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FREEDOM OF THOUGHT IN THE CONTEXT OF ARTICLE 9 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND CASE-LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS

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The Doctoral thesis and the abstract may be consulted at the Library of the Free International University of Moldova and the web page of the Free International University of Moldova (https://ulim.md/doctorat/sustinerea-tezelor-de-doctorat/) and the National Agency for Quality Ensuring in Education and Research (http://www.cnaa.md/).

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CONTENT

CONCEPTUAL REMARKS OF THE RESEARCH

Actuality and importance of the research topic. Freedom of thought is at the origin of all achievements of human civilization at all stages of its existence. Free thinking, not indoctrinated by dogmas, prejudices and stereotypes, was the basis for the conception of the heliocentric model of the solar system, allowed the deciphering of the double helix structure of human DNA, proposed the musical scale, created the periodic table of chemical elements, invented the binary system - moments that marked real "revolutions" in the minds of people and the realities of those times, leaving a strong imprint on the evolution of humanity, consequently increasing the quality of life of people of different eras.

"Thought is free", said Marcus Tullius Cicero in the 1st century BC. The international society was able to give legal content to the famous quote only at the end of the 19th century, the beginning of the 20th century.

Thanks to the efforts of the notorious personalities of those times, and thanks to the responsiveness of the national authorities, humanity managed to include freedom of thought in the list of fundamental civil liberties and rights, which belong to every person from the moment of birth and from which the state cannot deprive him. The european human rights protection mechanism based on the provisions of the ECHR took care to develop the content of this freedom, adapting it to the realities of our times.

Freedom of thought is an essential condition of a democratic society, of a state of law. Philosophers, lawyers, artists have always treated freedom of thought as the most important value of a prosperous society. Being fully exploited, this freedom benefits both the individual and society.

Freedom of thought was borrowed by international treaties, which established its character as an imperative norm. Nowadays, freedom of thought is contained in the provisions of universal and regional international acts, treaties that create mechanisms for the protection of human rights (Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, Convention for the Protection of Human Rights and Fundamental Freedoms , the Inter-American Convention on Human Rights, the African Charter of Human and Peoples' Rights, the Charter of Fundamental Rights of the European Union, etc.), as well as in the conventions that protect certain categories of people (the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Racial Discrimination, etc.).However, we must recognize that the most consistent interpretation of this fundamental freedom is due to the jurisprudential developments of the European Court of Human Rights, established to ensure compliance by the state parties with the

commitments arising from the Convention for the Protection of Human Rights and Fundamental Freedoms.

Despite the fact that freedom of thought, conscience and religion is contained in multiple universal and regional instruments for the protection of human rights, it is incorporated in the national legislation of the states, its realization in practice reveals a series of problems caused by the terms that creates confusion among the beneficiaries, but also among legal practitioners; by the reluctance of national authorities in the process of guaranteeing the fundamental rights of individuals. Subsequently, in this work we aim to identify the main positive obligations of the state related to Article 9 of the Convention for the Protection of Human Rights and Fundamental Freedoms with the formulation of relevant conclusions in order to prevent violations of the provisions of the indicated treaty.

As a rule, any research in the field of material and procedural rights guaranteed by the ECHR respects the dichotomous approach: *ab initio* the emergence, evolution, nature and content of the guaranteed right are analysed in detail, subsequently the conditions of the interference of the authorities in the process of realizing the right/freedom are determined – this being considered the object of research. Since the freedom of thought is an absolute right, we must highlight that aspects that legitimize the interference of national authorities will not be treated. The principles of subsidiarity and proportionality will be analysed exclusively when the interconnection between freedom of thought and other convergent rights guaranteed by the ECHR will be discussed.

The level of studying the research topic. This thesis is a unique study in the domestic doctrine of International Human Rights Law, the Law of the European Convention on Human Rights, the Legal Protection of Human Rights, which aims to analyse *„in concreto"* the nature, the content and the place of freedom of thought in the system of rights and freedoms fundamental human rights, as this regional system was designed by the states parties to the ECHR. The researched literature consulted in order to write this scientific material present certain particularities arising from the specific nature of the analysed freedom.

Thus, a first feature of the bibliographic support is the multidisciplinary character of studies dedicated to freedom of thought. Numerous sources with philosophical-legal, political, medical implications are attested. Here we refer to the studies carried out by Swaine L., Medvedev S., Bury J., B., Berdyaev N. Valuable content for writing chapters 2 and 3 of this thesis was discovered in textbooks dealing with human rights theory. Among them, the didactic and methodical-didactic works of the authors Lucaseva, Balashenko, Suharev, Rehman, etc. are worth mentioning. Another feature of this paper is the multitude of scientific works in the field of the European Court of Human Rights that are being analysed. They do not refer *stricto sensu* to the analysed subject, but they provide us with valuable information in order to identify the relevant jurisprudence, the

scientific approach to the concepts and the determination of the role of freedom of thought in the ECHR system. Among the most valuable studies we mention those signed by C. Bîrsan, Harris O'Boyle, Berger V., Murdoch J., Renucci J.-F., Xenos D., Gomien D., De Salvia M.

M. Poalelungi, D. Sârcu-Scobioală, O. Dorul, A. Morărescu, etc., deserve to be mentioned as representatives of the autochthonous doctrine having researches in the field of freedom of thought, which constituted the doctrinal support of this scientific text. Freedom of thought is one of the fundamental human liberties essential for the full life of the human being promoted by the most brilliant minds of all times and contained in universal, regional and national legal acts. Fully aware of this fact, the authors of the European Convention on Human Rights agreed to ensure the protection of the person's freedom of thought already in his inner forum, this being a complex exercise with empirical implications and not necessarily legal ones.

The purpose of this scientific endeavour is not to identify the moral and logical limits of freedom of thought, but to reveal its legal nature and the conditions for its implementation. Therefore, the **aim of the research** is to study the freedom of thought as a theoretical concept and as a legal institution/entity in the ECHR system.

In order to achieve this goal, we propose the following **research objectives**:

- defining freedom of thought;
- analysis of the international (universal and regional) and national normative framework in the field of freedom of thought;
- the analysis of the legal reasonings that were the basis of the judgments or decisions of the European Court of Human Rights in the area of freedom of thought;
- highlighting the general principles derived from the jurisprudence of the Strasbourg Court in the matter of freedom of thought;
- freedom of thought research in the context of other rights guaranteed by the European Convention on Human Rights and the identification of the reasonings that guide the European Court of Human Rights when balancing competing interests: freedom of thought on the one hand and freedom of expression, or freedom of association, or the right to private life, etc. on the other hand;
- determining the positive and negative obligations of the state in the field of Article 9 of the European Convention on Human Rights.

Research hypothesis. We initiate scientific research by setting general and specific hypotheses that are to be proven. Based on the nature of freedom that is the object of this study, its multidisciplinary approach, we propose the following research hypothesis:

- freedom of thought, deriving from human dignity, has a fundamental character arising from

the importance of the mental cognitive process for human life;

- freedom of thought has an absolute character, and the involvement of the authorities in the thought process cannot be possible, but neither can it be achieved;
- freedom of thought, according to the findings of the European Court of Human Rights, is a prerequisite for the full realization of other fundamental rights and freedoms of the person.

The scientific problem lies in establishing a clear concept of freedom of thought, determining the place and role of freedom of thought in the system of fundamental rights and freedoms of the person, with the aim of eliminating the confusion related to the fundamental freedom in the theory and practice of law, a fact that it ultimately leads to the elaboration of ferenda law proposals in order to adopt a viable normative framework adapted to international standards and the exclusion of judicial errors. Various local and foreign sources of doctrinal research in the field of the legal fundamental freedoms that protect the *forum internum* justify the necessity and actuality of the present scientific research in order to scientifically develop the freedom of thought as a doctrinal concept, but also a legal institution.

Research methodology and justification of chosen research methods. The conceptual research of freedom of thought requires a complex intellectual exercise, however, this paper satisfies the current multidisciplinary requirement from the perspective of trends in the evolution of the methodology of scientific research in the field of law. We will prove, during this research that the treated concept is an area of interest both for lawyers specialized in the field of constitutional law, the general theory of the state and law, international law, international human rights law, the law of the European Convention on Human Rights, but also for philosophers, sociologists, doctors. We will repeatedly refer to the analysis and synthesis of the researched phenomena and events. Subsequently, the methodological bases of the research consist of the following theoretical methods:

- *Logical analysis (deductive, inductive, generalization, specification)* applied throughout the research process to identify the legal content of freedom of thought, the positive obligations analysed in this thesis.

- *Historical analysis* is relevant in order to analyse the historical evolution and the codification of freedom of thought, and outline positive obligations related to Article 9 of the ECHR. Following this scientific investigation, we aim to identify both the evolutionary aspect, but also quantitatively, the rationales that are the basis of the decisions and judgments of the European Court of Human Rights related to freedom of thought.

- *Dialectical method* being the analysis of contrary opinions on phenomenon or process, is appropriate when we analyse doctrinal opinions, sometimes contradictory, regarding the nature of

freedom of thought and its relationship with other fundamental human freedoms which will allow, to identify appropriate practical and theoretical solutions.

- *Comparative analysis* studies the compatibility of the legislation of the Republic of Moldova with the ECHR standards in the matter of ensuring freedom of thought;

- *Systemic analysis* used in establishing the origin, place and role of freedom of thought in the system of international human rights law, as well as in the ECHR system. Namely, this allows us to develop the content of Chapter 3 where the convergence of freedom of thought with other rights and freedoms in the ECHR system is treated;

- *Dynamic analysis* to forecast the changes to be made in the national legislation in order to make full use of freedom of thought by each individual.

2. SUMMARY OF THE CHAPTERS (PhD THESIS CONTENT)

The PhD thesis on "Freedom of thought in the context of Article 9 of the European Convention on Human Rights and the case-law of the European Court of Human Rights" contains three chapters having 12 paragraphs. For the most part, the scientific material is presented symmetrically, respecting the deductive method of approaching the content.

Chapter 1 "The normative, doctrinal and jurisprudential framework in the field of freedom of thought in the system of the European Convention on Human Rights" comprises a deep analysis of the research field and includes the following compartments: *1.1. Doctrinal reflections on the nature and content of freedom of thought; 1.2. Establishment of legal provisions of freedom of thought; 1.3. Jurisprudential milestones of the European Court of Human Rights in the field of freedom of thought*; *1.4. chapter I conclusions.*

The first paragraph entitled ***"Doctrinal reflections on the nature and content of freedom of thought"*** contains a deductive approach to the scientific literature, by establishing the relevant contents in scientific and didactic-scientific works on the subject of human rights that will ultimately prove the degree of research of the theme of the doctoral thesis in domestic and foreign specialized literature. In this sense, scientific contents from human rights textbooks signed by foreign authors (Lucașeva E., Renuci J.-F. etc.) were analysed.

Due to the special nature of freedom of thought, which is part of the first generation of human rights and freedoms, we would like to mention the multidisciplinary nature of the research literature in the field of freedom of thought. Specifically, various sources with philosophical-legal implications have been attested. These include: the Plato's works "*Phaidon*", "*Theaitetos*"; "*Theological-Political Treaty*" signed by B. Spinoza; the fundamental work "*A history of freedom*

of thought" by the author Bury J. B.; "*On Liberty*" written by John Stuart Mill; the study "*Freedom of thought as a basic liberty*" elaborated by Lucas Swaine; ;"*О назначении человека*" by the Russian author N. Berdyaev.

A valuable support in writing this chapter for this thesis is due to the study "*Compilation des norms du Conseil de l'Europe relative aux principes de liberté de pensée, de conscience et de religion et liens avec d'autres droits de l'homme*" adopted by the Human Rights Committee on 19 June 2015.

A special attention in the research process was dedicated to the new implications of technologies and medical sciences on the cognitive process, subsequently on the way the human being exploits the freedom of thought. In this context, we refer to the results of the most recent developments under the auspices of the Council of Europe, which materialized via the introduction of the "NeuroRights" concept in the international legal framework. Marcello Ienca, the author of the study "*Common human rights challenges raised by different applications of neurotechnologies in the biomedical field*" dedicates a separate paragraph to the research of freedom of thought and conscience. Additionally, in order to provide a multidisciplinary basis for the theses indicated in the thesis, I referr to the researches signed by S. Medvedev " *Мозг против мозга. Новеллы о мозге* " and N. Bekhtereva "*Магия мозга и лабиринты жизни*".

In the domestic doctrine of international law, international human rights law, there are no studies exclusively dedicated to the research of freedom of thought in the European Convention of Human Rights and in the jurisprudence of the European Court of Human Rights. Traditionally, the subject is treated from a general perspective, focusing on fundamental human rights and freedoms guaranteed by the ECHR, and those few research works by Moldovan scholars cover freedom of thought topic as part with the other freedoms provided by the article 9 ECHR: freedom of religion and conscience. At the same time, the contribution of doctrinaires from the Republic of Moldova in the general and specific research of the ECHR system cannot be neglected. Among the works signed by them and which were consulted in the drafting of this doctoral dissertation are the PhD work on the theme "*Positive and negative obligations of the state through the prism of the European Convention for the Protection of Human Rights and Fundamental Freedoms*" signed by M. Poalelungi; "*The European Convention on Human Rights. Analysis on the decisions of the European Court of Human Rights against the Republic of Moldova. Conclusions and recommendations*" developed by the group of authors: Poalelungi M., Sârcu D., Splavnic S., Grimalschi L., Nica A., Dorul O.; the PhD thesis: "*Constitutional guarantees of the right to freedom of opinion and expression*" by Nicolai Terzi and the doctoral thesis with the theme "The principle of proportionality in the system of the European Convention on Human Rights" signed by A. Morărescu, etc.

In the second paragraph of the thesis entitled "***Establishment of legal provisions of freedom of thought***" we qualitatively analysed the provisions of universal and regional acts that establish the protection of certain categories of rights (civil, political, social, etc.), or certain categories of persons (children, refugees, stateless persons, etc.).

After researching the binding universal and regional instruments (international treaties), we identified and analysed the *soft law* acts in the field of freedom of thought. In the same way, the normative material exposed allowed the creation of a clear vision of the normative framework of the research object of this scientific endeavour. Moreover, in this paragraph we aimed to elucidate the legislative framework of our country in the field of freedom of thought, conscience and religion in order to determine the compatibility of the provisions of national law with international standards. In this context, the legislation of the Republic of Moldova can be compared with other states provisions, chosen to satisfy the requirements of presenting a comparative study. In this paragraph, jurisprudential developments of the Constitutional Court of the Republic of Moldova were additionally exposed in the field of freedom of thought, expression, religion and freedom of conscience.

Paragraph 1.3 ***"Jurisprudential milestones of the European Court of Human Rights in the field of freedom of thought"*** contains jurisprudential benchmarks of the jurisdictional forum in Strasbourg in the field of freedom of thought, the general principles of law formulated by the ECHR when the complainants invoke non-compliance by the authorities of the freedom of thought, conscience and religion.

Although the former European Commission of Human Rights and the European Court of Human Rights in a series of cases, where the complaints invoked the non-compliance of the right to freedom of thought did not made a separate opinion on its content, we considered it appropriate, therefore, we have also reviewed the cases where the Strasbourg Court could have been exposed on the content of freedom of thought. For each case presented in this paragraph, a specific algorithm was followed: a brief description of the events that constituted the basis for addressing the ECtHR, the reasoning by which the ECtHR was guided when it adopts the decision to reject the case on grounds of inadmissibility, or when it declares the request admissible and expose on the merits. In this context, the following cases were analysed: Habitants de Leeuw-St. Pierre vs. Belgium (1965); X vs. United Kingdom (1975); Arrowsmith vs. United Kingdom (1978); Angels vs. Sweden (1986); N.F. vs. Italy (2001); Pretty vs. United Kingdom (2002); Enver Aydemir v. Turkey (2016) etc.

In this paragraph, we consider appropriate to analyse the case-law of the inter-American mechanism for the protection of the right to freedom of thought, or, this will allow us to identify good practices and determine the causes of the failures of government efforts in ensuring effective

tools for the protection of this fundamental freedom, absolutely necessary actions to formulate initiatives of a practical nature at the end of this scientific investigation.

Summing up, the content of the first chapter allows the creation of a global vision regarding the degree of investigation and regulation of freedom of thought in universal and regional instruments. The conclusions formulated at the end of the first chapter on the insufficient research in the domestic specialized doctrine of freedom of thought in the ECHR system, additionally contain the research hypotheses, which will be proved in chapters 2 and 3.

Chapter 2 entitled ***Genesis and content of freedom of thought within the European mechanism for the protection of human rights established by the European Convention on Human Rights***, as a result of findings of the first chapter, proposes conceptual approaches to freedom of thought. In this sense, key concepts of the research paper were proposed, the necessary classifications were made to determine the place and role of freedom of thought in the range of individual rights and freedoms. Chapter 2 includes the following paragraphs: *2.1. The origin, evolution and essence of freedom of thought; 2.2. Freedom of thought through the lens of Article 9 of the European Convention on Human Rights; 2.3. The obligations of states under Article 9 of the European Convention on Human Rights; 2.4. Conclusions to Chapter 2*.

Paragraph 2.1 "The origin, evolution and essence of freedom of thought" starts with defining approaches and thorough analysis of the origin and evolution of freedom of thought from the chronological perspective of history. Hence, a doctrinal concept cannot be analysed without knowing its historical path. In the same way, future scenarios cannot be projected without considering the evolutionary aspects of the phenomenon approached in theoretical and practical aspects.

Concepts inherent in the universal protection of human rights took shape in the post-war world. Specifically, the atrocities and consequences of the Second World War brought the need to establish monitoring mechanisms for fundamental human rights and freedoms on the agenda of international bodies. The development of the universal normative framework in the field, the design of an extremely complex institutional architecture under the auspices of the UN, with the purpose of supervising the way in which the states respect the commitments assumed by ratifying international treaties in the field of human rights gradually led to the removal of this segment from the sphere of exclusive jurisdiction of the states. Nowadays, states can no longer invoke personal or territorial jurisdiction to oppose the interference of external actors who act on the basis of an international mandate that provides monitoring duties, research on how universal standards for the protection of certain rights are transposed into the internal legal order of states' rights, either of certain categories of persons.

Every right and every individual freedom have conceptually crystallized along the evolution of philosophical and legal thought, drawing inspiration at every stage from those values promoted by human civilization in a certain historical context. Thinkers have tried to understand and define the perfect skill of the human brain that is thinking. In the works of philosophers, we manage to find the most varied answers to the quality of the act of thinking, being related to the values shared by the members of a society at a certain stage of human development. The attempts are not limited to the dialectic approach, particularly in the ancient times, a series of metaphysical approaches were discovered. All of them are interesting and deserve to be researched including by the academic environment with a vocation in sciences other than theology, philosophy. In this scientific approach, we will outline the main milestones in the evolution of human thought that, in our opinion, anticipated, and later substantiated the legal consecration of freedom of thought.

In order to tell about the reflections of the ancient times thinkers, I essentially turned to Plato's work ("*Phaidros", "Theaitetos", "Phaidon*") which contains entirely the idea that the connection between body and soul is materialized through thought. During the ***Middle Ages***, a series of constraints burdened thinkers. This time was not a time of authentic thinking. The Church watched over the observance of the dogmas. However, in the universities – the scientific centres of those times, there was still room for debate. Moreover, the first attempts to legally protect the freedom of opinions and beliefs appear specifically during this period. Although conceptually the freedom of thought, as will be shown in the present study, will appear later, we believe that it is precisely the outstanding personalities of the Middle Ages, Michel de Montaigne, Baruch Spinoza, Voltaire, who determined the importance and nature of this fundamental freedom, but also -have gradually outlined their place in the system of fundamental human rights and freedoms.

Unfortunately, freedom of thought did not have a clear outline after the French revolution, and the text of the Declaration of the Rights of Man and Citizen from 1789 does not contain the protection of the internal forum, but of the external one, thus according to the provisions of Article 10: ”*No one shall be disquieted on account of his opinions, including his religious views, provided their manifestation does not disturb the public order established by law*”. And under Article 11, the free communication of ideas and opinions is one of the most precious of the rights of man; every citizen can therefore speak, write and print freely, except in the cases provided by law, in which he will have to answer for the abusive use of this freedom.

In his work "*On Liberty*" (1859) John Stuart Mill dedicates a separate chapter (Chapter II) to the analysis of freedom of thought and speech. Friedrich Nietzsche in his work "Beyond good and evil. Prelude to a Philosophy of the Future" (1886) stated that thinking is a cause-effect activity of a human being.

The mankind of the 21st century is witnessing the unprecedented tempo of the developments of sciences and technologies. A challenge in this sense is presented by neurotechnology. The use of software, devices operated by artificial intelligence reveals ethical problems in certain contemporary communities - religious aspects, and in the context of the present scientific investigation - more and more voices can be often heard urging the subjects of international law with the ability to conclude international treaties to proceed with the official codification of this new segment of the activity of human beings, impacting the respect of fundamental human rights and freedoms.

The Organization for Economic Cooperation and Development, which aims to identify and promote public policies to ensure economic growth, well-being and sustainable development in the member states, but also at a global level, in 2021 has carried out a unique study on the use of technologies by human beings. This study was based on the Recommendation on responsible innovation in neurotechnology, adopted by the OECD Council on 11 December 2019 on the proposal of the Committee for Science and Technology Policy (CSTP).

Another challenge to the freedom of thought in the context of the new realities is the manipulation. However, this concept, in some interpretations, is likely to seriously affect the achievement of freedom of thought. The essential difficulty in qualifying such interference in the person's inner forum results from the impossibility of determining the causal link between certain actions, ideologies promoted by the authorities and the change of attitude or the formation of the person's opinion regarding certain events or phenomena from the past, present or future. The new realities, including those moments that we expressly referred to above, require the adaptation of the content of the European Convention on Human Rights to legal relations, presenting a different nature and involving subjects other than those known to the authors of the text of the international treaty in November 4, 1950, supplemented by additional protocols.

In paragraph 2.2 "Freedom of thought through the lens of Article 9 of the European Convention on Human Rights" we aimed to emphasize the contribution made by the European Convention on Human Rights and, in particular, by the case-law interpretation of the European Court of Human Rights in the conceptualization and developing the content of freedom of thought. Although there are extremely few cases in which the European Court essentially expressed the right to freedom of thought, we have managed to highlight their particularities.

The paragraph begins with the legal analysis of the content of Article 9 of the Convention for the Protection of Human Rights and Fundamental Freedoms. In this context, it is worth emphasizing that freedom of thought does not appear in the list of fundamental rights and freedoms of the man in paragraph 2 of Article 15 of the ECHR from which no derogation is allowed in the event of a state of emergency. Therefore, referring to the object of this research, in case of war or

other public danger that threatens the life of the nation, the national authorities can take measures that derogate from the obligations provided for in Article 9 of the ECHR, to the strict extent that the situation requires and with the condition that these measures are not in contradiction with other obligations arising from international law. In this situation, the state exercising this right of derogation will inform the Secretary General of the Council of Europe about the measures taken and the reasons for their termination. The State must also inform the Secretary General of the Council of Europe on the date on which these measures ceased to be in force and the provisions of the ECHR become applicable again. As the freedoms provided for in Article 9 were formulated and protected, they represent one of the fundamental values of the "democratic society" in the sense of the Convention.

Analysing the content of paragraph (1) of Article 9 of the ECHR, it appears that it contains 2 elements. First, it has an "internal" dimension (*forum internum*) guaranteeing freedom of thought, conscience and religion". Secondly, paragraph (1) of article 9 also contains an external element (*forum externum*) recognizing each person's freedom to manifest his religion or belief individually or collectively.

Being absolute, freedom of thought and conscience has certain practical consequences. Obviously, thoughts, if not expressed, are not accessible to anyone but the thinker. At the same time, beliefs are important to the person to the extent that he can express them.

The authors of the European Convention on Human Rights understood to protect a person's freedom of thought in his inner forum, independent of its materialization and expression in public beliefs.

In *the case of Kjeldsen, Busk Madsen et Pedersen vs. Denmark*, the Court concluded that the obligation to ensure that information and knowledge from the school curriculum is disseminated objectively, critically and pluralistically, with the prohibition of any indoctrination results not only from the provisions of art. 2 of Additional Protocol no. 1, but also from the provisions of art. 8, art. 9 and art. 10 of the Convention, as well as its general spirit, as an international instrument intended to defend and promote the ideals and values of a democratic society.

The quality of victim through the lens of the European Court of Human Rights (in the past, before the European Commission of Human Rights) in claims regarding the violation of freedom of thought, arising from the very nature of the protected freedom, can be a natural person, pursuant to Article 34 of the European Convention on Human Rights.

We consider important to mention in this chapter, that the former EDO Commission by its decision of December 12, 1988 in the case of Kontakt-Information-Therapie and Hagen vs. Austria

recognized that freedom of conscience, unlike freedom of religion, cannot be exercised by the legal person.

Unlike other related rights, mentioned in articles 8, 10, 11 of the ECHR, article 2 of Protocol no. 4 of the ECHR, the Court carrying out the proportionality test, in order to rule on the claims of non-respect of the freedoms protected by Article 9, will not retain the national security argument to assess the legality of the interference. The greatest achievement of the jurisdictional forum in Strasbourg, in our opinion, is the implementation of the sensitive and complex exercise of balancing freedom of thought and other rights guaranteed by the Convention, in such a way that it does not jeopardize the purpose and its objectives.

In this paragraph, the most substantial decisions of the ECtHR have been analysed, which allow, in our view, to consolidate, either directly or indirectly, the concept of freedom of thought in a new way, specific to the system of the European Convention on Human Rights: the case of Habitants de Leeuw-St. Pierre vs. Belgium; the case of Vavřička et al. vs. Czech Republic; the case of Bayatyan v. Armenia, the case of Bernard and others vs. Luxembourg etc.

Finally, in the third paragraph of Chapter 2 entitled "***Obligations of states under Article 9 of the European Convention on Human Rights***" positive and negative obligations were identified in the field of freedom of thought.

The first paragraph of Article 9 of the European Convention on Human Rights sets out three distinct freedoms, namely freedom of thought, freedom of conscience and freedom of religion, which are approached by the Strasbourg Court through a unique lens.

As it follows from the content of the provisions of the Convention, but also from the unanimously accepted classification of fundamental human rights, the state, being the inclusive guarantor of freedom of thought, conscience and religion, must refrain from intervening outside the limits provided by the Convention in the process of realization by the beneficiary of his fundamental freedoms, but also to carry out certain actions to allow a maximum exploitation of the freedom of thought, conscience and religion, which will become practical and effective.

In theory, human rights are classified, depending on the degree of state involvement in the individual's realization of fundamental rights and freedoms, into positive rights and negative rights. Negative human rights mean the obligation of all other subjects, especially states, to refrain from any interference, they do not admit outside involvement on the freedom to realize such a right. Positive rights, on the other hand, mean the obligation of the state to take certain actions, aimed at realizing the rights of legal persons.

Although the term positive obligation is frequently used in the decisions of the European Court of Human Rights, a general definition has not been developed. However, it can be easily drafted considering the jurisprudence released by the European Court. If we refer to the structure

and characteristics of positive obligations, we are going to highlight that the latter are indivisible and in fact mean fundamental duties for the signatory states that consist of either protecting or fulfilling.

We consider it useful to exemplify in this chapter the actions to be taken by the states in order to achieve the positive obligations on the ground of Article 9 of the ECHR.

The author M. Poalelungi, performing an analysis of the jurisprudence of the Strasbourg Court in the matter of freedom of thought, conscience and religion, identified a series of positive obligations of the state. But, as we will see below, specifically in the area of religious freedom, the state has several positive obligations:

- *ensuring the state's neutrality and impartiality;* On several occasions the Court established that in exercising its regulatory power in this matter and in relation to various cults, religions and beliefs, the state must be neutral and impartial (Manoussakis and others v. Greece, Mitropolia Bessarabia and others v. Moldova), and that it is incompatible with any discretion on his part regarding the legitimacy of religious beliefs .The Court wants to emphasize that it is not allowed, in the name of religious freedom, to exert abusive pressure on another with the desire to promote religious beliefs. At the same time, the role of the public authorities is not to eliminate the cause of tension by eliminating pluralism, but to ensure that the opposing groups tolerate each other. This role of the state contributes to ensuring public order, religious peace and tolerance in a democratic society and can never be conceived as likely to diminish the role of a faith or a church historically and culturally adhered to by the population of a specific country.

- *the formalization of a religious cult.* In the case of Mitropolia Basarbia and others v. Moldova, the ECtHR found that in the conditions where the complained state does not invoke any well-founded and conclusive reasons to reject the request of a religious cult to be registered, according to the express restrictions provided by art. 9 para. 2, the refusal to formalize a cult will be contrary to the provisions of the Convention, the national authorities thus failing to comply with the positive obligation of registration.

- *protection against incitement to violence and hatred against a religious community*. While those who choose to exercise freedom of religion cannot reasonably expect to be immune from criticism, state responsibility can be engaged when religious beliefs are opposed or denied in a manner that prevents those who hold such beliefs to exercise their freedom to hold or express them. In such cases, the State may be called upon to ensure the peaceful realization of the right guaranteed under Article 9 for those holding those beliefs. In the case of Members of the Gdani Congregation of Jehovah's Witnesses and others v. Georgia in which 96 applicants were assaulted, humiliated and violently beaten during the meeting and their religious works were confiscated and burned, the authorities showed total indifference and failed to act in no way to the applicants'

complaints, the Court estimated that through their inaction, the competent authorities did not fulfil their obligation to take the necessary measures to ensure that the group of Orthodox extremists tolerates the existence of the applicants' religious community and allows them to exercise their right to freedom of religion.

- *ensuring the freedom to manifest one's religion in the workplace.* In the case of Eweida and others v. the United Kingdom, the ECtHR examined whether the state fulfilled its positive obligations in order for individuals to enjoy religious freedom. Among the complainants was a company flight attendant who, due to new regulations on employee dress, was not allowed to wear the cross around her neck. When assessing the proportionality of the measures taken by a private company in relation to its employee, national authorities, the courts, operate with a margin of appreciation. However, the Court concluded that, in the present case, a fair balance was not ensured between Ms. Eweida's desire to manifest her religious faith and the employer's desire to project a certain corporate image. The Court considers that, although this objective was undoubtedly legitimate, the domestic courts gave it too much weight. Ms Eweida's cross was discreet and did not affect her professional appearance. There was no evidence that the wearing of other religious clothing, such as turbans and hijabs, previously authorized by other employees, had any negative impact on the British Airways brand or image.

Summarizing the above, we find that freedom of thought, conscience and religion imposes a series of positive obligations on states, which, being generalized, present the following characteristics:

- the positive obligations of the state in the field of the freedom of thought, conscience and religion are reduced to the fundamental duty to protect individuals in the process of capitalizing on their fundamental freedoms;
- the positive obligations on this subject are applied both in vertical and horizontal legal relations, assuming an active attitude of the state in order to protect legal; persons from the interference of both state bodies and the actions of other persons, groups of people;
- assessing the achievement of the state's positive obligation under Article 9 often involves carrying out the logical-legal exercise of balancing competing interests: the general interest of society and the interests of the individual or individuals;
- following the jurisprudence of the Strasbourg Court, the plaintiffs, requesting the establishment of violation of freedom of thought, conscience and religion, invoke complementary fundamental rights, the Court stating, in addition to article 9, on the side of the plaintiffs' allegations under articles 6, 8, 10, 11 and 1 Protocol 1 of the ECHR.

The negative obligation in the field of freedom of thought belongs exclusively to the national authorities, although this has never been formulated in ECtHR jurisprudence, and at the

moment it is difficult for us to imagine such a practical example *in concreto*, according to the negative obligations doctrine, the formulation will be: the national authorities have the obligation not to interfere / to refrain from any interference in the person's freedom of thought.

Summarizing what was exposed in chapter 3, we find that although the cognitive process of knowledge, called thinking, is able to mislead, through the wrong processing of events, the laws of nature, scientific concepts, including legal reasoning, freedom of thought is absolutely necessary to enable a progressive evolution of people on an individual and global scale.

The right to freedom of thought is a material, inalienable and absolute right. The mission of state leaders, international officials, the academic environment, jurists is to strengthen the absolute nature of this freedom, condemning in advance, based on real or hypothetical scenarios, any interference by state authorities in the full realization of freedom of thought.

Chapter 3 entitled ***Freedom of thought in the system of the European Convention on Human Rights*** contains an analysis of the place of freedom of thought in the system of the European Convention of Human Rights and includes 4 paragraphs: *3.1. Freedom of thought and freedom of expression (forum internum et forum externum)*; *3.2. Freedom of thought – premise for the full realization of religious freedom; 3.3. The right to freedom of thought and other related rights; 3.4. Chapter 3 conclusions.*

In each paragraph we aimed to analyse the interdependence of freedom of thought with one or more related freedoms/rights protected by the Convention: freedom of expression, freedom of religion, freedom of conscience, right to respect for private life, etc. The purpose of this exercise is to draw a clear distinction between freedom of thought, on the one hand, and freedom of conscience or freedom of religion, on the other. However, the Court being referred to requests in which the plaintiffs claim the violation of these freedoms, traditionally examines them without revealing them.

Except the doctrinal definition of the key concepts, the material consulted in order to elaborate par. 1-3 is mostly made up of ECtHR judgments and decisions.

Paragraph 3.1. Freedom of thought and freedom of expression (forum internum et forum externum) contains the legal analysis of the connection between two fundamental freedoms belonging to the first generation of human rights (civil and political rights), which essentially involve negative obligations of the state in the process of realization by each individual of the content of these freedoms: freedom of thought and freedom of expression.

Although they are traditionally analyzed together by jurists and philosophers, considering themselves as part of the whole, their implementation underlines the full utilization of the essential faculty of the rational being such as thinking, however – we will discover that the legal nature of these freedoms is categorically different.

Voltaire stated that "*people have no freedom if they do not have the freedom to express their thoughts*". This statement contains not only deep philosophical content but is also a key concept of contemporary human rights theory.

In his work "*A history of freedom of thought*", the author J.B. Bury in 1913 stated: "Nowadays, in the most civilized countries, freedom of speech is taken for granted and seems a perfectly simple thing. We are so used to it that we regard it as a natural right. But this right was acquired only in recent times, and the path to its acquisition passed through complicated stages". It took centuries to convince the most enlightened nations that freedom to express their opinions and discuss all questions is a good thing and not a bad thing.

Referring to the complementarity of the two fundamental freedoms, the russian author Lucaseva states that the freedom of thought and expression are a natural, innate human trait, linked to his subjective attitude towards the external world. But the latter freedom cannot be unlimited.

The approach to these fundamental human freedoms differs from one geographical region to another. Thus, in the Inter-American Convention on Human Rights, freedom of thought and freedom of expression are provided by a single article (art. 13), while freedom of conscience and religion are provided by another article (art. 12). At the same time, following the provisions of Article 27 of the Convention mentioned above, in case of war, public danger or any other crisis situation that threatens the independence or security of a state that has ratified the Convention, the derogation from Article 13 will be allowed and will not the derogation from the provisions of article 12 is allowed.

In the Convention for the Protection of Human Rights and Fundamental Freedoms, freedom of thought, conscience and religion are contained in the provisions of Article 9, while freedom of expression is the subject of regulation in Article 10. According to the provisions of Article 15 of the Convention, the States parties to the convention can derogate from the provisions of the cited articles in case of war or other public danger threatening the life of the nation.

It is necessary to emphasize in this context the fact that the right to freedom of thought has an absolute character unlike the right to freedom of conscience or religion. Para. 2 art. 9 of the ECHR determines the right of the state to get involved in the process of manifesting religion or beliefs. We emphasize, para. 2 of art. 9 does not regulate the authorities' ability to interfere with a person's exercise of freedom of thought. In other words, the *forum internum* is fully protected by law.

Carrying out research on the provisions of Article 10 of the ECHR, the authors Poalelungi M. and Pârlog V. consider it absolutely justified that freedom of expression correlates with other converging rights. In the opinion of the aforementioned authors, the right to freedom of expression does not operate in a vacuum, it has close links with other rights and freedoms established by

convention such as the right to a fair trial (art. 6), the right to private and family life (art. 8) , freedom of thought, conscience and religion (art. 9), freedom of assembly and association (art. 11), prohibition of discrimination (art. 14).

Article 9 of the European Convention on Human Rights aims to protect freedom of thought even in the inner forum of the legal person, independent of the public expression of his beliefs. At the same time, emerging from the specifics of this fundamental freedom, only in its process of externalization of the freedom of thought, the authorities will be held to respect a series of positive obligations. The European Court of Human Rights sometimes has a complex and delicate task of balancing the provisions of Article 9 of the ECHR, the private interest with the public interest pursued by the authorities. This approach of the European Court of Human Rights was taken in the case of *Aydin Tatlav vs. Turkey* etc.

Paragraph 3.2. "Freedom of thought - premise of the full realization of religious freedom" highlights the events of the Middle Ages that demonstrated the deep intrinsic connection between freedom of thought and freedom of religion. The tragic events throughout history require us to return to the need to define the relevant legal framework and to insist on the conceptualization of the positive and negative obligations of contemporary states in order for individuals to fully realize the freedoms that belong to them from birth.

In the year 1600, the well-known scientist Giordano Bruno was sentenced to be burned to death by the Roman Inquisition for his ideas on freedom of thought. Giordano Bruno was the disciple of Copernicus and the person who inspired Spinoza, in the perfect spirit of the Renaissance, he achieved many things: playwright, mathematician, but above all he had a free and curious spirit, being an independent thinker. Later, Galileo Galilei was sentenced to exile for denying Geocentrism in favour of Heliocentrism. Galileo's trial had repercussions at that time for other brilliant minds, who were forced to deny the convictions they shared fearing prosecution. Galileo's trial had consequences at the time for other brilliant minds who were forced to deny the beliefs they shared for fear of persecution.

The church in the medieval period opposed progressive visions. It declared the scholars heretical, prosecuted them, and banned their works.

According to the Report of the Special Rapporteur of the Human Rights Council (UN) on freedom of religion or belief ((A/HRC/31/18) a common feature of both freedoms is the unconditional protection of the *forum internum* - the inner world of the person's thoughts and beliefs, and the criterion for determining limitations with reference to their external manifestation, in other words *forum externum* are similar. Thus, there are solid arguments to consider that the right to freedom of religion or belief and to freedom of expression are not contradictory, but similar

in content. However, such positive interdependence does not exclude conflicts in specific cases, because when these rights correlate, specific questions may arise (point 7).

Forum internum and *forum externum* are to be examined consecutively. Offering unconditional protection to each person's inner world from external interference, being more legally protected, the *forum internum* at the same time expands the possibilities for free communication and external manifestations within the *forum externum*. In other words, it strengthens freedom of religion or freedom of belief in expression in all its aspects, both internal and external (point 22 of the Special Report on freedom of religion or belief).

Most cases where the European Court was referred in relation to the provisions of art. 9 of the European Convention on Human Rights concern religious freedom.

An important contribution to the development of the legal content of religious freedom in the system of the European Convention on Human Rights was made by the *soft law* documents developed by the bodies of the Council of Europe, which, subsequently, are invoked by the ECtHR in assessing the allegations of the plaintiffs and the Government's position under the art. 9 of the ECHR.

We agree with the opinion of the authors Poalelungi M., Sârcu D., who consider that religious freedom is a personal freedom to hold and manifest certain spiritual convictions (beliefs, cultures and conceptions of life). Freedom of religion implies the right to practice/not practice, manifest, adhere/not adhere, change a religion. Holders of religious freedom are both believers and non-believers, atheists, agnostics, sceptics, indifferent people, etc.

Analysing the jurisprudence of the Strasbourg Court in the field of freedom of thought, conscience and religion, several positive obligations of the state can be identified. At the same time, precisely in the field of religious freedom, the state has the most positive obligations: ensuring the neutrality and impartiality of the state; formalizing a religious cult; protection against incitement to violence and hatred against a religious community; ensuring the freedom to manifest one's religion at the workplace; promoting an alternative service for people whose religious belief prohibits them from fulfilling military service.

Paragraph 3.3. "The right to freedom of thought and other related rights" contains an analysis of how freedom of thought influences the achievement of freedom of conscience. In this sense, the concept of conscientious objection was analysed as it results from the acts adopted by the main bodies of the Council of Europe and from the jurisprudence of the European Court of Human Rights**.**

Likewise, in this chapter we have identified and developed the realization of the right to private life in the light of freedom of thought, conscience and religion. An interesting aspect in the activity of the ECtHR is the way in which the Court carries out the sensitive and complex exercise

of balancing public and private interests, in such a way that it does not jeopardize its purpose and objectives. In this thesis we have set the following task: the identifying the way in which the ECtHR assesses the circumstances of the case, which involves balancing the public and private interests that reveal convergent rights: the right to private life and the right to freedom of thought, conscience and religion.

The European Court of Human Rights had the opportunity to express itself in relation to the respect of the right to private life in the light of freedom of thought, conscience and religion in the *case of Sodan vs. Turkey*.

Freedom of thought is also related to the *right to education*, regulated by the provisions of art. 2 of Protocol 1 to the ECHR (*case of Folgerø and others vs. Norway*).

In chapter ***General Conclusions and Recommendations***, the results of the scientific investigations carried out were presented correlatively.

This thesis is an attempt to present a completed study in the field of legal sciences, it contains a series of recommendations aimed at increasing the degree of protection that the state authorities, including those of the Republic of Moldova, can offer to individuals. In this last chapter, I discussed the aspects presented in Chapters II and III, particularly the idea of reviewing freedom of thought through the lens of new science and technology applications. The ideas presented have taken the form of the Ferenda law proposals.

GENERAL CONCLUSIONS AND RECOMMENDATION

In the year 1600, Giordano Bruno, the first Martyr of Science, is burned at the stake by the Roman Inquisition for his ideas on freedom of thought. 422 years later, through this scientific work developed within a university scientific center in the same geographical space, we firmly allow ourselves to criticize the odious historical experience of mankind, but also dogmas, moral norms and including legal norms, all of which take the form of free political or academic.

Freedom of thought is at the origin of all things, factors and events of anthropogenic origin that can be observed today on Earth and in outer space. Science, culture, religion, politics are products of free thought. From the theses presented in this PhD thesis to the paper or digital devices used to materialize the content of the thesis, they are all products of free thinking.

For over 4 centuries, humanity has realized the necessity and importance of ensuring freedom of thought both on an individual and collective scale, ensuring the inclusion of the legal concept in all the normative instruments at its disposal.

Freedom of thought is registered in international human rights law as a natural right of the person, at the beginning of the 20th century, which implies the negative obligation of the state not to interfere in this internal process of forming one's own opinions about phenomena and events.

As we found in Chapter II of this thesis, thinking establishes the object of self-determination of the person in which outside interference is not allowed. At the same time, the freedom of thought, having an absolute character, establishes the prohibition on the part of the authorities to force a person to give up his own thoughts.

Scientifically and metaphysically conceptualized by representatives of various professions and scientists in the fields of medicine, law, philosophy, freedom of thought is presented today as a *sine qua non* condition of any society whose members inspired by the values of liberalism promote the ideas of democracy, the innate character of human rights - essential premises for the creation and existence of the rule of law. Moreover, freedom of thought today is one of the basic principles in establishing relations between the individual and the state.

Freedom of thought is a natural, personal freedom, having an absolute character, inherent in the development of the human being, which implies its right to form its own system of spiritual values (thoughts, feelings, emotions, beliefs), to give appreciations to the events and phenomena of the surrounding world without external interference.

Nowadays, freedom of thought is becoming a concern of legal professionals, as the thoughts expressed by individual often takes the form of his own actions.

The Convention for the Protection of Human Rights and Fundamental Freedoms, being a progressive legal instrument adopted in 1950, demonstrates in the more than 70 years of its

application a viability and unprecedented flexibility in the universal and regional legal instruments in the field of human rights.

Unpredictable are the scenarios that can appear in the daily life of people under the jurisdiction of the 46 member states of the Council of Europe, parties to the European Convention on Human Rights. Therefore, the reports generated by these scenarios are unpredictable, complex and different, serving as the factual basis for addressing individuals to the European Court of Human Rights. Today, the Court takes decisions in spheres clearly advanced from those experienced by the authors of the text of the Convention.

The new realities impose positive obligations on states. In particular, we are referring to new developments, applications of science and technology. They require a prompt response from the authorities taking the form of the normative framework applicable to the regime of artificial intelligence systems that would have an impact on fundamental human rights and freedoms. As was demonstrated in this thesis, in the conditions of the contemporary world, in the system of international human rights law, in the national systems for the protection of fundamental rights it is necessary to conceptualize and establish the institution of "neuro-rights" comprising *ab initio* the right to private life mental health, the right to free will, the right to mental integrity.

The European Court of Human Rights has an essential role in analysing the content of freedom of thought. Today, thanks to ECtHR practice, national courts have important benchmarks to identify the fair balance between the competing interests that form the content of the fundamental rights and freedoms converging in the system of the European Convention on Human Rights.

We conclude that the European Court of Human Rights, through the interpretations offered at different stages of the development of european society, determined the legal content of freedom of thought and thereby established an effective supranational protection of this fundamental freedom of the human being.

Even though today universal and regional international treaties expressly regulate freedom of thought, the process of realizing it in practice has some drawbacks.

In an ideal world, the capitalization of this fundamental freedom by each individual implies the existence of an environment, achieved essentially through the negative obligation of the authorities, in which individuals are not imposed the vision of the state regarding certain phenomena and events that take place in society.

At the same time, in this context, we cannot ignore the fact that it is difficult to regulate the way in which individuals use their right to freedom of thought. Or, at the moment, the emotions, beliefs, feelings, desires of the individual as long as they are not verbalized cannot be established,

monitored, verified. These aspects could be the subject of additional investigations about freedom of thought, specifically in the light of new scientific discoveries in the field of technologies and medical sciences.

The results of the present *scientific investigation* contributed to the clarification of the important ***scientific problem solved in the PhD thesis***, namely: establishing a clear concept of freedom of thought, determining the place and role of freedom of thought in the system of fundamental rights and freedoms of the person, with the aim of eliminating confusions related to this fundamental freedom in the theory and practice of law, a fact that ultimately leads to the elaboration of *lex ferenda* proposals in order to adopt a viable normative framework in line with international standards and excluding judicial errors.

Summarizing the results of this scientific work, in order to ensure a practical use of these results we come up with a series of ***recommendations***, which we appreciate as feasible and necessary to be undertaken in order to effectively implement the national legislative provisions in the field of freedom of thought:

- The national courts are to interpret and apply the general principles of law established by the Strasbourg Court in the field of freedom of thought, not separately, but respecting the synergy of the European Convention on Human Rights, that living instrument that is in continuous development, adapting easily to the new realities, thanks to the interpretations offered by the Strasbourg Court. The national judge will carry out the complex exercise of balancing competing interests, provided that the values of a democratic society are preserved (pluralism, tolerance, respect for human dignity).
- As a recommendation *ferenda law*, we consider appropriate to amend the provision of Article 32 of the Constitution of the Republic of Moldova, which currently guarantees freedom of thought, opinion, as well as freedom of expression in public by word, image or by any other possible means only to citizens of the Republic of Moldova. In the new edition, article 32 paragraph 1 of the Constitution of the Republic of Moldova will have the following content: "*Any person is guaranteed freedom of thought, opinion, as well as freedom of expression in public through word, image or any other possible means*." In this edition, the constitutional provision will be in accordance with the principle of the universality of fundamental human rights and freedoms, but also with the provisions of international treaties on human rights to which the Republic of Moldova is a party.
- Another proposal for a *lex ferenda*, relates to the amendment of the content of Law no. 125 of 11.05.2007 on freedom of conscience, thought and religion. Although the adoption of this law was an important event through which our state once again demonstrated its attachment to the values of a democratic society, in the spirit of European values. However, following the results of

this scientific approach, it can be seen that its content does not correspond to the objective reality. When drafting the indicated normative act, the legislator expected to regulate all three freedoms that protect the inner forum of the person, in the end, however, it was reduced to the evocation of religious freedom and to an insignificant extent the freedom of conscience was regulated. Unfortunately, this organic law does not regulate the freedom of thought in its pure content. In this context, we recommend amending the content of the law indicated as follows:

Article 2 should be supplemented with the following content: "*freedom of thought - natural freedom, having an absolute character, inherent in the development of the human being, which implies the right of the legal person to form his own system of spiritual values (thoughts, feelings, emotions, beliefs), to give appreciations to the events and phenomena of the surrounding world without direct or indirect interference of the authorities*." We would highlight that the direct interference of the authorities would involve the impact of neuro-technologies on the higher faculty of the human brain, such as thinking. Indirect interference involves manipulation used by decision makers to shape public opinion. In the latter case, it is recommended to develop normative prescriptions in order to establish a "freedom of thought filter ".This tool is to be used to analyse the content of broadcasts, media releases to exclude the propaganda convenient to political parties, the promotion of ideological/religious currents, the promotion of certain programs or products. However, a democratic society encompasses political and ideological diversity, plurality of opinions and the protection of free will.

- As a hypothesis for further research in the field of freedom of thought, related to this study, we recommend the analysis of the legal content of a new fundamental freedom of the legal person such as academic freedom (freedom of research) as a freedom resulting, *inter alia*, from the interaction of freedom of thought and expression.

4. LIST OF PUBLISHED SCIENTIFIC PAPERS

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3. SUVAC S. Realizarea dreptului la viață privată în lumina libertății de gândire, conștiință și religie. Interpretări jurisprudențiale ale Curții Europene a Drepturilor Omului. În: Materialele conferinței științifice naționale cu participare internațională ”Integrare prin cercetare și inovare”, Universității de Stat din Moldova, Chișinău, 10-11 noiembrie 2021, p.204-207.
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Adnotare

la teza de doctor în drept a dlui Suvac Sergiu

”Libertatea de gândire în contextul articolului 9 al Convenției Europene a Drepturilor Omului și al jurisprudenței Curții Europene a Drepturilor Omului”

Universitatea Liberă Internațională din Moldova, Chișinău, 2022

Structura tezei: Lucrarea de doctorat lucrare conține introducerea, 3 capitole însumând 12 paragrafe, concluzii generale și recomandări, bibliografie din 185 de titluri, 141 de pagini text de bază.

Cuvinte-cheie: gândire, Convenția Europeană a Drepturilor Omului, Curtea Europeană a Drepturilor Omului, drept internațional al drepturilor omului, *forum internum, forum externum,* libertate de gândire, obligație pozitivă, obligație negativă.

Domeniul de studiu: Lucrarea de doctorat se prezintă ca o cercetare științifică în domeniul Dreptului internațional al drepturilor omului, ramură a Dreptului internațional public, dar și în domeniul Dreptului Convenției Europene a Drepturilor Omului.

Scopul prezentei lucrări îl constituie cercetarea profundă și multiaspectuală a libertății de gândire în sistemul CEDO în calitatea sa de libertate fundamentală a omului cât și în calitate de instituție juridică.

Obiectivele cercetării în lumina scopului fixat sunt următoarele: definirea libertății de gândire; stabilirea cadrului normativ internațional și cel național în materia libertății de gândire; cercetarea libertății de gândire în contextul altor drepturi garantate de Convenția Europeană a Drepturilor Omului; determinarea obligațiilor pozitive și negative ale statului pe terenul articolului 9 al Convenției Europene a Drepturilor Omului.

Noutatea și originalitatea științifică rezultă din cercetarea inedită în doctrina autohtonă de drept internațional al drepturilor omului și dreptul Convenției Europene a Drepturilor Omului a libertății de gândire în baza celor constatate și deduse de instanța de la Strasbourg. Originalitatea investigației realizate rezultă suplimentar din abordarea filosofică și juridică a libertății de gândire, dar și din concluziile formulate în final.

Rezultatul/rezultatele obținute care contribuie la soluționarea unei probleme științifice importante. Cercetarea realizată contribuie la soluționarea problemei științifice exprimate prin stabilirea unui concept clar al libertății de gândire, determinarea locului și rolului libertății de gândire în sistemul drepturilor și libertăților fundamentale ale persoanei, având drept scop eliminarea confuziilor ce însoțesc conținutul acestei libertăți fundamentale în teoria și practica dreptului, fapt ce conduce în final la elaborarea propunerilor *de lege ferenda* întru adoptarea unui cadru normativ viabil adaptat la standardele internaționale și excluderea erorilor judiciare.

Semnificația teoretică rezidă în cercetarea ce pretinde a fi exhaustivă a materialului doctrinar autohton în domeniu, invocarea studiilor pertinente semnate de teoreticienii din România, Federația Rusă, SUA, Republica Franceză, Regatul Unit al Marii Britanii etc., cu referire la interpretarea standardului convențional, jurisprudențial în materia libertății de gândire, identificarea carențelor în procedura aplicării acestora la scară națională și, în final, eliminarea lor în temeiul soluțiilor formulate.

Valoarea aplicativă a tezei. Lucrarea poate servi drept suport doctrinar pentru curriculumurile cursurilor universitare Dreptul Convenției Europene a Drepturilor Omului, Protecția juridică a drepturilor omului, Drept constituțional. La fel, materialul științific expus poate fi consultat de beneficiarii Institutului Național al Justiției în vederea însușirii dreptului material al Convenției Europene a Drepturilor Omului, subiect abordat în cadrul formării inițiale și celei continue.

Implementarea rezultatelor științifice. Rezultatele investigației științifice au fost prezentate și supuse dezbaterilor în cadrul forumurilor științifice din țară și din afara Republicii Moldova. O parte din rezultatele cercetărilor realizate au fost expuse în revistele de specialitate acreditate. Fiind adresată tuturor celor interesați de natura și conținutul libertății de gândire, recomandările expuse la final pot fi consultate în special de actorii procesului legislativ în vederea sporiri protecției oferite persoanelor fizice pe terenul acestei libertăți fundamentale.

ANNOTATION

to the doctoral thesis of Mr. Suvac Sergiu

"Freedom of thought in the context of Article 9 of the European Convention on Human Rights and the case-law of the European Court of Human Rights"

Free International University of Moldova, Chisinau, 2022

Thesis structure: introduction, 3 chapters, general conclusions and reccomendations, bibliography consisting of 185 titles, 141 pages of basic text.

Key words: thinking, European Convention on Human Rights, European Court of Human Rights, international human rights law, *forum internum*, *forum externum*, freedom of thought, positive obligation, negative obligation

Study domain: The doctoral dissertation is presented as a scientific research in the field of international human rights law, a branch of international public law, but also in the field of the Law of European Convention on Human Rights.

Target of the work: is the deep and multiaspectual research of freedom of thought in the ECHR system as a fundamental human freedom and as a legal institution.

Objectives: arising from the set goal are the following: defining freedom of thought; establishing the international and national regulatory framework on freedom of thought; exploring freedom of thought in the context of other rights guaranteed by the European Convention on Human Rights; determining the positive and negative obligations of the state in the field of Article 9 of the European Convention on Human Rights.

The novelty and the scientifical originality of the obtained results from the original research in the national doctrine of international human rights law and the law of the European Convention on Human Rights of freedom of thought based on what was found and deduced by the court in Strasbourg. The originality of the investigation results additionally from the philosophical and legal approach to freedom of thought, but also from the conclusions formulated at the end.

The result (s) obtained that contribute to solving an important scientific problem. The research contributes to solving the scientific problem expressed by establishing a clear concept of freedom of thought, determining the place and role of freedom of thought in human rights system with the aim of eliminating the confusion that accompanies the content of this fundamental freedom in the theory and practice of law. when elaborating the *lege ferenda* proposals for the adoption of a viable normative framework adapted to the international standards and the exclusion of judicial errors.

The theoretical significance lies in the research that claims to be exhaustive of the local doctrinal material in the field, invoking the relevant studies signed by theorists from Romania, Russian Federation, USA, French Republic, United Kingdom, etc., with reference to the interpretation of the conventional, jurisprudential standard. in the field of freedom of thought, the identification of shortcomings in the procedure for their application at national level and, finally, their elimination on the basis of the solutions formulated.

The applicative value of the thesis. The paper can serve as a doctrinal support for the curricula of university courses Law of the European Convention on Human Rights, Legal protection of human rights, Constitutional law. Likewise, the exposed scientific material can be consulted by the beneficiaries of the National Institute of Justice in order to acquire the information on the subject of the material law of the European Convention on Human Rights, a subject approached in the initial and continuous training.

The implementation of scientific results: The results of the scientific investigation were presented and debated in scientific forums in the country and outside the Republic of Moldova. Some of the research results were presented in accredited journals. Addressed to all those interested in the nature and content of freedom of thought, the recommendations set out at the end can be consulted especially by the actors of the legislative process in order to increase the protection offered to individuals in the field of this fundamental freedom.

SUVAC SERGIU

FREEDOM OF THOUGHT IN THE CONTEXT OF ARTICLE 9 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND CASE-LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS

SPECIALTY 552.08 – INTERNATIONAL AND EUROPEAN PUBLIC LAW

ABSTRACT
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