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CONSTITUTIONAL-LEGAL ASPECTS OF INFORMATION SECURITY IN THE CONTEXT OF GLOBALIZATION

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One of the main issues of world politics since the 21st century is a scientific and technological breakthrough that can have far-reaching consequences in all areas of human activity. The computerization and information revolution have led to scientific and technological progress in the military field. The application of high technology has radically changed the nature and capabilities of conventional armaments, intelligence and military command systems, and expanded the possibilities of long-distance warfare. Today, the tactics of creating conflicts in many military and other fields with the help of information technology are changing in the world. Who controls information and misinformation plays an important role. Sometimes misinformation becomes a dangerous weapon. Although the existing terms "Information Security" and "Information War" are more commonly used in the military field, they are beginning to take on a slightly different meaning with the development of mass media and communication technologies. This article identifies the legal characteristics and legal specifics of the information rights of citizens, proclaimed by the Constitution of Azerbaijan. The article substantiates the need to consider the constitutional and legal foundations of information security as a complex political and legal phenomenon. It is proposed to analyze the constitutional and legal aspects of information security in the synthesis of constitutional ideology, constitutional theory and constitutional practice of the development of Azerbaijani statehood. The author proves that the constitutional legal provision of the information security of Azerbaijan considers positive international experience in this field

Keywords: globalization, challenges, threats, information and communication technologies, analysis, information, security

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1. Introduction

The events, taking place in our globalized world, are constantly changing our social life. The society's need for information is not as relevant in the information society as it is now. We live in a time when information policy has become a major concern of every state. Because the more information, the more worries. The question of what information to provide to the public is on the agenda. People are interested in everything. "Society has a right to information," said Kent Cooper, the former head of the Associated Press. It is no coincidence, that this expression has a strong place in media decisions. Journalists, as full members of society, are also obliged to collect and publish information. However, it should be taken into account, that just like the information policy of the media, every state has an information policy. The application of information and communication technologies (ICT) requires a reconsideration of information policy.

2. Literature review

The issue of the order of the modern world is one of the global issues of concern to experts. In recent years, this issue has been discussed in various contexts at almost all prestigious international events. In general, there is an opinion that there are serious global risks that threaten the world. It will take a lot of work to eliminate them. Numerous studies have been conducted on the elements of the globalization era. Because the expansion of international integration has made this issue urgent. Information security is one of the most important problems of this period. Although much research has been done in this area and many articles and books have been written, literature has been used in a relatively narrow format. The reason is that the article I am researching defines the topic from a legal point of view. The following sources were used in the study.

"Does the European Union need a securities and exchange commission?" by Boury P.-M. [1] – The publication discusses support to ensure network and information security among EU members, facilitate the continuous exchange of information between stakeholders, and improve the coordination of network and information security-related functions.

"Protection of Information and the Right to Privacy – A New Equilibrium" by Floridi Luciano [2] – The publication covers areas, such as legislative measures, the fight against cybercrime, incident response, research, hardware and software certification.

"Judicial protection between globalization and sovereignty" by Zorkin V. [3] – The international system has become less a state-centric, coordinative mechanism than a collectivity of specialized transnational regimes that penetrates into the political constitution of domestic polities. Technological advancements have accelerated the migration and transplantation of legal rules and practices. Nonstate actors like IGOs, INGOs, TNCs, and cross-border social movements have become significant actors in international governance;

"General characteristics of the functions of constitutional regulation of public relations" by Nurmagambetov R. [4] – The modern development of constitutional science shows the need for research on the legal regulation of public relations. The analysis of the approaches to the regulation of public relations, enshrined in constitutional law, shows the complexity and diversity of this phenomenon.

"Modern global problems" by V. G. Baranovsky, A. D. Bogaturov [5] – This publication includes information security among the global problems of the modern era, the issue is widely studied, the principles of emergence in the context of globalization are analyzed. However, the legal context was not mentioned, and the legislative aspects were not examined. The nuance I mentioned applies to each of the above-mentioned publications. None of the named works has examined information security from a legal point of view.

3. The aim and objectives of the study

The aim of the article reveals the legal characteristics and legal specificity of the information rights of citizens, proclaimed by the Constitution of Azerbaijan, justifies the investigation of the constitutional and legal foundations of disclosed security

To accomplish the aim, the following tasks have been set:

1. Study the concept of "Information Security" in the context of globalization.
2. Determine the constitutional and legal framework.
3. Cover the information burden that constitutes news and information, disseminated through the media, Internet Information Resources, as well as written and audio-visual media.

4. Materials and Methods

Books, articles and internet resources, related to the topic, were used during the research. In particular, publications, related to globalization, have been studied, and the literature on the global problems of the modern age has focused on issues that directly or indirectly address the threat of information. At the same time, as the research is related to the legal framework, the relevant legislation was studied, and local and international legal documents were considered. Analysis and synthesis, inductive and deductive, comparative analysis methods were used during the study.

5. Result

Security and national interests, which are necessary for the existence of the state and the nation, are the main complementary factors. Thus, without a security environment, national interests, and without ensuring national interests, security conditions cannot be created. Security, in this sense, information security is a guarantee of stability as a way of life for the country, the nation, the people and, finally, every citizen. [5, p. 537]

As society becomes more informed today, people become more dependent on information. Failure to ensure information security can have serious consequences for society. In any country, the priorities of information security are determined on the basis of a balanced ratio of the interests of the state, society and citizens. This ratio may vary depending on the political, military, emergency and other situations in the country.

Most modern weapons rely on information technology. Today, the wider application of information technology in the military field is considered a universal event. An analysis of international experience shows that the successful conduct of military operations requires a comprehensive information provision of combat operations, which is not possible without modern information technology. Many military analysts believe that the widespread use of information technology has revolutionized the military. An example is the wars, waged by the United States in recent years. In the first half of the twentieth century, no one could have predicted that in a few decades, scientific and technological progress would provide humanity with new means of communication that would gradually connect the whole world with its invisible wires. Today it is an axiom that our world cannot pass without war, especially without information conflicts.

There is a system called "legal intelligence service" all over the world. One of the main features of legal intelligence is the analysis of news and information, disseminated in the media of other states within the economic, political and military interests of the state, the results of surveys, conducted by survey

agencies, and information, collected on the basis of personal observations of individuals. Sometimes this task is performed by specialized centers, groups, and even international humanitarian organizations, through companies, established in the business sector. It is an undeniable fact, that the intelligence agencies of many countries carry out deeper covert intelligence tasks by infiltrating the media in countries of interest and disseminating news and information that affects public opinion in that country. In short, the media sometimes unknowingly become a tool of foreign forces, seriously damaging the territorial integrity, sovereignty, public opinion and political processes of the state they represent.

Informational-communicational technologies, acting as one of the main factors of the intensification of globalization processes, in parallel with their positive properties, initiated the most complicated challenges and threats to the national security of any state. In this regard, informational-communicational technologies can become a negative latent factor, but very serious in terms of the real consequences of the impact on the constitutional foundations of governmental and social structure, military control, critically important objects of the industrial, economic and social sphere. The complex of globalization factors in the field of informational-communicational technologies has an impact on state sovereignty, as noted by many Western constitutional scientists. [1, p. 187] Due to the negative impact of ICT, the problem of information security in the context of globalization has been transformed from the technological side to the political-legal side in many ways.

Global informatization and new information technologies open up unprecedented opportunities in all spheres of human activity, give rise to new problems, related to the information security of the individual, society and the state. It becomes more and more obvious, that both social progress and the development of each person are accompanied and even largely determined by the development of their information sphere.

Information security is achieved through a balance between the information rights and freedoms of various subjects of law and the protection of national information sovereignty. The issue of information security and national security in general is primarily a matter of balance between human rights and interests and the competence and interests of state power, a balance that can only be established with the help of legal norms. All countries have an interest in developing a global information society and seizing the new opportunities, offered by improved access to information and a better supply of information. Information resources acquire special attention in the current conditions of rapid globalization of information processes and the desire of developed countries to achieve undeniable information dominance for the sake of solving their national tasks. That is why it becomes necessary to carefully study the theoretical and practical problems of information security in today's globalized world.

To date, there is no established definition of it yet. In the most general terms, information security is understood as such a state of protection of the needs of the individual, society and the state, in which their existence and progressive development are ensured, regardless of the presence of internal and external information threats. In other words, we are talking about a systematized set of information about information security and ways to ensure it.

This is due to the fact that at present information is becoming one of the main levers in the confrontation in the international arena for a new redistribution of the world in order to establish the dominance of leading states in the global information space. In the scientific world, information is rightly considered a strategic national resource. The political weight of a country, its ability to influence world events depend not only on material and force factors, but to an ever-increasing extent on information factors (the ability to exploit the intellectual potential of other countries, to disseminate and implement their spiritual values, culture, language, and also to slow down the spiritual – cultural expansion of other peoples, to transform and even undermine their spiritual and moral foundations). In the rivalry and confrontation of states, in the implementation of their political plans, there is a clear shift in the center of gravity from open coercive methods and means to hidden and more “subtle” information methods and means, presented as a consequence of globalization processes.

The urgency of increase of the role of informational-communicational technologies in the development of modern states and strengthening its influence on all spheres of the globalizing world are being put forward as a political-legal approach to analysis of the constitutional-legal foundations of information security. The problem of maintaining information security in the context of globalization of the economic and information space sets the task of developing new legal mechanisms capable of resolving high-tech relations that should be implemented by national states in conjunction with international legal processes of harmonization of information legislation.

In these conditions, the role of information security is increasing. Information and information infrastructure for many developed countries have already become critical components, the impact on which can cause large-scale consequences, disrupt public administration, and cause new conflicts. The higher the levels of intellectualization and informatization of a society, the more significant its information security becomes, since the realization of the interests, goals of states and peoples is increasingly carried out through information rather than material-energy influences.

Security literally means the absence of danger. With regard to the individual, society and the state, these are favorable (peaceful) external and internal conditions for their development. With regard to the

goals and purpose of security, the most common is the view of security as a condition for the preservation of the object and the reliability of its operation. With these preliminary remarks in mind, let's move on to considering the actual concept of "information security".

In modern times, the main object of influence is the exchange of information between resources, maintaining the confidentiality of national resources. In this sense, special attention is paid to information security in Azerbaijan. Legal and normative acts have already been prepared and certain steps have been taken to ensure information security in the public and private sectors in our country. Thus, the articles of the Criminal Code have been improved to prevent cyber attacks, and the laws on the protection of state secrets have been amended.

After gaining independence, one of the main problems of Azerbaijan's national security was the formation of a unified information policy and ensuring the security of the country, the creation, protection and management of the national information environment. The law "On information, informatization and protection of information" was adopted in our country on April 3, 1998. After the President of the Republic of Azerbaijan Ilham Aliyev signed the Decree "On measures to improve the activities in the field of information security" [6], a new stage of a comprehensive strategy for national information security began in our country.

Today, threats to information security have reached a very serious stage. The biggest problem that worries the world is that international terrorism is carried out due to gaps in information security policy. The growing role of information, information resources and technologies in the life of the state, society and citizens brings to the fore the issues of information security. At the root of the problem is the rapid development of the Internet, the protection of software systems based on new web technologies. For this purpose, on April 27, 2018, a new body on information security was established in Azerbaijan. President of Azerbaijan Ilham Aliyev has signed an order on the establishment of the Information Security Coordination Commission [7]. The Commission shall assess the threats to Azerbaijan's information security, as well as conduct regular analysis of the main sources, directions, forms of such threats, and the damage and impact they may cause, the preparation of proposals, coordination of activities of relevant government agencies in the field of prevention of possible threats, planning and implementation of joint measures.

In the process of maintaining information security of the Azerbaijani state, juristic features and legal specifics of information, aimed at the realization of the basic information rights, proclaimed by the Constitution of Azerbaijan Republic, and the responsibilities of ensuring the guarantee of right of information and freedoms of citizens by relevant subjects of legal regulation, are identified. Azerbaijani President Ilham Aliyev, in his speeches, has repeatedly stressed the importance for the country of both increasing the pace and quality of modern informational-communicational technologies, as well as comprehensive information security. According to Ilham Aliyev "Our path is the path of development, the path of progress, and today Azerbaijan makes a valuable contribution to the development of modern technologies in the world" [8]. The dynamic development of informational-communicational technologies in Azerbaijan Republic makes them not only a powerful engine of socio-economic and scientific-technical progress, but also a factor that multiplies the aggregate potential of the state and society.

The implementation of the fundamental rights and freedoms of citizens in the information sphere is included in the system of national interests of all states. The principle of freedom of information is sanctified in main international legal documents. The right to information is one of the basic, inalienable rights of a person. In its nineteenth article the Universal Declaration of Human Rights proclaims the right of every person to the freedom to seek, receive and disseminate information by any means and regardless of state borders [9]. The constitutional-legal provision of information security of Azerbaijan takes into account the positive experience of foreign countries in the field of information law. According to article 7.9 of the Law of Azerbaijan Republic "On National Security" (June 29, 2004) the main threats in the information sphere are: the lag in the field of information technology and the presence of obstacles for integration into the global information space (7.9.1); encroachment on freedom of information (7.9.2); encroachment on state secrets (7.9.3); information aggression from other countries, distortion of the truth about Azerbaijan in the international arena (7.9.4); infringement of information system and resources (7.9.5). [10] The constitutional-legal provision of information security of Azerbaijan consists in ensuring the security of secret information, classified as legal categories of state secrets, tax, bank, lawyer, notarial, medical secrets and other types of confidential, official, commercial and personal secrets.

In the context of globalization, relations, related to the Internet, are developing so dynamically that the entire world community, including Azerbaijan, is not able to quickly regulate the norms of law of newly created relationships in the virtual sphere. "The juristic specificity of relations between Internet users lies in a specific way of realizing the rights and duties of persons – users of the network. Network service providers, physically located in different countries, have become new subjects of informational relations, which threaten the national interests of states. The problematic situation with the definition of the right applied leads to an increase in cybercrime" [11]. Any social activity in the creation, gathering, delivery, storage, dissemination or disposal of information and possibility of its transformation affect the informational interests of national security.

Scientific analysis and development of recommendations on the problem of ensuring state sovereignty in the information sphere and the protection of the constitutional rights of citizens in the field of information security are urgent trends of modern constitutional-legal science.

“Right now, the international community of specialists in constitutional law especially study the modern concept of full sovereignty” [3]. For Azerbaijan, successfully implementing a course on innovative modernization and entry into the global information society and security in the information sphere are the most important factors in ensuring the country's strategic interests. The functions of constitutional regulation of informational relations as a type of social relations are based on the norms of the Constitution of the Azerbaijan Republic (1995).

Information security is directly related to a number of features and properties of information as a subject of information relations and an object of legal regulation of constitutional rights and freedoms of a person. The diversity of the concept of “information security” in actual practice requires its clarification in connection with the peculiarities of its formation and functioning from the standpoint of the balanced interests of the individual, society and state. In modern informational-legal relations, subjects and objects that are previously unknown to law are formed, methods of informational-legal influence are being re-structured and generally new accepted social relations and connections are emerging. In this regard, scientific analysis of the notion of constitutional-legal foundations of information security as an important category of modern law science is highly sought after. Due to the growing dependence of modern society on the exponential growth of means of obtaining, searching, storing and transmitting information, Information Technologies acquire a special kind of strategic resource, which in juristic, organizational and technological context appears at the current stage of global development as the least protected element of the governmental mechanism. The vulnerability of the information sphere of national security appears to be a worldwide tendency, which forces governments to pay attention carefully to information systems and networks, legal and organizational means, ensuring their compatibility and interaction in a single information space. The government's duty is not only to ensure the condition of protection in the information sphere of the national interests of the state, but also simultaneously, create conditions for high-quality and effective information support for citizens, state authorities, local governments, public associations and organizations with maintaining information security.

In the international constitutional-legal practice, according to the American expert in the field of comparative constitutional law L. Floridi, there is a vacuum in the constitutional-legal regulation of information security and produced from this fact, flexibility of the theoretical-legal concept of the right to information. This is manifested in the absence of optimal legal-theoretical models of protection of the informational environment [2, p. 19]. The analysis of constitutional-legal aspects of information security implies the development of a definition of “information” that is adequate to the legal principles of a non-linear information security process, which in many parameters depends on the purposeful activity of the entire national security system.

The dynamism of the informational components of modern society, the strengthening of the role of informational infrastructure in the national security system of Azerbaijan, the increasing of importance of the informational elements in the national security strategy dictate the need to consider its constitutional-legal foundations as a complex political-legal phenomenon, manifested in an interdependent synthesis of constitutional ideology, constitutional theory and constitutional practices of the development of Azerbaijani statehood. This balanced systematic-functional approach allows organic unity to analyze the constitutional-legal prohibitions and restrictions in the information sphere with guaranteed constitutional opportunities for citizens to fully use all rights and obligations. The degree of accessibility of information and openness of the information space are indicators of democratic development and respect for the rule of law.

The constitutional right to information is realized on the basis of the following basic principles, which the Law of the Azerbaijan Republic “On Freedom of Information” [12] refers to:

- ensuring freedom of information;
- openness of information and free exchange of information;
- objectivity, completeness and truthfulness of information;
- legality of search, receipt, use, dissemination and protection of information;
- keeping the secrets of each person's personal and family life;
- protection of the security of individuals, society and state [12].

Since the beginning of 90s of the last century, the active development of informational relations put forward tasks for juristic science. On the one hand, they are related to the legal provision of information security, and on the other hand, they are connected with features of protective legal relations, arising in the information sphere. In accordance with these tasks, several functions of constitutional-legal regulation in the field of information security are being developed. “The functions of constitutional regulation reflect its preventive role, associated with providing freedom of choice to subjects of legal relations in the choice of behavior, by its permission, as well as preventing socially dangerous acts that violate provisions of the Constitution.” [4, p. 25] At the present stage of development of globalization, information security is an integral part of both national and international security. However, the specifics of national legislations and the peculiarities of their legal practice affect the protection of the informational environ-

ment on a global scale. The actual trans-boundary character of the global information space produces the dependence of factors and measures to strengthen the information security of a national government from the international legal regulation of information security. Consequently, an integrated approach of government policy to the protection of national interests in the information sphere presupposes (with full respect for the constitutional right to information) permanent monitoring of the constitutional-legal framework for the virtual segment of social relations. Dynamical growth level of technological innovations in the context of globalization requires a consistent improvement of the constitutional-legal regulation of the information security system in order to make the constitutional rights of citizens venerable and protect national interests in the information sphere.

6. Conclusions

1. Ensuring information security requires a systematic, comprehensive approach. In Azerbaijan, the relevant agencies are working to create conceptual, organizational, scientific-methodological, legislative, material and technical bases in this area. Nevertheless, serious research of international legal mechanisms, formation of national regulatory framework, development and implementation of security policy, application of special technologies, monitoring and management of information security at the national and corporate levels, staff and population training are urgent.

2. The issues of education and formation of information security culture in citizens as an integral part of information culture are relevant. In this sense, the main goal of national, economic and military policy is to ensure stability and create a security environment.

3. The search for adequate responses to the challenges of international development is the basis of Azerbaijan's multilateral cooperation in the field of information and communication, freedom of expression and the development of new information technologies. Azerbaijan is reforming the information sphere to ensure national participation in international programs for the formation of the information society and European integration, to solve domestic state-building problems, transform the economy and use global intellectual acquisition. The society is going through the stage of penetration of intelligent information technologies into various spheres of human activity. The knowledge and information society brings new challenges and great opportunities to humanity to solve its problems and ensure its further development. All countries are vitally interested in the development of the global information society and the use of new opportunities. Azerbaijan has the opportunity to make a great contribution to the formation of international information security policy.

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