

The Concept and Essence of the Right to Inviolability of Personal Image

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Abstract: In the modern world, where images of people are easily replicated and distributed, the right to inviolability of personal image becomes more and more relevant. The article provides a comprehensive analysis of the concept and essence of the right to inviolability of personal image. The methods of comparison, prediction, analysis, deduction, synthesis are used to achieve the purpose of the research.

The article offers a new vision of the essence of the right to inviolability of personal image, and formulates a number of proposals to improve the legislation of Uzbekistan in this area. The results of the research can be used for further development of the theory of law, as well as for improvement of legislation on personal data protection.

Keywords: Image, personal non-property rights, intangible goods, image of a citizen, right to image.

The right to one's own image is recognised as one of the intangible personal rights of a person. In the world there is a trend towards the legislative enshrinement of the right to one's own image.

Illegal actions in the sphere of use of a citizen's image are connected, first of all, with its promulgation, which makes it necessary to consider this concept.

In the textbook 'Civil Law' (general part) edited by Rakhmankulov H.R. in the chapter devoted to the regulation of intangible goods, including the right to image, it is noted that the identification of the nature of personal intangible goods is often very difficult due to the fact that there is a significant number of such objects, and their regulation due to their amorphous nature is mainly carried out by general legislative constructions, and their protection is the core of many normative legal acts in various spheres [1, p. 899].

The issues of the legal status of intellectual property are devoted to the works of Okyulov O. In particular, in the abstract of the dissertation for the degree of Doctor of Law, it is the legal status of intellectual property in the context of the analysis of copyright, rather than specific provisions governing intangible goods [2, p.55].

Due to the popularisation of the use of social networks, there are more and more frequent situations related to the unlawful behaviour of persons, which is expressed in the publication of images of citizens on social network accounts and other sites without their consent, due to which citizens turn to the court in order to restore the violated right. It should be borne in mind that the satisfaction of claims depends on the evidence presented by the plaintiff. [3, c.254].

Nikolaeva A., believes that 'under the image should be understood information about a physical person intended for visual perception, reproduced in any objective form, possessing a set of

unique individual features of the appearance of this physical person and allowing to distinguish it from other persons' [4, p.32].

According to Ablyatipova N., an image is a set of features (information) characterising a particular object, as well as a subject; information that allows to distinguish and individualise them among other substances [5, p.110].

In international conventions and agreements the right to the image of a citizen is not mentioned separately, but it is implied that legal protection is granted to it within the general protection of personal non-property rights. In practice, this is the case.

In particular, article 12 of the Universal Declaration of Human Rights establishes that no one shall be subjected to arbitrary interference with his privacy, family, home, correspondence or honour and reputation. Everyone has the right to the protection of the law against such interference or attacks. [6].

Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms states that everyone has the right to respect for his private and family life, his home and his correspondence [7].

Article 17 of the International Covenant on Civil and Political Rights establishes that no one shall be subjected to arbitrary or unlawful interference with his privacy and family life, and everyone has the right to the protection of the law against such interference or attacks [8].

The national legislation of Uzbekistan recognises the right to image without establishing specific mechanisms for its implementation and protection. Thus, article 99 of the Civil Code of the Republic of Uzbekistan states that intangible goods include life and health, personal honour and dignity, personal inviolability, business reputation, inviolability of private life, private and family secrecy, the right to a name, the right to an image, the right of authorship, other personal non-property rights and other intangible goods belonging to a citizen by birth or by virtue of law, which are not alienable or otherwise transferable [9].

The personal image is directly linked to the non-material benefits enshrined in the Civil Code of the Republic of Uzbekistan: firstly, the inviolability of private life, and secondly, personal and family secrecy. Also, violation of a citizen's right to inviolability of personal image is often associated with violation of the right to honour and good name, protection of business reputation.

Thus, a personal image is an object containing the image of someone, as well as characteristic external features, with the help of which it is possible to identify this or that person. Given the frequent use of both photographs and video materials in publicly available sources, it seems appropriate that the right to protection of personal image concerns not only photographs or drawings containing the image of a person, but also video recordings.

According to Bogustov A.'s conclusions, the right to image is more considered as an element of the right to privacy. In this case, the unfavourable consequences of unlawful use of an image both in visual and any other form would be similar. This implies that the image of a person is part of his personality and only he has the right to control the right to use his image by other people [10, p.279].

The state provides legal protection and methods of defence in relation to the most significant and important objects, tangible and intangible benefits. In this regard, the image of a citizen is associated with such intangible goods as personal inviolability, privacy, personal and family privacy, dignity, honour and good name, business reputation, authorship, and thus the right to it is subject to legal protection and defence.

Thus, Article 27 of the Constitution of the Republic of Uzbekistan states that everyone has the right to freedom and personal inviolability. Which itself implies inviolability of personal image [11].

Thus, the study determined that the right to inviolability of personal image refers to personal non-property rights. Also the interpretation of the concept of personal image in different sources differs. Also in the legislation of Uzbekistan there is no certain legal mechanism for the use of personal image.

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