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A HUMAN RIGHT TO PRIVACY UNDER INTERNATIONAL LAW

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Private life is a very broad term that covers more than one area of human life and is beyond the control of the state. The right to privacy implies the ability to live in accordance with one's desires, which should not conflict with the interests of society, as well as the rule of law. Privacy establishes the prohibition of any form of interference in private life by the state and guarantees the protection of the state from such interference by third parties.

This right is natural and also accompanies every person from the stage of his birth and is preserved after death. It is an international standard in the field of human rights, which was enshrined in Art. 12 of the Universal Declaration of Human Rights (1948), and Art. 17 of the International Covenant on Civil and Political Rights (1966) and in other international legal acts. Like other human rights, the right to privacy is exercised in the internal law and order of states, and therefore this right, like no other, directly depends on the cultural characteristics of the society in which it is applied

The concept of the institution of personal rights has a broad interpretation, which is used not only in the field of civil law, but also in constitutional and criminal law. The right to privacy is, first of all, regulated by international law, in the coordination of which the domestic regulatory legal acts are adopted.

In the scientific literature, the concept of “privacy” is described as “giving a person the opportunity to control information about himself, his family, his home, and to prevent the disclosure of personal information and an attempt on his honor and reputation”. [1] The right to privacy refers to personal rights. Everyone is endowed with this right from the moment of his birth, and states are obliged to refrain from interfering in this facet of personal freedom. [2]

In international law regarding the storage of personal data, the Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data was adopted. The provisions enshrined in this Convention regulate the current problem, because due to the specifics of storage and processing, data on a particular person may become available to everyone. Article 1 of the said Convention defines the goal - to ensure for each individual, regardless of his citizenship or residence, in the territory of each of the signatories, respect for the right to privacy in relation to the automated processing of personal data relating to him .[3]

The Convention on the Rights of Persons with Disabilities, concluded in 2006, is of great importance for protecting the rights of socially disadvantaged categories of persons. Article 22 not only enshrined the right to privacy and protection of persons with disabilities from encroachments on it, but also in part 2 obligated the participating States to protect the confidentiality of information about the person, state of health and rehabilitation of persons with disabilities. The Convention, also referred to in article 31, on statistics and data collection, obliged States parties to collect appropriate

information that would allow for the implementation of the Convention to develop and implement strategies in compliance with legally established safeguards, including data protection legislation, in order to ensure confidentiality and the privacy of persons with disabilities .[4]

Immunity lies at the core of the inherent dignity of the human person, and in the concept of human rights is understood as a feature through which the state should not step over so as not to invade the personal world of a person.

Also, article 12 of the Universal Declaration of Human Rights states that: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.” [5]

Article 17 of the International Covenant on Civil and Political Rights states: “1. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.” [6]

The European Convention for the Protection of Human Rights and Fundamental Freedoms considers the right to privacy as “the right to lead one’s own life at one’s discretion with minimal outside interference” and determines that:

“There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.. ”. [7]

Almost all countries of the world recognize immunity in their constitutions. At a minimum, these constitutional provisions include the right to inviolability of the home and the secrecy of communications.

In our national legislation, immunity is guaranteed by Article 18 of the Constitution of the Republic, adopted at a republican referendum on August 30, 1995.

The Constitution of Kazakhstan guarantees the inviolability of every person on the territory of Kazakhstan, without any form of discrimination, social, official and property status, gender, race, nationality, language, religion, or any other grounds. [8]

International law protects personal and family life, above all, from government interference. This means that, without appropriate legal grounds, the state cannot search the home or disclose available personal information. However, over the past decades it has become clear that not only the state can threaten the private life of citizens. In those countries where the media are independent and forced to compete for market share, some of them resort to unscrupulous means of finding “tidbits” of information from the life of public figures, politicians, and secular celebrities.

For example, in 2004, the European Court of Human Rights examined a complaint in the case of von Hanover v. Germany regarding a violation of Article 8 of the European Convention on Human Rights. Princess Carolina von Hanover has repeatedly and unsuccessfully applied to German courts for an injunction against any further publication of a series of photographs published in German magazines in the 1990s, claiming that they violated her right to protect her privacy and her right to her images . The court found that there had actually been a violation of Article 8 of the Convention. However, a separate opinion of the judges is attached to the Decision, one of which states that “it is necessary to strike a balance between two fundamental rights: public persons to respect their private life and the general right to freedom of expression, which includes the right of the public to receive information ”. [9] This opinion reveals the urgent problem of distinguishing between legitimate and unlawful dissemination of information about private life, including in the media.

Thus, the legal regulation of privacy in international law is not limited to being enshrined in only one normative legal act, but is regulated by many acts, in particular, the Conventions cited. Based on the foregoing, the main features of regulating privacy are: 1) a guarantee at the interstate level of the right to protection against encroachment; 2) consolidation in acts relating to different

areas of regulation; 3) an urgent problem for all countries to protect private life from attacks by the media.

Summing up, it should be noted that private life is an element of individual freedom, at the same time reflecting its social and individual nature. From this point of view, privacy is a value in the protection of which both the individual and society are objectively interested. Hence the problem of legal protection of privacy. The problem of the right to privacy is multifaceted, therefore, its study will be complete only as a result of the joint efforts of the legal, philosophical, political, cultural and other social sciences. The content itself, which is embedded in the concept of private life, is historical in nature and its interpretation depends on many factors: customs, foundations, characteristic of the majority of the population, the level of culture of society, national and religious characteristics of development.

An analysis of the legislation of foreign countries and judicial practice allowed us to conclude that at present a trend is being seen of an ever wider understanding of private life. A clear legislative definition of this concept is a rather difficult task due to the limited capabilities of formally attributive methods of legal registration. Private life is multifaceted. A strict delineation of its borders is practically impossible. The border between private life and life of a public nature is rather arbitrary, and this imposes additional responsibility on the legislator and law enforcer.

Literature

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