[RU] Supreme Court on Public Figures and Right to Image

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Andrei Richter
Comenius University (Bratislava)

On 23 June 2015, the Supreme Court of the Russian Federation at its regular Plenary Meeting adopted Resolution “On the Case Law Related to Certain Provisions of Section 1 of Part 1 of the Civil Code of the Russian Federation” (О применении судами некоторых положений раздела I части первой Гражданского кодекса Российской Федерации). Such resolutions routinely explain to the courts the statutory norms concerning particular topical issues of legal practice in Russia. According Article 126 to the Constitution of the Russian Federation, as amended in 2014, “The Supreme Court of the Russian Federation shall be the supreme judicial body for civil cases, adjudication of economic conflicts, criminal, administrative and other cases under the jurisdiction of courts, established by federal constitutional law, shall carry out judicial supervision over their activities according to procedural forms envisaged by federal law and provide explanations on the issues of court practice.” The Resolution dealt in particular with the provisions on privacy and reputation of the Civil Code (see IRIS 1995-4/13) as amended in 2013 by the State Duma (see IRIS 2013-8/34). Section 1 of Part 1 of the Civil Code of the Russian Federation is titled “General Provisions.”

In its comment to Article 152-1 of the Civil Code of the Russian Federation, the Supreme Court notes that the divulging and further use of the image of a citizen is allowed only with the consent of the citizen, unless the use of the image is in state, social or other public interests, or if taken at an open public space with a particular person not being the main object of the image, or if the person posed for a fee. The Supreme Court explains that posting of one’s image online by the person portrayed, even if an open access to the website/webpage is provided, does not imply that others may use this image without the permission of the person. Such permission however may be evident and recognized by the court if the person has agreed to the user agreement of the particular web resource (paragraph 43).

The Supreme Court instructs judges that, in line with the provision of Article 152-1 of the Civil Code on exceptions “in state, social or other public interests”, the use of images of public figures without their permission is permitted. As the Russian statutory law lacks definition of a public figure, for the first time ever a court of such high level provides its own definition, now part of civil law in Russia. It

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broadly defines a public figure as the person “who has a state or municipal position, plays an essential role in the public life in the sphere of politics, economics, arts, sports, or any other sphere.” Making public an image of the public figure and its use without permission are allowed if done “in connection with a political or public discussion and an interest to the particular person is of public importance.” At the same time, if the only aim of such publication and use is “philistine satisfaction of interest in his/her private life or mere profit”, such a permission is obligatory (paragraph 44). This explanation of the Supreme Court paves way to a generally wider interpretation of the right to disclose private information in the public interests than before.

Permission to use one’s image can be provided in written or oral form, may contain conditions of use and may be withdrawn at any time (paragraphs 46 and 49). In case of a legal conflict, the burden of proof on the circumstances of such a permission lies with the user of the image (paragraph 48).

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Resolution of the Plenary Meeting of the Supreme Court of the Russian Federation “On the case law related to some provisions of Section 1 of Part 1 of the Civil Code of the Russian Federation” No. 25 of 23 June 2015

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