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CONTENTS

INFORMATION SECURITY THREATS IN MODERN WORLD

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Abstract

Among the most acute threats to information security in the current period of development of society, the following can be noted: Creation and use of means of influence and damage to information resources and telecommunication systems of the country; Purposeful informationnal influence on strictly significant bodies; Informational influence, implemented to undermine the political, economic and social systems of the government, moral processing of people for the destabilization of society; Unauthorized intrusion into information and telecommunication systems and information resources, as well as their illegal use; Global terrorist institutions threaten the information security of countries around the world; Illegal use of information technology to the detriment of fundamental human rights and freedoms; Unlimited state boundaries of computer networks has a global character. Cross-border dissemination of information contrary to the principles and norms of international law, as well as the national legislation of states.

Keywords: *threat, information security, information technology, information resources, information and telecommunication systems, the Internet, terrorist institutions, human rights and freedoms, computer networks, information dissemination.*

In the modern world, information technology plays a vital role in all spheres of life. The global information technology revolution has effectively changed the politics, economy and social life of the world community. To such a degree of development and application of information technologies, the question of protecting society from their use for illegal purposes inevitably arises. High-tech crime knows no limits and is a threat to global security.

The role of computer networks as an integral part of everyday life makes information security critical for people and organizations. The amount of personal and corporate information stored on the network, as well as the diversity of information threats, combine to form the urgent need to strengthen the protection of this information [12, 1].

In the modern world, the threat to information security is one of the main problems for humanity. Intensive maturation and widespread introduction of the latest information and telecommunication technologies, being a true period of economic, scientific and technological progress and a necessary condition for the further development of society, have simultaneously generated a complex of negative consequences.

The cyberworld has created a coordinate less ability to use slanderous comments to tarnish another person's honor and reflect this around the world. Cyber fraud is one of the most global problems in the internet world [11, 303-312].

With the development of the Internet, the role of information technology in the period of hostilities has increased. A prime example of the role internet technology can play in modern politics is the much-publicized Wikileaks scandal, which began publishing secret US government diplomatic documents. The scandal prompted the United States to ponder how to balance security and freedom when using the Internet.

WikiLeaks is an international non-profit organization that publishes classified information that is appropriated from unknown sources or when this information is leaked. The authors of the website, which was launched in 2006 by the Sunshine Press, announced that they have a collection of 1.2 million documents that they have collected in the first year of the website's life [17].

Contact with the Internet gives not only benefits and pleasure; even experienced users face many threats that can take away their time and finances. Computer villains use the Internet to steal data, extract illegal profits, and damage rivals. Fraud on the Internet brings a lot of damage to the user. Fraud on the Internet means: theft of personal confidential data, luring large sums of money.

In recent decades, the scale of information threats has increased significantly. The scandalous events of recent years give reason to believe that information can be stronger than any of the previously known weapons of mass destruction. In the conditions of the most powerful computerization, insufficient level of protection of computer information from unlawful encroachments, it is possible that the problem of information security has become the first global problem of our time. Law remains the main means of ensuring information security. With its help, you can solve problems with such an object of law as information.

In the current circumstances, information becomes a strategic resource, on the successful use of which the possibilities of forming an economy, the development of an information civil society, and a guarantee of the security of the country and people depend. Information as a phenomenon of the public sphere is subject to legal regulation [13, 6]. The consumption of information and the means of its transmission was initially imposed freely and only over time, therefore, by a rite, an object of customary law. Nevertheless, even in the mid-1980s. the experts noticed that the information did not contain any general establishment, including in the law.

At least 2 types of computer crimes are distinguished: 1) in the first category of crimes, the object of encroachment is a computer, and they are carried out through attacks on the secrecy and completeness of the Internet; 2) and the second category of crimes includes fraud, theft, forgery carried out by the computer itself. The emergence of new social problems leads to the typical emergence of new rights and the fight against these problems, at the same time preventing their consequences [3, 771-823].

Fraudsters often use social engineering, phishing, pharming, malware, spam, etc. to fulfill their selfish goals. Phishing is an Internet fraud technology that involves theft of personal data (passwords, debit card credentials). The fraudster, by deceiving the user, coerces him to give personal secret information. At the same time, it should be noted that the victim performs all actions unconditionally unconditionally, without realizing what she is truly doing. For this, social engineering technologies are used.

Phishing is currently divided into two types. Mail phishing - a special letter is sent by e-mail with a request to send some data. By clicking on the link shown, the victim goes to the site. But this site, despite the outward absolute similarity to the original, was designated only for the victim to enter confidential information herself.

In online phishing, scammers copy certain sites (for example: an online trading site). In this case, similar domain names and a similar look are used. The victim, getting into such a site, decides to buy some product. All suspicions are dispelled due to the popularity of the copied site. By purchasing the product, the victim is registered and enters the number and other details of the personal credit card [14, 112-113].

Pharming is a procedure for stealthily redirecting a victim to a false IP address. It consists in automatically redirecting users (visitors) of an Internet resource to another fake site. As a result, the victim does not visit the original pages, but those to which the fraudsters redirect him to receive confidential information.

The term "farming" is a neologism based on the word's "agriculture" and "phishing". Phishing is a type of social engineering attack to obtain access credentials such as usernames and passwords. In recent years, pharming and phishing have been used to obtain information for online identity theft. Pharming has become a major concern for e-commerce and internet hosting business. Sophisticated measures known as anti-farming are needed to defend against this serious threat [9, 36]. Even antivirus software and spyware removal cannot protect against pharming.

Social networks - in social networks, numerous users receive notifications from strangers or from friends in the contact list, with a request to visit the designated site or vote for them by sending SMS to a short number.

On social networks, scammers often change the status of users and post the information they need. Visiting these resources or sending SMS to the designated number. Most likely, the profile of the user from whom such messages come has been hacked, and a large mailing is being implemented on his behalf. When switching to the shown resources, there is a high possibility of infecting the computer with this or that malicious program, and then sending to the shown number can lead to the loss of a large amount of money from the account.

Voice phishing is a criminal practice of using social engineering through the telephone system to gain access to private, personal and financial information for financial reward. It is sometimes referred to as "vishing", a word that is a combination of "voice" and phishing. Voice phishing exploits public trust. Voice phishing is typically used to steal credit card numbers or other information used in identity theft schemes from individuals [6, 55]. Some scammers use features supported by Voice over IP (VoIP).

The construction of lies is identical with phishing, only in the case of vishing, the information contains a request to call a specific phone number. But a message is read out where the likely victim is asked to provide his personal data. It is difficult to find the owners of such a number, since with the development of Internet telephony, a call to a number can be directed to a virtual number anywhere. The caller does not think about it. This technology was used by many scammers.

According to information from Secure Computing, fraudsters also use the following scheme: the consumer receives a call and warns him that fraudulent transactions are being carried out with his card, and asks to immediately call back at a certain number. When this number is called back, a characteristically computer voice answers on the other side of the wire, saying that you must go through identification and enter the card number. As soon as the number is entered, the visher becomes the owner of all the necessary information. Further, using this call, you can save other information [15].

Malicious programs are also used to steal login and password. One stolen password can give access to many accounts and provides numerous opportunities for fraud 10, 114]. More than 13 million consumers fell victim to identity theft in 2014.

We also note other types of fraud, such as online store of confiscated goods; generator of express payment cards WebMoney; dummy programs; gold wallet, etc.

The United States Computer Emergency Readiness Team (US-CERT) identifies denial-of-service symptoms, which include:

- unusually low network performance (opening files or accessing websites);
- unavailability of a specific website;
- inability to access any website;
- a sharp increase in the number of spam emails received (this type of DoS attack is considered an email bomb);
- disconnect wireless or wired internet access;
- long-term denial of access to the network or any Internet services [8, 101-102].

If an attack is carried out on a large enough scale, entire geographic regions connected to the Internet can be compromised without the knowledge of the attacker or the intent of misconfiguration or contrived network infrastructure equipment.

One of the most popular ways to carry out a DDoS attack is to send multiple requests to the victim computer or site, which leads to a denial of service if the attacked computer's resources are insufficient to process all incoming requests.

On December 24, 2009, there was a massive DDoS attack on NeuStar's UltraDNS DNS service, which served a large number of large organizations. According to preliminary investiga-

tions, it was revealed that the NeuStar servers in California (USA) were most affected. A similar DDoS attack resulted in the shutdown of all online stores for about an hour. On August 26-27, 2009, the largest massive DDoS attack in the history of the country was registered in Ukraine. All attacks took place directly from computers on the territory of Ukraine. This time, hackers hacked the Imena.UA/MiroHost.net resource. According to the chief technical administrator, the load on the point of the provider's server increased to 2 Gb / s, which, of course, led to a collapse of the entire system.

The first computer hackers appeared at the Massachusetts Institute of Technology. They take their name from a term used to describe members of a train group who will "hack" electric trains, tracks and switches to make them run faster and differently. Several of the members transferred their skills to the new mainframe computing systems that were studied on campus. The malicious code of this time can be divided into two different categories: those intended to deceive the employer (back door, hatch, Trojan horse) and intended to blackmail or damage (logic bomb).

Phone hackers (phreaks or phreakers) are interrupting regional and international phone networks to make free calls. One intruder, John Draper (aka Cap'n Crunch), learns that a toy whistle given off inside Cap'n Crunch generates a 2600-hertz signal, the same high-pitched tone that accesses AT&T's long-distance switching system ... D. Draper builds a "blue box" that, when used in conjunction with a whistle and sounded into the handset, allows free calls. Shortly thereafter, Esquire magazine publishes Secrets of the Little Blue Box with manufacturing instructions, and fraud in the United States escalates. Among the criminals are two college kids (Steve Wozniak and Steve Jobs) later founders of Apple Computer.

Malicious code in computing remained broadly the same as in the 1960s. After a lengthy investigation, Secret Service agents carried out raids and arrests in 14 American cities. The organizers and prominent members of the BBS were arrested for credit card, telephone, and other fraudulent activities. The result is a breakdown in the hacker community. In 1990, self-modifying viruses such as Keith were created. In 1991 the GP1 virus appeared which is "network sensitive" and tries to steal Novell NetWare passwords. Since their inception, viruses have become more complex [7, 47-53].

Hacktivism represents a whole new level of activity on the World Wide Web. This is electronic civil disobedience. If we had widespread use of computers and the Internet in the 60s, the anti-war movement would have been carried out in the virtual space, not on American university campuses.

There are many topics today - globalization, human rights, environmental protection, and for each of them there were acts of electronic defiance against him. Hacktivism is more focused on political causes around the world and is truly global in nature, with examples such as the Hong Kong Blonde Anonymous Digital Coalition, X-ploit, the Dead Cow Cult and many more. It is likely that the Internet environment will continue to be exploited for civil disobedience and propaganda purposes.

The Shadow Server Foundation, which conducted statistical research on this topic, provides the following data on botnet activity for 2009-2010.According to researchers from Symantec, there is more than 5,000,000 botnets in the world, including more than 1,000,000 in the United States [2, 264].

DDoS attacks are classified into local and remote. Local exploits include various exploits, fork bombs, and programs that open a million files each time or run a specific cyclic algorithm that consumes memory and processor resources. Remote DDoS attacks are divided into two types: 1) Remote exploitation of software errors in order to render it inoperable; 2) Flood - sending a huge number of meaningless packets to the victim's address [1, 9].

Flood is divided into three types. Syn-flood - in this form, a significant number of SYN (synchronize) packets are sent to the attacked node via TCP (open requests). Moreover, after a

short time, the number of open sockets on the attacked server runs out and the server stops responding. Corresponding to the TCP "three-time handshake" process, the client sends a packet with a specific SYN flag. The server must then respond to the SYN + ACK (acknowledges) flag system. Then the client is obliged to respond with a packet with the ACK flag, after which the connection is calculated as entered. The order of the attack is that the attacker, by sending SYN requests, overflows the connection sequence on the server. But it ignores the target's SYN + ACK packets by not sending any reply packets, or spoofs the packet header so that the SYN + ACK reply goes to an imaginary address.

After connecting, the so-called half-open connections appear, waiting for confirmation from the client. After a certain time, these connections are thrown. The attacker's goal is to keep the turn full so that no new connections are missed. Because of this, legitimate customers cannot find a connection, or find it with significant interruptions.

UDP flood - this type of flood attacks not a computer, but its communication channel. ISPs reasonably believe that UDP is more successful than TCP. A significant number of UDP packets of various sizes awaken the communication channel, and the server operating over the TCP protocol stops responding. ICMP flood - in a distributed attack (from several thousand sites), ICMP requests arrive at the usual test speed (about 1 packet per second from a site), but at the same time from many thousand computers. In this case, the final overload on the aggregate, which is the target of the attack, can reach the bandwidth of the channel (and deliberately exceed the rate at which the device processes packets) [4, 23].

A malicious program is any software specialized in order to ensure the extraction of unauthorized access to information stored on a computer in order to cause damage to the owner of the information or the owner of the computer [2, 265].

Malicious programs reach computers in different ways: from a malicious site (for example, when downloading files); from a deliberately created site that contains malicious code; from a friend, an official website where the attackers installed malicious code; via flash cards, CDs, etc .; from a computer "neighboring" on the local network (Internet cafe, public wi-fi).

Malicious software injected on a user's computer can overwhelm passwords and other personal information, emit spam, and attack other computers on the network. When connected to the Internet, malicious software can automatically update itself and take orders from attackers. Consequently, they discreetly dispose of the taken computer. And the user, as a rule, does not think that someone else is using his computer. There are three main types of malware: 1) Computer viruses; 2) Network worms; 3) Trojans.

Activities related to malicious software include: the creation of malicious programs for electronic computers (computers) (viruses, Trojan horse programs, bots, sniffers (interceptors), etc.); introduction into existing programs of modifications that knowingly lead to unauthorized destruction, blocking, alteration or imitation of information, disruption of the operation of a computer, computer system or their network; the use of malware; distribution of malware or machine media with such programs.

Among the top ten malicious leaders as of February 2011, there were some programs for stealing funds from bank accounts, similar to the well-known Trojan, PWS, Panda, also eminent as Zeus. They are all transformations of one viral prototype [5, 178].

Modern technologies and societies, constant internet connections provide more business opportunities than ever before, including on the black market. Cybercriminals are carefully discovering new ways to target the world's most sensitive networks. Protecting business data is a growing concern. Here are the top threats to information security today: technologies with weak security; social attacks of media; mobile virology; third party records; neglect of the correct setting; outdated security software; social engineering; lack of encryption; corporate data on personal devices; inadequate security technologies[16].

Among the most acute threats to information security in the current period of development of society, the following can be noted: The creation and use of means of influence and damage to information resources and telecommunications systems of the country. Such means include: the capabilities of radio-electronic and other influences used for transient or irreversible containment of radio-electronic mechanisms and systems; means of influencing the software resources of the electronic manuals of the modules with the intention of disabling them; means of influencing the process of obtaining information with the intention of stopping it due to the influence on the environment of propagation of signals of influence; means of disinformation created in the information space of a virtual picture.

Usually the most expected result is the spread of doubt, rather than the adversary's acceptance of a certain untruth; means of influencing the psyche and subconscious of a person with the aim of disorganization, suppression of will or incapacitation; one of the types of informational influence is a combination of fiction with a metered amount of truth, as a result, this approach can lead to what is called a "political myth".

All of these listed information threats are directly experienced by the countries of the world. The peculiarity of this kind of offenses is that the victim may be in one country, and the one who committed the crime - in another. The Internet gives this type of crime an international character.

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DEFINITION OF WAR CRIMES IN INTERNATIONAL LEGAL NORMS

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Abstract

After the Second World War, many international legal acts were adopted to define the concept and content of war crimes. In this regard, the 1949 Geneva Conventions and the 1977 Additional Protocols I and II should be emphasized. All these documents regulated the theoretical problems of war crimes and prosecution for those crimes. However, important steps have been taken to regulate war crimes from a practical point of view. The activities of international criminal tribunals (Nuremberg, the former Yugoslavia, Rwanda) and, in particular, the International Criminal Court should be noted in this regard. Thus, both international legal acts, as well as the activities of international tribunals and courts have played an important role in revealing the essence of war crimes, identifying its theoretical and practical problems. All this gives grounds to say that the formation of the concept of war crimes is formed not only as a result of theoretical work (various concepts, theories and views), but also as a result of practical work arising from the application of legal norms. In interpreting war crimes, the Rome Statute of the International Criminal Court took into account the provisions of previous international legal acts, in particular the Nuremberg Tribunal, the International Tribunal for the Former Yugoslavia, and the International Tribunal for Rwanda. We believe that the difference between war crimes and other crimes is, first of all, that the offense is committed in the context of armed conflict and is closely related to it. This criterion, that is, the existence of an armed conflict, is reflected in the approaches of most authors to war crimes.

Keywords: *war crimes, international crimes, international tribunals, armed conflicts, Nuremberg Tribunal, Geneva Conventions, International Criminal Court, Rome Statute.*

The growing number of wars and armed conflicts threatening the existence of civilization has necessitated the development of a mechanism to control international crime. One of the most influential historians of the twentieth century, K. Popper, believes that "once a solid and rational approach to the control of international crime is formed, the solution to its problems will not be as complicated as it seems" [6, 124]. However, the establishment of such "control" requires a deep understanding of war as an extraordinary social phenomenon.

The causes of armed conflicts are usually covered up under various pretexts. The causes of wars and military conflicts are very different, although it is not difficult to determine them analytically, in which case the goals of the conflict must be determined. Usually, the seizure of wealth, the conquest of new territories, the conquest of neighboring peoples, the spread of new religions, cultures and customs are especially different as such targets. According to some experts, armed conflicts in the country (revolution, civil war) occur for the same reasons and to achieve the same goals [3, 134-140].

Without deviating from the topic, it should be noted that in the theory of law there is no general idea of which branch of law regulates the conduct of armed struggle. However, it seems that for obvious historical reasons, the modern rules of warfare are primarily regulated by international law.

The history of the adoption of international legal acts in this area is well known (many of these acts are still in force), and a large number of topics in the legal literature are devoted to this area. Therefore, we consider it expedient to stop at a new historical stage of international legal regulation of armed conflicts, in particular, war crimes, at the end of the XIX century. This is

because the number of wars and various armed conflicts, as well as the number of war crimes committed at this stage, has become more and more complex.

The first attempts to establish an international system of liability for violations of the law of war were initiated after the First World War.

On November 11, 1918, the Union Commission was established to determine the responsibility of "war criminals" (the term was first used). The Treaty of Versailles proposed that Kaiser Wilhelm II and other German citizens be prosecuted for war crimes. In addition, it was proposed to establish international and national courts to prosecute all types of war criminals. These proposals were not implemented, Kaiser escaped by fleeing to the Netherlands, and the other defendants were either acquitted or sentenced to symbolic sentences. As already noted, before the First World War, violations of the customs and laws of war were recognized as crimes in the Hague documents of 1899 and 1907.

In 1945, Article 6 of the Statute of the Nuremberg Tribunal defined war crimes. Accordingly, it should be noted that Nuremberg and its tribunals are international in terms of both their legal source and their jurisdiction. The Statute of the Nuremberg Tribunal, its judgment and Law No. 10 of the Supervisory Board of Germany provide for the recognition of the principles of individual criminal liability in international law.

In fact, the resolution of the first session of the UN General Assembly on December 11, 1946, recognized the Charter of the Nuremberg Tribunal as a confirmation of these principles. The resolution notes that the General Assembly emphasized the important role of the statutes of the Nuremberg and Tokyo international tribunals in the codification of crimes against peace and humanity [5, 136].

Further development of the international legal framework for war crimes was carried out within the UN. The Code of Laws Ensuring the Peace and Security of Mankind, drafted by the International Law Commission and adopted by the General Assembly in 1950, established the basic provisions of international criminal law.

Many international conventions developed under the auspices of the United Nations contain provisions on war crimes. Examples of such documents are the Convention on the Prevention and Punishment of the Crime of Genocide (1948), the four Geneva Conventions for the Protection of Victims of War (1949), and Additional Protocols I and II (1977).

The 1949 Geneva Conventions, which codified international humanitarian law after World War II, established a comprehensive list of war crimes for the first time in history. Each of the four Geneva Conventions sets out its own list of "serious violations" of the rules and means of conducting military operations, which are now unequivocally considered war crimes in international law.

On the role of the 1949 Geneva Conventions in the determination of war crimes, Gabriel Kirk McDonald, a judge at the International Criminal Tribunal for the Former Yugoslavia, said that although the text of these conventions did not explicitly mention "war crimes", it was a "serious violation" of its provisions. determines[4, 70-72].

Such terminological uncertainty can be explained by the attempt to define the obligations of the Contracting States in the fight against war crimes during the adoption of the Geneva Conventions. Thus, Articles 49 of the Geneva I Convention, 50 of the II Geneva Convention, 129 of the III Geneva Convention and 146 of the IV Geneva Convention provide for such a norm common to these international conventions - "each of the High Contracting Parties Irrespective of their nationality, they are obliged to search for and bring to their courts persons accused of committing or ordering the commission of such serious violations. The parties may, if necessary and on reasonable grounds, extradite those accused to other interested parties.

The obligations under the Geneva Conventions to take the necessary measures to prevent violations are part of the general obligation of Article 1, which is common to these conventions, which requires States to "comply" with the provisions of these conventions and to "enforce"

them. [1, 123] It states that States should enact criminal law to punish those accused of serious violations of the Conventions (ie war crimes). They must also sue those who have committed serious offenses.

As a rule, the criminal law of a state is applied only to acts committed in its territory or by its citizens. The provisions of the Geneva Conventions oblige states to search for and punish perpetrators, regardless of their nationality or the place where the crime was committed. This principle, called universal jurisdiction, is the basis for ensuring the effectiveness of war crime prevention.

Based on the analysis of the provisions of the Geneva Conventions, it should be noted that a list of war crimes can be compiled, which, in accordance with the obligations of states, should be prohibited by national law and punishable. The importance of this issue is that in most civilized countries, including the Republic of Azerbaijan, a constitutional norm on the priority of international law over national law has been established.

Thus, other norms of international law that define the violation of the Geneva Conventions and the rules of conduct of armed conflicts as a war crime have binding legal force for the national law enforcer. In addition, the norms set forth in international law on violations of the rules of war must be implemented in national criminal law.

On the other hand, international law does not contain specific provisions on the classification of serious violations, which could serve as a basis for their classification. International norms specify only those types of crimes or offenses that, by their nature and gravity, "cannot go unpunished by States."

In general, the following crimes can be distinguished in violation of the rules of conduct of military operations, which are recognized as war crimes in the Geneva Conventions:

According to Article 50 of the I Geneva Convention, Article 51 of the II Geneva Convention, Article 130 of the III Geneva Convention, Article 147 of the IV Geneva Convention:

- intentional homicide;
- torture and inhuman treatment;
- biological tests;
- Intentional infliction of severe suffering;
- serious injury or damage to health.

According to Articles 50 of the I Geneva Convention, Article 51 of the II Geneva Convention, and Article 147 of the IV Geneva Convention:

- committing large-scale destruction, seizure of property not arising from military necessity;
- Forcing prisoners and other persons protected by international humanitarian law to serve in the armed forces of the hostage party, as well as to force citizens of the hostile state to take part in military operations against their country.

According to Articles 130 of the III Geneva Convention and 147 of the IV Geneva Convention:

- to deprive captives or dependents of impartial and normal justice;
- illegal deportation or relocation of a protected person;
- illegal arrest of a ward.

According to Article 147 of the IV Geneva Convention: to take captive [8].

One of the most important sources of international law defining war crimes is the Additional Protocols I and II to the Geneva Conventions of 1977. However, Additional Protocol II has more distinctive and important provisions. It is this document that established the crimes committed in the course of non-international conflicts.

It should be noted that previously adopted documents in the Geneva Conventions and Additional Protocol I list all the crimes mentioned in the list of war crimes [7, 225].

Serious violations of the rules of war established by Annex I to the Geneva Conventions may include damage to the health, physical and psychological condition of a person imprisoned, detained or detained in one way or another as a result of an armed conflict.

In particular, physical injury, medical and other scientific tests, amputation of skin or organs for placement, as well as any medical procedure that is not required due to the person's state of health and does not comply with generally accepted medical standards (art. 11). Serious violations also include intentional actions that lead to death and bodily injury, as well as health problems (art. 85.3) [2, 170].

Additional Protocol II, which extends the scope of the Geneva Conventions to non-international armed conflicts, recognizes the following acts as war crimes:

- acts of violence or threats of violence, the main purpose of which is to intimidate the civilian population;
- to use hunger among the civilian population as a method of conducting military operations;
- attacking, destroying, destroying or destroying facilities necessary for the survival of the civilian population;
- attacking dangerous objects and facilities;
- committing any acts of hostility against historical monuments, works of art and areas of culture that constitute the cultural or spiritual heritage of the people;
- displacement of civilians due to armed conflict.

Thus, we have witnessed the establishment of a broad composition of this category of crimes in the 1949 Geneva Conventions and Additional Protocols, which define war crimes. However, it should be noted that there are other acts that establish war crimes at the international legal level. Given the large number of these acts, we consider it expedient to mention the most important:

- The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954);
- Convention on the Prohibition of the Use of Means of Military or Any Other Hostile Impact on the Environment (1977);
- Convention on the Prohibition or Restriction of the Use of Certain Types of Conventional Weapons or Extremely Influential Weapons (1981);
- Convention on the Prohibition of the Development, Production and Collection of Bacteriological and Toxic Weapons and Their Destruction (1972);
- International Convention for the Suppression of the Recruitment, Use, Financing and Training of Employees (1989);
- Convention on the Marking of Plastic Explosives for Detection (1991);
- Convention on the Prohibition of the Development, Production, Assembly and Use of Chemical Weapons (1993);
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines (1997).

As we have already mentioned, ad hoc tribunals have played an important role in the international legal framework of war crimes and in the field of international legal regulation of such crimes in general. The work of the tribunals of the former Yugoslavia and Rwanda is of particular importance in this regard.

The importance of international criminal tribunals has been repeatedly emphasized in the legal literature. International criminal tribunals can be seen as an effective international organizational mechanism for prosecuting and punishing perpetrators of war crimes, and thus for combating war crimes. In the future, the national courts of some countries may become an important tool in the prosecution and punishment of those guilty of war crimes, in accordance with the principle of universal jurisdiction. So far, such processes have taken place in only a few

countries, but given the changes in international law, the activation of human rights initiatives in the world at the same time may lead to an increase in the number of such processes.

The Rome Statute of the International Criminal Court of 17 July 1998 can be considered as the main mechanism for the formation and development of the international legal framework for war crimes in modern international law. This document came into force on July 1, 2002. The Rome Statute defines the concept and types of "war crimes", the limits of applicable law, the general principles of international and national jurisdiction, as well as the principles of international criminal law (art. 8). However, most of the provisions of the Rome Statute are devoted to procedural and judicial matters. The main issue is that this document, for the first time, formalized (drafted) a whole system of war crimes under international law.

The International Criminal Court, established by the Rome Statute, deals with the most serious crimes committed by individuals: genocide, crimes against humanity, war crimes and rape. War crimes include serious violations of the 1949 Geneva Conventions and other serious violations of the Charter, committed on a large scale in the course of international and non-international armed conflicts.

The Rome Diplomatic Conference on the Adoption of the Rome Statute noted that the majority of mass human rights abuses over the past half-century have been recorded in armed conflicts in individual states, rather than in international armed conflicts. Therefore, the Charter of the International Criminal Court includes modern standards of international humanitarian law, which include internal armed conflicts as punishable war crimes, with the exception of internal rallies, protests and riots.

The notion of crime in the Rome Statute is the result of a long and persistent work carried out by many delegations and their experts. Each of the concepts is clearly summarized, reflects the current norms of international law and meets the requirements of certainty in criminal law. Judges should explain these concepts seriously and not apply them by analogy. The purpose of the statute is to establish objective international standards that do not allow free decision-making. In case of doubt, these concepts should be interpreted in favor of the suspect or accused.

Thus, by the beginning of the XXI century, a whole system of sources defining the laws and customs of armed conflict in international law has been formed. The main ideas about the need to regulate military operations appeared in the late nineteenth and early twentieth centuries (The Hague Conventions and their Annexes). However, the basis for the creation of a modern legal system for military operations is related to the activities of the international tribunals in Nuremberg and Tokyo. Currently, the main sources governing military operations are the 1949 Geneva Conventions and Additional Protocols.

After the Second World War, many international legal acts were adopted to define the concept and content of war crimes. In this regard, the 1949 Geneva Conventions and the 1977 Additional Protocols I and II should be emphasized. All these documents regulated the theoretical problems of war crimes and prosecution for those crimes. However, important steps have been taken to regulate war crimes from a practical point of view. The activities of international criminal tribunals (Nuremberg, Tokyo, the former Yugoslavia, Rwanda) and, in particular, the International Criminal Court should be noted in this regard. Thus, both international legal acts, as well as the activities of international tribunals and courts have played an important role in revealing the essence of war crimes, identifying its theoretical and practical problems.

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JOINT MEDIA PLATFORM BETWEEN AZERBAIJAN AND TURKEY

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Abstract

The article discusses the need to create a Turkish-Azerbaijani media platform. Thus, the goals and objectives of the two brotherly countries are the same, as is the direction of the information struggle. The main purpose of the work done and the negotiations is to create a common strategy in the fight against black PR for both countries. Here is analyzed Azerbaijan and Turkey combining experience in the field of communications and information, the implementation of joint projects. The need to create a Unified Turkish Media Platform in the future with the accession of other Turkic-speaking countries, as well as friendly countries to the media platform is discussed, all of which is clarified in terms of faster and more effective implementation of our common goals. It is substantiated that through joint activities within the framework of this media platform, we will be able to quickly convey information reflecting our rightful position to the local and international community, as well as resolutely prevent evil, slanderous and misinformation against our ancestors. It is concluded that the joint activities of the existing opportunities and experiences of the media of the two countries in a coordinated manner will be an effective way to combat the information war in the modern world. Azerbaijan-Turkey cooperation, which is an example to the whole world and is constantly strengthening, is developing at a high level and is constantly strengthening. Today, the independent states of Azerbaijan and Turkey, which have a common historical past, cultural values and traditions, continue to write a common history for future generations against the background of the Nagorno-Karabakh struggle.

Keywords: *media, platform, Turkey, interstate relations, politics, disinformation, coordination, information, nation, state, activity.*

The relationship between Azerbaijan and Turkey which is based on historical friendship, mutual trust and high-level cooperation are developing steadily. The long-standing warm relations between the two countries, which have the same roots, are now continuing in all areas.

Azerbaijan and Turkey have stood by each other in both happy and mournful days. The historical notion of the great leader Heydar Aliyev "One nation, two states" forms the basis of the purposeful policy of the leadership in both countries.

President Ilham Aliyev made a great speech with special sensitivity in the provision of the monument for Mustafa Kemal Ataturk in our country. "The provision of a monument for Ataturk in the center of Baku will mark this day in our history." This is a holiday of Turkish-Azerbaijani friendship, a holiday of unity." [10] The opinion of the President of the Republic of Turkey Recep Tayyip Erdogan emphasized in one of his speeches that, "Turkey and Azerbaijan are two countries with strong ties of brotherhood," is valuable as a special relationship between the two countries.

Azerbaijan-Turkey political, economic and cultural relations have a special importance and make an important contribution to the further development of relations. As President Ilham Aliyev said: "Turkish-Azerbaijani relations also play an important role in the entire Turkic world. We are making joint efforts to unite the Turkic world and develop relations between Turkic-speaking countries". Then he said, to referring president of Turkey: "Dear Recep Tayyip Erdogan, the people of Europe and the United States, Russia, Australia, Turkey and Azerbaijan living in the East and other parts of the world and we look forward to benefiting from each other's experience

and strength. We will go hand in hand. We will show solidarity and lead the whole Turkic world to a clear future." [10]

The high-level relations established between our countries, the existing friendship should be put into the format of a model unity for the whole world. This is due to the need to further strengthen ties between the millions of Azerbaijanis and Turkish Turks living in different countries around the world. [10]

The opinions of the President of the Republic Ilham Aliyev "One nation cannot have two diasporas" create a clear picture of the friendly, brotherly union of Azerbaijan and Turkey. Friendly relations, founded by national leader Heydar Aliyev and further strengthened by President Ilham Aliyev, are developing in new directions. [9]

Azerbaijan and Turkey have always defended each other's rightful positions in all high-level meetings, at the highest levels of international organizations, in meetings with well-known world leaders.

It is clear from numerous media reports that, President Ilham Aliyev, while receiving the newly appointed Ambassador Extraordinary and Plenipotentiary of Greece to Azerbaijan Nicolas Piperigkos, expressed concern over the tensions between Turkey and Greece in the Eastern Mediterranean region. He said Azerbaijan supports Turkey without hesitation and will support it in all cases, and receives the same support from Turkey.

The fact that, Turkey and Azerbaijan share the same position on different issues is a message to the whole world, as well as a clear indication that, there is no other country as close and interconnected as these countries [8]. Azerbaijani-Turkish unity and solidarity is a guarantee of peace and security in the region. Energy projects implemented on the basis of the determination and political will of both countries are a great contribution to ensuring energy security in the world and a bridge of friendship between countries and peoples. From time to time, the country's websites have described Turkey and Azerbaijan as the branches of a great plane tree growing on the same roots, noting that the shadow of that plane tree extends from the Caucasus to Europe through joint projects. We read on News.milli.az: "This union confirms that it is possible to make a great contribution to regional and global stability and peace if we move towards solidarity and towards common goals on the basis of mutual understanding. Today, the Azerbaijani-Turkish picture clearly shows the world that the way for countries to ensure their interests and economic stability is not through wars, but through solidarity, a competitive environment and strong cooperation. As the first country to recognize Azerbaijan's state independence in 1991, Turkey has always stood behind Azerbaijan, and official Ankara said, "We wait from the international community to stand up against the injustices in the world, especially regarding the Karabakh conflict. We expect them to say "Stop" related to all tough situations in the world, because confirming the fact that no one can look to the future with confidence unless the rules for ensuring stability, peace and prosperity are applied to all states without exception. Turkish President Recep Tayyip Erdogan expressed confidence that as Turkey and Azerbaijan, we will continue our joint struggle for the values we believe in and under any circumstances. God willing, we will succeed in this holy struggle [6].

In the context of Azerbaijani-Turkish relations, joint activities in the field of media also have a special place. During the visit of the delegation led by Hikmet Hajiyev, Assistant to the President of the Republic of Azerbaijan - Head of the Foreign Policy Department of the Presidential Administration, to establish a joint media platform, exchange news, experts and views, close cooperation between public and private media will significantly strengthen these ties. Thanks to the Media Platform, it is important to create a unified strategy in the fight against black PR from abroad, as well as to bring the two countries closer to the world through social media, to prevent the spread of misinformation and to expand cooperation in public diplomacy.

The groundless land claims of Armenia against Azerbaijan and the accusation of Turkey for the so-called "Armenian genocide" provoked protests from the leaders of both countries and

other officials at international and regional events, and the parties set an example of unity, solidarity, true friendship and brotherhood. The Azerbaijani-Turkish union is also evident in the joint activities of the diaspora organizations of the two countries and their joint efforts in the fight against Armenian lies. As a result of joint activities of Azerbaijani and Turkish diaspora organizations, our rightful position is conveyed to the world community, various formats of events are held, appeals are addressed to international organizations and states on the basis of the fact that Armenians from time to time pursue a policy of genocide against Azerbaijanis and Turks with the support of their patrons. Given the role of the Azerbaijan-Turkey Media Platform in the formation of the country, as well as in education, the importance of the present and future period is even clearer. The modern era is the century of information and communication technologies. The media community of both countries is always able to respond to the biased propaganda carried out by some circles in a systematic way, always taking advantage of the opportunities created by new technologies. In order to carry out offensive diplomacy successfully and to support this policy, there was a need to create a platform that would reveal the truth for the purpose of public education. In short, the existing cooperation between Azerbaijan and Turkey in the field of media is one of the main challenges of today. In this regard, the decision to establish the Azerbaijan-Turkey Media Platform in Istanbul is commendable [6].

Economic, political, army building, law enforcement, diaspora, etc. are discussed between Azerbaijan and Turkey. There is a wide range of contacts in the field, and the reconstruction of pre-existing media relations in a more modern and different format is a very successful step in terms of a unified information policy. On September 27, the Armenian armed forces committed a large-scale provocation, intensively fired at the positions of the Azerbaijani Army in the frontline zone and our settlements with large-caliber weapons, mortars and artillery of various calibers, and committed another military provocation. From the first days of the provocation, Turkey felt unequivocally with Azerbaijan, and the Turkish media, demonstrating a principled, operative and objective position, brought the true voice of our country to the attention of the whole world. The results and importance of a joint media platform are already paying off.

In the future, the accession of other Turkic-speaking countries, including other friendly countries wishing to unite around this idea, to the Azerbaijan-Turkey Media Platform may result in the establishment of a Unified Turkish Media Platform. This is very important for the faster and more effective implementation of our common goals [5].

The high level of development of relations between Azerbaijan and Turkey makes an important contribution not only to these countries, but also to the overall progress and stability of the region. At the same time, one of the most important factors in bringing the Turkic world closer together is the development of Azerbaijani-Turkish relations: "Turkish-Azerbaijani relations also play an important role for the entire Turkic world. We are making joint efforts to unite the Turkic world and develop relations between the Turkic-speaking countries [11]. Turkey is the largest supporter of Azerbaijan in the world. As President Ilham Aliyev noted, "Azerbaijan has always supported Turkey's cause in all matters, in the international arena. There was no such issue and I will not be sure that Azerbaijan will not show its support to Turkey. At present, in all processes taking place in the region, the Azerbaijani state and the Azerbaijani people are unequivocally with the Turkish state and people.

Azerbaijan-Turkey cooperation, which is an example to the whole world and is constantly strengthening, is developing at a high level and is constantly strengthening. Today, the independent states of Azerbaijan and Turkey, which have a common historical past, cultural values and traditions, continue to write a common history for future generations against the background of the Nagorno-Karabakh struggle.

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COPYRIGHT AS A RIGHT OF INFORMATION CHARACTER: NO NEED FOR THOR OR RAGNAROK

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....to the honorable and sweet community of UN ILFP 2019

Abstract

The article is dedicated to the current state of links between copyright and information rights. Although copyright and information rights are regulated in different manners, both of them have a common feature of information. Historical perspectives prove that the establishment of copyright rules used to aim the protection of intellectual property but not to limit freedom of information. On the other hand, information rights are not absolute rights and enhancing them does not mean to zero the role of copyright law. Copyright contains elements of information and it is the same for freedom of information - the cornerstone of modern information rights. That is to say, traditional notion of copyright is not in conflict with information rights. Copyright is also an individual human right and unlike the "conflict" claims, there is not an extraordinary clash between copyright and information rights. All can live peacefully in ICT age with no need to arrange Rognarok for co-habitation of copyright with information rights. And we do not need Thor to save us. Legal fundamentals of information circulation cover both information rights and copyright. Bearing this in mind, we can set up certain system of restrictions for the enjoyment of information rights and copyright in order to coordinate information circulation in proper manner. Thus, the current research overviews copyright as the subject matter of information law field as well as puts it within the realm of information rights and freedoms.

Keywords: *human rights, copyright, freedom of expression, information technologies, media freedom, information rights, information society, restriction, public order, legal protection, information law, intellectual property, moral rights, international law, harmonization.*

Introduction

Comprehensive development of public sectors, formation of information society and emerging global nature of world economy have led to significant changes in human rights fields as well as in other areas of law. Main trends in the field of human rights are characterized by issues such as the widespread use of ICTs and systematization of information rights, the emergence of new views to global economic crisis and related economic-social rights, sustainable development and increasing emphasis on environmental rights. One may agree that any development in the field of human rights occurs as a result of information sharing, accompanied by conflicting ideas and critical discussions. One of such dilemmas in the present system of creative freedom, information rights, privacy and cultural rights is to protect copyright and bring economic interests of authors in line with information law norms. The very reason for the problem is that participants of information exchange do not always take into account authors and the exclusive rights of those in transmission of various information types. Information is the object of information circulation what can found in written, oral, electronic or other forms. For example, a young scientist who has finalized research in organic chemistry publishes a book - a book that is based on his scientific findings. Of course, as the author of this book, he aims to sell his creative product and presents it to wide audience. At the same time, any of readers who bought a copy of the book may try to make illegal copies and repeatedly sell it. From the point of information sharing, this action does not cause problems. Because, at the end of the day scientific novelties

reach readers and everyone becomes aware of the latest academic achievements of young scientist. However, the person involved in illegal sale undermines exclusive economic interest of the original author of the book - the economic side of the copyright. In the case of illegal dissemination and sale, the author of original book cannot earn all the proceeds from the sale of his book and some of income goes illegal businessmen. It may even be the case that any other researcher would try to make decorative changes to the original ideas contained in that book, willing to own scientific novelties which originally do not belong to him. Such a person, in turn, infringes the moral interests of the original author - that is, the moral side of the copyright. The moral side of copyright also causes some financial compensation. Yet, to determine certain payment for non-material damage is quite tough. In any case, indeed, this type of damage is not measured by the amount of material loss but the fact is that copyright infringement is far away from social moral norms as well as academic ethics.

It should be noted that the violations mentioned in our example are more frequent as a result of digital globalization and the broad use of information technologies, the Internet in particular. It is not only scientists, but also international justice mechanisms that express their concern about the Internet as a new obstacle teasing copyright and destroying peace with information rights. Being the prominent high tribune for human rights protection, the European Court of Human Rights has started to deal with this problem since 2013, when it revised the principle of proportionality in terms of punishment for copyright infringement in "Ashby Donald and Others v. France"[10] and "The Pirate Bay" [11] cases. The subject matters of both cases were about copyright claims for online information dissemination and possible protection from that claims on the basis of freedom of expression and information.

It is for a long time that researchers have proposed the term "digital property rights" and have emphasized the need for serious protection of intellectual property rights in cyberspace [26]. The formation of single global cyberspace promotes universal dissemination of information. New technologies make possible to communicate across countries, regions and even across continents. Usually, we support this acceleration as a positive process from the point of freedom of information and information rights of people. But we seem to be reluctant to see the other side of the coin. A single information space with no borders raises increased number of copyright infringements too. Now a book published in far Australia can be freely (but illegally) translated and sold in other languages in the European market without author's permission, a music piece composed in Latin America can be illegally changed or renewed in Central Asia without warning the original composer, etc. Given these reasons, I can agree with A.Mambi who suggests that there is a strong need for effective regulation of the ICT institute in global scale what incorporates many intellectual property challenges [1, 197].

Roots of challenges in ICT age

The most common violation of copyright that is closest to our daily lives is when copies of books or parts of them are released without author's knowledge or someone shares scanned books on social media with no permission. Persons wishing to share information and obtain new information do not create problems with information rights at this time, referring to the principle of information freedom. However, those individuals forget that they violate intellectual property protection preventing the author from earning profits from the sale of his book and recognizing him as the author. In addition to the mentioned examples, there are several other types of copyright infringement in today's life. By summarizing the negative experience in this regard, I can classify the directions of copyright infringements in modern information society as following:

- Violation of terms of copyright agreement;
- Plagiarism cases. All kinds of plagiarism mean theft, that is, illegally using products of creativity;

- Illegal production of new copies (including translation), electronic and audio versions of creative samples;
- Complete or partial modification or updating of creative works without warning original author;
- Assignment of information, e.g. examples of folklore to a specific person, etc.

These examples illustrate how sensitive copyright is in today's world and how easy it is to violate copyright. These problems imply more serious and more flexible protection of creative rights. However, in order to fulfil this requirement, it is important to scrutinize copyright and determine whether these rights relate to other human rights in the field of information. In general, there should not be any separation of copyright from other human rights. Researchers also note that, in fact, copyright can be included in the list of individual human rights that belong to everyone [29, 8-11]. However, we must bear in mind that copyright and other human rights, both at the level of international and national law, have not gone the same way of historical development and formation. If to look at the history of national legislation of both the Anglo-Saxon and Continental Law systems, one can see that information rights are given more space than copyright. However, this fact should not diminish the importance of copyright. Of course, over the course of various historical periods, legal documents on intellectual property and authors' interest in their creative products had also been set up. Nevertheless, copyright and intellectual property used to be considered only in the context of traditional property, not as human rights. Only recently copyright and other related rights have begun to be analysed in the framework of human rights. I can relate the same ideas to the historical development of international law norms on related issues. For many years before and after World War II, international human rights instruments had not paid enough attention to copyright as an individual human right. The International Covenant on Economic, Social and Cultural Rights adopted by the United Nations has given authors the right to protect their interests in publication, but did not recognize copyright directly as an individual right. More recently, the Protocol No. 1 of the European Convention on Human Rights covers copyright under the aegis of intellectual property and considers it as a type of the right to property [21, 13]. The EU Charter of Fundamental Rights also recognizes intellectual property as a form of ownership in Article 17 but does not refer to it in an open and independent manner.

Moreover, copyright has been linked to the creation of modern media, freedom of expression and the press, both in terms of theoretical and historical development. Looking at European law history, copyright are likely to be found in medieval Venice trade statutes, as well as in English legislation due to the printing press brought to the UK in the 16th century [4, 52]. In this period, copyright rules were used to weaken the governmental monopoly on information and media. In Middle Ages printing business in Europe was severely censored and there was a special permission allowing publication of books. Proceeds from the sale and distribution of books used to reach publishing houses, but not authors. Authors did not have freedom to sign contracts and publish books together with printing houses. These limits were very helpful to governments to minimize publications and prevent some of authors who were critical or too much innovative. Yet, the tendency had been met with dissatisfaction by creative people who were on losing their material income and motivation. Authors opposing censorship and the monopoly began the struggle for the recognition of their exclusive material and moral rights. In this struggle, authors gradually won and weakened monopoly control over creative products and information as well as gained exclusive rights. However, it is interesting that the historical development towards the end of middle Ages has separated information rights and copyright in the information circulation. Copyright became a subject of civil law as an element of intellectual property. The primary purpose of copyright was to ensure freedom of information and freedom of expression, but it has quickly fallen victim to individual economic interests. As a result, instead of the generally ac-

cepted human rights norms related to copyright, complex and multilateral legal mechanisms have been established to regulate copyright.

Conceptualizing copyright as a human right

Human rights have a sufficiently complex structure and system as they cover all individual and social aspects of our lives. In the field of international law, organizations also have different approaches to this system. For example, the Universal Declaration of Human Rights adopted by the United Nations as well as the 1966 Pacts classifies civil, political, economic, cultural, etc. groups separately. The European Convention on Human Rights defines human rights in a unified list, while its Additional Protocols enshrine property rights, education, freedom of movement, etc. Different classifications are also offered in legal literature for a more in-depth study and investigation of human rights. In my view, given the multidimensional impact of information technology and especially the Internet on all human rights, I can also propose a new classification of human rights based on information criteria:

a) Information rights - are the most active rights and freedoms used in information circulation. For example, access to information, right to disseminate information, right to anonymity, digital rights, etc.

b) Human rights of information character - are rights and freedoms that contain information elements. For example, intellectual property rights, right to education, freedom of religion, right to testify and so on.

c) Other rights - although these rights are not widely used in information circulation, they can be referenced to specific information matters. For example, prohibition of torture and inhuman treatment, at first glance, has nothing to do with information. However, it may be the case that video-recording acts of torture, taking photographs and transmission of such information to public would mean information circulation promoting torture.

In the light of provided classification I may claim that human rights in information field what constitutes the subject matter of information law field are not limited to freedom of information or freedom of expression only. Information rights include all rights related to the movement, circulation and development of information (or data). In my opinion, copyright that provides new information to public and acknowledges relevant exclusive rights of authors also falls under the framework of human rights with information character. This approach converts copyright with other rights in information society and creates a significant basis for possible harmonization. In this regard, circulation of information connects many rights: education, media rights, electronic rights, cyber security, privacy, medical rights and so on. These examples show how copyright may challenge in different ways with not only information rights, but also other human rights. Of course, it is possible to analyse each of these connections in individual studies. For example, the relationship between the right to education and copyright is about free use of educational materials. Copyright protects direct or inalienable rights of a person or persons who are creators of teaching materials. From the perspective of copyright, it is necessary to get permission from author to make copies of the educational materials, make some additions to it, scan it or send it in electronic format. On the other hand, it is a long and tedious process to get permission from the author every time when you need to copy or work on a study material in different countries and regions of the world. From a purely educational point of view, information for education and research should be freely and independently available. Conversely, copyright is eager to the absolute protection of authors' moral as well as materials interests. Thus, significant challenge arises between education and copyright in terms of human rights regulations.

On the other hand, violations of information rights have a wider meaning. Violation of this type of rights restricts the privacy of both individuals and subjects of public activities, creating problems in information transparency. At the same time, direct and indirect participation in the

legislative and management system becomes impossible and research is weakened. In addition, it should be noted that the law on information rights does not specifically address the issues of liability for such violations. In our opinion, the existing uncertainty on the punishment for information rights violations and related liability issues also has a negative impact on copyright protection in the information space. For example, most of national legal systems still do not entail punishment of Internet companies or intermediaries for information piracy. Nevertheless, scholars acknowledge that uncontrolled electronic dissemination of materials puts information piracy as growing danger against intellectual property [31, 159]. As such, the works can be easily copied and distributed on the Internet, thus facilitating the creative exploitation of authors. In the light of this as well as the qualitatively new expansion of innovation in the context of globalization, there is a certain confrontation between copyright and information rights. Since most of the scientific literature and art works are publicly available on the Internet, most of the offenses are also related to copyright infringement online. Additionally, there are specific types of digital properties such as databases, profiles, web-pages that are information means but also should be protected by updated intellectual property regulations [17].

The rules of copyright claims need a balanced approach for not to be misused. The idea of expanding the scope of copyright protection and increasing the number of offenses in this area can be seen as a tool for censorship over information rights. In this regard, Charles Swan, an expert on related matters, says in the well-known British newspaper "The Guardian" that copyright can be regarded as interference with freedom of expression and information rights [32]. One can recognize the dangers of limiting information rights in light of trends in public life, especially in information society. Thus, information rights ensure citizens' participation in public and state activities as well as ensure free movement of ideas. On the other hand, information rights create conditions for both personal and collective development and enforce human rights in economic, political, and cultural spheres. Therefore, copyright limitations should not smash the importance of information rights and a fair balance between them needs to be established.

Harmonization of copyright and information rights

There are different ways of how there can be built life-long friendship between copyright and information rights. One key term for harmonization is creative activity. Creative activity is a concept that combines rights of authors as well as information rights of society. Authors' rights over their creative products and results are not purely material, and are not merely about earning economic income. The author has a moral connection with his own creative product. For example, it is a moral right for a scientist to be recognized as the author of a book where he published research results. It means that when talking about copyright as one of the main forms of ownership, it is not enough to consider only material income, sale of creative products, transfer of copyright on a paid contract, etc. In other words, an author's scientific or artistic work is a form of expression of that person's thoughts. The author creates new information and he is always glad to notice that his work is widely disseminated in public. Thus, the moral rights of authors coincide with the moral aspects of information rights. Information rights and freedoms take their origin from freedom of expression and information. Consequently, the restrictions on the exercise of freedom of expression are equally applicable to information rights and freedoms. International community has already established several criteria for imposing restrictions on freedom of expression and we can use them for harmonization:

a) Restrictions must be defined by law;

b) Scope of restrictions must be proportionate to possible threats;

c) Restrictions will be necessary in democratic society, namely, to ensure national security, public order, territorial integrity, crime prevention, protection of health or public morals, protection of the rights and interests of others.

The existence of restrictions on information rights and freedoms proves that these rights are not absolute rights. In my view, a deeper theoretical analysis of the latter issue is needed. A copyright limitation can be adjusted to meet all this 3 criteria. E.g. protection of copyright is established by law. On the other hand, copyright are based on democratic values such as human rights. Thus, the limitation of information rights under copyright is necessary in a democratic society and essential for the protection of rights of others. This analysis proves the legal and logical possibility of fair justification while restricting information rights on the basis of copyright. And conversely, the above-mentioned limitation principles can also be attributed to copyright. It means that copyright can also be restricted on the basis of information rights. As such, copyright should not be regarded as absolute rights and may be restricted by law when it is essential to a democratic society, based on public order and information rights of others.

These retail approaches and gaps in international law have adversely affected the national legal regulation process. For this reason, different ways are currently being sought to address the contradictions of information freedom and copyright in national legal practice, and various restrictions on the application of information and intellectual property rights are applied. The general tendency in this area is to identify an exhaustive list of examples and forms that are not protected by copyright but related to creative activity. The aim is to identify ways of use that are not covered by copyright claims. In my view, methods and creative activities that are not protected by copyright may be regarded as a limitation on copyright. Many European researchers justify this approach. They emphasize the civil-economic aspect of copyright, highlighting that these rights also apply to natural rights and it is important that the limitations imposed on them are analyzed as narrow as possible [27, 171].

National law in Germany and France

In general, none of European states has not yet achieved a fully systematic and well-developed approach to the interrelation between copyright and information rights. Thus, there are significant differences among national legislatures and their individual views on intellectual property matters. Despite this fact, I think, German and French national law is quite essential to review as both of them contain long-standing history of legislation towards harmonization of copyright with information rights and freedoms. It has been long time that various experts investigating this area make very different suggestions for harmonizing legislation and regulating the relationship between copyright and other human rights [22, 150-170]. However, these proposals are valid on specific issues and do not solve the common problem at one time. Among experts, E.Barendt points out the possible defense under freedom of speech against the existence of copyright infringement and that it includes both copyright and information rights [5, 254]. However, in my opinion, such a simple solution to the problem and the creation of a new hand-made "creative property" does not always harmonize information rights and copyright. In EU level, almost identical restrictions are reflected in all European national copyright laws. Nevertheless, these identities and similarities are often attributed to limitations and exceptions to copyright. The EU legislation in relevant field requires harmonization of national norms of all member states. However, it should be noted that national legislation in Europe does not overlap in the area of copyright regulation because it reflects local conditions and peculiarities. According to Guibault, exceptions and restrictions on copyright are for the one single and unified purpose - to give space for information rights and freedom of expression [8, 22-27]. I think it is possible to agree with this consideration. Indeed, restrictions on copyright protection serve to ensure freedom of information and freedom of expression. For example, copyright exceptions include purposes of criticism, satire, personal use, quotation, scientific research, archival purposes, use in art, and so on. These constraints often coincide with the requirements of information rights and freedoms and the concept of fair use in creative ways.

The position of German lawyers in the proposals for the mutual influence of information and copyrights, as well as the mutual restriction on each of these two groups, is of particular in-

terest. Their position reflects a more serious view of copyright, often based on the concepts of a continental legal system. In this sense, the role of the *"Urheberrecht Kommentar"* - the book of copyright manual issued by German lawyers for the entire European legal system is undeniable. It is interesting to note that the book examines possibilities that restrictions on freedom of expression can be abused by copyright protectors [33, 97]. The German lawyers have also made a significant contribution to the issue of converting copyright and information rights at the level of national legislation. Although it is not a direct constitutional provision in Germany, it has long been recognized that national courts have the role of precedent law and doctrine as a tool for constitutional provision of copyright [24, 53-56]. According to German legal doctrine, material and moral aspects of copyright are analyzed separately. The moral rights that are inherent in creative work and which are created by people are an integral part of copyright. Moral rights, which are part of the copyright, are related to articles 1 (1) and 2 (1) of the German Federal Constitution (Grundgesetz) [15]. Economic aspects of copyright are protected by Article 14 (1). Article 14 (1) provides for the protection of private property within the limits prescribed by law. Article 14 (2) of the Constitution states that property rights have a social function, thus limiting the protection of copyright. In several of these cases, the German Federal Constitution (Bundesverfassungsgericht) has sought to determine the limits of copyright protection. It is interesting that the Federal Court has recognized that in certain circumstances, Article 14 would cause excessive copyright protection and open the way for a monopoly. Therefore, although the Court does not directly name information rights, the need to establish a serious balance between public interest and the need for copyright protection is quite clear. The basis for such a serious approach, chosen by the courts for intellectual property, is also reflected in the doctrine of law. In this sense, a number of German researchers point to the need to limit the scope of copyright protection. E.g. Leinemann notes that the tendency to protect copyright evolves contrary to historical considerations [24, 163-164]. Thus, while all property rights should be applied in accordance with the ideas of social welfare, the scope of copyright and safeguarding criteria are ever expanding. Article 5 of the German Constitution also plays an important role in the constitutional provision of copyright. Although the article is generally dedicated to freedom of thought and expression, it also contains limitations. An important point is that by recognizing freedom of expression and information, Article 5 recognizes both "creative freedom" and "freedom of research." However, the German Constitution directly limits the scope of the author's economic property rights. The constitutional norms regarding copyright are reinforced by specific laws in Germany. Currently, Act on Copyright and Related Rights of 1965 is the main law that protects and regulates copyright in the country [18]. The initial articles of the law define copyright content and examples of the creative activity that these rights cover. The interesting thing is that the law separates copyright relations regarding to use of work and to earn revenue from the work. In the light of ICT development, additions I and II to this law were made in 2007 and 2003 on the regulation of copyright in information society [34].

Among others, France has paid special attention to regulating copyright and information rights too. Some of French researchers have interpreted copyright as a new type of property link over existing property. Bernard Edelman, as one of them, considered that the property on the product of creativity was based on belonging of the physical property that had already exists [6, 38]. In general, I can also agree with the French author. From the point of modern law, Edelman, when speaking of intellectual property, tries to define the moral link – the feeling of being an author, the creative right that binds the author to that physical property, namely the copyright on traditional physical property. It is worth noting that this concept has also manifested itself in the history of French copyright law. In the history of France, copyright protection is closely linked to historical information freedoms. Thus, the printing work in France began in the year 1470 at the time of the printing business in Europe, but for a long time this activity was under severe state censorship [22, 114-142]. The main purpose of censorship was to prevent the release of infor-

mation to the public at that time, which the authorities did not consider appropriate, and to maintain full control over the freedom of information. The government exercised control over the freedom of information through serious measures and penalties. The French laws of that time included death penalty by hanging and choking for unauthorized printing [30, 130]. However, these penalties and strict controls did not prevent the spread of information by print. As a result, during the bourgeois revolution in France, freedom of the press was proclaimed, and on the other hand, a series of normative acts on intellectual property rights of the authors were adopted [30, 150-158]. Press freedom and copyright acts of the bourgeois revolution remained in force until the 1957 Law on Art and Creative Property. The main feature of copyright laws adopted after the bourgeois revolution was, for the first time, the legal recognition of the authors' moral rights over their creative work [3, 301-431]. In my view, the modern approach of French law to information and copyright should be characterized by the recognition of the author's moral rights. Thus, the moral rights of the author over his or her own creative work are related to the recognition of that person as the author what made a self-expression of his work. In other words, the author's relationship with the product is not only proprietary, but also personal and moral relations of the author. The individuality of information contributes to its protection, which also constitutes the right to information security. Consequently, the right to information security is consistent with the idea of protecting the author's moral rights. In this sense, the above-mentioned opinion of Bernard Edelman is further supported. Currently, French copyright law encompasses several regulatory and legal acts adopted in the last 15-20 years [35]. Among them, the French Intellectual Property Code is of particular importance [16]. The Code consists of several books and the first book is dedicated to the regulation of copyright. The first article of the book states that an author has a moral right to his work, which belongs to the author only in the public domain and constitutes an exclusive property right. The article also states that a copyright agreement, the provision of services, or the performance of work does not prejudice the moral rights on that work, except as provided in this Code. As it turns out, the initial articles of the Code contain more moral and spiritual aspects of copyright than the economic aspect.

EU law

It is important to note that the analysis of national legislation of European states is not beyond the analysis of EU legal norms. Because the fundamental aim of EU legislation is the possible harmony of national norms in the region. On the other hand, EU legal norms that have already been adopted force member states to change their national norms and bring them into line with EU regional norms. From the angle of this mutual cause-and-effect relationship, I think that an objective analysis of the national legislation of the European countries encourages us to examine the relevant EU legislation. The EU regulation of intellectual property and its one type of copyright is governed mainly by directives. Review of directives gives us the impression that EU legislation is aimed at consolidating copyright protection among member states and reducing copyright disputes in the European region. Yet, it is not an easy task before the EU as a regional body. Difficulties arising from the regulations have double reasons. Thus, some states adopt EU law but also prefer to keep more independence for national legislature to solve the possible issues. On the other hand, while the legislative procedure within the EU some members strive to establish as light and soft norms as possible. This fact leads to unclear definitions and understanding that harms effectiveness of the regulations itself. Directives play a guiding role for member states, namely the legal principles, and try to cover major problems of modern world, ways in which these problems are addressed. However, EU directives impose common obligetions on member states, rather than specific ones, and give member states national legislative freedom to achieve the objectives outlined in the directive. In this sense, each Member gains the right to include in its national legislation rules contained in copyright directives or to change it slightly, taking into account local conditions. This is why; I see the same discrepancies both within the EU law and national legislation on copyright. In general, EU as an international re-

gional body has already established its regulations regarding interrelations of free information circulations with the protection of copyright in information society [12; 3]. These directives reflect not only the objectives of EU, but also the WTO and WIPO. Thus, most EU member states have joined both the TRIPS Agreement and the WIPO conventions. On the other hand, European Union, which already possesses international legal personality, has also undertaken a number of international commitments to protect its intellectual property. Copyright issues in the European region coincide with history of creation of a single economic zone and information society dating back to the late 1990s and early 2000s. In this sense, copyright directives aim to address issues of intellectual property in e-commerce, intellectual property in the information society, and intellectual property in cyberspace. However, a number of directives have led to conflicting views on the interaction of information rights and copyright. Thus, since the early 2000s, the EU Commission's directives and regulations also suggested that state bodies in the countries should pay special attention to intellectual property rights, protection of material as well as moral rights under modern intellectual property law. However, there were questions on the establishment of directives related to information society. E.g., the discussion of new EU Copyright Directive, proposed in 2001, and the reaction to aforementioned contradictions in the draft modification process again raised serious questions [13]. The expansion of the meaning of "reproductive rights" in new Directive was challenged during the Green Paper review, a form of directive project. Accordingly, the Legal Advisory Board, which advises European Commission on information rights, has expressed its official position that freedom of information and creative activity should be taken into account as inviolable rights while regulating the content of intellectual property [9, 250].

I believe that the views expressed by the Council on copyright and reproduction rights are justified. Public information interests must be taken into consideration as the primary vehicle to change something, especially during the development of information society and the transition to knowledge society. In this sense, the proposed Copyright Directive can also be analyzed in terms of the freedom of speech. The new Directive defines a complete and absolute list of restrictions to limit freedom of speech based on copyright. This requires each EU country to be active in domestic legislation and make it compliant with this list. Of course, in this case, it is not possible for each country to take into account individual local features of its own society and the freedom of each country to make different decisions on a particular situation is vogue. Moreover, it is not appropriate to undermine the institution of information rights and freedoms towards more protection author’s rights. And we should keep in mind that the widespread use of ICT and internet resources has had a significant negative impact on copyright protection. Challenges and difficulties associated with these impacts have been identified by the EU in its 2019 Directive regulating copyright in single digital space [14]. According to new Directive, a wide range of information is collected, examined and modified in the Internet as well as in digital single market using various new technologies. New computer programs deal with a huge amount of data mining, which in some cases leads to use of information resources without the author's knowledge. One of the main goals of data collection is the increasing share of education, science, research and scientific practices. At the same time, profits of authors do not suit with the use of their creative examples in digital environment. Therefore, the Directive recommends Member States to take into account possible material revenues of authors when collecting information and adjust amounts paid to authors in domestic market to the actual scale of their use.

In my opinion, the copyright directives contain a number of weaknesses as an independent legislative act. As such, the EU Directives as the EU legislative documents lead to some disadvantages. It is necessary to revise and strengthen the compulsory character of directives as a normative act. It is also necessary to strengthen control over the implementation of the directives in member states. On the other hand, it would be more appropriate to specify within the directives a complete and exhaustive list of restrictions or exceptions that fall outside the scope of

copyright protection. Indeed, many European countries have in their national legislation the exclusion of copyright for personal use, research, criticism, humor, library and museum use. However, these exceptions are retail rather than explicitly within the scope of EU legislation. In this sense, the European system allows economic rights for intellectual property to be widely used and applied as the most prevalent statements by the courts to a wider spectrum. At present, not all EU member states comply with the requirements of copyright directives. However, each country's court is striving to preserve its independence. But it is difficult to agree with this trend. Because at this time the overall binding force of the directive is almost gone. Therefore, one may notice a strong need to re-examine the relationship between EU directives and national legislation. It is important to recognize that European countries have different solutions to the problems of freedom of expression and information rights. Even if there are EU enforced legislation, one can see the differing approaches of the judicial jurisdiction of each country to these issues. For example, member states have the right to choose exceptions from the EU copyright directives. However, the main character of a directive should be the creation of generalized standards. In addition, innovative guidelines have been adopted to protect copyright through the impact of information society and digital marketplace policies. Yet, these directives have not been able to completely eliminate the differences between member states' national legal regulations.

Conclusion

The issue of whether or not the copyright framework has a role of restriction on information rights and freedoms is more concerned with human rights issues. The role of copyright as an object of civil law is also in the focus of international and national human rights mechanisms. These mechanisms place significant emphasis on the impact of copyright on creative rights, media organizations and freedom of information, in line with the nature of subjective human rights. A number of researchers claim for a long time that big information companies have a strong copyright control over the process of transferring and distributing information [7, 39-42]. Of course, there are private companies and associations that have a large share in the global information flow. Smaller companies that acquire copyright on a contractual basis can also deliberately exaggerate their authority and evaluate each public use of their creative examples as abuse. One may also agree that corporations have the power to control key areas of creativity - media, film business, communications technology, music and book publishing - based on copyright for information [20, 45]. However, it is not right to cling to our full pessimism regarding information rights and freedoms. The idea of someone managing a world-wide information exchange in absolute level through an authoritative institution is far from logical.

Moreover, it is also proposed that only original products of creative activity should be entitled to copyright protection and thus, the general use of information about a number of creative aspects do not itself constitute copyright infringement [23, 117]. This tendency, in turn, may lead to the difficult situation for the judiciary dealing with copyright infringement, as well as the imposition of copyright on freedom of information, unrestricted expression, and free access to information. Accordingly, well-known European scholars have long expressed serious concerns about the expansion of copyright, other copyright-related rights, trademarks, and neighboring rights [19, 24; 47]. In this regard, information rights and freedoms are like standing walls against overwhelming copyright. Being the very roots of current information rights, freedom of information and expression supports the original idea of analysis, academic research and development of critique. At the same time it cannot be overused to protect each case of copyright infringement on the basis of information circulation. Yet, scholars recognize freedom of information as the principal defense tool against copyright [29, 25-26].

In addition to the discussed ideas, one can state that, of course, copyright and information rights or freedom of expression serve for the same purpose, which contributes to the development of science, research and academic activities in society. However, it is not right to claim

that these two groups operate in complete separation, or that they do not intersect. The recently proposed "copynorms" notion within informal regulation also recognizes social-ethic links between these 2 groups of rights [25, 294]. Copyright and information rights are human rights and human rights do not belong to an individual or a privileged group. One of the main features of both copyright and information rights is their common and universal nature. International community recognizes all human rights as universal, indivisible and interdependent. Therefore, the notion of human rights must be the issue of primary attention while examining various legal concepts related to intellectual property, copyright in particular. In this respect, experts also prove that any concept not based on human rights features cannot preserve its existence in legal paradigms [2, 8].

The idea of comparing copyright and information rights as well as making one of them more important than the other is not acceptable. All human rights are equally relevant and universal. Copyright protects the form of expression of any original information. The author's rights to his work occurred as a result of his creative activity are no less important than the information rights in society. The use of information rights and freedoms should not always entail violation of copyright. A participant of information circulation can freely receive, impart and disseminate information while obeying to the rules of copyright. Thus, evolvement of conflict between information rights and copyright is quite possible. We should not forget that information rights and freedoms sometimes conflict with a number of other human rights also. Examples include right to inviolability of personal and family life, the right to a fair trial, and so on. Therefore, the complex relationship between copyright and information rights is not unusual, clashing with other human rights is in very nature of information rights and it just needs to be reconciled.

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THE PLACE OF THE RIGHT TO SOCIAL SECURITY IN THE HUMAN RIGHTS SYSTEM

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Absrtact

Socio-economic rights, like "second generation" rights, have established a new relationship between the individual and the state. If the rights of the "first generation" protect the individual from state interference, then the rights of the "second generation", socio-economic rights strengthen the relationship between man and the state, obliges the state to care for people, to help the state under certain conditions. However, this assistance could be provided to others at the expense of a group of members of society (more capable and free). Such an approach to the nature of socio-economic rights is considered by some authors as a threat to the freedom and independence of the individual. Namely the right to social security that is the priority that characterizes all social rights, distinguishes this group of rights from other rights, and directs all social rights to the dignified existence of man.

Keywords: *human rights, social rights, second generation rights, right to life, adequate standard of living, social protection*.

The proclamation of a social state, which implements the state's policy aimed at creating conditions for an adequate life and free development, complements the right to life with social content and forms the right to a decent standard of living. The realization of this right must be carried out by the state.

The renowned German jurist Christian Tomuschat notes that the right to life is one of the most important rights, but that the right to life alone is not enough for the full existence and development of the individual [4, 46-50]. This requires respect and observance of other rights. The right to life is an integral part of other basic human rights, and by interacting with them, it acts as a guarantor of their realization, allowing for the fuller disclosure of those rights. For example, the right to social security is considered a "dead" right if it does not guarantee a adequate standard of living. According to the level of development of social security, it is possible to think about the social policy of the state, which depends on many aspects of society (living conditions, employment, prevention of social conflicts, etc.). Social justice is a universally recognized value of modern democratic public consciousness enshrined in the basic documents of the international community.

There is also an approach in the legal literature that "violation of the right to freedom from hunger is considered a threat to international peace and security." As already mentioned, socio-economic rights belong to the second generation of human rights. The right to social security is undoubtedly one of the foundations of the socio-economic human rights system. Because all human rights, as well as the right to social security, are inextricably linked with the individual and his place in society. In our opinion, the disclosure of the content of the right to social security is more expedient from the point of view of the "individual".

One of the obvious features of the right to social security is that the realization of this right depends on the state and resources of the country's economy. This feature distinguishes socio-economic rights from civil and political rights. An example is the developed countries of the European Union, where the most effective social security systems exist in modern times. Although these words cannot be unequivocally confirmed in relation to the Republic of Azerbaijan, the social reforms carried out in our country in recent years give grounds to note the

significant positive progress. The content of the right to social security is guaranteed by a set of measures to be taken by the state to provide services to citizens in the event of social risks. Pensions, financial assistance, various social services and social assistance are the main types of social security.

Some scholars believe that social rights are only those rights that are directly related to the implementation of social protection, namely: protection of the family, motherhood and childhood, social security, housing rights, the right to health care, the right to health care, the right to a favorable environment and s.

Certain difficulties in the legal nature of social rights, different interpretations in the proposed lists of these rights (established in constitutions, international legal documents), as well as problems in the development (improvement) of mechanisms and guarantees for the realization of these rights, control over their activities. above all, due to the known contradictions of their legal nature and content.

Another issue is that social rights are usually not valued in the legal literature as natural, inalienable human rights. According to the Western classical liberal concept that prevailed until the middle of the twentieth century, social rights were not legally recognized as human rights. Proponents of this concept viewed social rights as the individual's right to receive from the state certain material benefits that guaranteed a "adequate standard of living."

Noting the dangers of the constitutionalization of social rights, K.Sanstein said that "the constitutionalization of social rights incites poor countries to stagnation or unreasonable and frequent disregard for constitutional norms" [2, 19]. Accordingly, the strengthening of social rights in the constitutions of countries with economies in transition undermines the institution of private property and harms the entire economic development of these countries.

Despite the existence of this view in jurisprudence and judicial practice, there is a growing tendency to consider social rights enshrined in the Constitution not only as fundamental guidelines for the legislature, but also as fundamental rights, as in civil and political law.

Another feature that reveals the essence of social rights in defining their place and role in the system of human rights and freedoms is the fact that this category of rights belongs to the "second generation" of human rights.

The category of "natural and inalienable" rights, which emerged at the end of the eighteenth century, helped to make the idea of freedom, as the highest value, more fully and comprehensively explained. The twentieth century is marked by the emergence of "second generation" rights that guarantee not only freedom, but also a decent life.

B.P.Yeliseev notes that "socio-economic rights slow down social activity and economic prudence of citizens, because it provides for the gratuitous receipt of income from the most successful members of society. The widespread realization of these rights teaches outsiders to live at the expense of others" [1, 7].

Thus, if the "first generation", or civil and political rights, implies the state to limit interference in the existence and development of the individual, to give people greater freedom, then the "second generation" rights, on the contrary, strengthen state intervention and increase state paternalism.

The above features are the main characteristics of social rights that allow the right to social security to belong to an independent group of rights and determine their role and place in the system of basic constitutional rights of man and citizen.

In order to define more precisely the place and role of the right to social security, it is necessary to first refer to the concept of social rights. In the modern sense of human rights - these are the most important opportunities, inseparable features of development that determine the extent of individual freedom.

Human social rights are rights enshrined in the norms of international and domestic law, which are realized in the social sphere, guarantee a sufficient standard of living, reflect the status

of various social groups, ensure social freedom and social security of each individual, the state plays an active role. plays.

Economic, social and cultural rights are an integral part of the human rights system. These are the basic norms that ensure the improvement of living conditions, the realization of the "ideal of a free human personality" that guarantees social progress and superiority to all members of the human family, and form the basis of freedom, justice and peace. Socio-economic rights relate to the human condition in the field of labor and life, employment, welfare, social security, and serve to create conditions in which people can be "free from fear and need".

Social rights and freedoms ensure a decent standard of living and social security and reflect the following rights: the right to equal pay for equal work without discrimination; the right to working conditions that meet life safety requirements; the right to a fair and sufficient guarantee of a decent life for himself and his family; the right to protection from unemployment; housing rights; the right to form and join trade unions; the right to rest and leisure, as well as a reasonable limit on the working day and the right to paid leave; the right to a normal standard of living, including food, clothing, housing, medical care and necessary social services; the right to receive social security in connection with unemployment, illness, disability, widowhood, old age; the right to motherhood and childhood; the right to the highest achievable level of physical and mental health.

The criterion for classifying social rights as a free group of constitutional rights is the existence of "access to social assistance by the state." Based on this, social rights include the right to safe work, equal rights to work not less than the minimum wage, the right to rest, the right to protection from unemployment, the right to protection of motherhood, etc. can be attributed.

Some authors define social rights as "minimum legal norms of human rights in the social sphere, which are fully harmonized and recognized by the world community, enshrined in the legislation of most modern states."

Social rights, as well as the right to social security, have a special place in the system of basic constitutional human rights.

According to Article 38 of the Constitution of the Republic of Azerbaijan, everyone has the right to social security. Everyone has the right to social security upon reaching the age limit established by law, due to illness, disability, loss of the head of the family, loss of ability to work, unemployment and in other cases provided by law [5].

Apparently, the legislature retains instructions on the social security of everyone in the event of circumstances specified by law.

As we have already mentioned, the right to social security has both domestic and international legal grounds. According to the UN Human Rights Committee's Note number 15 to the International Covenant on Civil and Political Rights, "The Status of Foreigners in Accordance with the Covenant," the reports of States Parties do not specifically state that each State Party is entitled to The will of all persons to ensure the rights provided for in the Covenant shall be emphasized [6].

In general, the rights enshrined in the Covenant apply to all persons, regardless of the principle of reciprocity or nationality.

Thus, the general rule is that every right enshrined in the Covenant must be guaranteed without discrimination between citizens and foreigners. States are required not to discriminate in respect of the rights guaranteed by the Covenant. This requirement applies to both citizens and foreigners [7].

The United Nations Committee on Economic, Social and Cultural Rights' General Record No. 19 to the International Covenant on Economic, Social and Cultural Rights, entitled "Social Security", states that Article 2.2 of the Covenant prohibits discrimination on the basis of nationality. notes that the Covenant does not provide for any special jurisdiction in this regard. If non-citizens, migrant workers have made payments to social security programs, then these people

should also be able to use those payments. The migrant worker's right to social security must be available at the time of the change of workplace [3, 20].

It is the right to social security that is the priority that gives all social rights their essential characteristics, distinguishes this group of rights from other rights, and directs all social rights to the dignified existence of man.

Thus, social security, which is a constitutional right, and social security, which is an integral part of social protection, are inextricably linked concepts and complement the right to social security as a whole.

In other words, social security is an element of the social protection system that ultimately determines its main characteristics, because it is the nature of public relations between the subjects of different types of security that forms the direction of social protection as a system. identifies its main features.

At the current stage of development of relations between the state and the citizen, given the unconditional reduction of the paternalistic role of the state, according to the author's approach, it is necessary to make certain changes in the concept of social security law. Such changes may reflect the active role of the citizen in the implementation of the right to social security, allowing him to use his potential for self-sufficiency.

A fundamentally new concept of the realization of the right to social security must be developed and established at the legislative level. This concept should not only provide for the social protection of man, but also determine the potential for the implementation of the mechanism of free human development, the potential of man to benefit society in the current situation.

The right to social security plays a leading role in the system of human social rights and occupies a central place. This thesis is determined by the place of the right to social security in the life of modern society.

In turn, the importance and place of specific rights, as well as their meaningful completion, form, first of all, the need to address the issues facing society and the state at a certain historical stage of their development.

The right to social security, along with civil and political rights, is by its very nature a fundamental human right. Based on the principles of justice and social solidarity, it is enshrined in the constitutions of countries as a direct right and has judicial protection. In this context, it, along with other social rights, obliges the legislature and the executive to implement this right, creating landmarks for the implementation of social state policy.

Thus, summarizing the above, it should be noted that the right to social security includes the possibility of enjoying both financial and social benefits in kind within the conditions established by law.

In cases defined by law, it is more expedient to look at the right to social security in a subjective sense as the right of everyone to receive social benefits. In the objective sense, the right to social security can be assessed as a set of legal norms governing public relations arising in connection with the provision of various types of social security.

Without diminishing the role and importance of other social rights, it must be acknowledged that the basis and center of the right to social security is a person who needs the help of the state for certain living conditions.

Sustainable development of society is impossible without the solution of issues related to the normal life and welfare of people, and an important role here belongs to the right to social security. This, in turn, gives grounds to draw conclusions about the central place of the right to social security in the system of social rights of man and citizen, its special nature.

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DEFINITION AND LEGAL REGULATION OF BILATERAL INVESTMENT TREATIES

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Abstract

Bilateral treaties on the promotion and mutual protection of investments have fundamental importance in the international legal regulation of investment relations. Their main goal is to ensure, through legal means, the relative stability of reproduction and freedom of movement of capital in the framework of the global economic system, and especially to ensure the influx of foreign investment in developing countries, protecting against the so-called non-commercial risks. International bilateral agreements on the promotion and mutual protection of investment are special interstate agreements, the subject of regulation of which are relations arising in connection with the investment of foreign private capital. One of the important factors in the rapid conclusion of the bilateral investment treaties (BIT) was the strong desire of citizens and companies in an increasing number of industrialized countries to make direct investments in other countries and the need for reliable international legal protection that arose in this regard. Foreign investors, with all the desire, could not rely only on the laws of the state - importer of capital, since in this case the investment risk would increase. As historical experience has shown, developing countries can change the law after investments have already been made.

Keywords: *investment, bilateral treaty, mutual protection of investments, double taxation, capital investment, residency, principle of territoriality*.

The world's first BIT was signed on November 25, 1959 between Pakistan and Germany [8, 215]. As of 2019, there were 2,912 bilateral investment treaties, of which 2354 are in force. Germany, the United States and France are among the countries with the most bilateral investment treaties [9]. In 1960-70s there have been many cases where host governments have obstructed investment projects or even forcibly seized foreign capital. The main reason for the conclusion of BIT in the 80s and 90s. of the last century was that due to a decrease in the receipt of funds in the form of assistance from developed countries, developing countries increasingly felt the need for foreign investment [6, 283-285]. By signing BITs with many capital exporting countries, developing countries and countries with economies in transition have initiated massive capital mobilization. Apparently, this trend continues in the XXI century.

The use of trade agreements in the export of capital is explained by the fact that the export of capital and the export of goods are interdependent and interdependent processes in the world market. In addition, relations arising in international trade are similar in form and content to relations arising in connection with investing capital abroad. Therefore, many developed countries (England, France, Japan, Netherlands) began to use trade agreements as a form of regulation of relations on the export and import of capital. It is noteworthy that their forerunners were the so-called "treaties of friendship, trade, navigation, and later they became known as the" treaties of friendship and economic relations".

Of course, bilateral agreements on the promotion and mutual protection of investments are of fundamental importance in the international legal regulation of investment relations. Their main goal is to ensure, through legal means, the relative stability of reproduction and freedom of movement of capital within the framework of the global economic system under the conditions of the socio-economic crisis, and especially to ensure the influx of foreign investment in developing countries, protecting against the so-called non-profit (pop business) the risks [5, 122-124].

Why did bilateral legal investment cooperation begin only in the early 60s of the last century? The fact is that up to this point, the export and import of capital was not regulated at all or was regulated unilaterally, that is, exclusively in the interests of Western European countries that concluded treaties and agreements on the division of spheres of influence - spheres of capital application.

After developing countries gained political independence, the situation changed radically and there was a need for legal regulation of export and import of capital. Another reason for the rapid growth of bilateral special agreements is connected and follows from the state system of insurance of foreign private investments. Such an insurance system exists in Japan, USA, Germany and other countries.

International bilateral agreements in the field of foreign investment, as a form of legal regulation in relation between developed and developing countries, have much in common due to the commonality of the investment policies of these countries.

Speaking generally about the content and structure of bilateral investment agreements, they usually begin with a preamble, where the main objective of the agreement is fixed, that is, mutual encouragement and protection of each other's investments. Next, the types of property that are subject to legal protection are determined. As a rule, in all articles, the legal regime for the implementation of foreign investment activity is established, the procedure for the repatriation of profit received by a foreign investor is specifically explained. The agreements fix the conditions for the payment of compensation in the event of a state withdrawal from the foreign investor of the property, grounds, procedure and forms of compensation payments.

Most agreements also provide for the payment of compensation for losses incurred by a foreign investor as a result of war or civil unrest. The procedure for the settlement of disputes in connection with the implementation of foreign investment activities is provided for in all bilateral investment agreements, as well as regarding the interpretation and application of the provisions of the agreement between the contracting parties. But, despite many common features, each bilateral agreement on the protection of investment is somewhat peculiar, has its own characteristics.

The creation of a bilateral international legal investment protection was given a new impetus in the 70-80s of the last century. The BIT network increased markedly in the 90s. Then the number of such agreements reached more than 1,100. Two-thirds of them were concluded in the 90s.

To encourage capital inflows, they establish clear, simple, and enforceable rules that improve the investment climate. Along with ensuring and encouraging the admission of investments, guarantees of high standards of treatment, they are called upon to provide legal protection under international law, as well as access to international dispute resolution tools in case of their occurrence. At the same time, bilateral investment agreements regulate issues that foreign investors consider important, but which are not regulated by the national legislation of the recipient country of capital, and thereby they are aimed at creating a more reliable transparent, and therefore stable and predictable, legal regime for foreign investors than it does national law.

Following the path of Western European countries, the United States launched its own program for concluding bilateral investment agreements and the number of BITs has increased since 1981.

Japan has been exporting capital since the 1960s. some other Asian countries that have also begun to participate in bilateral agreements to create a favorable climate for their national investors. By 1991, Kuwait had signed 11 BITs, and Japan had concluded treaties with Egypt, China and Sri Lanka. Although, as a rule, BIT is concluded between an economically developed and a developing country, sometimes two developing or two industrialized countries concluded such agreements. An example is the BIT between Morocco and Egypt, or China and Thailand. The most notable is the second type of agreement between the United States and Canada, signed in 1988 with the goal of creating a free trade area between the two countries [10]. It included a

special chapter (Chapter 16), which, in essence, was a bilateral investment agreement and was in many ways similar to the BIT that the United States concluded with other countries.

At the end of the 80s of the last century, a new stage began in the history of the spread of bilateral investment agreements, which was associated with the collapse of the so-called socialist camp. The states of Eastern Europe, as well as a number of Asian countries that have embarked on the path of a market economy that previously were hostile to foreign capital, massively began to conclude BITs with economically developed countries in the hope of obtaining capital and advanced technologies.

According to information received by the International Center for the Settlement of Investment Disputes, of the 183 BITs that were signed between January 1, 1989 and June 30, 1992, 76 countries participated in Eastern and Central Europe [7, 326].

For example, the USSR in 1989-1990. signed a BIT with Great Britain, Italy, France, Germany (in total with 14 countries of Western Europe). Poland has signed investment protection treaties with Germany and the USA, and Vietnam has entered into a similar agreement with Australia.

As for the countries of Latin America, for a long time they stubbornly resisted the introduction of foreign capital, and in the same 80s of the 20th century, they began preparatory measures for concluding bilateral investment agreements.

One of the important factors in the rapid conclusion of the BIT was the strong desire of citizens and companies in an increasing number of industrialized countries to make direct investments in other countries and the need for reliable international legal protection that arose in this regard. Foreign investors, with all the desire, could not rely solely on the laws of the state-importer of capital, since in this case there would be an increased risk. As historical experience has shown, developing countries can change the law after investments have already been made. In the 60s and 70s of the XX century, there were many cases where the governments of the host countries obstructed investment projects or even subjected foreign capital to forced seizure.

But the main reason for the active conclusion of BITs in the 80s and 90s of the last century was that due to a decrease in the receipt of funds in the form of assistance from developed countries, developing countries increasingly felt the need for foreign investment. By signing BITs with many capital exporting countries, developing countries and countries in transition have initiated mass capital mobilization.

Thus, BITs played an invaluable role in the formation and consolidation of international legal standards in the field of foreign investment on a bilateral basis. They had a great influence on similar contractual practices, in particular on the development of the Energy Charter Treaty (ECT) as a model for the interaction of institutional structures necessary to stimulate investment and trade in energy and related industries around the world.

Double taxation, violating the principle of non-discrimination in international law, impedes the proper implementation of investment activities. In general terms, the concept of double taxation can be expressed as follows: this is a situation when one and the same subject is taxed with comparable taxes in relation to the same object of taxation in two or more states for the same period.

Double taxation is caused, first of all, by the fact that the procedure for determining the tax base and the rules for determining taxable income (entrepreneurial profits, interest, royalties, dividends, etc.) in different countries have their significant differences.

The development of problems of international cooperation in the field of taxation has a long history. Back in the League of Nations from 1921 to 1945. several expert groups worked on these issues [1, 43-45]. Prepared special reports were submitted to the Finance Committee of the League of Nations. It was recommended that the solution of interstate tax problems can be implemented through the conclusion of international tax conventions on a multilateral basis. Based on this, the League of Nations has developed two draft model tax conventions between interested states. Subsequently, the OOD Finance Committee, having taken the baton on this

issue, conducted further research on this issue.

In addition, the International Chamber of Commerce and the Organization for Economic Co-operation and Development (OECD) began to address these issues. The UN Economic and Social Council (ECOSOC) in resolution 486 (XVT) of July 9, 1953 stated that tax incentives for private investors provided by both highly developed and underdeveloped states are of great practical importance [11]. The resolution recommended highly developed countries to unilaterally or when concluding tax agreements the application of special provisions in which income from foreign investment would be taxed only initially in that country, where it was received. This recommendation has been supported by the International Chamber of Commerce.

In short, international double taxation dramatically increases the costs of foreign investors, which in turn inhibits business activity in the international arena. And this already negatively affects the freedom of movement of capital and services in the world market. Therefore, the problem of eliminating or minimizing double taxation and its consequences is, in principle, common to all states. Due to its capabilities, each state is trying to solve it by concluding bilateral double taxation treaties.

The practice of concluding interstate agreements in this area began about 40 years ago. By the way, it should be noted that such a practice is a very effective form of resolving international legal problems related to taxation, in view of the inherent nature of such an international treaty of conciliation. This explains the spread of such agreements on a global scale [4, 123].

Initially, international double tax treaties were concluded, as a rule, between Western countries on the basis of model conventions developed under the auspices of the OECD in 1963 and 1977. The provisions of these multilateral treaties are legally non-binding, that is, advisory, in nature. But many countries introduce into their agreements between themselves a number of their provisions almost verbatim. This practice contributes to the international harmonization of the application and interpretation of their provisions and rules.

The aforementioned OECD model conventions have been developed by the economically developed countries themselves, that is, by the capital exporters themselves. Therefore, it is clear whose interests they primarily take into account. And the main recipients of foreign investment today are developing countries and countries with economies in transition. In this regard, in 1979, the UN developed a Model Convention for use in the development of double taxation agreements between developed and developing countries, as well as countries with economies in transition.

In addition, the principle of residency (place of residence and place of stay of an individual or legal entity) and the principle of territoriality are basic concepts for determining the tax status of a person in most countries of the world. The principle of residency means the establishment of a tax on all income, including income received abroad, from persons with a permanent residence in certain countries.

Taxation on the basis of territoriality is defined as the taxation of income received in the territory of these countries, excluding the presence of a permanent residence of persons who received these incomes. Here is the action of an exemplary mechanism when the same income can be taxed several or more times. Or, income derived from a source in one country received by a person with a permanent residence in another country may be taxed in both countries at the same time.

This problem would not have arisen if all countries used only the principle of residence in their tax laws. But no state can practically completely refuse to use the principle of territoriality, that is, not to tax the source of income that makes up the tax base due to being on its territory.

On this issue, various, sometimes diametrically opposed, opinions are expressed in the literature. So, the English scientist M. Boskin claims that the criterion of residency to prevent double tax press is clearly preferable. The question is for whom? Yes, this criterion is undoubtedly beneficial for a tax gatherer, since only a country of permanent residence can fully assess its financial situation, social condition for receiving taxable income and, thus, properly

taxing the net income of a taxable subject [2, 54].

Other researchers, for example, H.Kuroda from Japan, on the contrary, argue that the criterion of territoriality is more effective in eliminating double taxation. This method helps streamline tax control in one country, regardless of whether the taxpayers are permanently resident, and thereby minimize tax evasion cases [3, 184].

Thus, international bilateral cooperation in the field of ensuring legal guarantees of foreign investments has a rather long history. For almost the entire 20th century, states on a bilateral basis step by step approached the most optimal forms and methods of encouraging and protecting foreign investments in their own territory. Starting with trade agreements on friendship and mutual assistance, countries subsequently began to use widely bilateral special agreements aimed at ensuring the free movement of goods and capital. Of course, we are talking about bilateral international agreements, on the promotion and mutual protection of investments and agreements on the elimination of double taxation.

Bilateral interstate agreement is the most convenient and effective form of proper provision of legal guarantees of foreign investment due to the fact that it provides the ability to more detailed regulation of the mechanism for the implementation of common goals and objectives in this area. Despite this, bilateral interstate cooperation, although being one of the important legal segments, cannot replace the multilateral international legal regulation of foreign investment.

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THE LIABILITY OF INTERNET INTERMEDIARIES REGARDING THE DEFAMATION IN CYBERSPACE UNDER THE UK LAW (EARLY LEGISLATION AND CASE LAW)

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Abstract

The paper discusses the main principles of traditional defamation law of the UK. It also analyses the Section 1 of the Defamation Act 1996 and implication of this section by case law, particularly focusing on Godfrey v Demon case. The approach after the adoption of E-commerce Directive also is discussed along with the relevant case law in the last subsection.

Keywords: *internet intermediaries, defamation, liability of publishers, Defamation Act 1996, cyberspace, freedom of expression, freedom of speech, defamatory statement.*

As it will be discussed below, from the position of the UK regarding the defamation law it is clear to find out that, unlike from the US position, the UK did not give blanket immunity to ISPs. The UK's position has always been heavily weighted in favour of person whose reputation suffered from defamatory statement. The same approach was taken when the Courts made a decision regarding the defamation claims occurred in the online environment. Due to the claimant-friendly approach of the judges, it is not surprisingly that, foreign people who have reputation in the area of the United Kingdom have often sought to bring their lawsuits to the UK courts. As according to the common law, a defamatory statement is regarded as having published at the place where it is read, heard or seen. When considering the global nature of the Internet, it is not so hard to prove that the claimant, suffered from defamatory statement, has a reputation in the UK. The Courts are unlike to decline the jurisdiction, even that person has a stronger reputation, or the publication has occurred to a much greater extent in elsewhere rather than in the UK. Due to the facts stated above, the UK is called a haven for 'libel tourists'.

It is also worth to note that, the first case regarding the liability of intermediaries regarding the defamatory action was in 1999, a few years later than the US. Additionally, it must be noted that, when the first claim regarding the liability of intermediary for defamatory act by the third party brought the court, at that time the Defamation Act 1996 [2] was in force. Therefore the Court applied the provisions of new legislation. That is to say, unlike the US's court practice, in the UK there is no relevant case law before the adoption of legislation that re-evaluated the existing traditional principles. That is why, it is impossible to compare the approaches of the courts before and after the legislation, as it was did in the part regarding the US. On the other hand, it is also important to stress out that, after the adoption of new legislation, the position of the courts on the issue of intermediary liability was clearer compare to the US. All these listed arguments will be discussed below in detail.

This part of the paper is going to firstly discuss the main principles of traditional defamation law. Then, it will analyse the section 1 of the Defamation Act 1996. Furthermore it will look at the implication of the section 1 by case law, particularly focusing on *Godfrey v Demon* [3] case. The approach after the adoption of E-commerce Directive also will be discussed along with the relevant case law in the last subsection.

The liability of publishers under the UK law

According to the UK defamation law, there was no longer existence of old tradition to hold the messenger responsible for message's content. When the Internet became to play an important role in our lives, in the early times, the approach were the same. Until the 1996, the claims were brought to the courts under the Defamation Act 1952. This statute dealt with defamatory state-

ments of those people who have published defamatory material via the TV, radio, magazines or newspapers. According to the defamation law, the publishers of the defamatory material are liable for the defamation. Pursuant to the common law, the publisher of the material is the person who has participated in the publication of the defamatory statement. The definition of 'publisher' covers both primary and secondary publishers. Within the context of defamation law who is exercising direct editorial control over the material published, called primary publisher. The authors, editors, publishing houses fall within the definition of 'primary publisher'. On the other hand, the role of the secondary publisher is just to make the material accessible by third parties. A library or a bookstore can be considered as a secondary publisher within the context of this definition. [6]

Additionally, under the UK law, the plaintiff can generally bring action against the defamation within the one year from the time the cause of action accrued, and each time when such defamatory material is republished; a fresh cause of action arises. This point is important, as due to the nature of the Internet the materials can be stored in online archives and the users can search and access them. This means that, each time the user have an access to the defamatory material, a fresh cause of action arises [5].

That is why, when ISP operating achieves in order to store the information, the must take reasonable care regarding the material they are going to and make accessible by the users.

As noted above, there was not any case until 1999 to deal with the liability of intermediaries regarding the defamation. That is why, until the adoption the Defamation Act, the internet service providers were not in clear position. In other words, even so the case were brought against ISPs, it is hard to guess how the position of the UK courts would be. At this time , the approach in the other side of Atlantic was that , as discussed above, ISPs were 'common carriers' like a telephone company, that is why they should not be liable for any defamatory statement transmitted over its wires. Moreover, if there were any case it is hard to guess that the UK would consider the ISPs like a simple postman just delivered libellous letter; or like a secondary publishers such as librarians, booksellers, news agents; or the publishers or printers of the publication which contains defamatory statement. It is not wrong to state that, the establishment of defamation law of the UK begins with two important cases brought by university lecturer and physicist Dr.Laurance Godfrey in 1994 and 1999 respectively. In 1994, Dr.Godfrey alleged that a fellow scientist's comments, posted on the Usenet public message network about his professional work, were defamatory. This was the first UK case that dealt with the protection of individual's reputation harmed in the digital environment. However, in this case Dr. Godfrey sued the person who made the defamatory statement, not Usenet network; therefore for the purposes of this paper it is not appropriate to discuss this case in more detail. [4] On the other hand, the second case brought by the same plaintiff is very important as this the first UK case dealing with the issue of liability of internet intermediary regarding the defamation. This case will be discussed after analysing the Defamation Act 1996 in the next subsection.

The adoption of the Defamation Act 1996

In 1996 the Parliament passed legislation and adopted the approach that the ISP should not be treated in the same manner as a traditional publisher. Under the section 1 of the Defamation Act 1996, the ISPs have been provided with a statuary defence of 'innocent dissemination'. This provision protects them from being liable for the publishing defamatory material in the following circumstances.

Section of the Defamation Act 1996 states:

In defamation proceedings a person has a defence if he shows that—

(a) he was not the author, editor or publisher of the statement complained of,

(b) he took reasonable care in relation to its publication, and

(c) he did not know, and had no reason to believe, that what he did caused or contributed to the publication of a defamatory statement.

That is to say, with reference to this legal protection, the ISP would have immunity from liability, firstly, if it 'was not the author, editor or publisher of the statement complained of'.

Within the context of provision, the drafters have also given the definition of all these terms. According to this, person is deemed to be an author if he is the originator of the statement. Additionally, the person is an editor if he has editorial or equivalent responsibility for the content of the statement or the decision to publish it. Moreover, in terms of this Act publisher means, a commercial publisher, that is, a person whose business is issuing material to the public, or a section of the public, who issues material containing the statement in the course of that business.

In addition to this, the Act provides also provisions regarding situations where the person shall not be considered the author, editor or publisher of a defamatory material:

A person shall not be considered the author, editor or publisher of a statement if he is only involved—

(a) in printing, producing, distributing or selling printed material containing the statement;

(b) in processing, making copies of, distributing, exhibiting or selling a film or sound recording (as defined in Part I of the **M1**Copyright, Designs and Patents Act 1988) containing the statement;

(c) in processing, making copies of, distributing or selling any electronic medium in or on which the statement is recorded, or in operating or providing any equipment, system or service by means of which the statement is retrieved, copied, distributed or made available in electronic form;

(d) as the broadcaster of a live programme containing the statement in circumstances in which he has no effective control over the maker of the statement;

(e) as the operator of or provider of access to a communications system by means of which the statement is transmitted, or made available, by a person over whom he has no effective control.

In a case not within paragraphs (a) to (e) the court may have regard to those provisions by way of analogy in deciding whether a person is to be considered the author, editor or publisher of a statement.

Pursuant to this, if the ISP is only involved (1) in the processing, making copies of, distributing or selling any electronic medium in or on which the statement is recorded; (2) as an operator or provider of a system or service by means of which a statement is made available in electron form; (3) as the operator of or a provider of access to a communications system by means of which the statement is transmitted, or made available, by a person over whom he has no effective control; he will not be considered as an author, editor or publisher.

Furthermore the section states:

In determining for the purposes of this section whether a person took reasonable care, or had reason to believe that what he did caused or contributed to the publication of a defamatory statement, regard shall be had to—

(a) the extent of his responsibility for the content of the statement or the decision to publish it,

(b) the nature or circumstances of the publication, and

(c) the previous conduct or character of the author, editor or publisher.

That is to say, the ISP has a defence if the reasonable care in relation to its publication was taken. Lastly, the ISP did not know, and had no reason to believe, that what he did caused or contributed to the publication of a defamatory statement it cannot be held liable for the defamation.

Only in 1999, for the first time the borders of this defence was tested. In the following subsection the interpretation of the section 1 of the Defamation Act 1996 by the Court will be analysed.

Godfrey v Demon Internet Service case [3]

According to the facts of the case, the reason of the dispute was defamatory statement made by unknown person using the name of Dr Laurence Godfrey. Mr. Godfrey was a lecturer in physics, mathematics, and computer science in the university located in London. The defamatory statement made using his name was originated in the US.

The nature of the statement was 'squalid, obscene and defamatory of the Plaintiff'. The defamatory statement was posted to the soc.culture.thai forum hosted by Demon Internet Service. In the forum, in general, the postings were accessible during the fourteen days and then automatically were removed. Mr. Godfrey after being aware of the defamatory posting posted on behalf of his name, he sent a fax and informed Demon about that posting and requested to remove it. However, Demon failed to act promptly, and the statement was accessible by the users until it expired automatically after fortnight. As a result, a defamatory action was raised by Mr. Godfrey against Demon Internet in 1997.

In this claim there was need to address two primary questions. The first was, could Demon Internet be considered as a publisher of the statement? Moreland J, the judge of the Court, answered this question clearly:

'In my judgment the Defendants were clearly not the publisher of the posting defamatory of the Plaintiff within the meaning of Section 1(2) and 1(3) and incontrovertibly can avail themselves of Section 1(1)(a)'.

The second question was, whether Demon Internet could rely on the defence provided in section 1 of the Defamation Act 1996. The Judge held that:

'However, the difficulty facing the Defendants is Section 1(1)(b) and 1(1)(c). After the 17th January 1997 after receipt of the Plaintiff's fax the Defendants knew of the defamatory posting but chose not to remove it from their Usenet news service. In my judgment this places the Defendants in an insuperable difficulty so that they cannot avail themselves of the defence provided by Section 1.'

Godfrey case treated ISPs as akin to distributors. The principle outlined in the case was well established; an ISP could escape from the liability and rely on the defence within the virtue of the section 1 until that point, as it has actual knowledge about the defamatory material. Hence, if information society service provider becomes aware of the defamatory statement, it has to 'take reasonable care in relation to its publication'. In other words, when an ISP believes that a statement is likely to be a defamatory, it must take necessary steps in order to prevent further publication and distribution. Otherwise, it puts itself at risk of being liable for the defamatory posting.

The E- commerce Directive [8]

In 2000, the European Union by adopting the E-Commerce Directive addressed the questions of ISP liability regarding defamation .The Directive attempted to harmonise the issues surrounding the liability for ISPs for carrying, caching, and hosting defamatory material. Articles 12-14 seek to limit the liability of ISP for the third party content.

First of all, the Article 12 states:

'Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network, Member States shall ensure that the service provider is not liable for the information transmitted.'

This article provides a 'mere conduit' defence to the ISPs. Pursuant to the content of the article, if an ISP acts as a provider merely passing the information of third party through its network; does not control the content of transmitted information; does not store the passé information more than necessary to facilitate the transmission, in these situations it has a defence from being liable for passed defamatory information. In other words, a 'mere conduit' defence does not allow an ISP, who is just transmitting the data, be liable for the content of data. As in that case, it could not be expected to be aware of the content of the information. This defence is

akin to that provided to the telecommunications company. Hence, in the case if the ISP would originate or modify the content of the data, it cannot rely on this defence.

Furthermore, Article 13 states:

'Where an information society service is provided that consists of the transmission in a communication network of information provided by a recipient of the service, Member States shall ensure that the service provider is not liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the information's onward transmission to other recipients of the service upon their request.'

This article provides defence for caching in particular situations. In order an ISP to rely on this defence, 'the provider acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network, or access to it has been disabled, or that a court or an administrative authority has ordered such removal or disablement'.

Again in this defence, similar to previous one, an ISP will lost the immunity if it originates or modifies the content of the data.

Moreover, Article 14 states that:

Where an information society service is provided that consists of the storage of information provided by a recipient of the service, Member States shall ensure that the service provider is not liable for the information stored at the request of a recipient of the service, on condition that:

(a) the provider does not have actual knowledge of illegal activity or information and, as regards claims for damages, is not aware of facts or circumstances from which the illegal activity or information is apparent; or (b) the provider, upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the information.

Thus, Article 14 treats the ISPs which host material as a distributor and provides them with the distributor defence, similar in *Godfrey case.*

The UK, gave effect to the E-commerce Directive in the E-Commerce (EC Directive) Regulations 2002. The Articles 12-14 were implemented to the UK law as regulations 17-19. The Regulations almost repeat the same wording found in the EC Directive. The significant difference between the EC Directive and E-Commerce Regulations is the additional provision found in reg. 22. This regulation addresses the issue regarding what constitutes 'actual knowledge' for the purposes of regs 18 and 19.

Pursuant to the reg 22:

In determining whether a service provider has actual knowledge for the purposes of regulations 18(b)(v) and 19(a)(i), a court shall take into account all matters which appear to it in the particular circumstances to be relevant and, among other things, shall have regard to—

(a)whether a service provider has received a notice through a means of contact made available in accordance with regulation 6(1)(c), and

(b)the extent to which any notice includes—

(i)the full name and address of the sender of the notice;

(ii)details of the location of the information in question; and

(iii)details of the unlawful nature of the activity or information in question.

That is to say, the Court when determining whether a service provider has received notice through any means of contact that the service provider has made available, this list of can be considered. To date the regulations have functioned smoothly. Until today, there were only to court case which reviewed the intermediary liability under the E-Commerce Regulations 2002.These cases will be analysed in the next subsection.

Bunt v Tilley&Ors case [1]

In this case, the plaintiff claimed that, Mr.Tilley and other two users had made statement which were defamatory about him using online internet services. Mr. Bunt, the plaintiff wished to bring the claims against the ISPs that used by the defendants to publish their defamatory post-

ings. Mr. Bunt stated that, as the ISPs have provided a connection to the internet, so they had enabled the defendants to publish allegedly defamatory statement. In other words, he wanted from the Court to consider the ISPs as liable for the defamation, just because the material which is simply communicated via the services they provide. The plaintiffs claim was declined and the Court held that the ISPs fell within the definition of 'information society service' provider provided in the reg. 2(1) of the E- Commerce Regulations that is why could rely on defences provided by the same legislation.

Metropolitan International Schools Ltd v Designtchnica Corp. [7]

In this case, the plaintiff was a distance learning operator. He claimed that, the defendant hosted some web fora accusing the plaintiff in numerous faults, such as providing poor value of money, exploiting students, and being 'little more than a scam'. The interesting point regarding this case is that, the plaintiff claimed that Google was also as liable as other defendant, because the defamatory postings were searchable through the Google. It became the first case that addressed the issue of potential liability of search engines for defamatory material. The Judge stated that, Google was not the publisher of the defamatory posting. He held that: 'A search engine is a different kind of Internet intermediary. It is not possible to draw a complete analogy with a website host. One cannot merely press a button to ensure that the offending words will never reappear on a Google search snippet: there is no control over the search terms typed in by future users. If the words are thrown up in response to a future search, it would by no means follow that the Third Defendant [Google] has authorised and or acquiesced in that process. I believe it is unrealistic to attribute responsibility for publication the third Defendant, whether on the basis of authorship or acquiescence'. That is to say the Judge considered that, the search engine could not be liable for the postings appearing in its search tools.

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AZERBAIJAN'S MODEL OF MULTICULTURALISM

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Abstract

While racism, nationalism and xenophobia are expanding around the globe, Azerbaijan has developed its own model of multiculturalism, interfaith tolerance, ethnic diversity and intercultural dialogue. The model presented to the world by Azerbaijan is a multinational model that respects the national and spiritual values of people. Today the world of politics is studying this model and multiculturalism is seen as an alternative to xenophobia, islamophobia and racism. Even today, whilst some call for peace and harmony, others call for hatred. If one side's goal is to drag the world into chaos, the other's is to achieve global harmony. The experience of Azerbaijan in this regard is unique.

Keywords: *Multiculturalism, Heydar Aliyev Foundation, Humanitarian Forum, ethnic and religious groups, International Tolerance Day, Year of Multiculturalism, Intercultural Dialogue*

In a globalized world not a single society can stay out of the influence of multiculturalism, as the indoor cultures are rapidly declining.

President of the Republic of Azerbaijan Mr. Ilham Aliyev has repeatedly noted that multiculturalism is the national wealth of the country. According to Article 25 of the Constitution of the Republic of Azerbaijan, rights and duties of everyone should be respected, regardless of origin, race, and religion or spoken language. [7, 310]

The legal framework of multiculturalism is reflected in several provisions of the Constitution. It is reflected in the Article 18 of the "Religion and State" section and Article 25 of the "Law of Equality" section. The Article 18 states that religion is separate from the state and that all religious beliefs are equal before law, and the Article 25 ensures that everyone's rights and freedoms are respected regardless of his/her race, nationality, religion, language, gender, origin, property, position, beliefs, and affiliation with political parties, trade unions and other public associations.

Article 44 of the Constitution also states that every single citizen has the right to protect his/her national identity and that no one can be forced to change their nationality. Article 11 of the Law on Culture states that the cultural identities of all ethnic minorities living in Azerbaijan are respected and legally protected. The article on "Freedom of Conscience" also addresses the respect and freedom of everyone's religious beliefs. [4, 3]

Simultaneously with the provisions of the supreme law, the Republic of Azerbaijan also responds to international calls. The Republic of Azerbaijan complies with all the provisions of the 1996 UN Convention on the Elimination of All Forms of Racial Discrimination, the Prevention and Punishment of Apartheid Crime and, finally, the Prevention and Punishment of the Genocide. Finally, the Council of Europe's Charter of Regional or Minority Languages is being implemented by Azerbaijani government as well. [4, 3]

Azerbaijan has been at the crossroads of cultures throughout history and has played a leading role in comprehension of various civilizations. Azerbaijan, distinguished for its tolerance from the ancient times, has been home to the Zoroastrianism, the first cradle of Christianity in the Caucasus, and Islam. Our country remarkably carries the ethnographic diversity of Achaemenid-Sassani, Roman-Byzantine, Scythian and Turkic-Oghuz cultures.

Undoubtedly, the roots of multiculturalism in Azerbaijan are very old. It is known that in the ancient Caucasian Albania, people from different nations, religions and cultures lived and contributed from time to time. Mifodiy, the Secretary of the Russian Orthodox Church of Baku and Azerbaijan, Eugene Brenneysen, member of the European Jewish Religious Community, Rasim Khalilov, leader of the Protestant community of the Word of Life, Robert Mobili, President of the Albanian-Christian community, in their speeches, talk about the state-religion relations in Azerbaijan, the guarantees of freedoms, tolerance towards religious and national minorities. [5] It seems quite clear today that even though various ethnic groups claim to be Azerbaijani, each of them has preserved its own distinct elements of culture. [1]

In the globalized world, multicultural and tolerant values are universal, and the Republic of Azerbaijan proudly protects and promotes these values. [13] Multiculturalism aims at preserving, developing and presenting the cultural diversity of people of different nations and religions around the world, as well as integrating minorities into the national culture of dominant ethnic groups. This path is a stage of integration without assimilation, where democracy and humanism are guiding ideologies. Only in this case mutual enrichment, friendship and cooperation is possible. Multiculturalism is a guide to create a dialogue between cultures and civilizations.

In integrated world, which we live in, there are different models of multiculturalism - such as Swedish, Australian, and Canadian. But many countries from different parts of the world, from different cultures and civilizations are promoting the Azerbaijani model. A clear example of this is the adoption of resolution which approves the Azerbaijan model of tolerance by the Senates and Houses of Representatives of Utah and Oregon in 2014. [4, 3]

Studies show that in our times there are two poles of multiculturalism policy. Formation of the first pole is linked with the name of Prime Minister David Cameron. Cameron said that multiculturalism in Europe has collapsed due to the refusal of different cultures to integrate with each other. The other pole is considered optimistic. The Azerbaijani model of multiculturalism is the optimistic one. [12]

Although the term multiculturalism has been recently introduced in Azerbaijan, its historic importance has been preserved and laid the ground for the coexistence of many different ethnic groups. Throughout the centuries, different nations and ethnicities have lived in the tolerant environment, sharing same values. The protection of their rights and freedoms, as well as their native languages has been enshrined in law as the main principle of the state, and as a result, members of each ethnic and/or religious group are widely represented in every sphere of society. [15]

The main cornerstone of multiculturalism is the transmission of the spiritual treasure of the nation to generations. At the IV Global Baku Forum, President of the Republic of Azerbaijan Ilham Aliyev said that people of different ethnic backgrounds and religions have lived in peacefully and securely in Azerbaijan. He also stated that multiculturalism and religious tolerance are preeminent state policies. [16, 4]

2016 was declared the 'Year of Multiculturalism' by the Decree of President Ilham Aliyev of January 11th of the same year. The construction and restoration of mosques, churches and synagogues throughout Azerbaijan is seen as a clear example of multicultural atmosphere in the country. The exceptional services of the great leader Heydar Aliyev in strengthening of multicultural values in our country should be noted. Thanks to the late president, traditions of multiculturalism have been widely used in our country and have been integrated as 'a model' in domestic policies of several countries.

Before the national leader Heydar Aliyev came to power, the country was in turmoil. Right after the collapse of Soviet Union, the ideologies of chauvinism and separatism became widespread in the country and the region. Nonetheless, as a result of the far-sighted policy of Heydar Aliyev, a unique atmosphere of solidarity between different ethnic groups was established. Heydar Aliyev united every single citizen under the ideology of 'Azerbaijanianism' and simultaneously has taken the centuries-old tradition of multiculturalism to a new level, demonstrating its superiority over other political models. [11, 37-43]

He once said: "The Republic of Azerbaijan is a multinational state. In addition to Muslims, there are also citizens belonging to other religions that live in Azerbaijan. As an independent, democratic country, Azerbaijan provides freedom to all people and nationalities living on its territory, regardless of religion, language, race, or political affiliation. " [17, 4] Even at the inauguration ceremony on October 10, 1993, the Great Leader stated that Azerbaijan is a multinational state. All citizens of the Republic of Azerbaijan shall have equal rights regardless of their national or religious affiliation. [2] In general, the more a nation is able to unite, the more wealth it will have. It should also be taken into account that the celebration of the International Day of Tolerance in 1999 was initiated by Heydar Aliyev.

There are 644 religious organizations registered in Azerbaijan - including Christianity, Judaism, Baha'i and Krishna oriented organizations. There are currently more than 2,000 mosques, 13 churches and 7 synagogues operating around the country. [9] All these religious organizations operate and cooperate in a harmonious and tolerant manner. From this point of view, the ideology of 'Azerbaijanianism', put forward by the great leader, is remarkable by its unique strategy.

The fundament of the ideology of 'Azerbaijanianism' is the unity of different people, cultures, traditions and confessions. This ideology is based primarily on state power and national discipline and national self-determination. The ideology of 'Azerbaijanianism' seeks understanding within various social classes and propagates constant and non-radical reform of the state, which arises from its potential. 'Azerbaijanianism' is a historic value that has been shaped for centuries. The centuries-old tradition of the harmony of the confessions currently living in Azerbaijan is the product of the great history of brotherhood and interrelationship of all nations and ethnicities living in our homeland, their common destiny and their shared struggle for the integrity of independent Azerbaijan.

Thus, the ideology of 'Azerbaijanianism' is political, as well as ethical. It belongs to the citizens of Azerbaijan and to the adherents of the idea of independent statehood of Azerbaijan, and, of course, serves as a unifying function. The ideology today plays a special role in regulation of relations between ethnic and cultural differences. As the great leader said, Azerbaijan's source of strength is the joint power of all people living there.

It is clear that multiculturalism has three basic elements:

- Providing cultural pluralism in the state
- Socialization of small cultural groups
- Revival and development of different cultures

All this demonstrates that multiculturalism is a democracy of cultural values within globalization process, and tolerance is its main characteristic. [10] In 2014, the State Advisory Service for Inter-ethnic, Multiculturalism and Religious Affairs was established in the country at the instruction of President Ilham Aliyev. In May of the same year, the President of the Republic of Azerbaijan signed a decree on the establishment of the Baku International Multiculturalism Center in the name of wider recognition of Azerbaijan as an example of tolerance in the world.

First and foremost activities of the center are - providing tolerance and protecting cultural, religious and linguistic diversity. Baku International Center for Multiculturalism explores interethnic, inter-religious and intercultural relations. Without any doubt, the services of the Heydar Aliyev Foundation in promoting the traditions of tolerance and multicultural values of our country cannot be ignored. [14]

The dominant role in this direction belongs to the First Vice-President Mehriban Aliyeva. Mrs. Aliyeva states: "The Azerbaijani society, where traditional friendship and brotherhood relations and tolerance are prevailing among people, is our historic achievement and this factor has become a leading value of our socio-political life." [4, 3] Vice President of the Heydar Aliyev Foundation, Leyla Aliyeva, has played a major role in promoting the Azerbaijani model of multiculturalism from the platforms of UN Alliance of Civilizations and the Youth Forum of Islamic Conference.

On November 8, 2012, by the initiative of the Vice-President of the Heydar Aliyev Foundation, Leyla Aliyeva, the British Parliament hosted a conference on the topic of "Perspectives of European multiculturalism: the Azerbaijani model of interfaith dialogue and religious tolerance". This event played an irreplaceable role in promoting the Azerbaijani multiculturalism model in the Western world. [5] Furthermore, in 2012 Paris hosted an exhibition of Reza Degati - "Azerbaijan - A Land of Tolerance" - that reflects religious tolerance in our country. [5]

Today, dozens of activities regarding multiculturalism are taking place throughout our country, and this tendency has continued every year. One of these activities is the second World Forum on Intercultural Dialogue held in 2013 under the motto "Living together in peace in a multicultural world" initiated by President Ilham Aliyev. The event was attended by UNESCO, the UN Alliance of Civilizations, the Council of Europe, and the North-South Center of the Council of Europe, ISESCO, the UN World Tourism Organization and many more organizations. Another great example is the 8th session of the UNESCO Intergovernmental Committee for the Intangible Cultural Heritage held in Baku in 2013. (19, 5)

In addition, there are a number of activities carried out by the Heydar Aliyev Foundation: construction of the Khabad-Or-Avner Educational Center for Jewish Children living in Baku, the restoration of VII-XII-century churches in France, the restoration of the Holy Roman catacombs, and the erection of a monument for Knyaz Vladimir in Astrakhan. [4, 3] Undoubtedly, multiculturalism and tolerance have historically been a way of life for Azerbaijanis and have become a daily way of life for every citizen, government institutions and organisations of the Republic of Azerbaijan.

In addition to all aforementioned, Azerbaijan often hosts international events dedicated to the cooperation of nations and religions. An example of this is the conference called "Globalization, Religion, and Traditional Values", held in Baku in 2010 and attended by hundreds of representatives of different religions from all over the world. It should be noted that the World Forum on Intercultural Dialogue has been held in Baku every two years since 2011, by the initiative of President Ilham Aliyev. All of aforementioned activities are carried out by international organizations, such as UNESCO, the UN Alliance of Civilizations, the Council of Europe, North-South Center of the Council of Europe, ISESCO, and the UN World Tourism Organization. [4, 3]

During one of these events, President of the Republic of Azerbaijan Ilham Aliyev said: "We are talking about a dialogue between civilizations. But at the same time, some statements, such as 'multiculturalism has failed' and 'multiculturalism has no future' make us sad. These are very dangerous statements. I should note that multiculturalism has no alternative in the modern world, because the majority of the world's countries are multinational. If multiculturalism (dialogue of civilizations, including religious co-operation) fails, then what is the alternative? Alternatives are discrimination, racism, xenophobia, Islamophobia, anti-Semitism. " [15]

Today Baku has become not only a diplomatic and political center of the region, but also a center of multiculturalism and tolerance. Our country often hosts the International Humanitarian Forum, the Conference of Ministers of Culture of the Organization of Islamic Cooperation, the World Forum on Intercultural Dialogue, the Crans Montana Forum, the Davos Forum, and the 3rd Global Baku Forum.

In the "Year of Multiculturalism", a series of memorable events were implemented in Azerbaijan. A number of government agencies took an active part here. These include the Ministry of Education, Ministry of Culture and Tourism, State Committee for Work with Religious Organizations, Ministry of Youth and Sport, Ministry of Foreign Affairs, Heydar Aliyev Foundation, ANAS, Caucasian Muslims Office, Knowledge Fund under the President of the Republic of Azerbaijan. They have greatly contributed to the Year of Multiculturalism.

If we look at the strategic principles of the Azerbaijani model of multiculturalism, it is apparent that today ethnic and religious dialogue are the fundament of multiculturalism and are governed by proper integration processes. The core of multiculturalism is the coexistence of peace, humanism and tolerance. The primary point here is the mutual dialogue between people

of different religions and speakers of different languages. Various ethnic groups and representatives of different faiths and beliefs live in peace and mutual coexistence in our country. [6]

Intercultural dialogue is generally defined in the White Paper on Intercultural Dialogue within a framework of the 118th Session of the Council of Foreign Ministers of the Council of Europe. In the White Book, intercultural dialogue is understood as a process of open and sincere exchange between individuals and groups of different ethnic, cultural, religious, linguistic origins and heritage on the basis of mutual understanding and respect. Intercultural dialogue requires the freedom and the ability to express itself, as well as the desire and ability to listen to the opinions of others. It promotes the political, social, cultural and economic integration and convergence of multi-cultural societies. (8)

Today, the Republic of Azerbaijan is recognized worldwide as an example of the coexistence of peoples and nations. Multiculturalism taught national minorities and ethnic identities to love Azerbaijan as much as their homeland. In Intense international conditions of political world, this can only serve as good example and hope for the whole world. However, the situation is tense in one neighboring country - xenophobia, racial and ethnic-religious discrimination is an integral part of their society. The expulsion and deportation of the Azerbaijanis from the territory of Armenia in 1988 clearly support this argument. The war that still goes on has further precipitated the negative image of neighboring Armenia, who tries to maintain mono-ethnicity in the occupied Nagorno-Karabakh region by all means. Doubtlessly, xenophobic policies of our neighbor are a considerable threat to the development of multiculturalism in the region.

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THE PROBLEM OF PEACEFUL USE OF NUCLEAR ENERGY IN MODERN INTERNATIONAL LAW

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Abstract

Nuclear energy is considered one of the most important social factors of the new era, i.e. it has no ancient history. Scientific research, extensive discussions and ideas for determining the conditions of its existence are put forward around this issue. The research and studies are based on the global importance of nuclear energy, its negative challenges and positive opportunities.. The struggle for energy resources, the optimization of the use of traditional energy carriers, as well as the development of new energy sources have long been the most important factor in the formation of modern international relations. The development and application of renewable energy sources, the operation of high-tech nuclear power plants, as well as the transition to new environmentally friendly fuels will significantly reduce dependence on traditional energy sources of oil, coal and gas exporters in the near future and lead to significant geopolitical progress in international relations.

Keywords: *nuclear energy, peaceful purposes, international, IAEA, environment, nuclear power plants, security, United Nations Organisation.*

It is obvious how the emergence of the nuclear phenomenon will affect the moral character of man [4, 8]. Given the global importance and threat in the environmental and economic context, it can be noted that in the presence of nuclear weapons, the development of man and society on Earth has entered a completely new stage. In this regard, J. Harrison proposes to develop a Strategy for the issue of unprecedented importance in the field of thought, knowledge, morality, spirituality, i.e. Humanity. This Strategy can serve as the most fundamental problem of science for the entire history of mankind. Perhaps the whole history of human knowledge is only a preparatory stage for the creation of our more general culture, the realization of which depends on the fact that we are preserved in the biosphere.

The scientific literature suggests that the last two thousand years of history have seen significant radical changes in the human race. The dropping of the atomic bomb on Hiroshima and Nagasaki in 1945, which resulted in the loss of human life, has already shown that there is a tendency in people's character to be hostile, destructive and to ignore the consequences of the step taken.

The real economic benefits of nuclear energy are not enough, and people are more inclined to use it for hostile and military purposes. High security and technological standards must be developed for the purely economic benefit of nuclear energy, which requires sufficient financial resources. For example, the costs of treating radioactive waste as a result of the Chernobyl and Fukushima catastrophes are greater than the economic benefits of these stations.

In any case, it should be noted that the use of nuclear energy is already a matter of global importance, and this area is regulated by international law and is subject to regulation at the highest level of international cooperation. As a result of this work, a large number of international legal acts on the regulation of nuclear energy have been adopted at different times.

The problem of non-proliferation of nuclear materials is one of the most important problems of our time. This problem is considered from at least two aspects: 1) military-political and 2) scientific-technical and economic development. An extreme, prohibitive form of political solution to this problem is defined as "nuclear discrimination."

The UN is the same age as the nuclear strike on Japan. However, the UN Charter does not address issues related to nuclear security. In this regard, K. Jaspers and D. Lakey[6] remind that the principles of nuclear neutrality have serious shortcomings. These principles also contradict Article 2.4 of the UN Charter's provision on "non-threat of force".

The UN and the IAEA actively support the proliferation and disarmament of nuclear weapons. In an interview with the popular German magazine *Spiegel* in 2004, former IAEA Secretary General Mohamed ElBaradei said that "the threat of nuclear war has never been greater, we will approach a nuclear war if we do not move to a new international control system" [10]. In his speech, the chairman of the Nobel Committee O. Myes explained why the Nobel Peace Prize winners in 2005 were the IAEA and Mohamed ElBaradei, because "when the threat of nuclear weapons increases again ... this threat We need to meet with the widest possible international cooperation".

Former United Nations Secretary-General Kofi Annan said at the 2005 Conference on Democracy, Terrorism and Security: "Nuclear terrorism is not a fantastic discovery, it is a completely possible reality [11] ". On the other hand, K. Annan stated in the same year: "Some will describe the spread of nuclear energy as a serious threat, while others will claim that the existing nuclear arsenals are a deadly threat. I urge you to accept that the right to disarmament, non-proliferation and peaceful use is a reality".

In general, both at the UN level and in other international and regional organizations, the use of nuclear technology for peaceful purposes is declared an inalienable right of states. Officials of international organizations have always stated that states should try to find long-term, effective ways to prevent the spread of nuclear energy and its peaceful use. It should be noted that there is no discrepancy between the control over the spread of nuclear energy and its peaceful use. By reducing the risk of the actual spread of nuclear energy, states can create more opportunities for the peaceful use of nuclear energy.

In the context of the nuclear world, the UN and the IAEA consider the need for scientific intervention, especially in the humanities and domestic reforms. The intervention of science in the relevant problem can change the way people think in this area, fill existing gaps and prevent future threats. Referring to Hegel's ethics and dialectics, it should be noted that the ban on the international division of labor in the nuclear field is a historical contradiction that must be overcome. It is no secret that many nuclear tests have been conducted so far and there is enough radioactive waste. In order to bury all this waste, first of all, huge international territories must be created in China, Mongolia, Kazakhstan, Canada and Russia. This seemingly positive and simple idea requires hundreds of billions of dollars (for example, the Yucca Mountain project) [2, 7-14].

At present, the states are trying to reach an agreement in this direction. As early as the beginning of the twentieth century, A. Gluksman wrote that the views of some Russian and Western political forces coincided in the creation of an international nuclear cemetery, and even planned to create such a special zone in Chelyabinsk [1]. In general, international nuclear zones can also be considered as an element of the nuclear non-proliferation system.

As we have already mentioned, nuclear energy is one of the important directions in international relations, interstate cooperation, one of the global problems of our time. Let's explain this situation in more detail.

The struggle for energy resources, the optimization of the use of traditional energy carriers, as well as the development of new energy sources have long been the most important factor in the formation of modern international relations.

In the context of the escalating international situation in countries that are traditional suppliers of hydrocarbons, most developed countries aim to reduce the absolute consumption of energy, mainly from fossil fuels. To a large extent, this is also due to the depletion of hydrocarbons and the unequal distribution of cheap resources to ensure energy security. In addition,

the negative impact of the results of the combustion of hydrocarbon fuels on the world's climate is one of the important factors.

Such an approach to fuel supply is, firstly, shaping the global trend towards new low-hydrocarbon energy. It should be noted that the transition to this trend has already begun. According to UN reports, global investment in renewable energy sources increased by 32% in 2010 and exceeded $ 211 billion. For comparison, the world investment in coal and gas power amounted to $110 billion [8].

According to UNEP, the use of renewable energy sources in the United States, as well as in Europe, continues to grow despite the economic crisis of 2008-2009, falling world oil prices and changes in foreign currencies. Even in 2009, more than 50% of new energy sources in the United States were created from renewable sources.

Second, in the long run, but in a very realistic way, the countries of the world are preparing the preconditions for the creation of a new, low-hydrocarbon sector of the economy. This area is designed for both suppliers and consumers of hydrocarbons. According to Nobuo Tanaka, Executive Director of the International Energy Agency, in 2030, 60% of electricity will be generated from renewable energy sources, the bulk of which will be provided by nuclear energy. According to estimates of other influential international organizations, by 2050, 80% of electricity will be generated from renewable energy sources [12].

Information and diplomatic "wars" have already begun at various levels in the post-Soviet space, as well as in many European countries, over the North and South gas pipelines from Russia. Iran's nuclear program, which is in constant conflict with the IAEA and major nuclear powers, has also exacerbated regional and global nuclear problems with the extreme foreign policy statements of the leadership of this great Islamic country. Russia's technical assistance in completing the construction of a nuclear power plant in Bushehr has complicated Russia's relations with the United States and leading European countries.

The Russia-Ukraine gas dispute in 2014 and the conflicts in the Middle East's major suppliers of hydrocarbons have forced countries that are major consumers of oil and gas to reduce their dependence on these raw materials.

The third is related to the assessment of environmental feasibility, specifically due to the "greenhouse effect" of gases emitted into the atmosphere, which causes significant environmental problems such as global warming. Along with the development of renewable energy since the beginning of the 21st century, the international community has begun to pay more attention to approaches to the global revival of the nuclear energy sector after the Chernobyl accident. At this very moment, on the eve of the 25th anniversary of the Chernobyl accident, on the other side of the Eurasian continent, after the accident at the Fukushima nuclear power plant in Japan, nuclear power was tested, which once again called into question the feasibility of its development. In particular, Germany and a number of other countries, which have taken a course to gradually limit nuclear energy, have become more determined.

In this context, a realistic description of the use of nuclear energy, its impact on international relations and the study of development prospects has become an urgent problem.

Despite the severe tests of nuclear energy in recent decades, the economic costs of extracting oil and gas and climate problems have forced the international community to reconsider its use of nuclear energy. Despite the last place in the ranking of world energy sources (10% of consumption), oil and gas prices are in the spotlight of news agencies, although nuclear energy is 17%, coal 39% and hydraulic energy 19%. Only 1% of electricity is generated by wind and solar plants [3]. Recent events in the world of nuclear energy give us reason to talk about its rapid development [5].

At present, a total of 375 kWh of electricity is generated in 437 nuclear reactors located in 32 countries (where one third of the world's population lives). The United States has the largest number of nuclear power plants: 104 nuclear power plants, which produce 20% of the country's

electricity, 59 in France, 5 in Japan, 30 in Russia, 23 in the United Kingdom, 20 in Canada, 19 in South Korea and 14 in India. . However, the distribution of electricity generation in nuclear reactors is not the same. On average, countries that generate electricity from nuclear power plants meet more than 25% of their needs.

Against the background of a pan-European strategy to gradually reduce dependence on traditional energy and gas suppliers in the field of energy, energy cooperation, especially between Russia and Germany, has led to significant changes in the foreign policies of both countries.

The IAEA is currently considering more than 60 orders for the construction of new nuclear power plants. More than 160 projects are already in the planning stage. According to various estimates, by 2030 the capacity of nuclear power will increase to 550 kW. In the middle of the XXI century, the total capacity of nuclear power plants in the world may reach 1,000 kW. Currently, 53 new nuclear power plants are being built in 15 countries, including 16 in China, 10 in Russia, 6 in India and South Korea, 2 in Japan, Ukraine and Taiwan. The United States plans to launch 30 more nuclear power plants in the next 10 years [7].

It can be argued that an important sector of world energy, such as nuclear energy, not only slows down growth, but is also characterized by stable development dynamics, which is mainly concentrated in developed industrial countries due to its technological complexity. The transition to renewable energy sources due to the abandonment of traditional energy sources and the use of nuclear energy are already developing.

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THE ECONOMIC EFFECT OF HUMAN RESOURCES MIGRATION FROM THE ROMANIAN HEALTH SYSTEM

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Abstract

This article aims to highlight the economic impact of the migration of qualified medical personnel from the perspective of the labor force exporting country in this field, namely the case of Romania. It will also examine the reasons that have prompted this phenomenon to grow in recent years. The association of causal relationships between the migration of healthcare professionals, the provision of health care and the financing of the sector illustrates how the scope of the global health economy should be understood in the context of current conditions and the effects of these issues on the national economy. The importance of understanding migration as an issue of unequal global development, rather than a delineated problem of labor, is made with reference to the reasons for the medical staff to make this decision. It is known that there is a close link between the economy of a country, the level of performance of existing hospital units, the professionalism of the medical staff, and the health of the population. Thus, the lack of human resources, as well as the low financing of the health sector, lead, over time, to an increase in the population's illness.

Keywords: *economy, migration, health services, human resources, public system*

Introduction

The approach of the topic is motivated by the fact that at present the health of the population is directly proportional to the level of the national economy and is an essential point in the appreciation of the economic evolution, by the level of the migration of medical professionals from Romania; an important aspect is the possibility of monitoring the effects of migrating healthcare professionals on the economy and, on the other hand, the influence of the economy on the migration of health professionals. Employees decide to temporarily or permanently migrate to more economically developed countries, where they have the opportunity to evolve professsionally in an expanded environment and receive salary compensation as expected. Migration also takes place across the country, from rural to urban, a phenomenon that has widened in Romania, with the rural areas facing an acute shortage of medical staff, according to statistics. This phenomenon has grown and is impossible to stop, however, with the support of the authorities; there would be the possibility of diminishing it.

The national economy, through sub-financing of this sector, has a decisive role in the decision of the human resources to leave the national system of health services. Employees in the health care system are the key element in developing a prosperous and balanced society, and the training and retention of health professionals in this sector have direct effects on every member of the community. As we will show in the second part of this paper, the national health care system, influenced by economic, political and social transformations, has been manifested by strong labor migration, both highly qualified and unskilled, which in the long run has negative effects on the state of health of our country's population. Thus, the insufficient financial resources, as

well as their efficient management, lead to the impossibility of keeping the medical staff in the system that has formed them.

As the health of the population is the most valuable asset given to the society, it is necessary that the human resources within this system to hold a high level of education and professionalism. In this respect, educational and vocational training would be regarded with seriousness and dedication, both by future health professionals and the relevant institutions in forming young people in this area. Training of human resources in health services begins with attending faculties or sanitary college schools and practice in hospital units, where once motivated, students practice upon their professional training.

In contrast to the other professional categories emigration of health professionals directly affect society by reducing the availability and quality of healthcare services. Although the number of graduates and young people moving towards this profession is growing, our country is facing an acute lack of medical staff. This is possible because of emigration that has grown in recent years and the negative effects have an impact on the entire national public health system.

The decision of Health Professionals to Migrate

The first significant wave of international migration of medical staff was in the 1960s when doctors from large Asian states such as the Philippines and India and Iran migrated mainly to the United States. Doctors and nurses in the Philippines and South Asia have begun to work in the UK too and, over time, migratory flows have become routine and stimulated by active recruitment. [2, 5]. In the context of accelerated evolution, with the abundance of information and knowledge they benefit from, people are increasingly expecting lifestyles demanding more and more financial resources, and so their options are moving towards immediate gains, and migration offers the prospect of a secure gain.

As health care has become increasingly commercialized, migration has become the same, encompassing most countries, as importing and exporting labor in the medical system. In particular, the need for greater earnings has led healthcare professionals away from the area's most in need of health care, such as the Democratic Republic of Congo, Zimbabwe, Madagascar, Haiti, etc., and few parts of the world have remained unaffected by this phenomenon. The most affected countries are poor, underdeveloped countries, whose population continues to grow, thus putting pressure on health systems. On the opposite side, the main beneficiary countries are developed countries, focusing on the health system as a prerequisite for a healthy population. [2, 6].

Maintaining and providing stability for healthcare professionals is difficult to achieve, given the poor economic situation in the national context and envisages two categories of factors:

• *external*, that distinguishes the internal evolution of the labor market from the international one and makes the character of the economic resources to put its imprint on the behavior of human resources;

• *internal*, that generate the modification of the motivational hierarchy of the healthcare professional, because the organization no longer has the ability to provide it with the social and material situation to which it aspires;

Thus, we can talk about the factors that lead to the decision of qualified healthcare professionals to leave the system that has formed them. Ahmad (2005) in „Managing medical migration from poor countries" focusing on the reasons for migrating healthcare workers have identified two major categories of factors:

• *existing factors in the country of origin*, which have the role of determining the migration: low wages, low motivation, lack of basic medical supplies, unreliable working conditions, outdated equipment, lack of supervision, limited career opportunities; as well as factors such as inequalities in human rights, lack of ethics in certain segments, religious tensions, political persecution, wars, and economic collapse, have an important role in the medical staff's decision to leave their origin country;

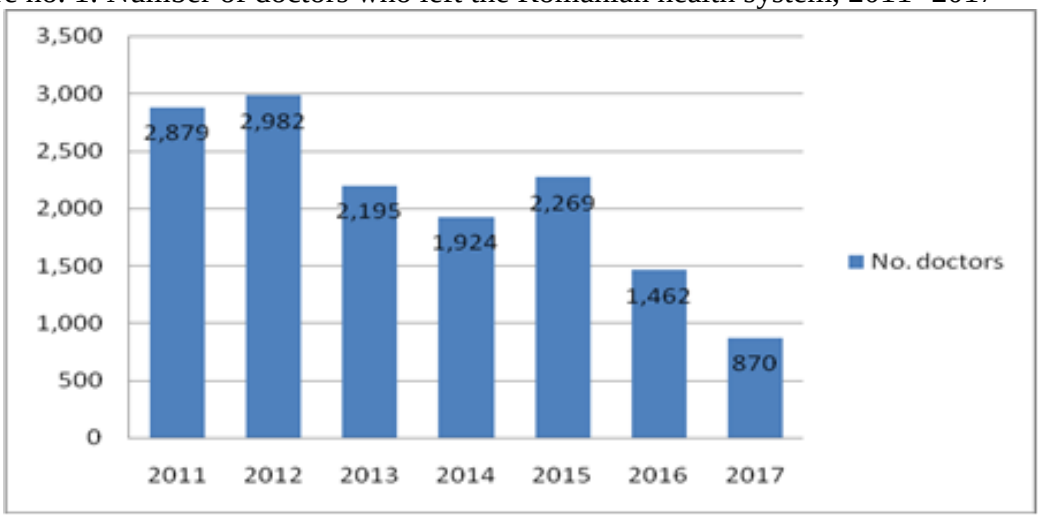
• *existing factors in the host country*, which have the role of attracting health professionals: economic reasons, access to professional development opportunities and job security are the most important factors. [1, 43]. The decision to migrate is a combination of these categories of factors.

Increased demand for qualified healthcare professionals in developed countries influences and guides migratory flows so that employment in health services accounts for about 10% of total workforce in developed economies and around 6% in countries with developing economies, thus having a significant influence on the global labor markets. [2, 68].

The migration of medical professionals are found:

• *from Romania to the EU member states*: the phenomenon of migration of medical staff has intensified in the context of Romania's accession to the European Union; the right to freedom of movement for professional purposes is guaranteed by national and international law, so that the migration of health professionals has grown in the first years after joining the EU, but according to statistics has been diminished in recent years; however, the number of qualified healthcare professionals leaving the national health service system is high, emphasizing the differences in this segment between our country and the EU member states.

Figure no. 1: Number of doctors who left the Romanian health system, 2011- 2017



Source: authors' elaboration based on data from Eurostat (2018), available on www.ec.europa.eu

According to statistics, in recent years, the number of physicians who have left the national health care system has dropped considerably. Of the analyzed years, in 2012, most doctors left the country, 2982, 103 more than in 2011, 787 more than in 2013 and 2112 more than in 2017. Also, the year 2015 registered a large number of physicians in our country, namely 2269, and in 2016 this figure will be considerably reduced by 807 and 2017 by 870 doctors who left our country. Thus, between 2011 and 2017, 14,581 doctors have left Romania for the EU Member States.

• *from the public system to the private system:* taking into account differences in pay and working conditions, health professionals prefer to practice in the private sector, to the detriment of the public sector; thus, we find a discrepancy in the number of healthcare professionals in the two sectors, as seen in the health status of the population; in the public health system, a low number of health professionals means waiting lists for patients who have to pay the value of the consultations in the private health system.

	Doctors (excluding dentists)		Dentists		Pharmacists	
	Public System	**Private System**	**Public System**	**Private System**	**Public System**	**Private System**
2014	40.658	14.271	3.032	11.847	991	16.108
2015	34.976	21.134	1.631	13.925	1.025	16.110
2016	35.680	21.624	1.643	14.799	1.103	16.077
2017	36.788	21.795	1.619	14.034	1.161	16.672

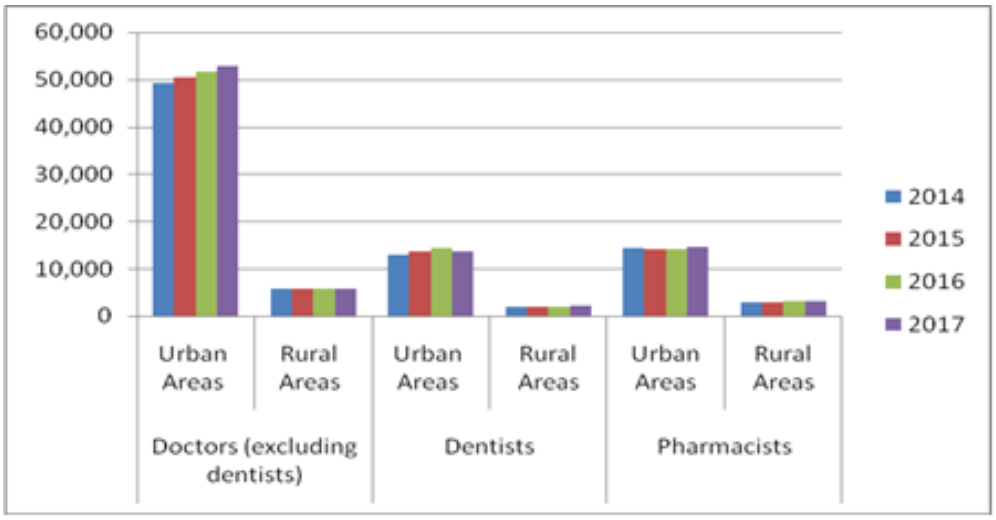
Table no. 1: The number of qualified healthcare professionals in the public system compared to the private system

Source: authors' elaboration based on data from INS (2014, 2015, 2016, 2017), available on www.insse.ro

During the analyzed years, it can be noticed that the number of physicians in the public system is steadily decreasing, while the number of physicians in the private system is increasing. The public health system also has very few dental practitioners, compared to the private system. The situation is similar in terms of the number of pharmacies, which in the private system is much higher compared to the public health system. Private sector pharmacies are of major importance for the economy because they have a very high profit. The profit of pharmacies is directly proportional to the health of the population, which means steadily rising earnings, while hospitals receive lower funding from the public budget. The differences between the number of qualified health professionals working in the two systems are very high. In the public health system, there are very few doctors compared to the private system, although most of the population access the public health system.

- *from rural to urban areas:* lack of institutions, infrastructure to travel to and from rural areas and the prospect of professional development lead to the desire of health professionals to choose to work in the urban areas, thus giving society new cases of villages without the possibility to access the system national health services. Significant disparities between urban and rural areas are mainly due to the lack of sanitary institutions in some villages, as well as the lack of specialized medical staff. Although it is known that consumers' needs and demands determine the development of systems, this is not the case in rural areas, given the possibility of traveling in the urban areas to solve medical problems. The health instability provided by the rural areas authorities leads to the inability to overcome the precarious living standards in some villages of Romania.

Figure no. 2: The number of qualified medical professionals in the urban areas compared to rural areas



Source: authors' elaboration based on data from INS (2014, 2015, 2016, 2017), available on www.insse.ro

There is a major difference between rural and urban areas in terms of the number of healthcare professionals. There is a major difference between rural and urban areas in terms of the number of healthcare professionals. In rural areas, the number of medical staff is continuously decreasing, so that in 2017 there were 5,656 doctors in the rural area, compared to 52,927 in the urban area. The situation is similar in terms of dentists and pharmacies, so the urban environment faces an acute shortage of medical staff.

Financing of the Healthcare System- a Determinant Factor in the Migration of Medical Staff

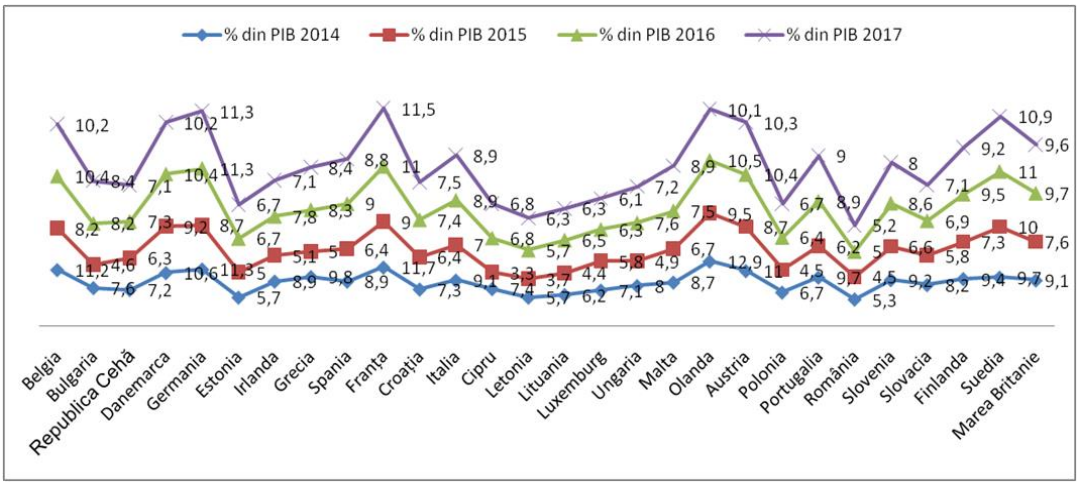
The steady increase in medical staff migration is reflected in the expansion, internationalization and accelerated the globalization of the health services sector over the past two decades, and is driven by rising demand for skilled workers in developed countries where health care is increasingly expensive. Thus, professional healthcare services are part of the new internationalization of the workforce and are increasingly driven by demand, resulting in disparities between developed and less developed countries, which in the long run lead to increased disease of the population.

Demographically, economically, politically, socially and, of course, from a medical point of view, the phenomenon of migration has a significant impact at local, regional and global level. Migration also has benefits such as providing health care to the population, improving health professionals through experience exchange, and the ability of countries, through their populations, to engage in the global economy and society. [10, 87- 88]

Health care workers directly improve the quality of life of the population, which can contribute to the economic prosperity of a country through people who have labor. The key issue affecting countries in the crisis of health care professionals is that health workers are different from other skilled workers by keeping people alive and ensuring the welfare of communities and nations. [9, 79]

According to statistics, the main reason why medical staff decides to leave Romania is a wage payment well below the minimum level existing in the European Union. Also, the precariousness of the economy, which prevents the allocation of substantial amounts of GDP to this sector, the lack of interest and support of the authorities, determines the medical staff to opt to work in other countries.

Figure no. 3: Percentage of GDP allocated to healthcare in EU countries



Source: authors' elaboration based on data from Eurostat (2018), available on www.ec.europa.eu

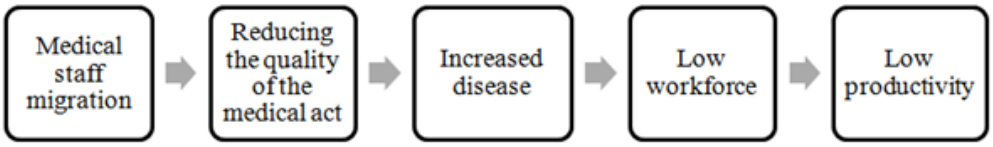
During the analyzed period (Figure no.3) it can be noticed that, in most states, the percentage of GDP allocated to the health sector has increased from one year to the next. Developed countries such as Belgium (10.2% in 2017 and 10.4% in 2016), Germany (11.3% in 2016 and 2017), France (11.5 in 2017 and 11.0 in 2016), Austria (10.3% in 2017 and 10.4% in 2016) and others allocate a relatively high percentage of health, while Romania, in 2016 and 2017, is the last one in the ranking, with a percentage of GDP allocated to health of 5 % and 5.2% respectively. Compared to the United States average, Romania is also well behind. Thus, in 2016, Romania allocated 5% of health compared to U.E. 8.3%; in 2017, U.E. allocated to this sector was 9.6%, while Romania allocated only 5.2%. It is also necessary to take into account the fact that developed countries allocate a higher percentage of GDP to this sector, but also the GDP of these countries is higher; even if Romania would allocate a higher percentage of health care, it would still be lower than the sum of the other countries and compared to the needs of our country's population, which, depending on the less healthy lifestyle, directly influenced by the national economy, develops various diseases, requiring medical care.

The Effects of Medical Staff Migration from Romania

The consequences of medical migration can be subdivided into costs and benefits for source and destination countries. The general effects on the economy will depend on the interaction of several factors that influence the decision of the human capital to leave the source countries and to choose the country of destination. The effects of this phenomenon include the number of remittances from the country of destination to the source countries, the impact on the labor market in the source and destination countries, the consequences for the quality of the provision of health services and the state of health of the population in the source and destination countries. [8, 305].

The migration of healthcare professionals has an impact on society as a whole, by reducing the quality of the medical act, increasing the degree of illness of the population and thus reducing the workforce, which diminishes economic development.

Figure no. 4: The effect of migrating medical staff on the economy



Source: authors' elaboration

The effects of migrating medical staff on Romania can be divided into:

• costs of training: in Romania, the level of professional training of future health professionals is high and expensive, and more young people opt for the profession in this system, taking into account as the main possibility the qualification in the country and the occupation abroad. Thus, at the national level, there are numerous universities of medicine, dentistry, and pharmacy, as well as post-graduate healthcare schools, whose graduates are physicians, pharmacists, nurses, pharmacy assistants, as well as nursing and physiotherapy nurses.

• unskilled medical staff: once the phenomenon of migration has become more prominent, especially skilled health professionals have expressed their willingness to leave the country for professional development; thus, in the public system of health services in Romania, we meet unskilled medical staff or qualified medical personnel on a certain segment but who, due to lack of staff, they have to cover other specialties.

• overworked medical staff: the lack of medical staff leads to overworking of the existing ones in the system and thus, the quality of the medical act is diminished; Romania is facing health facilities lacking specialist doctors so that the healthcare units that can offer certain types of consultations are overwhelmed by waiting lists.

• reducing the quality of the medical act: is a consequence of both the existence of unskilled personnel in the system and the overworking of medical staff; also, the public health system in our country does not allow to invest in high-performance equipment and in a safe environment for both healthcare professionals and patients; these issues lead to an increase in the population's illness, a decrease in productivity and thus a decline in economic growth.

Given its positive and negative effects on healthcare systems, medical tourism remains a significant and challenged phenomenon, due to its potential to serve as a powerful force for unfair healthcare provision globally.

• increasing the degree of illness of the population: is a consequence of the large number of patients who suffer from a medical background and the lack of investment in the public health system, which leads to a low labor force and thus an impossibility of economic growth;

In addition to these direct pressures, there are side effects of migratory healthcare, such as diminishing health outcomes, diminishing economic growth, and government revenue from taxes paid by healthcare professionals.

Conclusions

In the long term, the result of migrating health professionals will mean hard access to basic health services, which will lead to overworking of staff remaining in the system, the increase in the costs of these services and, last but not least, the disease index, mean listing of patients seen in a hospital organized by a specific criterion. By investing in training human resources and maintaining them in the national health care system, society should aim to increase the health of the population for economic development.

Globally, the phenomenon of migration can reduce health inequalities by covering the shortage of health professionals in the destination countries and may increase inequalities in the difficult access to health services in source countries. The effects of the lack of medical staff are felt in the decrease in the availability and quality of health services.

However, the migration of medical staff can also have beneficial effects on the source country, which can also be felt in the health system. Physicians leaving abroad can help establish collaboration contacts between institutions and specialists from developed countries, which foster the development of the medical system in disadvantaged countries. Also, the experience of working abroad involves the acquisition of new skills and competencies, which can then be valued in the source country. Thus, the return of physicians who have worked abroad can have the effect of working experience, which can favor investments in technology, changes in organizational management, increase the quality of the doctor-patient relationship, and favor the development of the public health service system. Advantages for the source country are more important in the case of temporary migration. The return of medical staff allows the recovery of the state's investment in their training and adds the experience and qualification obtained by the human resource. Given the positive and negative effects of the migration of medical staff, we can say that the negative effects are more numerous and affect the whole population.

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