

The protection of privacy – branch-of-law based demarcations in the enforcement of individual and public claims

Presumptions and conjectures (research hypothesis)

The working group focuses on the topic of the right to privacy, which, in the people's eyes, is certainly the most valued human right. It is basically the right of a person to be free from intrusion into or publicity concerning matters of a personal nature. On the other hand, people are – as is the European Convention on Human Rights – aware of the fact that the rights of others may be restricted on grounds of the protection of a person's right to privacy and that some values and human rights may prevail over the right to privacy.

The present situation

The mixed nature of the right to privacy makes it practically impossible to conclusively define its boundaries. Not even the European Court of Human Rights and the Constitutional Court of Hungary are willing to give a general definition of the term, they rather examine and re-determine its scope and content on a case-by-case basis. They are also reluctant to offer clear guidance on how to avoid violations of the European Convention on Human Rights and of the Fundamental Law of Hungary.

Subject-matter of the jurisprudence-analysis

With regard to the above, there is no reason for carrying out an analysis the result of which would be that the subject-matter is wide-ranging, has a twofold nature and cannot be assessed on the basis of uniform criteria, since the members of the working group are already aware of these characteristics. What is truly exciting is how they are dealt with by the different branches of law (civil, public and criminal law): what are the grounds which can justify restrictions on the right to privacy and what rights can be restricted on grounds of the protection of privacy in the various fields of law. It is appropriate to take the courts' consistent case-law into due account in order to gain insight into the approaches, expectations and guidelines of the different branches of law – and of the underlying provisions of the Fundamental Law of Hungary – concerning the content and the perceived and real boundaries of privacy. In addition, there is a need for a common platform of thinking to use at least similar terms [factual allegation vs value judgement, expression of opinion, public life (public affair, public figure) vs private life] and approaches in the working group's examination.

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