned provisions of the Civil Code cannot be applied in isolation but must be interpreted and applied in accordance with the Constitution. Of course, the need to consider freedom of expression does not mean giving up on the protection of personality. However, it means that in some cases freedom of expression must be prioritised, even if the given expression may have certain shortcomings from the point of view of the classic legal protection of the personality.

The ECtHR used in its *Judgement of the European court of Human Rights Tusalp v. Turkey; applications no. 32131/08, 41617/08* (2012), a test to assess the interference based on the freedom of speech to the personality protection of a politician.

When assessing the question of the entity (“WHO”), which in a given case should have interfered in an impermissible way with the individual’s right to the protection of personality (right to privacy), the jurisprudence of the ECtHR proceeds from the point of view in which entities exercising freedom of expression are divided into several groups in terms of the importance of their speeches for the exchange of opinions in a democratic society.

The ECtHR constantly presents an opinion that journalists have a privileged position in terms of the protection of freedom of expression, especially when reporting on matters of public interest – e.g., *Judgement of the European court of Human Rights, case of Prager and Oberschlick v. Austria, application No. 15974/90* (1995), or *Judgement of the European court of Human Rights, case of Bladet Tromsø and Stensaas v. Norway, application No. 21980/93* (1999). The importance of freedom of expression has also been confirmed by ECtHR in the *Judgement of the European court of Human Rights, case of Jerusalem v. Austria, application No. 26958/95* (2001). The Constitutional Court of the Slovak Republic in the *Judgment of the Constitutional Court of the Slovak Republic No. IV. ÚS 472/2012-61* (2013), and the ECtHR in the *Judgement of the European court of Human Rights, case of Castells v. Spain, application No. 11798/85* (1992) hold the opinion that position of the public figures and the politicians is special, because it is narrowed in the sense of their personality protection.

The special (narrowed) position of politicians in exercising freedom of expression has long been emphasised by the European Court of Human Rights (ECtHR) in its case law, and the Constitutional Court fully aligns with this approach to the protection of freedom of expression. Considering the above, the Constitutional Court emphasises that, under the circumstances of the Slovak legislation, it is the duty of the general courts to consider the privileged position of the politicians when evaluating their statements.

Therefore, according to the *Judgment of the Constitutional Court of the Slovak Republic, No. IV. ÚS 362/09* (2009), the jurisprudence considers freedom of expression and the freedom of speech a condition *sine qua non* of a genuine pluralistic democracy.

Freedom of expression is based on openness and tolerance, and for this reason, it is placed at the forefront of the catalogue of political rights in the Constitution of the Slovak Republic. Within the scope of freedom of expression, special protection must be given to value judgments expressed in political debate on matters of public interest, particularly when freedom of expression is exercised by (opposition) politicians serving as members of parliament.

The exercise of constitutional freedom is also possible through other constitutionally guaranteed rights of individuals, associations, and social groups. In the past, the Constitutional Court of the Slovak Republic presented its view on the relationship between freedom of expression and the right to petition, where it stated, that the petition can be understood as a special form of the freedom of expression (*Judgment of the Constitutional Court of the Slovak Republic, No. II. ÚS 655/2017-48*, 2018).

3 Criteria for Interference with Freedom of Expression

When it comes to criteria for interference with freedom of expression, a useful criterion in assessing such interference is the location where the disputed statements were made or published. Such an opinion has been presented by the ECtHR in the *Judgement of the European Court of Human Rights, case of Feldek v. Slovakia, application No. 29032/95* (2001).

Generally, the more widely the information is disseminated, the higher the protection of personal rights. Judicial rulings consider publishing articles about a person in regional periodicals or local publications as a form of mass distribution. However, case law also states that these are not print media with nationwide reach, meaning their “public impact” is significantly lower compared to national newspapers or weeklies, or widely accessible publishing platforms (blogs, websites, e-books, etc.). From the regional perspective – i.e., the community of people living in the given region – such a publishing platform could be a significant tool capable of influencing the opinions of most of the region’s residents, who may form views about the individuals mentioned in such articles based on the content published in regional media. These factors create variable elements that general courts are obliged to consider when determining the intensity of interference with an individual’s personal rights. In assessing the intensity of the violation of an individual’s rights, it is important to consider whether the person holds a public office or function as a public official. Holding a public office or serving as a public figure tends to work against the individual’s personal rights

protection, as such individuals are expected to tolerate a greater degree of freedom of expression since public service is a matter of legitimate public interest. Therefore, this aspect must also be considered by general courts when determining the balance between freedom of expression and personal rights protection. When assessing the limits of freedom of expression, it is necessary to carefully distinguish between facts and value judgments. The existence of facts can be proven, whereas the truthfulness of value judgments does not allow for evidence.

Although a value judgment, due to its subjective nature, excludes proof of truth, it must be based on a sufficient factual basis (*Judgement of the European Court of Human Rights, case of Jerusalem v. Austria, application No. 26958/95*, 2001). This approach of the European Court of Human Rights to evaluating legal disputes involving a conflict between freedom of expression and the right to privacy is consistently applied by the Constitutional Court of the Slovak Republic in its case law (see *Judgment of the Constitutional Court of the Slovak Republic, No. II. ÚS 152/08-52*, 2009; *Judgment of the Constitutional Court of the Slovak Republic, No. IV. ÚS 362/09-24*, 2009; *Judgment of the Constitutional Court of the Slovak Republic, No. II. ÚS 326/09-37*, 2010; *Judgment of the Constitutional Court of the Slovak Republic, No. IV. ÚS 302/2010-48*, 2011; *Judgment of the Constitutional Court of the Slovak Republic, No. II. ÚS 340/09-93*, 2012).

It follows that when assessing value judgments in terms of constitutional acceptability in a particular case, the protection of such statements under freedom of expression is more intense compared to the publication of facts (factual assertions) that may later prove to be untrue.

The classification of a statement as a fact or a value judgment is a matter for the assessment of the relevant authorities, particularly general courts (*Judgement of the European Court of Human Rights, case of Prager and Oberschlick v. Austria, application No. 15974/90*, 1995).

There is no generally applicable criterion for classifying statements as facts or value judgments; however, the European Court of Human Rights ruled also this issue in the case of *Le jugement de la Cour européenne des droits de l'homme (troisième section) en AFFAIRE Andreescu c. Roumanie, Requête no 19452/02* (2010).

The ECtHR noted that factors such as whether the originator of the statement presents certain facts as certainties or merely expresses doubts or suspicions, and whether their intention is to inform the public in good faith about a matter of general interest, also play a role.

Factual assertions are statements that can be subjected to a truth test (see *Judgment of the Constitutional Court of the Slovak Republic, No. PL. ÚS 12/09-135*, 2012; *Decision of the Constitutional Court of the Czech Republic, case No. I. ÚS 453/03*, 2005; *Die Entscheidung des Bundesverwaltungsgerichts vom 13. April 1994 – 1 BvR 23/94*, 1994). Evaluative judgments are all other statements. If it is not possible to separate factual assertions from evaluative judgments, they should be viewed as evaluative judgments, as these offer a broader level of protection for freedom of expression (see *Die Entscheidung des Bundesverwaltungsgerichts vom 9. Oktober 1991 – 1 BvR 1555/88*, 1991; *Die Entscheidung des Bundesverwaltungsgerichts vom 13. April 1994 – 1 BvR 23/94*, 1994).

4 Evaluation of the Exercise of Freedom of Expression

According to the study by Alexy, “Balancing, Constitutional Review, and Representation,” (2005), the Constitutional Court of the Slovak Republic also evaluates the language chosen in the exercise of freedom of expression, which can often be emotional, sharp, and prone to exaggeration.

If the language used in the exercise of freedom of expression exhibits attributes of exaggeration, it can potentially affect an individual’s personality rights. Similarly, the Constitutional Court assesses the intent of the entity intervening in an individual’s freedom of expression. It evaluates the motivation to infringe upon the individual’s honour and dignity or the attempt to disparage them as a private person. However, the Constitutional Court of the Slovak Republic does not see a problem if the entity interfering with an individual’s privacy exercises freedom of expression by characterising the individual’s personality solely in connection with their public activities. Nonetheless,

it must not use pejorative language. In general, according to the case law of the Constitutional Court, terms such as “intolerance, malice, incompetence, individual, filth, disgusting” cannot be considered impermissible in the context of criticising a public official. The Constitutional Court of the Slovak Republic evaluates the criteria for exercising freedom of expression and criticising a public official through the lens of the features: WHO is criticising, ABOUT WHOM the criticism is directed, and WHAT is the subject of the criticism. For example, statements such as “capable of rejecting even one’s own mother” and “character trait, i.e., appropriating others’ property,” which can be assessed as evaluative judgments by a subject presenting public criticism, may not necessarily, due to the context in which they were used, fundamentally diminish the dignity of the individual as a publicly engaged person. The test of WHO, ABOUT WHOM, WHAT, WHERE, WHEN, and HOW is crucial for assessing the proportionality between freedom of expression and the protection of personality rights. Answers to these questions provide conclusions about the conflict between freedom of expression and the protection of an individual’s personality. The Constitutional Court of the Slovak Republic examines the appropriateness of the intervention similarly to many European constitutional courts using a three-step proportionality test.

Similarly, the study by Kosar “Conflicts of Fundamental Rights in the Jurisprudence of the Constitutional Court of the Czech Republic” (2008), points to the importance of the proportionality test application.

An interference with freedom of expression can be considered appropriate if it aims to achieve a legitimate goal, such as the protection of another fundamental right, specifically the right to personal honour and reputation. The assessment becomes problematic particularly when contributions (papers) from individuals exercising freedom of expression concern the public actions of another person, yet this public action cannot be separated from their person and their personal rights, as the criticism is still directed at the same individual. Interference with freedom of expression can be seen as a means of protecting individual rights, since an individual who believes their personal rights have been violated can protect their personality through appropriate means, namely a lawsuit for the protection of personality rights. In other words, the legal system provides individuals who believe that their personality rights have been infringed by the exercise of freedom of expression by third parties with judicial protection based on a lawsuit for the protection of personality rights. When it is not possible to reconcile both rights simultaneously, the balancing formula becomes crucial. The balancing formula evaluates the intensity of the interference. The intensity of the interference with one fundamental right is weighed against the level of satisfaction of the other conflicting right, with both intensity and satisfaction taking one of the values: “low,” “medium,” or “significant.”

Going back to the study by Alexy (2005), the Constitutional Court of the Slovak Republic defends the following point of view. If the criticism consists mainly of evaluative judgments that are not significantly explicit, does not target an individual’s private life, and the factual statements made by individuals exercising freedom of expression (e.g., reporting on the individual’s past conviction) are based on truthful, actual information, then the level of satisfaction of the individual’s rights in this case may be at most medium. This implies that a significant interference outweighs a medium level of satisfaction. The judgments of ordinary courts must address the legality, legitimacy, and necessity of interfering with the freedom of expression of individuals in the field of journalism and perform a proportionality test, which is the standard tool for balancing freedom of expression against the protection of personality rights. Therefore, the courts must examine whether it is legitimate and necessary to restrict the freedom of expression of journalists in favour of protecting an individual’s personality rights.

The doctrine of the Constitutional Court of the Slovak Republic presented in the *Judgment of the Constitutional Court of the Slovak Republic, No. III. ÚS 308/06-16* (2006), states that the substantial guarantees contained in freedom of speech under the act cannot be viewed separately and in isolation. The Constitutional Court of the Slovak Republic primarily addresses whether an ordinary court, which disproportionately favours the protection of personality rights over freedom of expression, is not implementing a measure of censorship. Censorship (direct censorship) refers especially to a politically motivated intervention by public authorities into the freedom of expression of the affected party, involving the assessment of the content of opinions, ideas, thoughts, and facts, as well as the manner in which they are disseminated and presented by the affected party (individual, media, publisher, etc.) either intended to be disseminated in the future (ex-ante control) or which have already been made available to the public (ex-post control), with the aim of altering or completely negating these opinions, ideas, thoughts, or facts or their manner of dissemination and presentation, primarily for political reasons.

Therefore, there is a generally accepted opinion of the jurisprudence, presented also by the *Judgment of the Constitutional Court of the Slovak Republic, No. II. ÚS 307/2014-45* (2014), in relation to the nature of a direct censorship.

The nature of direct censorship can also include an intervention in freedom of expression consisting of a prohibition on the dissemination or an additional prohibition on the dissemination of certain types of information that were previously distributed without restrictions.

This conclusion presented the Constitutional Court of the Slovak Republic in the *Judgment of the Constitutional Court of the Slovak Republic, No. II. ÚS 439/2016-60* (2016), in which it defined the limits public authorities interfering with the freedom of expression of journalists.

If individuals in the field of journalism are not prevented from publicly presenting information or if no factual or material interference with the content of their information occurs from public authorities (either initially or subsequently) according to the criteria mentioned above, it does not constitute censorship. Therefore, a general court's ruling should not affect the right of individuals in journalism to continue publishing their opinions in any form, as otherwise it would take on the character of censorship.

The above-mentioned doctrine has its roots in the case law of the ECtHR, e. g. in the “Oberschlick” case. It influenced the jurisprudence of the Constitutional Court of the Slovak Republic since its beginning, e. g. in the *Judgment of the Constitutional Court of the Slovak Republic, No. PL. ÚS 15/98* (1999).

Art. 26 (4) of the Slovak Constitution ties the restriction of freedom of speech to the fulfilment of two conditions – formal and material. The formal condition requires that the restriction be established by a legal regulation with the force of law, while the material condition demands that the measures be explicitly listed and must demonstrate a necessity. Similarly, according to Article 10(2) of the Convention, interventions into the right to freedom of expression are consistent with this article only if they are: (i) prescribed by law, (ii) necessary in a democratic society, and (iii) in pursuit of explicitly defined legitimate aims. Both the Convention and the Slovak Constitution require the cumulative fulfilment of these conditions, protecting not only the essence of ideas and information but also the manner in which they are expressed.

Therefore, the jurisprudence of the Constitutional Court of the Slovak Republic emphasises the idea that protection of shocking or disturbing ideas is part of the demands for pluralism, tolerance, and liberal thinking, without which no democratic society can exist, e.g., in the *Judgment of the Constitutional Court of the Slovak Republic, No. III. ÚS 385/2012-63* (2014).

There is a need to consistently point to the significantly broader boundaries of permissible criticism of public figures, who typically expose themselves to detailed scrutiny by journalists and the wider public and thus are required to show a greater degree of tolerance in the face of criticism of their actions.

5 Specific Cases

For example, a blog by Voorhoof and Fathaigh (2012) in Strasbourg observers summarised the above-mentioned case law of the ECtHR in its contribution named “Yes Prime Minister”. Following the above-mentioned contribution, the applicant was Erbil Tuşalp, a journalist and author, who had published two articles in the *Birgün* newspaper concerning alleged illegal conduct and corruption in Turkish public life. The articles severely criticised the Prime Minister, Mr. Recep Tayyip Erdoğan, including such statements as “From teachers to judges ... the man uses these posts like the property of his own party”, and “I consider it useful for both his and the public's mental health to investigate whether he had a high-fevered illness when he was young ... I suspect he is suffering from a psychopathic aggressive illness. I wish him quick recovery”. The Prime Minister brought civil proceedings against the applicant and the publishing company on the ground that certain remarks in the articles constituted an attack on his personality rights. The Turkish courts considered that the remarks went beyond the limits of acceptable criticism and “belittled the Prime Minister in the public and the political arena”. According to the domestic courts, the applicant had published “allegations of a kind one cannot make of a Prime Minister”, holding that the impugned remarks had alleged

that the Prime Minister had psychological problems and was mentally ill. The applicant and publishing company were ordered to pay 10,000 Turkish liras (€4,300) in compensation. However, the ECtHR did not hold the position of Turkish courts. It stated that the Prime Minister is the least protected individual in society in terms of safeguarding their honour. Not even other constitutional officials have such low levels of protection. In the case of the Prime Minister, personality protection can only be considered, depending on specific factual contexts, in relation to the inner circle of their private life, particularly in matters of a highly personal, even intimate, nature. Additionally, the protection of personality could perhaps only cover clear, nominal falsehoods, such as claims that a person has not completed a certain level of education, etc.

The opposite case happened in the Czech Republic in 2003 and had been finally ruled by the Constitutional Court of the Czech Republic in 2010. The case is called “Green Raul”, and it is connected to the personality protection of the Czech minister Pavel Březina. The conclusion from the mentioned case been presented within the contribution “Březina porazil Zeleného Raoula. Na omluvu za komiksový sex měl nárok” (iDnes.cz, 2010).

The magazine Reflex with the caricature of Karel Březina overshot and must apologise, the Constitutional Court definitively confirmed the previous judgments. However, the courts have relaxed the form of apology that the publisher of the weekly must publish. In 2003, Ringier CR inappropriately caricatured the former minister and later Prague representative for the ČSSD party in the comic Green Raoul. The provocative caricature depicted a naked Březina as a passionate lover who has sex with both men and women. Březina’s pictures in the company of naked men and women were accompanied by vulgar inscriptions. The publisher was ordered to publish an apology.

An interesting case also happened in Slovak in 2009, connected to the current Prime Minister of the Slovak Republic. The case is named “Shooty hájil svoju kresbu, sudkyňa o trýznivej bolesti Fica počuť nechcela” (SITA, 2010).

The cartoon in question depicted a doctor examining the Prime Minister’s X-ray and saying: “I was not wrong. Your pain is purely phantom”. Even before the publication of this cartoon, the Government Office of the Slovak Republic announced that the Prime Minister was cancelling all planned events due to an acute cervical spine disease. After the cartoon was published, the Prime Minister filed a lawsuit seeking protection of his personality, an apology and compensation for non-pecuniary damage in the amount of EUR 33,000. The District Court Bratislava IV and the Regional Court in Bratislava dismissed the lawsuit. The Supreme Court of the Slovak Republic annulled the decisions and returned the case for further proceedings to the Regional Court in Bratislava. The Prime Minister subsequently withdrew his lawsuit. He ended the dispute. Both the district and the regional court held the position that a public figure has reduced protection of his personality in a democratic and legal state. The above-mentioned cases show us a restrictive approach of practice when comes to interferences in freedom of expression and freedom of speech. Jurisprudence distinguishes between cases of value judgments and the presentation of facts. Even if a value judgment exceeds the constitutional limits of freedom of expression, courts take a restrictive approach to corrective measures in the case of public figures, as they recognise the importance of the media sector in preserving freedom of expression and democracy.

6 Conclusion

Freedom of expression and the right to information encompass the right to receive information that is both truthful, verifiable, and neutral, as well as fictional, unverifiable, untruthful, or presenting a particular worldview. Even information that is fictional, inaccurate, and not based on truth encourages recipients to think critically and supports their desire to seek out and adopt other perspectives on the topic. This contributes to self-realisation and fosters ongoing societal discourse on the subject.

The purpose of legal restrictions on media freedom of expression, which require objective and impartial reporting in news and political commentary programmes, may be to protect the rights and freedoms of others, state security, public order, public health, and morality. Legal limitations on freedom of expression aim to prevent the dissemination and presentation of one-sided opinions, ideas, and ideologies on specific topics in news and political

commentary programmes, ensuring that the media does not present a biased perspective on the issue. The goal is to establish limits so that the media provides a more objective portrayal of the topic to recipients and does not favour one opinion over others.

Therefore, the legal framework seeks to prevent the dissemination and presentation of one-sided opinions, ideas, or ideologies that intentionally deny human rights and freedoms, deny or approve of the Holocaust, political regime crimes, support religious extremism and terrorism, exclusively favour one political party, movement, or group to the detriment of the rights of ideological and political opponents in a democratic political contest within representative democracy, support totalitarian regimes, or propagate political regimes based on fascist, communist, or similar ideologies, or promote national, racial, or ethnic hatred, among others. These opinions and statements are also strictly defended by the judicial case law (e.g., *Judgment of the Constitutional Court of the Slovak Republic, No. II. ÚS 307/2014-45*, 2014).

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