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# THE IMPACT OF NEW TECHNOLOGIES ON HUMAN RIGHTS IN THE CONTEXT OF THE RIGHT TO BE FORGOTTEN AND THE RIGHT TO PRIVACY

Abstract. The development of new technologies also has an impact on human rights. In the previous "epochs" of global information society, it was stated that that traditional rights can be exercised online. For instance, in 2012 (and again in 2014 and 2016), the UN Human Rights Council emphasized that 'the same rights granted to people, so to speak, in an "offline" manner, must be protected online as well'. This, in its turn, implicitly brought to the reality that the new technetronic society did not create new rights. Though, we should take into consideration that in the digital world national legislative norms that guarantee the confidentiality of personal data often do not catch up with the technological development and, thus, can't ensure confidentiality online. Therefore, the impact of digitalization on human rights within the frames of international and national laws should be broadly analysed and studied.

The article's objective is to analyze the impact of new technologies on human rights in the context of the right to be forgotten and right to privacy. Because the development of new technologies is more closely linked to the security of personal data. With the formation of the right to be forgotten, it is the issue of ensuring the confidentiality of certain contents of personal data as a result of the influence of the time factor.

The authors conclude that, the right to be forgotten was previously defended more in the context of the right to privacy. However, they cannot be considered equal rights. The right to be forgotten stems from a person's desire to develop and continue his or her life independently without being the object of criticism for any negative actions he or she has committed in the past. If the right to privacy contains generally confidential information, the right to be forgotten is understood as the deletion of known information at a certain time and the denial of access to third parties. Thus, the right to be forgotten is not included in the right to privacy, and can be considered an independent right. The point is that the norms of the international and national documents, which establish fundamental human rights and freedoms, do not regulate issues related to the right to be forgotten. The right to be forgotten should be limited to the deletion of information from the media and Internet information resources. This is not about the complete destruction of information available in state information systems.

Another conclusion of authors is that the media and Internet information resources sometimes spread false information. In this case, there will be no content of the right to be forgotten. Because the main thing is that the information that constitutes the content of the right to be forgotten must be legal, but after some time it has lost its significance. The scope of information included in the content of the right to be forgotten should not only be related to the conviction, but also to other special personal data (for example, the fact of divorce).

KEYWORDS: new technologies; digital rights; right to privacy; personal data; right to be forgotten; information; positive obligations; negative obligations.

The impact of new technologies on human rights can be characterized as following: Ensuring traditional rights in a traditional form; Ensuring traditional human rights in a new form; Formation of new rights.

It is also worth to mention that in many cases, the current situation does not grant a person an opportunity to opt for either a traditional or non-traditional form of realization. Therefore, the actuality of electronic document exchange in many workplaces has minimized the level of appeal to hard-copy of documentation.

As the use of the Internet increases, protection and respect to fundamental rights and freedoms of everyone should be guaranteed with much more vigilance. In a global society, six out of ten people do not have access to the Internet, and human rights abuses, including shutdowns, surveillance of activists and journalists for online activities, collection of personal data without personal consent, and digital surveillance, is ongoing.

Such problems have a negative impact on human rights, especially on the personal data security.

### *1.1. New Technologies and Human Rights*

The influence of the development of new technologies on human rights has been in the interest spectrum of the international community for several years and there is a term coined for it – "digital rights". In fact, the Coalition of Cities for Digital Rights, which unites 45 cities, adopted its Declaration on Digital Rights as an outcome of a meeting conducted in late 2019. Moreover, the Coalition founded by Amsterdam city, Barcelona city and New York in 2018 and currently being supported by the United Nations Settlement Program (UN-HABITAT), the UN Office for Human Rights, UN Cities and Local Governments and Eurocities, has targeted the protection and ensuring human rights and freedoms at the local and global levels as its primary goal.

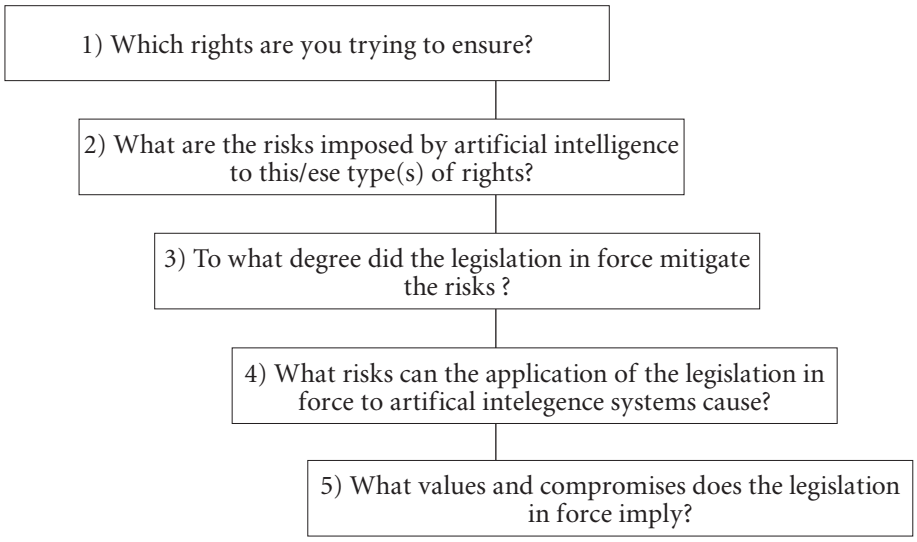
The Coalition of Cities for Digital Rights contributes to bettering the living condition of people through the application of technology and the provision of reliable digital services and infrastructure to the urban population. The Coalition's activities are aimed at sharing best practices, peer-to-pear learning, and coordinating common initiatives and activities[1]. Declaration of Cities Coalition for Digital Rights defines five (5) main principles[2].

Digital rights are the main human rights to be ensured in the epoch of internet. For instance, online privacy and freedom of expression are an expanded and modernized form of equal and inalienable rights enshrined in the United Nations Universal Declaration of Human Rights. The issue is that in most sources, when it comes to digital rights, the right to freedom of expression and inviolability of a person on the Internet comes to the fore. Moreover, the Digital Rights Ranking has chosen to promote freedom of expression and confidentiality on the Internet by creating global standards and incentives for companies to respect and protect the rights of users[3].

As was mentioned above, under the condition of digitalization transformation of traditional human rights is inevitable. It is highly recommended to review the legislation on ensuring human rights with regards to the application of new technologies. On this subject, the authors suggest responding five questions in the following order[4]:

Having a glance at these steps, one can notice that the main issue starts with the second stage. At this stage one can clarify if the legislation in force can significantly reduce the risks mentioned in the third stage. The fifth stage is defined to prevent the risk of "suffocating" the novelty of legislation in force.

[1] '45 Cities to endorse digital rights in cities' *(United Nations Human Settlements Programme)* <https://unhabitat.org/story-45-cities-to-endorse-digital-rights> (accessed: 15.02.2021).
[2] Declaration of Cities Coalition for Digital Rights <https://citiesfordigitalrights.org/declaration> (accessed: 15.02.2021).
[3] 'About Ranking Digital Rights' <https://rankingdigitalrights.org/about> (accessed: 15.02.2021).
[4] Iria Giuffrida, Fredric Lederer, Nicolas Vermerys, 'A Legal Perspective on the Trials and Tribulations of AI: How Artificial Intelligence, the Internet of Things, Smart Contracts, and Other Technologies Will Affect the Law' [2018] 68 (3) Case Western Reserve Law Review 776.




The Notification and Cancellation Doctrine[5] was created for this reason and it aims to reduce the liability restrictions imposed by the legislation in force on ISPs.

It would be relevant to interpret and reflect the stages of answering these questions within a single law. As social networks are one of the most essential topics of our time Nowadays, 2,60 billion monthly active users apply Facebook, which is used by more than 60 % of Internet users, while 1,73 billion daily users apply this social network. Thus, filters to identify extremist content with calls for violence on Facebook were installed. Though the question arises on the type of information which these filters include in extremist content. Do such filters restrict freedom of expression? – Primarily, let's comment from the legal point of view and adapt this interpretation to practice. Thus, a three-part test was established to assess the restrictions on freedom of expression in Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950):

– Restrictions should be prescribed by law;

– Restrictions must be directed to the protection of one of the legitimate interests (provided for in Article 10.2 of the Convention);

– Restrictions must be absolute and unqualified in a democratic society.

Thus, any form of restriction of freedom of expression must correspond to a "pressing social need" and be commensurate with the legitimate goal (s).

[5] Legal frameworks such as the Directive of EU on e-trade (ECD) the U.S. Millennium Digital Copyright Act, provide a secure opportunity for various Internet actors to avoid liability for copyright violation in case they meet certain conditions. One of the common features imposing by these acts is that mediators must respond by deleting the content of the alleged violation when they receive a notification from the alleged infringer or his representative.

What can be considered as an "terrorist and violent extremist content"? – According to the Recommendations № 97 (20) of Council of Ministers of EU:

> Hate speech shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin[6].

This article affects imposing restrictions on Facebook. But who defines the content and how does it happen? How is the content placed in the filters that causes the restriction being changed? – To respond to these questions, the norms applied to traditional mass media should be applied in an updated version to new social networks.

### *1.2. Bad luck or a Mistake in the Elaborated Approach? The Right to be Forgotten as the Forthcoming Right in Times of Technological Development*

It should be noted that, though it is linked to the development of the Internet or information technology, the right to be forgotten did not arise from the above-mentioned technological progress. Induced by the dynamic development of new technology, this issue has gained its actuality. The emergence of this right originates from wants and needs of a person 'to develop and continue to live independently without being stigmatized for the rest of their lives for any negative actions they have committed at any time in the past'. However, we should emphasize that yet in the recent past the right to be forgotten was directly linked to the media. For instance, the 1998 decision of the Italian Supreme Court ruled that

> after some significant time passed, media can not re-publish more news related to past events (often judiciary cases) in which the person was involved unless a news item that had been legally broadcast in the past would be re-updated due to newly emerged connected to it events or other similar situation[7].

As another example, we can refer to the precedent case of the US California Appellate Court: The complainant, Gabrielle Darley, was a prostitute a few years ago and was convicted of murder and later acquitted by the court. After her acquittal, she abandoned the easy way of life and completely changed her lifestyle. She married Bernard Melvin in 1919, and since then she has made

[6] Recommendation No. R (97) 20 of the Committee of Ministers to member states on "hate speech". Adopted on 30 October 1997 by Committee of Ministers of Council of Europe <https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680505d5b#globalcontainer> (accessed: 15.02.2021).

[7] Maria Allegri, 'The right to be forgotten in the case-law of the Italian Court of Cassation' (2018) 22 Gazdasági tendenciák és jogi kihívások a 21. században 9–21.

many friends who have known nothing about her pervious life. In 1925, without Darley's permission, or her being informed, or her consent, Gabrielle Darley's name was used in the filming of the animated film The Red Kimono. "Unpleasant" facts about her life were exposed and disseminated.

Doubtless to say, all this had a negative impact on his reputation in society. Darley has filed a lawsuit alleging invasion of privacy. The court's decision, which assessed the incident as a violation of the right to privacy, stated:

> One of the greatest goals of the management of society and the penitentiary system is the correction and rehabilitation of the offender. Bearing in mind these theories of sociology, our purpose is not to destroy the failures, but to uplift them, encourage and help them survive. When a person recovers through his own efforts, as thoughtful members of society, we must allow him/her to continue his/her journey on the right path, rather than throwing him back into shame or criminal life. The thief on the cross was also granted repentance and remission of his sins during the last hours of his suffering[8].

The development of ICT in modern society has shaped a new approach to this right. Especially, after the legal case of Google Spain SL and Google Inc. v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González (2014)[9], different approaches to this right were developed. According to the abovementioned case, a house owned by a Spanish lawyer Mario Costeja González, is being sold at an auction held by the Spanish Ministry of Labor and Social Protection because the lawyer was unable to pay his social security debt due to financial difficulties. This event was depicted is in the form of articles that were published in La Vanguardia Ediciones SL (La Vanguardia), one of the most famous newspapers in Catalonia.

Even though, after a long time passed the González's case has been closed, a Google search for González's name results in a link to two La Vanguardia's articles. In articles dated January 19 and March 9, 1998, González's name is linked to a real estate auction for non-payment of social security checks. Referring to this, González filed a complaint to the Spanish Data Protection Agency, against La Vanguardia, Google Spain and Google International (Google) on 5 March 2010. He requested that the relevant pages must be removed, or the context of the article must be changed in La Vanguardia, Google Spain and he required from Google to delete the news about it. According to complainant, the notorious procedure finalized years ago, and now this news is completely irrelevant and insignificant.

[8] Melvin v. Reid, Court of Appeal of California. Feb 28, 1931 <https://www.casemine.com/judgement/us/5914cd3eadd7b04934810dfd> (accessed: 15.02.2021).

[9] Google Spain SL and Google Inc. v Agencia Española de Protección de Datos (AEPD) and Mario Costeja González (2014) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62012CJ013> (accessed: 15.02.2021).

The Data Protection Agency of Spain claimed that the issue was directly related to search engines. According to the Court of Justice of the European Union, search engines are liable to third parties who do not want the information about them to be published. This issue is regulated by Directive 95/46/EC of the Council of Europe and the European Parliament from October 24, 1995[10]. 'On the protection of individuals with regard to the processing of personal data and on the free movement of such data'. According to the assessment conducted within the framework of this Directive, firstly, the issue of processing of personal data by search engines is investigated and clarified. In case it is confirmed, then search engines will be considered as personal data managers.

On this legal case the Court of Justice of the European Union decided that search engines collect and organize data, store personal data within their own indexing program and servers, detect information by status and present it to users in search results. Therefore, it can be assumed that search engines process information, including personal data. These operations are considered as data processing in accordance with Article 2 (b) of the mentioned Directive and are performed by search engines on web pages these search engines are responsible for the processing of personal information displayed on web pages.

In conclusion, The European Court of Justice has stated the following about the right to be forgotten

> <…> According to Mr. Costeja González and the Governments of Spain and Italy the subject of the information may deprecate to the indexing by a search engine of the information related to him/her when this dissemination through the search engine is causing harm to the subject. Moreover, the right to personal security, which includes the 'right to be forgotten' is above the legitimate interests of the search engine operator[11].

Therefore, the right to be forgotten is not considered under the frame of the right to privacy, and it can be considered as fully-fledged separately standing right. Overall, the considered right differs from other rights based on following features:

*Primarily*, though the right to be forgotten in the modern sense of the term is related to personal data, the main feature that distinguishes it from other rights is that the content includes not only illegal information, but also legal one (for the moment it is published). Thus, it means that personal information, which is legal over a period, becomes illegal due to changing circumstances and because of the fact that the right to be forgotten comes to force.

[10] Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31995L0046> (accessed: 15.02.2021).

[11] Judgment of the Court (Grand Chamber), 13 May 2014 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62012CJ0131> (accessed: 15.02.2021).

*Secondly*, the other characteristic that differentiate the right to be forgotten is the matter of time. There is a violation of the right to privacy in case legal interests posed against publication of the personal data at the time of its publication outbalance the advantages in favour of the publication of personal data. The case is different regarding the right to be forgotten. At the date of posting personal information on the Internet, legitimate interests in favor of the publication/posting of information may prevail over those opposed to them. Although, due to the matter of time and changing circumstances, personal information published on the Internet becomes illegal. One of the most essential (perhaps the most significant) reasons for this transformation is the passage of time. To put it in other words, the moment of the realization of the right to be forgotten is a characteristic feature that distinguishes it from other rights.

*Thirdly*, the other characteristic of the right to be forgotten is that its realization is connected only to the Internet, i.e. from the "spatial" perspective this right covers only the Internet. Therefore, the right to be forgotten covers a narrower area than the right to privacy[12]. It is also noteworthy to mention that the right to be forgotten means that the information on the Internet is not completely stalled within the law. The following questions arise:

– Is there a need for the right to be forgotten to exist and come to the – realization?

Which information does the content of the right to be forgotten cover?

– Does the right to be forgotten, from the perspective of the contemporary meaning of the term, cover only the erasing of date from search engines?

– Considering that the right to be forgotten differs from other rights, based on which international and national legal norms is it regulated?

– Is there guaranteeing mechanism for the right to be forgotten?

If we respond to the above-mentioned questions in specific order, it would be more relevant for the purpose of the current research. It has been already mentioned that the right to be forgotten first came to the fore in connection with facts such as judicial conviction. Here are other issues that pop up as well. For example, can a divorced person file a claim for protection of the right to be forgotten by requesting the subsequent erasing of divorce information from the system? Or the other example: Can a person suffering from a psychiatric illness afterwards apply for the deletion of a report about him on any news portal? – Here one should emphasize that, first, the right to be forgotten is closely interrelated with the search engines.

That is due to the reason that the information stored in information systems is protected as confidential information under the "tag" of personal data. A right for individuals to have personal data erased listed in the GDPR – General Data Protection Regulation is expressed in the similar norm in the

[12] Can Yavuz, 'Unutulma hakkı' (Yüksek Lisans Tezi, Yeditepe Universitesi 2016) 43–6.

national legislation 'the right to demand the clarification and destruction of personal data collected and processed in the information system, except as provided by law'.

Based on the Anglo-Saxon and European experience, it can be concluded that the right to erase data from the information system is equated with the right to be forgotten. Therefore, in the title of the Article 17 of the General Rules for the Protection of Personal Data which stands for the right to erasure, in parentheses it is written "right to be forgotten". From our standpoint, the "special category of information" mentioned in the Law of the Republic of Azerbaijan "On Personal Data" can be linked with the right to be forgotten: special category of personal data – information related to an individual's race or nationality, family life, religious beliefs, health or judicial conviction. A similar provision is provided in the Article 6 of The Convention for the protection of individuals with regard to automatic processing of personal data: 'Personal data revealing racial origin, political opinions or religious or other beliefs, as well as personal data concerning health or sexual life, may not be processed automatically unless domestic law provides appropriate safeguards. The same shall apply to personal data relating to criminal convictions'.

The legislature shall establish the following rules regarding the specified category of personal data: as soon as the causes required for the collection and processing of specified category of personal data are eliminated, the processing of this information should be immediately cancelled, in case there is no approval from the subject of the specified category of information to store the information in the information systems or archive it, this information should be immediately deleted. However, the collection and processing of special categories of data is allowed only in the following cases:

– If the collection and processing of special categories of information is mandatory in cases established by law;

– If the information of a special category belongs to the category of open data in accordance with the procedure provided for in Article 5.3 of this Law;

– If the collecting and processing of the information of a special category is essential for the protection of life and health of the subject of the information, other individual or a group of individuals and in case there is no possibility to get approval from the subject of the information of a special category;

– If collecting and processing of the information belonged to members of public unions or other non-profit organizations is required for the achieving legitimate purposes of these entities and while safeguarding that this information will not be passed to the third parties without approval and consent of the subject of the information of a specified character (Article 9).

It is also stated in the Article 32, paragraph VII of the Constitution of the Republic of Azerbaijan that information technologies may not be used for disclosing information about private life, including beliefs, religion and

ethnic identity except in the cases when the concerned person has openly expressed his/her consent or when the statistical data of anonymous nature is being processed without discrimination and in other cases prescribed by law. The fact that this paragraph does not include information on family life is itself somewhat controversial. In fact, the root of the problem is that national legislation does not provide a complete definition of personal information. Legislator that considers personal information as referring to any information that allows for direct or indirect identification of a person (Law of the Republic of Azerbaijan "On Personal Data" dated May 11, 2010) evaluates personal data as a set of information on personal and family life reflected in other norms covering the realm of information. In case the special category of information is considered as the content included in the subject of the right to be forgotten, then it would be more relevant to introduce appropriate amendments to the Article 32, paragraph VII of the Constitution.

Hence, the legislation of the Republic of Azerbaijan does not equate the right to erasure with the right to be forgotten. As a matter of fact, by introducing the above-mentioned edits to the content of personal data, it will be possible to guarantee that the right to be forgotten will cover also special categories of information. The right to be forgotten should be limited to the erasure of information from the media and Internet information resources. The issue is not about the complete elimination of information available in the governmental information systems. The point is that although the General Rules for the Protection of Personal Data also cover both mentioned rights under the same article, the rules imply only regulation of the right to erasure. This is due to the reason that the data subject has the right to proceed with the erasure of personal data by the controller without excessive delay, and the controller is obliged to delete personal data without delay if one of the grounds specified in the Rules is applied. By supervisor, the Rules means a natural or legal person, government agency, agency or other entity that alone or in conjunction with others determines the purposes and means of processing personal data. In this case the following question comes up: This, in its turn, means that the Rules will not provide the realization of the right to be forgotten in case of the news on a person's conviction and ensuring moral damage consequences after years of social media reporting.

Overall, the right to be forgotten includes erasure of data from the following sources:

– News archives of the newspapers. As a result of data flow, increased data storage capacity, and digitalization, many media archives have been digitized. Access to "past" issues/numbers is relatively unchallenging. Namely, digital copies and archives of newspapers, as well as printed – hard copies, can contain a lot of information that constitutes the content of the right to be forgotten.

– Records/notes stored in search engines. In addition to newspaper news archives, search engines have become increasingly important in both public and professional life as technology has become a significant tool for individuals. It is no co-occurrence, that the right to be forgotten appeared for the first time in Gonzalez's case in connection with search engines.

– Sosial media platforms. Today, social media platforms play a significant role in society. According to the statistics for 2020, there are now 4,57 billion people in the world using the Internet, of which 346 million new users have access to the Internet in the last 12 months, and more than half of the world uses social media applications[13]. Thus, it is quite relevant that personal information shared on social media is often subject to the right to be forgotten. Another characteristic is that the information on social media platforms is provided mainly by the subject of information or with her/his consent.

Another criterion to take into consideration while dealing with the right to be forgotten is the nature of the information. According to the Google Advisory Board on the Right to be forgotten, a double distinction must be made when assessing the nature of the information. According to this difference, information is defined as information that is characterized by the confidentiality of the individual (personal and family life) or is assessed as information required for public benefit. The Google Advisory Board brings many references/quotes in which a person's privacy prevails, with information about an individual's sexual life being here a classic example. In these circumstances, confidentiality will generally outweigh the public interest. However, there may be an exception to the general rule, if the information is related to information subjects who are public persons[14].

Another point here is that the sources listed above sometimes spread false information. In this case, there will be no ground for the realization of the right to be forgotten. This is due to the fact that the main thing is that the information that constitutes the content of the right to be forgotten must be legitimate, but after a certain period of time it has lost its significance.

To paraphrase, the passage of time makes the data obsolete, which reduces the relevance of the information to the subject. Another effect of the past on information is that the information becomes obsolete and contradicts the purpose of processing. It is no coincidence that the General Rules for the Protection of Personal Data include the principle of "Restriction of Data Storage", according to which data should not be stored more than necessary, data should be regularly audited and unused data should be deleted. Actually, several issues should be highlighted here. Primarily, it is usually clarified

[13] Dave Chaffey, 'Global social media research summary August 2020' (*Smart Insights,* 11.03.2021) <https://www.smartinsights.com/social-media-marketing/social-media-strategy/new-global-social-media-research> (accessed: 15.02.2021).

[14] 'The Advisory Council to Google on the Right to be Forgotten' <https://static.googleusercontent.com/media/archive.google.com/ru//advisorycouncil/advisement/advisory-report.pdf> (accessed: 15.02.2021).

either the data has an expiration date or not. If there is a norm regarding the expiration date of the data, it should be defined to which data the stated expiration date is applicable. Finally, the expiration date of the data is to be determined. The increase in time generally increases the chances of exercising the right to be forgotten, but this may not always be the case. For instance, in regard to the information about politicians or people of close interest to the public; historical, statistical or scientific data, and information that has been processed (updated) in accordance with its purpose after collection, time will have a limited impact. To put it in other words, the impact of time is limited in case the relevance, necessity and accuracy of the information are preserved. In some special cases, the elapsed time is not considered as a criterion. As an example, one can indicate the reports of crimes against humanity[15].

*1.3. Historical and Constitutional Explanation of the Right to Privacy*

In the article "The right to privacy" published the Harvard Law Review in 1890 and authored by Samuel Warren (1852–1910) and Louis Brandeis (1856–1941), many significant aspects of the term personal life were elaborated. The article stated:

> That the individual shall have full protection in person and in property is a principle as old as the common law; but it has been found necessary from time to time to define anew the exact nature and extent of such protection. Political, social, and economic changes entail the recognition of new rights, and the common law, in its eternal youth, grows to meet the new demands of society. Thus, in very early times, the law gave a remedy only for physical interference with life and property, for trespasses vi et armis. Then the "right to life" served only to protect the subject from battery in its various forms; liberty meant freedom from actual restraint; and the right to property secured to the individual his lands and his cattle. Later, there came a recognition of man's spiritual nature, of his feelings and his intellect. Gradually the scope of these legal rights broadened; and now the right to life has come to mean the right to enjoy life, – the right to be let alone; the right to liberty secures the exercise of extensive civil privileges; and the term "property" has grown to comprise every form of possession – intangible, as well as tangible <…>[16].

This means that, as before, the issue of privacy did not arise in connection with any bodily injury, and intelligence, information itself were considered a key element in the guaranteeing the inviolability of personal life. By the same token, the definition of personal immunity, regardless of a person's physical body, has made family relationships a part of the concept of privacy. The main purpose of S. Warren and L. Brandeis in writing their article is to

[15] Can Yavuz (n 12) 140–41.
[16] Samuel D. Warren, Louis D. Brandeis, 'The Right to Privacy' [1890] 4 (5) Harvard Law Review 193–220.

secure the inviolability of private life, to analyse how such issues as insults, slander, etc. should be regulated by law such and to consider the practical aspects. The interesting part of the article is that the authors appealed to many principles (postulates) of Roman law. For instance, the authors taken as a beacon the principle "damnum absque injuria" (loss or damage without injury) have emphasized that even any formally legal and legitimate action can put under danger a person's private life[17].

Citing the trials of Prince Albert W. Strange and Wilson, the authors highlight Lord Cottenham's claim that 'doctors around George III during his illness were not allowed to publish their diaries'[18].

In their article, S. Warren and L. Brandeis also consider the aspects of the right to privacy enshrined in French law: the right to privacy does not prohibit publication on any matter of state or public interest; the right to privacy does not prohibit communication in various forms; the right to privacy shall be deemed to have expired from the moment the fact is allowed to be published or from the moment of its publication, etc.

The issue of the inviolability of personal life was later analysed in more detailed way in an article by William Lloyd Prosser (1898–1972) published in 1960. Thus, the author distinguished four types of tort that are accompanied by a violation of privacy:

1. Irrational intrusion to personal life and property.
2. Personal data revealing.
3. Distortion of information about a person, i. e. spreading false information;
4. Illegal acquisition or use of a person's name, surname and portrait for gaining some profit[19].

As it is evident, the right to privacy, originally proposed by young researchers, is recognized as one of the fundamental human rights in the modern world, both at the international level and in the national law of individual states (it will be further elaborated in the paragraphs below).

### *1.4. International and Regional Regulation on the Protection of the Right to Privacy: Positive and Negative Obligations*

The protection of the right to privacy and protection of private life, first and foremost within the framework of human rights and the confusing developments in technology in the face of the extraordinary developments of modern society, has made the protection of this right a problem in international law. International agreements related to this right have been regulated and the issue of protection of privacy has been considered at the scientific level and discussed on this topic.

[17] Damnum absque injuria – derived from Latin, it is one of the principles of tort law and means to inflict any loss without physical harm to a person.
[18] Dorothy J. Glancy, 'The invention of the right to privacy' [1979] 21 (1) Arizona Law Review 1–39.
[19] William L. Prosser, 'Privacy' [1960] 48 (3) California Law Review 389.

The protection of information related to personal privacy is considered one of the main directions of the information society, and in this sense, information is one of the most pressing problems of our time. Information is one of the most significant values of modern life. Every day, government agencies and the private sector collect, store, operate and transport significant amounts of information about individuals. By the same token, technology has developed in an unprecedented way that will allow individuals to share and disseminate information worldwide. All of this leads to many threatening situations, such as individuals losing control over their information and the possibility of using this information against themselves. The protection of personal data is a right that individuals have against the unauthorized use of information by another person or entity. The necessity to obtain personal information on different people and organizations is a reality that has existed since the ancient times. Throughout history, people have observed constantly the actions of those around them in order to avoid danger and risk, to identify inappropriate behaviours, to monitor what others are doing, to identify and defend the progress they have made. Due to this reason, there are many tools developed to collect, track or monitor information about individuals. Nowadays, with the development of technology, control has become more efficient[20].

All kinds of information that allows to identify individuals, puts under the threat personal data, and it made the development of a protection mechanism against control technologies mandatory, and explained the importance of developing the right to personal data protection. Legal regulations aimed at controlling personal data, with the rapid development of computers and the formation of a centralized database, first appeared in Europe in the 1970s and gradually spread around the world.

Therefore, personal data is directly related to the personal security and is considered as "personal data" in the form of legal expression, and, in their turn, international norms and institutions have an irreplaceable role in determining the legal regime of this information.

As was mentioned above, Article 8.2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms gives the State the right to "assess" when assessing the compliance of preventive measures with Article 8. Although this was first mentioned in the decision of Handyside (7.12.1976) under Article 10 (freedom of expression), this principle also applies to the cases opened in connection with Article 8. According to this decision: '<…> Civil servants are in a position to make better decisions than international judges due to their direct and rapid contact with "higher powers" in their countries. In this regard, the first assessment of the level of urgent public need should be carried out by local authorities'. This means that Article

[20] Daniel J. Solove, *The Digital Person, Technology and Privacy in the Information Age* (New York University Press, ABD 2004) 2; David Lyon, *Surveillance Studies an Overview* (Polity Press 2007) 12.

10 defines the powers of States to enact and enforce the law. However, as the final decision-making power belongs to the Court, it may result in changes in the Court's opinion as to whether the right of appraisal granted to local authorities has been properly exercised. The Court expresses its opinion on the right of appraisal, firstly, in determining whether the interference in Article 8 is in the public interest referred to in paragraph 2, and in assessing whether the State has made sufficient efforts to fulfil its positive obligations in this matter. In the case of X and Y against the Netherlands, the following statements were made regarding the obligations of the state:

> The Court recalls that although the object of Article 8 (art. 8) is essentially that of protecting the individual against arbitrary interference by the public authorities, it does not merely compel the State to abstain from such interference: in addition to this primarily negative undertaking, there may be positive obligations inherent in an effective respect for private or family life (see the Airey judgment of 9 October 1979, Series A no. 32, p. 17, para. 32). These obligations may involve the adoption of measures designed to secure respect for private life even in the sphere of the relations of individuals between themselves[21].

In matters of search and seizure, the Court recognizes that States Parties to the Convention may resort to preventive measures, such as the search for accommodation and the seizure, in order to find material evidence of certain crimes. Such preventive measures should not normally be an interference with an individual's right to privacy or family life under Article 8.1, the caused for such measures must be relevant and sufficient, and not disproportionate to the intended purpose. The Court also seeks to ensure that relevant laws and regulations provide adequate and effective safeguards for individuals. The trials focused on the condition that searches were "legitimate" and 'had sufficient mechanisms in terms of methods against arbitrariness and exploitation'. From this perspective, courts should be particularly sensitive in cases where national law allows competent entities to issue and search warrants without a court order, even though the States Parties have the right to an assessment of the matter.

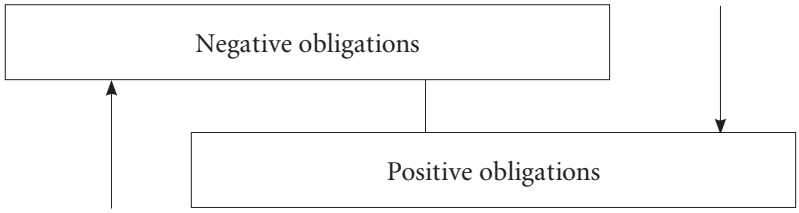
According to the Court, if individuals are to be protected from arbitrary interference by the competent authorities in matters of rights protected by Article 8, there must be a framework consisting of very serious barriers to such powers, and the court may, subject to the special conditions applicable in each case, assess whether it is appropriate to the intended purpose.

When a search warrant is issued to the courts, i.e. as part of judicial review, it is presumed that there is sufficient protection to meet the requirements of Article 8. Where national law permits the search of residential premises without prior court order, the search is subject to Article 8 only in cases where

[21] X and Y v. the Netherlands. 8978/80, Council of Europe: European Court of Human Rights, 25 March 1985 <http://hudoc.echr.coe.int/fre?i=001-57603> (accessed: 15.02.2021).

other laws governing the search provide adequate protection for the rights of individuals. For example, in Funke's case against France[22], customs authorities searched the plaintiff's home to obtain information about his property abroad and confiscated documents from bank accounts abroad in connection with customs offenses that were illegal under French law.

In general, the obligations of States in respect of the right to privacy and guaranteeing protection under Article 8 of the Convention can be defined as follows:




*Positive obligations.* When it comes to the protection of fundamental rights and freedoms, it has long been considered that these rights are surrounded by negative status rights, and it is assumed that the state is always obliged not to interfere. It was accepted that the state should release a citizen in the field of fundamental rights and freedoms and not interfere in this field. However, this classical and local understanding began to change as the concept of human rights began to be defended at the international level. In particular, the European Court of Human Rights, which determines whether the obligations of the Convention apply, has taken a different approach to the classical concept of human rights protection. Due to the demands of the time, the notion of positive obligations has led to the fact that the negative obligations of the state in the context of negative status rights are not sufficient for the effective use of these rights. This notion, which has emerged in litigation, suggests that it is not adequate for the state to fulfil its obligations of immunity in order to effectively protect personal rights and freedoms. In this sense, the state has a number of obligations to effectively protect personal rights and freedoms. Over the past 30 years, the Court has been examining a growing perspective of positive obligations under the Convention. The requirements of positive obligations cover the activities of states in various forms. Martens, one of the judges of the court, defines the concept of "positive obligations" as "actions required by the parties".

Although it is not possible to determine the exact date of the notion of positive obligations, given the evolving needs for the protection of personal

[22] Funke v. France. 10828/84, Council of Europe: European Court of Human Rights, 25 February 1993 <http://hudoc.echr.coe.int/eng?i=001-57809> (accessed: 15.02.2021).

rights and freedoms, the Court is still contributing to the development of these obligations.

In modern times, it is important that the state does not interfere in the exercise of rights, that it is not enough for the effective exercise of rights, and that the state takes action to provide an appropriate environment for individuals to exercise their rights. Thus, the individual will be able to exercise their rights effectively. Defining obligations in terms of rights is very important in determining the true scope of the relevant law. Steiner's and Alston's views on the UN Convention should be evaluated in this regard. The UN Convention on the Private and Political Rights of 1966, the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and other human rights conventions will help to understand the meaning and content of states' obligations under these rights. If we pay attention to some of the commitments, it will be possible to explain the meaning of the rights in question, as well as to draw attention to the strategies for regulating their prospects and development. This research will then be addressed within the relevant responsibilities of the law, the state, and will thus ensure that we have a clear understanding of the content of the law, or the content being prepared[23].

It is necessary to look at the content of court decisions to determine the nature of positive obligations. In this sense, we can find a more theoretical explanation in Schue's writings, which focuses on the positive obligations of States under the Convention. Rejecting the traditional distinction between positive and negative rights, Shue emphasizes that traditional discrimination is based on the positive or negative responsibilities of the state. The author stressed the importance of fulfilling many responsibilities to ensure the full meaning of each right. He identified three types of responsibilities in the classical division of responsibilities, emphasizing the importance of defining separate responsibilities of public authorities, rather than simply discriminating in the form of simply assigning or not entrusting a position to the state:

1. Obligations that are not allowed to be deprived from the right.
2. Obligations that guarantee not to be deprived from the right.
3. The duty of assistance in the form of deprivation.

An interesting aspect of Shue's approach is that he also stated that it is a different task for the physical safety of individuals:

1. Duties to ensure that a person's physical safety is not compromised – Duties that prohibit deprivation of the right.
2. Duties that prohibit the restriction of a person's physical safety by other persons – Duties that protect against the absence of law.
3. The duty to assist those deprived of their rights.

[23] H Steiner, P Alston, *International Human Rights in Context* (2 ed, Oxford University Press 2000) 180–1.

In this sense, Schue[24], who regulates discrimination in the form of duties, rejects the notion that some rights bring negative responsibilities, while other rights bring positive responsibilities. The notion of positive obligations also typically rejects classical discrimination. In particular, by eliminating the negative obligations of the state on the basis of negative status rights, he emphasizes that these rights also give the state many obligations.

Shue's above explanation shows that the fundamental rights, as they are protected in the Convention, impose on the state additional difficulties in different forms. Although the specific balance between positive and negative obligations changes in terms of certain rights, positive obligations for fundamental rights remain. For this reason, it is logically inevitable that the States Parties to the Convention will have positive obligations, as they have the primary obligation to comply with the Convention.

Finally, we would like to note that the positive obligation of the state in the field of rights and freedoms is not an obligation to "get results" but a "preference", ie "the requirement to make it possible". At the same time, in the case of individual violations (horizontal application), the attitude of the state to this violation is conditioned by the fact that the state is again responsible for the actual interference.

We consider it expedient to refer to some court decisions on positive obligations:

*Positive commitments regarding privacy and sexual integrity.* In the X and Y Netherlands case of rape of a mentally ill person by his stepfather, the Court noted the shortcomings of Dutch criminal law and the provision of visible and effective protection to the person, and ruled that the state had not fulfilled its positive obligations. While the purpose of Article 8 is to protect against arbitrary interference by individual public authorities, the decision states that in addition to this negative obligation, there may be some positive obligations of the state underlying effective respect for private life or family life. He said that these obligations would cover the rules of adoption in order to protect privacy, and even the relationship between individuals. This decision is important in terms of bringing positive measures to states to regulate relations between individuals. In particular, it was important for states to establish the necessary legal framework for the protection of children and other vulnerable groups and to prevent the situation of adopted children from being investigated and abused. It is not enough for criminal law to punish such abuses, it is also necessary to make special legal arrangements for the protection of individuals[25].

In the case of Stubbings and others against England, the Court determined the limits of a positive obligation under private law. The decision follows a

[24] Shue Henry, *Basic Rights: Subsistence, Affluence, and US Foreign Policy* (2 ed, Princeton University Press 1996) 236.
[25] Mowbray Alastair, *The Development of Positive Obligations under the European Convention on Human Rights by the European Court of Human Rights* (Hart Publishing 2004) 128.

lawsuit alleging that four women and their children were sexually assaulted by different individuals. The plaintiffs determined that they were unaware of the nature of the rape they had been subjected to until they received psychological treatment years later, and used legal protection against the rape. The House of Lords' Certificate of Claim Act of 1980[26] found that plaintiffs were prohibited from filing claims when they turned 18 six years ago. However, the plaintiffs appealed to the European Court of Human Rights because they were deprived of an effective legal remedy. The court stated that in British criminal law, sexual assault is a severe punishment, that the term of the claim is not applied in these punishments, that the punishment is severe, and that the plaintiffs can open a criminal case in this regard. However, from the point of view of private law, he stated that the application of the statute of limitations was legal and that Article 8 of the Convention did not impose a positive obligation on States in the form of an unlimited legal approach to the protection of private life. For this reason, it was concluded that Article 8 was not violated.

As can be seen from the Stubbings decision, criminal law and private law were fully accepted while protecting the privacy of individuals, and states were given the obligation to protect individuals from sexual exploitation in this full scope. However, the courts have been told that this could be limited by states, recognizing that an unlimited legal regulation under Article 8 would be a very broad obligation.

*Positive obligations related to the right to personal information.* Personal information is a part of your personal life. In this sense, both the inability to obtain personal information will be considered an intrusion into privacy and the inability of others to obtain this information to be considered an intrusion into privacy and necessary action to be taken.

In the lawsuit against England, Gaskin and others[27], the plaintiff was protected by the state at an early age and remained there until he reached the age of majority, where his claim was to ensure the accessibility of all documents relating to that period. The court assessed whether there was a fair balance between the public interest arising from the confidentiality of sources of social services under the positive obligation of the state under Article 8 and the right of an individual to access information about his private life. Recognizing the right of individuals to obtain the information necessary to know and understand their children and early stages of development, the Court found in principle that this right depends on the consent of the individual in accordance with Article 8. However, he also stressed the importance of having the authority to make the final decision in cases where the individual does not give permission inappropriately. It was stated that the existence of such

[26] The Court in the system of UK national law that is considering such cases.

[27] Gaskin v. United Kingdom. 10454/83, Council of Europe: European Court of Human Rights, 7 July 1989 <http://hudoc.echr.coe.int/eng?i=001-57491> (accessed: 15.02.2021).

an application would be a violation of Article 8. In this sense, states have a different positive commitment.

The lawsuit against Guerra and others[28] in Italy concerns the failure to inform the public about the risks posed by a chemical plant in their area and to take precautionary measures against possible accidents at the plant. In this case, the Court ruled that Article 8 would be violated in the sense that serious harm to the environment could adversely affect the well-being of the persons and deprive them of the right to live in their homes in a way that would disrupt their personal and family lives. This decision has placed a positive commitment on states to inform the local population about the serious risks posed by environmental pollution.

*Positive commitments on name choice.* In a lawsuit against Switzerland, Burghartz and others[29] complained that under Swiss law, married women had the right to use their husband's surname as a surname, but that this right was not guaranteed. The court ruled that Article 8 of the Convention did not contain explicit provisions in the right to names. It relates to an individual's personal and family life as a tool used to identify an individual's name, identity, and family relationships. As a subject of state law, it is necessary for the society and the state to be interested in the regulation of names and to define regulation. In the above-mentioned case, it was stated that the use of the surname of the plaintiff in the academic world could have a significant impact on his career, and that the current claim was covered by Article 8. Referring to the prohibition of discrimination enshrined in Article 14 of the Convention in this case, the Court noted that the failure of the responsible State to recognize the surname of the husbands did not provide "impartial and reasonable prosecution authority" and ruled that Article 8 had been violated.

Guillot assessed whether Article 8 applied to precedents in the case against France[30]. The plaintiff wanted to name her daughter "Fleur de Marie". Local authorities that register births, deaths, and marriages have refused to register the names because they are not on the calendar. Fleur-Marie was recommended by the local authorities as a prefix. The couple claimed that this situation violated their right to respect for personal and family life. The court ruled that Article 8 would not be violated and that the French local authorities had allowed the plaintiffs to register the name "Fleur-Marie".

*Positive obligations to protect the rights of the child.* W and others[31] have family problems with the plaintiff and his wife in the lawsuit against England.

[28] Guerra and Others v. Italy. 14967/89, Council of Europe: European Court of Human Rights, 19 February 1998 <http://hudoc.echr.coe.int/eng?i=001-58135> (accessed: 15.02.2021).
[29] Burghartz v. Switzerland. 16213/90, Council of Europe: European Court of Human Rights, 22 February 1994 <https://hudoc.echr.coe.int/fre?i=001-57865> (accessed: 15.02.2021).
[30] Guillot v. France. 22500/93, Council of Europe: European Court of Human Rights, 24 October 1996 <http://hudoc.echr.coe.int/eng?i=001-58069> (accessed: 15.02.2021).
[31] W v. the United Kingdom. 9749/82, Council of Europe: European Court of Human Rights, 8 July 1987 <http://hudoc.echr.coe.int/eng?i=001-57600> (accessed: 15.02.2021).

For this reason, the third boy was voluntarily handed over to the local authorities for care. The local authority then took custody of the child from the parents without parental consent. The adoption commission again confirmed the decision of the local authority without informing the parents, transferred the child to another family for adoption, and restricted the applicant and his spouse from seeing the child. As a result, the social service completely banned the plaintiff and his spouse from seeing the child. In addition, although the plaintiff and his spouse appealed to the Supreme Court, the Supreme Court ruled that the child should remain in the adoptive family.

The court ruled that the right to respect for family life was violated in this case and stated in the decision that states had a positive obligation to respect family life. In this sense, decisions regarding the protection of children by the state and the regulation of contact with their natural parents were considered sensitive and very difficult, but it was stated that strict application of this authority by local authorities was unacceptable: whether the protection of the interests of the parents is included in the entire decision-making process to the extent that it meets the basic condition. If they are not, it means that family life is not respected, and the interference resulting from this decision cannot be considered "compulsory" in the sense of Article 8.

Under Article 8 of the Convention, respect for family life constitutes a positive obligation to reunite parents. This obligation arises mainly when there is no longer a need for a temporary order giving the child's care to a public authority. The court ruled that a fair balance must be struck between the child remaining in public service and the parents reuniting with the child in situations where it deems it necessary to fulfill this obligation. In attempting to strike this balance, the Court noted that the interests of the child should be given greater priority, especially in light of the nature and seriousness of the interests in question.

The obligations of the person responsible for personal data against the security of personal data are regulated by Article 5 of the Law on Personal Data. The law states that personal data is protected from the moment it is collected and for this purpose is divided into confidential and open categories according to the type of access (access). Confidential personal information must be protected by the owner, operator and users who have access to this information at the level required by law. Confidential personal information may be disclosed to third parties only with the consent of the subject, except as provided by law. The category of open personal data includes information about him, which is anonymously duly declared, made public by the subject or entered into the information system created for public use with the consent of the subject. The person's name, surname and patronymic are permanently open personal information. Confidentiality of public information is not required. Special category information can be classified as both confidential and open

personal data, depending on their nature. The protection of personal data must be provided by owners and operators. Individuals engaged in the collection, processing and protection of personal data must make a written commitment not to disseminate such information during or after their employment. Information provided by the subject (name, surname, patronymic, date and place of birth, sex, citizenship, telephone number and e-mail address) on the basis of the written consent of the subject to public information systems in order to pay for public information in telecommunications, postal services, addresses and other areas. place of residence and location, specialty and place of work, type of activity, marital status, photo and other information). When personal data is entered into public information systems from open sources, the operator of that information system must inform the subject of the content of the entered data and the source of access. This information must be removed from the information system without delay at the written request of the subject, the court or the relevant executive authority. The owner or operator must take technical and organizational measures to ensure the protection of personal data (including the prevention of accidental and unauthorized destruction, loss, unlawful interference, alteration and other cases). The requirements on guaranteeing the protection of personal data are defined by the appropriate executive committee. The rules for archiving personal data shall be established by the relevant legislation of the Azerbaijan Republic. Article 6 of the law regulates the main forms of state regulation in the field of collection, processing and protection of personal data. The article deals with the formation and security of the personal data section of the national information space as a state regulatory measure in the field of collection, processing and protection of personal data, assessment of threats and level of protection in this area, determination of legal bases of collection and processing of personal data; Ensuring basic human and civil rights and freedoms, licensing activities for the collection and processing of personal data, state registration of personal data information systems, certification of personal data information systems, as well as relevant information technology tools, legal and personal information systems; standardization of technical documentation, information resources and system of personal data State regulation in the field of state examination of her husband and their project documents, creation and management of interdepartmental personal data information systems.

Conclusion. Bearing in mind the above-mentioned issues, the right to be forgotten cannot be equalized to the right to erase data from the information system. The variance depends on the nature of the information, such characteristics as time and space. The other proposed theory is that the scope of information covered by the right to be forgotten should not be linked only to court verdict. It is also relevant to reconsider the prison qualification and make changes in national-legal norms during the selection and appointment of

many positions. In some sense and under certain circumstances, it is not correct to consent with this qualification. If we "condemn" a person when he or she is elected to a position based on a previous conviction (even if the law does not provide for such a censorship) and, eventually, this affects our choice, then the "correctional function of punishment" under criminal law will remain on paper. Therefore, it is more relevant to take into account convictions for serious and especially serious crimes, such as recidivism, which are characterized by more public danger, rather than apply it for all convictions.

The inviolability of private life is a basic personal right over life activities that is created and protected by law in situations that an individual does not want to be known in order to develop his or her identity and protect his or her moral values. Therefore, these points should be taken into account when fulfilling positive obligations. In general, in the field of human rights, along with the fulfilment of the state's "vertical" obligations in the negative field, the regulation of positive, i.e. "horizontal" obligations is considered to be a real task. Similar obligations are reflected in the legislation of the Republic of Azerbaijan. Such positive commitments are part of the state's information policy and arise in the regulation of various security issues.

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## ВПЛИВ НОВИХ ТЕХНОЛОГІЙ НА ПРАВА ЛЮДИНИ В КОНТЕКСТІ ПРАВА БУТИ ЗАБУТИМ І ПРАВА НА ПРИВАТНІСТЬ

Анотація. Розвиток нових технологій також впливає на права людини. У попередні "епохи" глобалізованого інформаційного суспільства було заявлено, що традиційні права можна здійснювати в інтернеті. Наприклад, у 2012 р. (і знову в 2014 і 2016 рр.) Рада Організації Об'єднаних Націй з прав людини наголосила, що 'ті самі права, що гарантуються людям, так би мовити, "в режимі офлайн", повинні бути захищені і в інтернеті'. Це, зі свого боку, неявно призвело до реальності, що нове технологічне суспільство не створило нових прав. Однак слід враховувати, що у цифровому світі національне законодавство, яке гарантує конфіденційність персональних даних, часто не наздоганяє технологічний розвиток і, отже, не може забезпечити приватність в інтернеті. Тому вплив цифровізації на права людини в межах міжнародного та національного законодавства слід широко аналізувати та вивчати.

Метою статті є аналіз впливу нових технологій на права людини в контексті права бути забутим і права на приватне життя, оскільки розвиток нових технологій тісніше пов'язаний із захистом персональних даних. Із формуванням права бути забутим ідеться про забезпечення приватності певного змісту персональних даних у результаті впливу фактора часу.

Авторки роблять висновок, що право бути забутим раніше захищалося більше в контексті права на приватність. Однак їх не можна вважати рівними правами. Право бути забутим випливає із бажання людини розвиватися і продовжувати своє життя незалежно, не будучи об'єктом критики за будь-які негативні вчинки, які вона чинила в минулому. Якщо право на приватність містить конфіденційну інформацію загалом, право бути забутим розуміється як видалення відомої інформації в певний час і відмова у доступі до неї третім особам. Таким чином, право бути забутим не входить до права на приватність і може вважатися незалежним правом. Річ

у тім, що норми міжнародних і національних актів, що гарантують основні права та свободи людини, не регулюють питань, пов'язаних із правом бути забутим. Право бути забутим повинно обмежуватися виключенням інформації із засобів масової інформації та інтернет-ресурсів. Ідеться про повне знищення інформації, доступної у державних інформаційних системах.

Іншим висновком авторок є те, що засоби масової інформації та інформаційні ресурси інтернету інколи поширюють неправдиву інформацію. Цей випадок не буде охоплюватись змістом права бути забутим. Бо головне, що інформація, яка становить зміст права бути забутим, повинна бути законною, але через деякий час вона втратила своє значення. Обсяг інформації, що охоплюється змістом права бути забутим, має бути пов'язаний не лише із судимістю, а й з іншими спеціальними персональними даними (наприклад, фактом розлучення).

Ключові слова: нові технології; цифрові права; право на приватність; персональні дані; право бути забутим; інформація; позитивні зобов'язання; негативні зобов'язання.