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HODULÍK, JAKUB: ÚSTAVNÍ ZÁKAZ CENZURY V TEORII A PRAXI [CONSTITUTIONAL PROHIBITION OF CENSORSHIP IN THEORY AND PRACTICE]. WOLTERS KLUWER, 2024

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1. INTRODUCTION

"After years and years of illegal and unconstitutional federal efforts to restrict free expression, I also will sign an executive order to immediately stop all government censorship and bring back free speech to America." These words were spoken by the new United States President Donald J. Trump (2025) during his inauguration speech that was broadcast around the world. The concept of censorship is clearly used widely and frequently by politicians, but it is also at the heart of modern legal debates relating to the freedom of expression of individuals on social media. But what is censorship? Do legal scholars and politicians use the term correctly or are there instances when the term censorship is used too broadly and without a relevant legal basis?

2. STRUCTURE

The book is divided into seven chapters, with J. Hodulík devoting the first two to a general introduction and methodology, where he specifies that this is a work that falls within the doctrinal analysis of law, providing an analysis not only of legal literature, but also of case law, laws, and by-laws.

The third chapter is devoted to the prohibition of censorship in positive law and the prohibition of censorship in applied practice. I personally consider this part to be one of the most important. Indeed, the term censorship is often used (some might say overused), so it is important to look for a definition of constitutionally prohibited censorship in particular. The situation is more complicated by the different conceptions of censorship around the world, where some states have a prohibition of censorship in their constitutions, some derive it implicitly, and some states promote a close but not identical concept of the doctrine of *prior restraint*.

The fourth chapter then turns to the absoluteness of the prohibition on censorship. The absolute prohibition of censorship is not universally accepted, but J. Hodulík points out that, at least in the Czech Republic, there is a consensus on the absoluteness of the prohibition not only in legal scholarship, but also among the various branches of public authorities, including the Ministry of the Interior. The absoluteness of the prohibition of censorship, however, also entails the complication that the entire content of the prohibition of censorship is perceived narrowly, so that various exceptions to it do not arise.

The comprehensive fifth chapter then turns to one of the fundamental features of censorship - the pre-emptive nature of intervention. Even though this criterion may seem trivial on the surface, it contains many interesting nooks and crannies, which J. Hodulík brings to light with specific historical and modern examples. It is here that J. Hodulík also addresses the important problem of how to define or even imagine censorship on the Internet. He presents a wide range of possible approaches, but he himself sticks to a more restrictive interpretation. This section in particular may be a catalyst for further doctrinal work in the area of content restriction on the Internet and the relationship of such restriction to the prohibition of censorship. In theory, it would certainly be possible to devise complex situations where even a restrictive interpretation of prohibition of censorship would result in Internet content being restricted, but these are specific topics related to IT law.

The next chapter, chapter six, is devoted to the second necessary criteria for constitutionally prohibited censorship – the origin from public authority. Again, this is a criterion that, on closer examination, presents many complexities. In particular, J. Hodulík points out the problem of delegation of some public powers to private companies. That is to say, 'circumventing' the constitutional prohibition on censorship by delegating certain responsibilities to private actors. In many cases, he indicates that in the modern era, public authorities have a wide range of possibilities to avoid the constitutional prohibition of censorship while still achieving a similar effect, i.e. limiting the right to information by other means.

He then concludes his book by summarizing his research and mentions many other unclear terms that he has shed a light on in the book – self-censorship, the constitutional dimension of media owners influencing the media, issues of automatic content filtering, and much more.

3. HIGHLIGHTS

I see the book's contribution to the Central European debate on the prohibition of censorship as twofold– one important dimension is the clarification of all the usually very emotionally tinged notions *sine ira et studio*, which may help not only in rationalizing the public debate but also in further research on these notions.

The second important part of the book is undoubtedly a certain courage to venture into the complex technological issues related to the prohibition of censorship. I believe that reading the book may lead many legal scholars to reflect on the future role of the concept of (absolute) prohibition of censorship, its potential expansion or redefinition. While the book quite admittedly did not have this ambition, I think it can be a great start to many rational debates about the concept of censorship in the 21st century.

4. CONCLUSION

J. Hodulík's book *Ústavní zákaz cenzury v teorii a praxi* (The Constitutional Prohibition of Censorship in Theory and Practice) is an important stepping stone for all those researching freedom of expression and its limitations, technological issues related to the regulation of content on the Internet, as well as for all authors engaged in broader comparative human rights studies. The book is enriched by a large number of examples from near and distant history, and thus also guarantees an engaging read, which is not always the norm in legal scholarship.

BIBLIOGRAPHY:

Hodulík, J. (2024). *Ústavní zákaz cenzury v teorii a praxi [Constitutional Prohibition of Censorship in Theory and Practice]*. Praha: Wolters Kluwer.

Trump, D. J. (2025). *The Inaugural Address*. Speech Delivered at the Presidential Inauguration, Washington D.C. Available at: https://www.whitehouse.gov/remarks/2025/01/the-inaugural-address/ (accessed on 1.3.2025).

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