

KASINEC, RUDOLF - ŠURKALA, JÁN: LEGAL ASPECTS OF CENSORSHIP IN CZECHO-SLOVAK FILM IN THE ERA OF NORMALIZATION. COMENIUS UNIVERSITY IN BRATISLAVA, FACULTY OF LAW, 2021 / Marián Šuška

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Person X: "...don't worry, we know him very well. We're keeping an eye on him!
You, I advise you wisely – do not try to have any contact with him..."

Person Y: "...huh... Intéressant."

Person X: "Intéressant, you jerk! It's dangerous, remember it!"

(Dialogue from the Slovak film *The Shop on main street*,
winner of Academy Awards of 1965)¹

The above-mentioned dialogue represents the hidden essence of a theme of the reviewed book - it is an interview that at first glance does not really indicate anything directly, but indicates many things indirectly. The experienced authors on this legal topic – Rudolf Kasinec and Ján Šurkala – decided to analyse the very actual legal and social problem – the individual's right to freedom of expression and its conflict with censorship.²

This aim is realised in a category of films that were sanctioned by a totalitarian socialist regime of Czecho-Slovakia, predominantly in the era of so-called "normalization".

¹ KADÁR, J. KLOS, E. *The Shop on Main Street*. Czechoslovak Film Institute, 1965. Winner of the "Academy Award for Best Foreign Language Film" for the year of 1965. A year later, Ida Kamińska was nominated for the "Best Actress in a Leading Role".

² For more details about authors' bibliographies in this topic see for example a bibliography of the reviewed book in its end – p. 162 et seq.

In Czecho-Slovakia, there was even invented a term “safe deposit films” or “locked films” (in Slovak/Czech “trezorové filmy”) for this special category of films. The comprehensive legal-scientific elaboration of film censorship in the former Communist bloc still misses and thus the submitted text is an important pioneer on that topic. The book itself consists of three main chapters: each chapter is analysing a different aspect of the problem.

The first chapter deals with the matter of the right to freedom of expression and the problem of censorship. A reader shall learn about the eternal problem of state power, which tends to expand and intensity of which points out to the level of (non-) democracy. No less important is the fact that the right to freedom of expression can get into conflict with rules of other normative systems of a society, e. g. morality, religion and so on.

In the beginning, the first chapter aims at the most crucial international and national legal guarantees of the right to freedom of expression that has been applied in today's Slovak Republic. We must appreciate that authors do not only mechanically copy individual legal text and sections of the law, but on the contrary, they always add important information, which can be used to get a close understanding of it. Within the framework of national constitutional guarantees, the book for example refers to the first Communist Czecho-Slovak *Constitution of 9th May 1948*, which in section 22 directly governs rights and obligations concerning a film medium. Socialist regimes were aware of the power of film as an important mass transmitter of ideas, what was the reason for ensuring strong control over the whole film industry in a state.³

However, the reviewed text does not only analyse the Communist understanding of the right to freedom of expression, but also points to the interference of this right within today's democratic Slovak Republic and – what is in our opinion particularly important – briefly analysing this right from a view of the European Court of Human Rights.

The following part of the first chapter focuses on the notion of censorship. Authors present and define this concept and then they analyse its theoretical and historical aspects. We must welcome that authors do not demonize censorship (because, particularly in a current democratic society, term censorship is connected with mainly negative associations). On the contrary, they objectively analyse censorship as a phenomenon that has its place (of course, only within certain, predetermined legal limits) in a modern-day democratic society.

A film is a type of medium with widespread impact. Authors explain the reasons for the intensified existence of film censorship in totalitarian socialist states and they shortly analyse the default model of censorship for former socialist countries - the censorship model of the Soviet Union. The text comprehensively analyses the interpretation of film censorship in socialist regimes, which is well supplemented with statements by major politicians of those states. As an example, we can point out on a speech of J. Stalin: “*Film in the hands of the Soviet government is a great invaluable force. It has exceptional qualities of psychological influence over the people, it helps working class and its party to educate workers in the spirit of socialism, to organize the people to fight for socialism, to increase their cultural and political militancy.*” (Kasinec and Šurkala, 2021, pp. 35-36). Albeit in second chapter of the book, there is a similar speech by G.

³ Constitution of the Czechoslovak Republic No. 150/1948 Coll. § 22 (1) The right to produce, distribute, publicly exhibit, as well as to import and export motion pictures shall be reserved to the State. (2) Broadcasting and television shall be the exclusive right of the State. (3) The exercise of these rights shall be regulated and exceptions prescribed by Acts.

Husák.⁴ That all only points out that leaders of socialist countries recognized the power of film and its impact on society.

This part is followed by a text directly oriented on the development of censorship in socialist Czecho-Slovakia. Book first examines an earlier, cumbersome bureaucratic censorship model from the turn of the 1940s and 1950s, which consisted of a party, union and state level. It was replaced in 1953 by more efficient model based on the state office "*The Main Administration of Press Supervision*".⁵ Reading this part of the text, today's reader who lives "*in the comfort of Western democracy*" shall sometimes be shocked on information mentioned by authors, such as the fact that the aforementioned office also checked advertisements in newspapers and magazines, or about the mysterious inconspicuous letter "M" followed with a series of number at the beginning or at the end of a film. The censorship procedure itself and the legal aspects associated with it are described in considerable detail.

The last part of the first chapter briefly deals with the actual problem of modern-day censorship. It is pointed out that many well-known films are criticized for various reasons. As examples we can mention well known *Gone with the Wind* (1939, allegedly for portraying the Confederacy in glorious, romantic view), *Dumbo* (1941, alleged caricature of black people in the form of crows), *Indiana Jones and the Temple of Doom* (1984, alleged caricature of Hindi society) or *Avatar* (2009, allegedly for showing "white man saviour complex"). Authors reflect these delicate problems in a very careful way, and they think about their consequences.

The second chapter of the book is fully focused on a central topic – analysis of film and state in Communist Czecho-Slovakia. It mainly concerns a short period of the 1960s, usually associated with the iconic political figure – Slovak Alexander Dubček,⁶ who became the most important political figure in Czecho-Slovakia in 1968. At that time, the Czecho-Slovak film industry brought an extraordinary movement called The Czech-Slovak New Wave.⁷

This era is represented by removing the strong totalitarian character of the regime that also caused changes in censorship. It meant the possibility of relative freedom in the creation of (but not only) film works. During this period, authors in Czecho-Slovakia created high-quality motion pictures awarded by the world most prestigious awards, including two winners of Academy Awards in the category "*The Academy Award for Best International Feature Film*".⁸ It is worth noting that since then, even after the fall of the regime in 1989, this success has been neither overcome nor at least repeated. Dubček's "*socialism with a human face*" lasted shortly - the Soviet occupation took place in August 1968, followed by reprisals and "*normalization*" of the Czecho-Slovak society. The normalization era meant the definitive setting of society and film censorship, until the Gentle revolution in 1989.

⁴ Gustav Husák (1913-1991) was a Slovak Communist politician. He served as the First Secretary of the Communist Party of Czechoslovakia from 1969 to 1987 and then as the president of Czechoslovak socialist Republic from 1975 to 1989.

⁵ In Slovak "*Hlavná správa tlačového dozoru*".

⁶ Alexander Dubček (1921-1992) was a Slovak politician. He served as the First Secretary of the Presidium of the Central Committee of the Communist Party of Czechoslovakia (KSC) from January 1968 to April 1969. After fall of Communism in November of 1989 (Gentle revolution) he served shortly as the Chairman of the federal Czecho-Slovak parliament.

⁷ Sometimes wrongly named as only "Czech New Wave" chauvinistically omitted the Slovak factor, even though Slovak factor had a crucial role, as we point it out further in the review.

⁸ These are above-mentioned films *The Shop on Main Street* (1965) and *Closely Watched Trains* (1968).

Text reflects these events in association with film censorship. Authors do an analysis of a term "*prohibited film*". Except of studying their characters, they also point out different names given to the category of prohibited films in socialist states. This fact is linked with dissimilar understanding and level of censorship in a particular state, despite being in the same Eastern socialist bloc (see a comparison of "*trezorový film*" in Czechoslovakia meaning a safe deposit film versus "*doboz*" in Hungarian meaning "*only*" a box).

In particular, we would like to pay attention to a chapter, which divides safe deposit films into several categories, according to an imposed sanction. Authors distinguish four categories of sanctions: (1) life imprisonment, 2) imprisonment for a certain period, 3) prohibition of activity and 4) death penalty. It is a truly original construction of film sanctions, which is invented by authors. It has its relevant legal basis, which in very smart way illustrate a destiny of a particular prohibited film.

Authors research further the above-mentioned structure of sanctions, and they supplement it with real examples. Particularly interesting is a mentioned case of an amateur actor, who described how he had been looking forward to the premiere of that film, where he had starred. However, since all cinemas cancelled it, that man could not have watched film until 2009 (i.e., 44 years) (Kasinec and Šurkala, 2021, pp. 78-79).

Third and final part of the text is designed as a selection of the most important Czechoslovak safe deposit films. These are divided into 2 categories – Czech films (10 works) and Slovak films (9 works). In each subchapter on a particular film, the reader is at first briefly acquainted with a plot of a film. Subsequently, authors are analysing reasons for banning the film (as censorship reasons had not been explicitly specified usually). They propose the most potential censorship reasons for every film. We must appreciate that authors' intention is to motivate a reader to watch a film for making their own opinions about the reasons, which led censorship to put a particular film into an imaginary safe deposit.

Second edition of the text increased number of analysed safe deposit films. Among them, we can eventually find an analysis of two extraordinary Slovak safe deposit films, namely: *The Miraculous Virgin* and *The Man Who Lies*.

Here, we must especially notice a subchapter about *The Miraculous Virgin*. We consider this text as one of the best-written parts of the reviewed book. Plot of the film is about central character – Anabella – the personification of creative scientific and artistic freedom (ergo, the right to freedom of expression). Anabella, an attractive muse, is immediately surrounded by numerous artists as well as university academics. However, only few of them shall understand that the right to freedom of expression (personified by Anabella) cannot be usurped as a private possession. Author is brilliantly analysing the topic together with the manner how he links it with the reality of today's world. In our opinion, this text could be a basis for a separate article.

Generally, in addition to everything that has been written here, we can evaluate the 2nd edition of the book as a valuable update of the previous text in all its aspects. From the formal point of view, there is an important improvement in the structure of the text itself. Now, it is represented by a clear 3-part structure. For illustration, first chapter of the 1st edition included 24 subchapters, in which text was a little bit confusingly organized. In addition, the format of the book – now A5 standard – is quite more appropriate.

If we should suggest recommendations for authors, there could be found several of them. First of them, it should be useful to translate the book into – at least – English language, as this topic is very actual. It brings new impulses, and it represents certain guidelines or comparative material for states, which have not had experience with

(socialist) totalitarian censorship. Moreover, the topic does not present only theories, but presents real models, which were applied and existed in the past.

Another recommendation could be seen in further research of the topic. It can be done in several ways. One of them could be continuous research with extension to the modern-day problem of film censorship.⁹ Also, research could continue in historical framework. This idea could be enlarged with comparative study of film censorship among systems in several former socialist states and their mutual understanding and realization (e. g. Czecho-Slovakia v. Yugoslavia, Poland, Hungary, etc.).

At the end of the review, we can definitely recommend the book, as it is a very interesting text, the merit of which - the problem of safe deposit films resulting from the conflict between the individual's right to freedom of expression and state censorship is highly actual in today's society. *"Indeed, if a situation arises and individuals' opinions, along with their rights, are being removed, art must come to the scene as a feast for the soul, which can hide the ideas of freedom of expression and create strong opposition in society and encourage them to activity."* (Kasinec and Šurkala, 2021, p. 160).

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⁹ Of course, the reviewed book includes short text about it (cf. p. 49 et seq).

