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**PROTECTION OF PROPERTY IN THE EUROPEAN
CONVENTION ON HUMAN RIGHTS SYSTEM**

**Specialization 552.08 International and European Public
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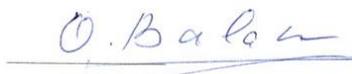
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1. CONCEPTUAL FRAMEWORK OF THE RESEARCH

Relevance and Importance of the Proposed Research Problem

The social, economic, and political changes in the post-war period have significantly impacted the concept and content of fundamental human rights and freedoms. The qualitative and quantitative evolution of human rights has been felt both universally and regionally. By ratifying international instruments on fundamental human rights and freedoms, our state has undertaken significant commitments to their effective and efficient implementation. The European Convention on Human Rights is the first regional treaty proclaiming a list of fundamental rights and freedoms and an efficient mechanism for their realization. Due to the reality of the post-war period, similar to universal human rights protection instruments, the authors of the European Convention could not reach a compromise to include all fundamental rights and freedoms belonging to generations I and II in the regional treaty. Thus, the ECHR encompasses a wide range of civil rights and freedoms but fewer economic, and social ones. Understanding the content of fundamental rights and freedoms, as well as their limits, is crucial for both states and the European Court of Human Rights, the unique guarantor of compliance by the High Contracting Parties with the Convention, whose jurisprudential creation often stimulates research and legislative innovations in the Council of Europe and European Union member states.

Establishing a dynamic protection system, the European Convention for the Protection of Human Rights and Fundamental Freedoms, especially recent jurisprudential developments, has substantially enriched the content of property protection. Understanding the organization principles and substance generated by the European Convention on Human Rights system is crucial for the national legislator and the courts in the Republic of Moldova whenever the compatibility of legal provisions with international standards in property protection is invoked.

The subject addressed in the envisaged scientific approach is relevant for both theorists and practitioners in the Republic of Moldova. Up to this point, the European Court of Human Rights has issued more than 100 decisions on property protection claims from Moldova. Consequently, in the thesis, we will elucidate the causes of condemnations, highlighting solutions to avoid such violations in the future. This will give the research an applied character.

The purpose and objectives of the thesis lie in the multidimensional examination of property protection in the European Convention on Human Rights system, including a detailed analysis of the content of the fundamental right in the context of the jurisprudence of the European Court of Human Rights. The aim is to propose recommendations and legislative proposals to ensure the compatibility of national legislation with ECHR standards. To achieve the stated purpose, the following objectives are set:

- Define "property" within the meaning of the ECHR.
- Researching the content of individuals or legal person's right to the respect of his assets in the sense of the ECHR and ECtHR jurisprudence;
- Examine the content of the right of individuals or legal entities to the respect of their property.
- Examine relevant jurisprudence of the European Court of Human Rights, including cases involving the Republic of Moldova.
- Assess the compatibility of Moldovan legislation with ECHR standards.
- Develop legislative proposals to ensure the compatibility of national legislation with the judicial practice of the Strasbourg court.

Presentation of the Research Methodology To determine the content and doctrinal development of the institution of property protection in the ECHR system, relevant scientific research methods have been applied, such as:

- Logical analysis (deductive, inductive, generalization, specification) applied throughout the thesis to identify the legal

content of the right and the principles of the protection mechanism analyzed in the doctoral dissertation.

- Comparative analysis, allowing a comparative study respecting both quantitative and qualitative indicators and observing the difference between the effectiveness of legislative norms in property protection in several countries. Comparative analysis has allowed us to identify good practices that will partially substantiate the legislative proposals formulated at the end of the thesis. Similarly, comparative analysis has allowed us to highlight aspects regarding the compatibility of national legislation in property protection with the standards of the European Convention on Human Rights.

- Historical method, inherent in research in the field of legal sciences, allows the examination of factors that have conditioned the appearance of legal norms regarding the right to property. It allows the identification of an important material legal source for understanding the evolution of the codification of the institution of property protection. The right to property, or in the terms of the European Convention on Human Rights, property protection, must be studied in specific historical conditions. As we will observe in this work, the European Court often resorts to a historical overview, especially in cases of nationalization of private property.

- Systemic analysis used to establish the origin, place, and role of the right to property protection in the European Convention on Human Rights system, as well as in the theory of International Human Rights Law.

- Dynamic analysis (in perspective) to predict the changes to be made in national legislation following the study and identification of deficiencies in the legal system of the Republic of Moldova.

Description of the Research Situation. The works elaborated on the subject of property protection in the ECHR system by local and foreign scholars constituted the theoretical basis of this study. A first particularity of the bibliographic material used for this work is that it dates from the 1950s onwards, as after the adoption of the Universal Declaration of Human Rights, unofficial codifications started, and the normative framework was adopted in most countries worldwide regarding the right to property. Another particularity of the

bibliographic support of this thesis lies in the insufficient treatment of the targeted topic in the works of local doctrinaires. Thus, in the domestic doctrine of Public International Law, International Human Rights Law, and the Law of the European Convention on Human Rights, the protection of property in the ECHR system has been tangentially addressed by Poalelungi M., Sârcu D., Dorul O., Morărescu A., Nica A., among others.

To develop the content of chapters II and III of this work, the opinions of foreign scholars were consulted, such as Bîrsan C., Renucci Fr., Adam I., Klatt M., Van der Molen P., Gomien D., Krieger H., Molango M., Loucaides G.L., among others.

Scientific Novelty. The present work becomes the first scientific investigation in the autochthonous doctrine that contains a complex and thorough analysis of the content of the fundamental right regulated by Article 1 of Protocol 1 to the ECHR.. Based on this scientific approach and after the theoretical consolidation of the institution of property protection, elucidating all the guarantees for ensuring property protection, effective solutions will be proposed to ensure the compatibility of national legislation with the provisions of the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights.

Main Scientific Results Presented for Defense:

- Establishing the genesis and evolution of the institution of property protection in the European Convention on Human Rights System.
- Determining perspectives in the event of expanding the scope of application of the provisions of Article 1 of Protocol No. 1 to the European Convention on Human Rights in light of technological and scientific developments.
- Deduction and conceptualization of the reasoning of the decisions of the European Court of Human Rights in cases of property non-compliance in armed conflicts.
- Formulating recommendations for the harmonization of the national legislation of the Republic of Moldova with the standards of

the European Convention on Human Rights regarding property protection.

Theoretical Importance and Applicative Value. The theoretical analysis of national and international normative support, doctrinal support, regarding the subject of this research, property protection in the ECHR system, results in identifying problematic aspects. Consequently, it is necessary to formulate practical recommendations whose implementation will contribute to the valorization of the potential of individuals and will streamline the application of the law.

Approval of the Results. The conclusions formulated as a result of this scientific endeavor found reflection in 9 publications by the author on the thesis topic, published in specialized journals from the Republic of Moldova and Romania, in materials from national and international scientific conferences held in the Republic of Moldova, the Russian Federation, and Romania.

2. THESIS CONTENT

Chapter I: "DOCTRINAL AND NORMATIVE FRAMEWORK REGARDING PROPERTY PROTECTION".

Chapter I presents a dichotomous approach to the subject of property protection in the ECHR system. In drafting the content of Chapter I, I followed the classic model of approaching topics in doctoral theses in the field of public international law. After reviewing the main doctrinal works represented by manuals, monographs, and synthesis articles published on the subject of property protection in the ECHR system by foreign and domestic scholars, Chapter I contains a repertoire of universal and regional international acts on the protection of the right to property. Additionally, the chapter explores the evolution of national regulations regarding property rights. We deliberately avoided presenting the jurisprudence of the European Court of Human Rights in this chapter, as it will be analyzed in Chapter II when aiming to highlight the general principles under Article 1 of Protocol No. 1 to the European Convention on Human Rights and when analyzing the Strasbourg Court's practice in specific situations, such as armed conflicts and cases involving the Republic of Moldova.

Paragraph 1.1, titled "Analysis of Doctrinal Concepts Regarding Property Protection in the European Convention on Human Rights".

The subject of property protection is analyzed in legal literature by specialists from different branches of law: civil law, constitutional law, international human rights law. Being an interramural legal institution, it requires a complex approach to facilitate a deep understanding of this theoretical concept, as well as a fundamental right of the individual.

The doctoral dissertation contains developments of fundamental concepts proposed and analyzed by foreign and domestic scholars,

namely J.F. Renucci's "Introduction générale à la Convention Européenne des Droits de l'Homme," Scott Leckie's "Housing, Land, and Property Restitution Rights of Refugees and Displaced Persons," Ali Riza Coban's "Protection of Property Rights Within the European Convention on Human Rights," M. Poalelungi's "Convenția Europeană a Drepturilor Omului: obligații pozitive și negative," the work "Convenția Europeană a Drepturilor Omului. Comentariu asupra hotărârilor Curții Europene a Drepturilor Omului versus Republica Moldova. Concluzii și recomandări" elaborated by M. Poalelungi, D. Sârcu, S. Splavnic, L. Grimalschi, A. Nica, and O. Dorul, the monograph "Protecția drepturilor omului în conflictele armate" signed by Prof. O. Balan, etc.

In **paragraph 1.2**, titled "**Normative Framework Regarding Property Protection**," following the determination and examination of universal and regional international mechanisms for the protection of human rights in general and property rights in particular, the conclusion is reached that their common purpose is to provide justified protection to the patrimonial interests of individuals, viewed individually or collectively, and to sanction states that have abused, failing to respect this fundamental right.

Regarding the national legal framework for property protection, it is observed that it is now substantial and largely compatible with universal and regional standards in the field of human rights. The Republic of Moldova has fully ratified international treaties containing provisions on property protection.

Chapter II: "CONTENT OF PROPERTY PROTECTION IN THE EUROPEAN CONVENTION ON HUMAN RIGHTS"

Chapter II adopts a deductive approach to the essential concepts of the doctoral thesis. In **paragraph 2.1**, titled "**Meaning of the Term 'Good' in the European Convention on Human Rights**," it is deduced that the significance of the term "good," as argued through the practice of the European Court of Human Rights (ECtHR), points to a broad and autonomous scope of application. The term

"good" used in the first sentence of Article 1 of Additional Protocol 1 is considered broader than that of "property."

In the context of the emerging concept of "biological property," there is explicit disagreement with contemporary scholars who endorse this concept. The freedom of individuals to dispose of their own tissues, organs, cells, and genes is argued not to be absolute and, according to knowledgeable jurists in international human rights law, may contradict the concept of human dignity. The ECtHR had the opportunity to address similar allegations in the case of *Parrillo v. Italy*, where the prohibition on donating embryos for scientific research was challenged under Article 1 of Protocol 1. The Court reiterated that the term "good" under Article 1 of Protocol 1 has an autonomous meaning not limited to ownership of tangible property and extends to other rights and interests constituting assets.

In conclusion, the importance of the term "good," argued through the ECtHR's practice, points to a broad and autonomous scope of application. The term used in the first sentence of Article 1 of Additional Protocol 1 is considered broader than that of "property," as demonstrated by the Court's practice.

Paragraph 2.2, titled "State Obligations under Article 1 of Protocol No. 1 to the European Convention on Human Rights," contains a comprehensive analysis of the obligations incumbent upon states concerning property protection. It explores the negative obligation of states regarding property protection and positive obligations aimed at protecting individuals or legal entities from arbitrary interference in the realization of the right guaranteed by the ECHR.

For the drafting of this content unit, we have analyzed several cases from the practice of the Court of Strasbourg. From the consistent jurisprudence of the ECtHR, certain cases were selected that the court considered appropriate to develop the conventional provisions in the sense of establishing general principles. For example, in the case of *Broniowski v. Poland*, where the applicant, a Polish national, claimed compensation for property located across the Bug River and currently

in Ukrainian, Belarusian or Lithuanian territory. The ECtHR noted that the claim revealed a structural deficiency depriving an entire category of individuals (almost 80,000 people) of their property rights. The Court emphasized that the main purpose of Article 1 of Protocol No. 1 is to protect individuals from unjustified state interference in the exercise of property protection rights. However, within the framework of Article 1 of the Convention, each contracting party "recognizes to everyone within its jurisdiction the rights and freedoms defined [in] the Convention." The realization of this general obligation may involve positive obligations inherent in ensuring the effective exercise of the rights guaranteed by the Convention.

In the context of Article 1 of Protocol No. 1, these positive obligations may require the state to take measures to protect the right to property. Nevertheless, the precise boundaries between the positive and negative obligations of the state under Article 1 of Protocol No. 1 ECHR cannot be precisely defined. However, the applicable principles are similar. In both contexts, a balance must be struck between the competing interests of the individual and the community as a whole. The state enjoys a certain margin of appreciation in determining compliance with the Convention.

The interconnection between the state's alleged omissions and related actions can be viewed as "interference" with the claimant's property, making it difficult to categorize them precisely. In the present case, the Court did not find it necessary to strictly categorize the examination of the case as falling under the positive obligations of the state or the negative obligation to refrain from unjustified interference in the exercise of the right to property.

The analysis of the extent of positive and negative obligations regarding the protection of property in the context of armed conflicts is of interest in the context of this investigation. As absolutely justified Professor M. Poalelungi argues in the work "*Convenția Europeană a Drepturilor Omului: obligații pozitive și negative*", the ECtHR adopted a series of judgments against Turkey, which recognized the violation of property rights by restricting access by the armed forces Turkish or by the authorities of the Turkish Republic of Northern

Cyprus (RTCN) to the plaintiffs' houses or other immovable property in one form or another, the general circumstances being similar to those in the previous cases, thus the violation of art. 1 of Protocol 1 and of Articles 3 and 8 of the ECHR (as applicable) in the cases: *Andreou Papi; Olymbiou; Strati; Saveriades; Gavriel; Solomonides; Kyriakou; Alexandrou, and others*. All these cases had in common the fact that the ECtHR applied the criterion of general control to determine the jurisdictional link between the actions of Turkish military and TRNC authorities.

From the content of the right guaranteed by Article 1 of Protocol No. 1 to the European Convention on Human Rights, protection guarantees against arbitrary or disproportionate interference in the exercise of this fundamental right of the individual are derived. Such interference may take the form of deprivation or limitation of rights. Every individual has the right to possess property and use the goods in their possession. Deprivation of a person's property can only occur in cases of public necessity, in which case the state is obliged to provide fair compensation. Both governments and other entities are prohibited from appropriating property without justification.

Paragraph 2.3. Guarantees in case of deprivation of property contains an analysis of the guarantees of protection against arbitrary or disproportionate forms of interference in the exercise of this fundamental right of the person. Such interference may take the form of deprivation or limitation of rights.

By establishing clear guarantees to avoid arbitrary deprivation of property, the authors of the European Convention on Human Rights limited the member states in implementing social, economic, and other policies presenting real and hypothetical risks to the private property rights of individuals. Moreover, over time, the Convention, through the interpretations of the ECtHR, justifies its nature as a "living instrument," with implications for the content of this fundamental right of the individual. Consequently, the reevaluation of the concept of public or general interest in light of new challenges to economic, humanitarian, energy, and environmental security is not excluded in the near future.

Chapter III: "SPECIFIC ASPECTS REGARDING PROPERTY PROTECTION IN THE EUROPEAN CONVENTION ON HUMAN RIGHTS SYSTEM"

Chapter III of the doctoral thesis delves into particular aspects concerning the protection of property within the framework of the European Convention on Human Rights (ECHR). In this sense, subjects were selected that constitute an object of major interest for the international community, but also for the Republic of Moldova, a member state of this community.

Paragraph 3.1: "Standards in Property Protection Emanated by ECtHR in Cases Against the Republic of Moldova" aims to examine the standards set by the European Court of Human Rights (ECtHR) in cases involving the Republic of Moldova and alleged violations of Article 1 of Protocol No. 1 to the ECHR. Starting from May 18, 2004, when the first decision was adopted in the *Prodan v. Republic of Moldova* case, Moldovan authorities have been the subject of over 100 cases where violations of property rights have been claimed.

The cases in which the Republic of Moldova violated the provisions of the ECHR in the matter of protection of property can be summarized as follows: non-execution of court decisions, abusive review of court decisions, non-conforming appeal for annulment, license withdrawal, failure to grant a legitimate claim, late payment of cash deposits, intellectual property, cancellation of privatization, recovery of investments, illegal confiscation, illegal expropriation, etc.

A chronological presentation of ECtHR jurisprudence on cases against the Republic of Moldova is provided, highlighting the rationales behind the Court's decisions. This chronological overview aims to offer a better understanding of the evolution of ECtHR jurisprudence, identifying trends and outlining its perspectives.

Paragraph 3.2: "Protection of Private Property During Armed Conflicts" focuses on analyzing how the ECtHR examines claims involving losses, damages, or destruction of property caused by armed conflicts. It emphasizes that the protection of property in

such situations is governed by international humanitarian law and *lex specialis*. This fact can be ascertained both after consulting doctrinal and legal sources in the field, as well as the jurisprudence of the European Court of Human Rights.

Property remains protected even in extraordinary circumstances arising during an armed conflict, when a wide range of rights, freedoms and institutions are limited, terminated or suspended. During armed conflict, the protection of property finds its foundation in the principles outlined by international humanitarian law and international criminal law. These legal frameworks distinctly articulate the prohibition of arbitrary destruction and misappropriation of both public and private property. The legal instruments governing the conduct of armed conflicts contain provisions relating to the protection of private property and many of these legal norms have been recognized as part of customary international law as a result of being accepted as binding by most states, and this fact certainly reflects a consensus among nations that respect for private property, even in times of conflict, is a shared responsibility.

The codification of obligations aimed at protecting individual rights is seen in the Hague Regulations, which were annexed to the Hague Convention of 1907. This historical moment represented the moment of crystallization of the fundamental principles and guidelines aimed at ensuring the protection of the rights of individuals, marking an era in which international society has collectively recognized the paramount importance of protecting human dignity in the context of armed conflicts. Later, in 1949, the Geneva Conventions strengthened these initiatives by determining the exact extent of the rights and obligations of the belligerents, including in the matter of property protection. Thus, distinct and well-defined clauses relating to the treatment of private property in the occupied territories were provided for. These regulatory frameworks are pillars of the international normative system, delineating the rights and responsibilities of occupying powers, while ensuring that private property is accorded due protection even in times of conflict.

Recent judgments of the European Court of Human Rights have established and developed the need to protect human rights

during armed conflicts. The Court's landmark jurisprudence highlights that violations of property rights in times of conflict constitute violations of fundamental human rights.

The first case in which the ECtHR examined property protection claims related to the armed conflict concerned the occupation of Northern Cyprus by Turkish forces in the 1970s. 20th In *Loizidou v. Turkey*, the applicant alleged that he had been denied access to several of his plots of land following the Turkish invasion, alleging a violation of Article 1 of Protocol 1.

Subsequently, the ECtHR had numerous opportunities to pronounce on the matter of property protection both in the case of international armed conflicts and non-international armed conflicts, having ample opportunities to establish general principles and elucidate the contours of property protection in different types of conflict.

In the cases where the applicants complained about the destruction of their homes in the context of armed conflicts, the ECtHR accepted the claim of ownership based on extracts from a housing inventory issued by the city administration after the incriminated attack (*Kerimova and others v. Russian Federation*). In *Damayev v. Russian Federation* the ECtHR held that a claimant complaining about the destruction of his home should at least provide a brief description of the property in question. As additional examples of prima facie evidence of ownership or residence in the property, the Court accepted documents such as title deeds to the home or land, extracts from land or tax registers, documents issued by local government, plans, photographs and receipts for works of maintenance, as well as evidence of postal shipments, witness statements or any other relevant evidence (*Prokopovich v. Russian Federation, Elsanova v. Russian Federation*).

With reference to ECtHR jurisprudence on the grounds of Article 1 Protocol no. 1 ECHR in the context of the armed conflict that took place in 1992 on the territory of the Republic of Moldova, it is worth mentioning the case of *Ilaşcu and others vs. the Republic of Moldova and the Russian Federation*, which the Court presented on July 8, 2004. The plaintiffs were convicted by a court court from the

left region of the Dniester, which was not competent in the sense of Article 6 of the ECHR, they did not have a fair trial, and following the trial, inter alia, they were deprived of their property.

The Government of the Russian Federation stated that the claims of the claimants cannot be imputed to the Russian Federation and that, in any case, they are unfounded. The governments of Romania and the Republic of Moldova have not expressed any opinion on this subject.

Even if we admit that the ECtHR had competence *ratione temporis* to examine these claims, the Court found at that time that the facts presented to support those claims were not sufficient. Therefore, since this claim was not proven, the Court considered that there was no violation of Article 1 of Protocol 1 to the ECHR.

3. GENERAL CONCLUSIONS AND RECOMMENDATIONS

In the years following the end of World War II, the international society witnessed a remarkable evolution in the field of property protection. The bipolar world, with its diverse content and typology of property represented by socialist states with planned economies and capitalist states centered on market economies, became part of the first regional mechanism for the protection of human rights—the European Convention for the Protection of Human Rights and Fundamental Freedoms. Consequently, the Convention bodies (the Court and the Commission, later only the ECtHR) had to apply the provisions of Article 1 of Protocol No. 1 in cases involving states with absolutely antagonistic normative approaches. This posed a real challenge to the Court, but the instances explored in this work demonstrate that the European judicial institution successfully addressed the content of this fundamental right by consistently referring to the purposes and objectives outlined in the Convention.

While the proclamation of the right to property in universal and regional international treaties is crucial, it is not sufficient. National authorities, based on their commitments under international treaties, are obligated to provide guarantees for the realization of individual property rights in both peaceful and conflictual contexts.

The protection of property, in the sense of the European Convention of Human Rights, implies protection guarantees against arbitrary or disproportionate forms of interference such as deprivation or limitation of the right.

Every individual has the right to own property and use the possessions in their control. Deprivation of property can only occur in cases of public necessity. In such circumstances, the state is obliged to ensure just compensation. Both governments and individuals are prohibited from appropriating property without justification.

The history of humanity unfolds as a succession of generations and a sequence of wars that have marked the fate of those generations. The horrors perennially caused by armed conflicts do not

seem to affect the decision-makers' position on initiating new atrocities today. Hence arises the natural impetus of the international society to limit destruction and suffering. Understanding the nuances of property protection during armed conflicts is indispensable for the just administration of justice.

Although it is now widely recognized that human rights remain in force during conflict, alongside the provisions of international human rights law, the primary legal source governing the limitation of wartime impacts and the protection of vulnerable categories of persons and their property is international humanitarian law. In this framework, a multitude of norms of international humanitarian law are firmly found in customary law, but also in that of treaties, meticulously regulating the protection of property during armed conflicts.

These regulations cover various aspects, delineating the specific circumstances in which certain assets may be lawfully seized and categorically prohibiting actions such as looting and other unlawful takings of property. Despite the presence of a comprehensive legal framework designed to ensure the protection of property, the unfortunate reality remains that these rights are repeatedly violated in conflicts around the globe.

In light of the findings, we consider it opportune to formulate viable recommendations to give an empirical character to this study.

Therefore, we believe that a revision of the legal framework in the field of the law of armed conflict is absolutely necessary. The Geneva Conventions are inconsistent in the matter of property protection. The provisions elaborated immediately after the end of World War II were practically conceived in a legal vacuum, as universal and regional standards in the field had not yet been developed at that time.

In the context of this research, we consider it appropriate to amend the provision of Article 53 of the Geneva Convention regarding the protection of civilians in time of war as follows:

" Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or co-operative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.

Individuals will be entitled to just compensation if they have been deprived of their property."

As a recommendation for future legislative consideration in the context of the scientific investigation conducted, we propose and argue for the necessity of adapting the national legal framework to the standards of the European Convention on Human Rights to fully fulfill our country's commitments under international treaties regulating property protection, including the European Convention on Human Rights. In this regard, we propose amending the provisions of paragraph (3) of Article 1295 of the Civil Code of the Republic of Moldova as follows:

"(3) The lessee has the prior right to conclude the lease contract for a new term if:

- a) has honored contractual obligations previously undertaken;*
- b) the leased property is leased for a new term;*
- c) accepts the new contractual clauses established by the lessor."*

We believe that such a clear, accessible, and predictable drafting of the legal provision, by expressly stipulating that the preemptive right to conclude the lease contract for owners of neighboring lands applies only to subjects who have been in lease relations, will allow for correct and consistent interpretation by the courts, thereby generating a uniform jurisprudence compatible with ECtHR standards in property protection.

As hypotheses for future research related to this scientific endeavor, we make the following observation and suggestion. A review of foreign literature confirms the thesis that broader research on war crimes targeting property remains evidently underrepresented

in both academic research and the jurisprudential examination of international judicial institutions. A doctrinal analysis of the mechanism of private property protection in the context of armed conflicts would allow the identification of obsolete norms and generate an academic initiative to adapt the laws and customs of war to new realities marked by advances in science and technology, with repercussions on the property segment.

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in journals from other databases accepted by ANACEC (with
indication of the database)

1. LOGHINESCU P., Protecția proprietății în timpul conflictelor armate *Revista Universul Juridic*. In: *Revista Universul Juridic* (Revistă lunară de doctrină și jurisprudență (România) | ISSN 2393-3445) octombrie, 2023 <https://www.universuljuridic.ro/protectia-proprietatii-in-timpul-conflictelor-armate/>

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2. LOGHINESCU P., Înțelesul noțiunii ”bun” în sistemul Convenției Europene a Drepturilor Omului. In: *Revista Institutului Național al Justiției* (publicație științifică de tipul B) nr. 1 (44), 2018. P. 47-51

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3. LOGHINESCU P., Garanții în caz de priverare de proprietate în dreptul Convenției Europene a Drepturilor Omului. In: *Revista Institutului Național al Justiției* (publicație științifică de tipul B) nr. 4 (63), 2022. P. 51-55.

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4. LOGHINESCU P., Cadrul normativ național privind dreptul de proprietate. In *Materialele Conferinței științifico-practice cu participare internațională ”Teoria și practica administrării publice”*. Academia de Administrare Publică, Chișinău, 2019. P. 414-418

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6. LOGHINESCU P., Obligația negativă a statului în materia protecției proprietății. Interpretarea jurisprudențială a Curții Europene a Drepturilor Omului. In: *Rezumate ale comunicărilor. Științe juridice și*

economice. Conferința științifică națională cu participare internațională "Integrare prin cercetare și inovare", Chișinău, 7-8 noiembrie 2019. P. 339-342

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7. LOGHINESCU P., DORUL O., Protecția proprietății private în timpul conflictelor armate. In: *Rezumate ale comunicărilor. Științe juridice și economice. Conferința științifică națională cu participare internațională dedicată aniversării a 75-a a Universității de Stat din Moldova "Integrare prin cercetare și inovare", Chișinău, 10-11 noiembrie 2021. P. 165-167, 0,3 c.a.*

8. LOGHINESCU P., Tipurile proprietății în legislația Republicii Moldova. In: Culegerea *"Dezvoltarea economico-socială durabilă a euroregiunilor și a zonelor transfrontaliere"*, vol. XXXII, Performantica, Iași, 2018. P. 292-296

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6. ADNOTARE

”Protecția proprietății în sistemul Convenției Europene a Drepturilor Omului”, Teză de doctor în drept la specialitatea 552.08 Drept Internațional și European Public, Școala Doctorală Științe Juridice și Relații Internaționale a Universității de Studii Europene din Moldova, Chișinău, 2024

Structura tezei: Introducere, trei capitole, concluzii generale și recomandări, bibliografie din 213 titluri, 150 pagini de text de bază. Rezultatele obținute sunt publicate în 9 lucrări științifice.

Cuvinte cheie: bun, expropriere, patrimoniu, proprietate, protecția proprietății, Convenția pentru Apărarea Drepturilor Omului și a Libertăților Fundamentale, Curtea Europeană a Drepturilor Omului.

Domeniul de studiu: Lucrarea a fost elaborată în domeniul Dreptului internațional public, Dreptului Convenției Europene a Drepturilor Omului,

Scopul și obiectivele lucrării rezidă în cercetarea multiaspectuală a protecției proprietății în sistemul CEDO, cuprinzând o analiză detaliată a conținutului dreptului fundamental în contextul jurisprudenței CtEDO și înaintarea propunerilor, în vederea elaborării recomandărilor *de lege ferenda* pentru asigurarea compatibilității legislației naționale cu standardele CEDO. Prezentul studiu este centrat pe analiza cadrului normativ în materie de protecție internațională a dreptului de proprietate, conturând în acest sens și mecanismele de realizare a acestui drept fundamental. În vederea realizării scopului indicat, ne propunem realizarea următoarelor obiective: definirea ”bunului” în sensul CEDO; determinarea conținutului dreptului fiecărei persoane la respectarea bunurilor sale; cercetarea jurisprudenței pertinente a CEDO, inclusiv cauzele vs. RM; elaborarea propunerilor de *lege ferenda* în vederea asigurării compatibilității legislației naționale cu practica forului jurisdicțional de la Strasbourg.

Noutatea și originalitatea științifică: Prezenta lucrare devine prima investigație științifică în doctrina autohtonă ce conține o analiză juridică profundă a conținutului art. 1 din Protocolul 1 la CEDO. În baza respectivului demers științific, în urma consolidării teoretice a instituției protecției proprietății prin exemplificare practică, după elucidarea tuturor garanțiilor în vederea asigurării protecției proprietății, vor fi propuse soluții efective întru realizarea compatibilității legislației naționale în materie cu prevederile CEDO și jurisprudența CtEDO.

Semnificația teoretică rezultă din analiza complexă a suportului normativ național și internațional, a materialului doctrinar realizată cu privire la obiectul prezentei cercetări: protecția proprietății în sistemul CEDO. Fiind identificate aspectele problematice, au fost înaintate recomandări practice, ale căror realizare va contribui la valorificarea de către particulari a prerogativelor în domeniul protecției proprietății.

Valoarea aplicativă a lucrării: Lucrarea urmează să completească suporturile curriculare ale cursurilor universitare, cursurile de formare inițială, continuă a specialiștilor în domeniul dreptului: ”Protecția internațională a drepturilor omului”, ”Dreptul Convenției Europene a Drepturilor Omului”. Grație materialului științific valoros expus în vederea validării ipotezelor cercetării, lucrarea poate servi drept lucrare de referință pentru cercetătorii din domeniul științelor juridice.

ANNOTATION

„Protection of property in the system of the European Convention on Human Rights”. Doctoral thesis in law, specialty 552.08 – Public International and European law. Doctoral school of Legal Sciences and International Relations of the University of European Studies of Moldova. Chişinău 2024

Thesis structure: Introduction, three chapters, general conclusions and recommendations, bibliography of 213 titles, 150 pages of basic text. The obtained results are published in 9 scientific papers.

Key – words: goods, expropriation, patrimony, property, protection of property, Convention for the Protection of Human Rights and Fundamental Freedoms, European Court of Human Rights.

The domain of study: The work was developed in the field of Public international law, Law of the European Convention on Human Rights.

The purpose and the objectives of the thesis involve multi-aspect research of the protection of property in the system of the European Convention of Human Rights, including a detailed analysis of the content of the fundamental right in the context of the jurisprudence of the European Court of Human Rights and the submission of proposals, in order to elaborate the recommendations of the law *ferenda* to ensure the compatibility of the national legislation with ECHR standards. The present study is dedicated to the normative framework in terms of international protection of property rights, outlining, in this context, the mechanisms for realizing this fundamental right. In order to achieve the indicated goal, we propose to achieve the following objectives: the definition of "goods" in the sense of the ECHR; determining the content of the right to property; the research of the relevant jurisprudence of the European Court of Human Rights, including the cases vs. Republic of Moldova; the elaboration of *lege ferenda* proposals in order to ensure the compatibility of national legislation with the practice of the jurisdictional forum in Strasbourg.

Scientific novelty and originality of the obtained results: This paper becomes the first scientific investigation in the autochthonous doctrine that contains a deep legal analysis of the content of art. 1 of Protocol I to the ECHR. Based on the respective scientific approach, following the theoretical consolidation of the institution of property protection through practical exemplification, after the elucidation of all guarantees in order to ensure the protection of property, effective solutions will be proposed to achieve the compatibility of the national legislation in the matter with the provisions of the ECHR and the jurisprudence of the ECHR.

The theoretical importance results from the complex analysis of the national and international normative support, of the doctrinal material made regarding the object of this research: the protection of property in the ECHR system. As a result, having noticed the problematic aspects, we consider it appropriate to formulate practical recommendations, the realization of which will contribute to the capitalization by individuals of the prerogatives in the field of property protection and will increase the quality of the judicial act.

Implementation of scientific results: The work is to fulfill the curricular supports of the university courses, the initial and continuous training courses for professionals in the field of law: "International protection of human rights", "Law of the European Convention on Human Rights". Thanks to the valuable scientific material presented in order to validate the research hypotheses, the paper can serve as a reference work for researchers in the field of legal sciences.

АННОТАЦИЯ

«Защита собственности в системе Европейской Конвенции по правам человека», докторская диссертация, специальность 552.08 Международное и европейское публичное право, Европейский Университет Молдовы, Кишинев, 2024 г.

Структура диссертации: Введение, три главы, общие выводы и рекомендации, библиография из 213 наименований, 150 страниц основного текста. Полученные результаты опубликованы в 9 научных работах.

Ключевые слова: имущество, экспроприация, собственность, защита собственности, Конвенция о защите прав человека и основных свобод, Европейский суд по правам человека.

Область исследования: Работа разработана в области Международного публичного права и Права Европейской Конвенции по Правам Человека.

Цель и задачи исследования заключаются в многоаспектном исследовании защиты собственности в системе Европейской конвенции по правам человека, включая детальный анализ содержания данного основного права в контексте судебной практики Европейского Суда по правам человека и разработка предложений *de lege ferenda* для обеспечения совместимости национального законодательства со стандартами ЕСПЧ. Настоящее исследование посвящено нормативной базе международной защиты прав собственности, очерчивая в этом смысле механизмы реализации этого фундаментального права. Для достижения указанной цели мы предлагаем решить следующие задачи: определение понятия «имущество» в понимании ЕКПЧ; анализ содержания права собственности; исследование соответствующей судебной практики Европейского суда по правам человека, в том числе дел против Республики Молдова; разработка предложений *de lege ferenda* с целью обеспечения совместимости национального законодательства с практикой Страсбургского юрисдикционного форума.

Научная новизна и оригинальность исследования: Данная работа становится первым научным исследованием в отечественной доктрине, содержащим глубокий правовой анализ содержания ст. 1-го Протокола 1 к ЕКПЧ. На основе соответствующего научного подхода, после теоретического закрепления института защиты собственности посредством практических примеров, после выяснения всех гарантий обеспечения защиты собственности, будут предложены эффективные решения для достижения совместимости национального законодательства с положениями ЕКПЧ и судебной практикой ЕСПЧ.

Теоретическая значимость вытекает из комплексного анализа национального и международного регулирования, научного материала, проведенного относительно объекта данного исследования: защиты собственности в системе ЕСПЧ. В результате, отметив проблемные моменты, считаем целесообразным сформулировать практические рекомендации, реализация которых будет способствовать эффективному осуществлению физическими лицами прерогатив в сфере защиты собственности и повысит качество судебного акта.

Прикладное значение работы: Диссертация может служить научным материалом для литературного обеспечения университетских курсов, курсов начальной и непрерывной подготовки специалистов в области права: «Международная защита прав человека», «Право Европейской Конвенции о Правах Человека». Благодаря ценному научному материалу, представленному с целью проверки гипотез исследования, работа может служить отсылочным изданием для исследователей в области юридических наук.

LOGHINESCU Petru

**PROTECTION OF PROPERTY IN THE
EUROPEAN CONVENTION ON HUMAN RIGHTS
SYSTEM**

**Specialization 552.08 International and European
Public Law**

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