

# PROTECTION OF THE REPUTATION OF A LEGAL ENTITY AND FREEDOM OF THE EXPRESSION IN THE CONTEXT OF “MEDIA”

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**Abstract:** *The article focuses on the concept of reputation (good reputation) of legal persons in respect to the legislation within civil law and media law. Interpretation of the legislation is complemented by a comprehensive analysis of the judicial case-law in this area. Attention is focused on the criteria applied for the purpose of detecting unauthorized interference to the reputation of a legal person. In particular, on distinguishing between allegations of factual statement nature and value judgements or permissible criticism.*

**Keywords:** *Reputation of Legal Person, Freedom of Expression, Permissible Criticism, Publication of a Reply, Publication of Subsequent Statement.*

**JEL Classification:** *K22, K42.*

## **Introduction**

The aim of the text is to define the concept of legal person's reputation and its protection with regard to the limits of the freedom of expression in both, printed and digital news.

The text is structured so as to give the basic definition of the concept having regard to the regulations within the new Civil Code. Then it covers other sources of law within the scope of the subject, especially the sources of media law. The differences between factual statements backed by objective reality and evaluation judgements belonging to the category of subjective statements are here considered as the key criteria for assessment of the illegitimacy of interference into legal person's reputation. Legislation on protection against interference with a legal person's reputation is also confronted with the fundamental human rights and freedoms.

## **1 Statement of the problem**

Having regard to the economic interests of the entrepreneur, it is important to protect his reputation against injurious actions, because each such interference can cause a decrease in the market value of the business establishment. At the time of electronic means of communication, this applies all the more because it allows much faster sharing of information than it was before the massive use of the Internet. Wrongful tampering with the reputation of a legal person occurs in most cases by disclosure or publication of false, distorted or misleading factual claims. Information networks, social media or electronic dailies serve as a very good tool for spreading such pieces of information that interfere with the reputation of a legal person. Legislation applicable to print media can't be applied to such services and their providers.

It is related to constitutionally guaranteed rights and freedoms, in particular, the freedom of expression. Therefore, it is necessary to assess the illegitimacy of interference with the reputation of a legal person also in connection with the rights and

freedoms given by law. Based on case-law, the rights and freedoms are not considered endless. In each case, it is always necessary to examine the intensity of the alleged infringement of the rights to protection of the reputation. Such examination must be conducted in the context of the freedom of expression and requirement of proportionality with regard to the implementation of these rights and their protection.

## **2 Methods**

The goal of a post and deficiency of specific norms applicable to legal relationships towards digital media makes it necessary to choose suitable methods enabling the right to examine the law in areas lacking the positive sources. In addition to that, it is necessary to use both, logic methods (such as induction, deduction, analysis, synthesis) and others (comparison) in each comprehensive work with legal texts.

For the purpose of such assessment, an analysis will be carried out, comparing the existing legislation to the one applied before the effectiveness of the new Civil Code. The analysis will be complemented by relevant case-law in this area.

In the context of the problem at hand, the logical interpretation *argumentum per analogiam* is of special significance to the interpretation of a legal norm. The logical interpretation is applied in several areas of the following text. In the absence of a specific statutory legislation, it is possible to assess the dispute at hand using such statutory legislation that shows a similar association.

## **3 Reputation of legal person in the Czech legal order**

### **3.1 Generally about the reputation of a legal person**

The reputation of a legal person has the nature of a personal right which is legally recognized by law and it is inalienable. In the case of an attack against the reputation of a legal person it is not considered as an attack on its name only, but basically as an attack on the rights similar to human rights (Svejkovský and Deverová, 2013: 44).

The reputation of a legal person is given by its certain attributes that express its character and its relation to society. According to decision-making practice, the reputation of a legal person is evaluated by its conduct in business relations. If the legal person fails to fulfil its obligations properly and in a timely manner, or they only rarely meet their obligations in time, it cannot be concluded that it is a legal person or an entrepreneur that enjoys a reputation at all. It is clear from the above that the reputation of a particular legal person is primarily generated on the basis of experience with its business partners, customers or other entities that come into contact with it. In accordance with the generally accepted presumption of honesty in the conduct of legal entities, it is also assumed that a legal person has a reputation until successfully proven otherwise. This means that according to this point of view, the assessment of unlawfulness of any interference to a legal person's reputation comes also into account. (Judgement of the Supreme Court from 18.03.2008, file no. 30 Cdo 1385/2006).

The reputation of a legal person arises at the time of the establishment of a legal entity and is presumed to last throughout its lifetime until it is proven that the legal person has lost the reputation.

The reputation of a legal person can be characterized as a certain qualitative characteristics attributed to the legal entity, which is reflected in the generally favourable reviews in society. Not only those related to its conduct in business dealings among its business partners (e.g., payment history, reliability, compliance with the contractual obligations), as could be understood from the above-mentioned Judgement of the Supreme Court, but in the context of its overall functioning in society, i.e. among its customers (e.g. quality of the provision of services, supplies, works, access to warranty claims, credibility, honesty), employees, or among the general public (e.g. fulfilment of tax and fee obligations, its relation to the environment).

### **3.2 The protection of the reputation of a legal person in terms of civil law**

The legal regulation on the protection of the reputation of a legal person is contained in Section 135 of Act No. 89/2012 Coll., The Civil Code (hereinafter also referred to as the "Civil Code" or only "CC").

According to Section 135 (1) of the CC, a legal person affected by the impeachment of its right to a title, or who has suffered harm for an unauthorized interference with that right or which is at risk, in particular by unauthorized use of the title, may claim that this unauthorized interference should be stopped or its effect should be removed. According to Section 135 (2) of the CC, the same protection of a legal person applies against anyone who infringes on a legal person's reputation or privacy without a legitimate reason, unless it is for scientific or artistic purposes or for press, radio, television or similar news. Even such purposes, however, must not be in conflict with the legitimate interests of a legal person.

Contrary to the previous legislation, the Civil Code already uses only the term "reputation". The explanatory memorandum to the Civil Code in this context, among other things, states that it abandons the term "good reputation", because it necessarily leads to a question of which reputation is considered "good" and if, for example, a publisher of certain prints (e.g. tabloid or of an erotic character) can have a "good" reputation at all. What reputation of a legal person deserves protection must arise from the particular circumstances of the case and the logical content of the law.

Basically, there are two possible interpretations of the change in legislation. That is, the change is only (i) terminological or (ii) factual. The first case would mean the bad reputation of a legal person would not be a subject to protection and, therefore the protection would only apply to a legal person with a good reputation. So in such case, the change in legislation would only be of a formal character with no substantive impact. In the case of a factual interpretation, the subject of a protection would apply to both, good or bad reputation, when in the case of the latter the subject of protection would only apply to interferences causing further deterioration of the reputation. It means, if someone would worsen the already bad reputation by their unlawful interference, the legal person in question could seek the appropriate protection in court.

The authors of this text incline to the factual interpretation, because they believe, that from the explanatory report of the Civil Code it is clear, that the legislature took into account the fact, that it may be questionable whether certain legal persons may have a good reputation at all, in view of the subject-matter of their business or activities. However, there is no reason to exclude them from the provided legal protection. We believe that the legislator's intention was to provide reputation protection to all legal

persons. We therefore believe that the provision of Section 135 (2) of the CC protects any reputation of a legal person from unauthorized interference. In our opinion, this interpretation is indirectly supported in theory as well by stating the following: "*In terms of the new Civil Code, each legal person that carries out a certificated (resp. legal) activity may invoke the protection of the reputation.*" (Lavický 2014, p. 714) In any case, the interpretation of the term "reputation" will depend on courts, because the provision in question belongs to legal norms with a relatively indefinite (abstract) hypothesis. It means such legal norms whose hypothesis is not directly established by law and thus leave the court to judge the hypothesis of the law regulation on a case-by-case basis, depend on a wide, unlimited range of circumstances.

Thus, Section 135 (2) of the CC protects the reputation of a legal person from unauthorized (unlawful) interference. The resource (the type of provider) of an injurious act against the reputation of a legal person is not significant. Thus it can be an information provided through the internet, in print, in internet discussion, etc. (Lavický, 2014: 714).

The right to protection against unauthorized interference to the reputation of a legal person acts against all subjects involved in such interventions, which unlawfully intervened (thus caused a harmful effect) to the reputation of a legal person.

This is primarily about the protection against the distribution of various untrue information about a particular legal person. According to Section 135 (2) of the CC in conjunction with paragraph 1, this protection can be implemented primarily by the claim in court by the legal person affected by the intervention, so that the unauthorized intervention is dropped or its effect (bad condition) removed. Furthermore, we believe that the legal person affected by the intervention is also entitled to demand adequate satisfaction, which can also be solved by monetary fulfilment. Similar opinion is supplied by the theory: "Legal person is entitled to claim the one who caused the interference with the reputation of the legal person to abstain from the infringement, remove the offending statement, issue the unjust enrichment (§ 2991 et seq.), bare the damage caused by the interference and provide adequate compensation of monetary or non-monetary nature" (Švestka et al, 2014: §135).

If, in the case of unauthorized interference with the reputation of a legal person occurs a loss or unjust enrichment, the affected legal person may claim a compensation for such harm or unjust enrichment. Here it should be noted that even if the legal person concerned seeks the application of all of the above-mentioned means, the court may not comply with it. According to court judicature the resolutions on the means of protection and the extent of their usage depend on reasoning of the court based on the assessment of the particular circumstances of an unlawful interference to the reputation of the legal person. According to the Judgement of the Supreme Court, there is also no obligation of the court to always impose all possible means of protection and sanctions. The use of individual means of protection and sanctions, as well as the extent of their use, lies within the court (Judgement of the Supreme Court from 09.04.2002, file no. 28 Cdo 1640/2001).

According to the decision-making practice, it is also valid, that for the imposition of civil sanctions for unauthorized interference with the reputation of a legal person the condition of the existence of a specific interference with the reputation of a legal

person must be fulfilled as a prerequisite condition of responsibility (from the above it is obvious that it is necessary to verify the fact that a legal person actually enjoys a certain reputation). This intervention must be unauthorized (unlawful) and there must be a causal link between intervention and unauthorized (unlawfulness) of the interference. An individual or a legal person may be held responsible for interfering with the reputation of a legal entity only if it actually triggered or caused this unauthorized interference. The obligation of the claim, the burden of argument, the burden of proof and the burden of proof in relation to the causal link is the responsibility of the concerned legal person (Judgement of the Supreme Court from 02.07.2009, file no. 30 Cdo 2448/2007).

### **3.3 The protection of the reputation of a legal person in terms of media law**

The protection of the reputation of legal person is also the subject of the protection under special legal regulations in the field of media law, in particular according to Act No. 46/2000 Coll., On the rights and obligations of issuing periodicals and on amendments to other acts, as amended (hereinafter also referred to as the "Press Act"), and pursuant to Act No. 231/2001 Coll., On the Operation of Radio and Television Broadcasting, as amended (hereinafter also referred to as the "Radio and Television Broadcasting Act").

Both of these Acts establish the right to publish a reply and a subsequent statement, whereas, *"These institutes are of a special character in relation to the protection of personality according to the Civil Code, but it is not out of the question to have been combined or complementary to each other."* (Rožehnal, 2008: 284). This conclusion is supported by the provisions of Section 10 (5) and Section 11 (3) of the Press Act, according to which the amendment of the reply and the subsequent statement do not influence the provisions of the special legal regulation of the protection of the name and reputation of the legal person (Similarly, Section 35 (5) and Section 36 (3) of the Radio and Television Broadcasting Act). In the theory, however, we can see a partly different opinion: "Legal protection under the Civil Code and just quoted special legislation can be applied independently of each other. However, if the interference with the reputation of the person has been compensated according to the special legislation, there would no longer be possible to seek a protection given by the Civil Code." (Dvořák and Švestka, 2013: 252).

According to Section 10 of the Press Act and Section 35 of the Radio and Television Broadcasting Act, if a communication containing a factual statement was published in a periodical press or in a radio or television broadcast, and such statement affects the honour, dignity or privacy of a certain individual or the name or reputation of a legal person, that person has the right to require a published reply from the publisher or the broadcaster. The publisher or broadcaster is obliged to publish the reply upon request of that person. The reply must be limited to factual claims, which correct the contested claim. The incomplete or otherwise misleading claims must be completed by previously omitted information or made overall accurate. The reply must be adequate to the extent of the contested claim, and if there is only a partial dispute, then the reply to the disputed part must indicate who is providing it. *"The allegations that are untrue, incomplete or misleading are the subject to the right of reply. The reply must set the record straight in response to previously published allegations that were untrue. It must contain a complete information in those that were initially*

*provided incomplete and refine those that were misleading. The right of reply will first and foremost cover false factual claims. However, it also applies to the individual true statements that are considered incomplete or misleading."* (Chaloupková, 2006: 33).

In this context, it is important to draw attention to the fact that the two legal provisions in question protect only "good reputation", not every "reputation" in the sense of protection under the Civil Code. The question is whether this was the intention or omission of the legislator. The authors of this text incline towards the fact that the legislature has failed to amend the relevant provisions in the context of the recodification of private law. Courts should therefore interpret the term "good reputation" extensively; that is, as a general "reputation" because a basic norm of private law protects every reputation and not just the "good" one. In opinion of the authors of this text, there would be an unjustified contradiction in the provision of protection consisting of the right to reply and a subsequent statement when the Press Act and the Radio and Television Broadcasting Act will protect only the "good reputation", while the "reputation" alone will be excluded from protection under the cited legislation.

In this context, the issue of Internet news becomes interesting. The theory says (Moravec, 2007), the Press Act does not apply to news provided through the Internet; given the number of authors, websites cannot be classified under the concept of printed media, as amended by the Press Act. In the case of news broadcasted through the Internet, it is therefore necessary to seek protection under the relevant provisions of the Civil Code. In the case of television broadcasting, it is different - *"The definition of broadcasting extends also to data transmissions carried out through the internet or mobile phones assuming they are linear. Linear media are media, which operate on fixed schedule (resp. broadcast service provider decides on the inclusion of a specific content and the time of its broadcast)."* (Rozehnal, 2011: §2)

#### **4 Factual claims and veracity criteria of factual claims**

Unlawful interference with the reputation of a legal person occurs in most cases by disclosure or publication of false, distorting or misleading factual claims. For the assessment of impact on the reputation of a legal person, it is necessary to distinguish whether the statement in question has the nature of factual claim or value judgement. (Judgement of the Supreme Court from 27.03.2013, file no. 23 Cdo 1551/2011).

While the factual claim is based on facts - an objectively existing reality that is observable by evidence (the veracity of the claim is therefore verifiable), the value judgement expresses a subjective opinion of its author, who takes a certain attitude towards the fact and he evaluates its correctness and acceptability based on his own (subjective) criteria; a value judgement cannot be proven at all, but it is necessary to examine whether it is based on truthful information, whether the form of its public presentation is adequate, whether the interference with personality rights is an inevitable side-effect of the exercise of criticism so the primary objective of criticism is not to insult and defame the person (Judgement of the Supreme Court from 29.11.2007, file no. 30 Cdo 1174/2007, Judgement of the Supreme Court from 20.01.2010, file no. 30 Cdo 2900/2008). In practice, however, there are statements that include both, factual claim and value judgment. Such statements, which combine the factual basis with the element of evaluation, are referred to as the so-called hybrid

statements (Kosař, 2011) or a so-called value-based judgements of a factual basis. For these hybrid statements, it is necessary to determine the extent of factual basis and whether they are exaggerated in comparison to the established facts, while taking the overall tone and circumstances of the case into account.

In the case of defamatory claims, the reason for excluding the illegitimacy of the interference is usually the fact that such claims are true (or the relevant information corresponds to the truth). However, the truth of such claims must be proven by their originator (proof of truth). It is therefore not the obligation of the plaintiff who is demanding the protection of the reputation of a legal person to prove that these claims are untrue (Judgement of the Supreme Court from 18.03.2008, file no. 30 Cdo 1385/2006, Judgement of the Supreme Court from 07.05.2015, file no. 23 Cdo 4788/2014).

In the case of defamatory claims, it is recommended to take into account the criterion of intention, goal and motive of an originator of such claims. The more obvious effort to find the truth and verify the facts (resp. professional thoroughness) there is on the part of a defamatory claim's author, the more it is needed to take into account the weight of the freedom of expression. (Bartoň, 2010: 269)

However, even the true information may result in unauthorized interference with the reputation of a legal person; according to the decision-making practice, the true information does not interfere with the right to protection of the reputation of a legal person, unless the information is presented in such a form and in such contexts, that it distorts reality or gives the impression of distortion of reality, which results in defamatory impression (Judgement of the Supreme Court from 15.06.2015, file no. 23 Cdo 975/2015).

## **5 Protection of the reputation of a legal person in relation to freedom of expression**

According to the provisions of Section 135 (2) of the CC, the interference with the reputation of a legal person is not considered unauthorized (illegal) in the case of so-called statutory licences; the provisions are applied in the cases of interference for scientific or artistic purposes, or in the cases of press, radio, television or similar news broadcasting. Even within the scale of application of the above-mentioned statutory licences applies that the interference in question must not be in conflict with the legitimate interests of the legal person.

This includes, inter alia, constitutionally guaranteed political rights, namely the right to freedom of expression and the right to information. It is therefore necessary to assess the unlawfulness of interference with the reputation of a legal person in relation to those rights (in particular the right to freedom of expression). In each particular case, it is therefore always necessary to examine the intensity of the alleged violation of the fundamental right to the protection of the reputation of a legal person. Especially in the context of freedom of expression, the right to information and the requirement of proportionality with regard to the application of these rights (and their protection) (Lavický, 2014: 713).

The Supreme Court came to the legal conclusion that it is a generally accepted principle that freedom of expression (freedom of speech) is not an institute without

borders. Untrue claims, resp. claims that do not correspond to the truth can't be considered to exercise this right. (Judgement of the Supreme Court from 18.03.2008, file no. 30 Cdo 1385/2006). The alone disclosure of untrue information affecting the reputation of a legal person, basically creates unjustified interference with this reputation, however, every disclosure of untrue information may not automatically imply such interference. An interference is only considered as such when it exceeds a certain allowable intensity to an extent that can no longer be tolerated in a democratic society (Constitutional Court ruling from 08.02.2000, file no. I. ÚS 156/99).

In this context, it is also possible to refer to the Judgement of the Supreme Court (by analogy), according to which, among other things, in case of collision of the basic political right to information and dissemination with the right to protection of personality and private life (and the authors of this text consider that, by analogy, as well the right to protection of the reputation of a legal person), i.e., fundamental rights which stand on the same level, it is up to the independent courts to take careful account of the circumstances of each individual case, whether one's right was unjustifiably given priority over the rights of others. It is, therefore, necessary to consider, on the basis of the specific circumstances of the case, whether the statement reaches such intensity that it interferes with the person's right to protection of personality or it is adequate to the situation; that is, whether in the present case to prefer the right to protection of the honour and reputation of the person concerned or to prioritize the right to freedom of expression and dissemination of information. It is then necessary to examine, among other things, whether the information provided is true, whether the form of its public presentation is reasonable and whether interference with personality rights is an inevitable side-effect, e.g. of exercising a criticism, meaning the primary objective of criticism is not the defamation and dishonour of a person. However, the publication of false or misleading information cannot be included in the public right to information and the right to freedom of expression, because the content of the right to information is the right to true objective information and the right to freedom of expression is limited by the very rights protecting other persons (Judgement of Supreme Court from 28.06.2007, file no. 30 Cdo 664/2007).

Judicial practice, however, confers a privileged position on the journalist community, resulting from the importance of its position in a democratic state. "*Media shall inform about issues that are the subject of general interest, and comment on them.*" (Wagnerová et. al., 2012: 17). In the opinion of the Constitutional Court, it is necessary to respect the obvious specifics of the periodical press that is designed to inform the general public, in comparison to, e.g. professional publications, which, in some cases - especially with regard to the scope of individual contributions and the reader's interest - need to be made with certain simplifications, so there cannot be proclaimed without further justification, that any simplification or distortion must necessarily lead to the interference with the reputation of a legal person. Therefore, it is difficult to insist on the sheer accuracy of factual claims and to expect of the journalist to meet impossible demands, in effect. Therefore it is important that the overall tone of certain information always reflects the truth. (Constitutional Court ruling from 08.02.2000, file no. I. ÚS 156/99).

In general terms, the criterion of the truthfulness of factual claims can be concluded as follows: disclosure of true information does not, as a rule, interfere with the right to

protection of legal person's reputation when the information is not presented in such a way that it distorts the facts or it gives a misleading impression.

## **6 Limits of freedom of expression and criterion of acceptable criticism**

As noted above, value judgements give expressions of subjective views which cannot be objectively reviewed or documented. The value judgements thus represent the exercise of the right of criticism, whereas it is necessary to examine whether they are based on true information, whether the form of their public presentation is adequate and whether the interference with personality rights is an inevitable accompaniment to the exercise of the right of criticism, that is, whether the primary objective of criticism is not the defamation and dishonesty of a legal entity. *“Legitimate criticism must first and foremost be based on true resources upon which can be logically derived the corresponding value judgements.”*

The veracity of factual resources the criticism is based on must be proven by the author of the critical value judgement.

In the case of value judgements, the criticism should be factual, specific and appropriate. Criticism (value judgement) must meet three criteria in order to be permissible by the law: it must be substantive, true (to draw the corresponding logical conclusions) and proportionate in terms of content, form and place (Melzer and Tégl, 2013: §1-117).

The value judgment must be the conclusion that can reasonably be inferred from these facts. However, it is not enough for criticism itself to be based on true facts. If the critic is not to have an unjustified interference with the reputation of the criticized, it is essential for the resources on which the evaluation is based (unless it is a fact known notoriously) to be specifically mentioned in such evaluation, so that the addressee of the court has the opportunity to review such judgment and create its own opinion and at the same time, in order to avoid any possible misconception of the facts, which served the assessors as the groundwork for the judgement (Judgement of the Supreme Court from 24.04.2013, file no. 30 Cdo 2482/2012).

The Supreme Court, in this context, points out, that criticism, as a part of freedom of expression and public awareness, is an important instrument of the scope and quality of democracy in society. At the same time, however, it stresses that freedom of expression, including the freedom to criticize, is limited in a democratic society. This limit is to consider whether the criticism is legitimate in the case of a particular critique, resp. if it is justified. In the case of permissible (legitimate) criticism, it is assumed that the limits of factual and specific criticism are not exceeded when such criticism respects the requirement of proportionality both in terms of content and form which does not go beyond the limits that are necessary to achieve the intended and, at the same time, socially recognized purpose. The factual criticism is then considered the criticism based on true backgrounds and which, at the same time, logically implies corresponding value judgments. However, if these backgrounds are not true, and if the value judgement is defamatory, criticism cannot be regarded as permissible. Criticism must be considered as a factual critique when the necessary groundwork is based on specific facts (that is, such criticism is not based only on a general judgment that is not supported by specific facts). If the permissible criticism assumes that it is reasonable

both in terms of content and form, it is necessary to insist that such criticism does not pursue the objective of possible dishonesty, defamation, scandal or insult of a person (Judgement of the Supreme Court from 27.09.2000, file no. 30 Cdo 964/2000).

The Constitutional Court further stated in relation to value judgements that even overstatement and exaggeration, albeit hard, do not in themselves create an illegal manifestation. Even the inadequacy of criticism from the point of view of logic and the bias of critic do not in themselves lead to the conclusion that the critic deviated from the expression that can be described as reasonable. Only in the case of criticism which lacks a substantive basis and for which no justification can be found it is necessary to consider such a criticism as inadequate. In doing so, it is always necessary to assess the criticism as a whole. There can never be assessed only a single pronounced statement or sentence (Constitutional Court ruling from 11.11.2005, file no. I. ÚS 453/03). There is also an opinion that "Sometimes, in order to achieve the purpose of criticism it is convenient to use rather harsh expressions that could otherwise be considered offensive. Especially in the attempt of drawing public attention to a significant public phenomenon. The requirement that phenomena or persons should be referred to in a moderate way leads to the lack of emotional tone of a criticism which is detrimental because such emotional tone often serves its purpose." (Rožehnal, 2017: § 4)

If the criticism deviates from the listed limits of permissibility, resp. legitimacy, it is considered an excess, which is then evaluated as an interference with the reputation of a legal person associated with the relevant negative sanctions, in particular within the civil law. In this context, so-called "excessive excess" and so-called "intense excess" are recognized.

Excessive excess applies in the case of criticism in which the evaluation findings are based on circumstances that are at the same time being disclosed by false information or the judgements which do not have regard to the rules of logical thinking within the disclosed information. (Regional Court in Ostrava decision from 15.01.1996, file no. 23 C 96/95).

Intense excess applies in the case of criticism where there are, in a characterization of certain phenomena and persons, used expressions whose degree of expressiveness is in significant disproportion to the objectives of the criticism, resp. where the content of the criticism is wholly inadequate to the actions of the criticized, while there is clear intention to discredit or offend the criticized person (Judgement of the Supreme Court from 15.07.2005, file no. 30 Cdo 2573/2004). According to the Constitutional Court, if the published opinion does not deviate from the limits of generally accepted rules of decency in democratic society, it does not lose the character of a particular judgement (reports, commentaries) and as such usually does not fall outside the limits of constitutional protection (Constitutional Court ruling from 10.07.1997, file no. III. ÚS 359/96).

In connection with the value judgements, it is also possible to refer again to the Journalist's Code of Ethics in the Czech Republic, according to which the journalist is obliged, among other things, to "take care of distinguishing facts from personal opinions".

## **Conclusion**

The reputation of a legal person is governed by the relevant provisions of the new Civil Code and, in comparison with the original legislation, the Civil Code no longer

uses the term "good reputation" but the term "reputation" only. With regard to the protection of the reputation of a legal person, the authors of this text are inclined to an extensive interpretation of the notion of "good repute" used also in the sources of media law. It is in the sense of reputation according to the relevant provisions of the new Civil Code, which protects every reputation, not just the "good" one. In the opinion of the authors there would have otherwise existed unjustified inconsistency in providing protection of the right to the publication of a reply and a subsequent statement, when the Press Act and the Radio and Television Broadcasting Act would only protect a "good reputation" so a "reputation" would be excluded from protection according to the cited legislation. In the case of Internet dailies, which do not fall under the law of the Press Act, it is necessary to apply the rules of the Civil Code in its entirety. In addition, there is a need to apply the relevant legal provisions governing the liability of the providers of Information Society Services.

In order to assess the impact on the reputation of a legal person, it is necessary to distinguish whether the judgment under consideration is of the factual claim nature or it is a value judgment. While the factual claim relies on the fact - an objectively existing reality that is detectable by evidence (the veracity of the claim is therefore verifiable), the value judgement, on the contrary, expresses the subjective opinion of its author, who takes a certain attitude towards the given fact by evaluating it in terms of correctness and acceptability. In general terms, therefore, it can be said that if the criticism is acceptable and legitimate, it must be based on truthful information, it must be factual and specific, reasonable and appropriate in terms of content, form and location; that is, it does not deviate from the limits necessary to achieve the intended and socially recognized purpose.

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Received: 30. 08. 2017, reviewed: 28. 02. 2018

Approved for publication: 27. 06. 2018