мають дієвий вплив і відіграли важливу роль у становленні та розвитку різних галузей права. Проте, поряд із позитивними моментами, неминуче виникнення і негативних ситуацій, в основному, в практиці правоохоронних органів такі проблеми неминучі. Слід також зазначити, що проблеми у відповідній сфері характерні не тільки для Азербайджанської Республіки, різноманітні колізії та проблеми виникають при застосуванні міжнародно-правових норм і в інших цивілізованих державах.

Наприкінці статті зроблено висновок, що основні міжнародні норми, пов'язані з військовими злочинами, в основному, зосереджені в Женевських конвенціях 1949 року, Додаткових протоколах 1977 та 2005 років та Римському статуті 1998 року. Проте Азербайджанська Республіка ратифікувала лише Женевські конвенції з цих документів. Однак майже всі військові злочини, що містяться в цих документах, знайшли своє відображення в Кримінальному кодексі Азербайджанської Республіки.

У порівнянні з деякими державами, чия правова система близька до Азербайджанської Республіки, можна високо оцінити рівень імплементації міжнародно-правових норм щодо військових злочинів у Кримінальному кодексі Азербайджанської Республіки. Так, у Кримінальному кодексі Азербайджанської Республіки цій категорії злочинів присвячені окремі глави та статті, а при нормативному визначенні кожного військового злочину враховуються вимоги міжнародно-правових норм. Нарешті, значні зміни в Кримінальному кодексі Азербайджанської Республіки очікуються після того, як Азербайджанська Республіка стане членом Міжнародного кримінального суду.

Ключові слова: *військові злочини, міжнародно-правові норми, національно-правова імплементація, правова система, права людини, міжнародне кримінальне право, міжнародне гуманітарне право.*

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THE ROLE OF PROCEDURAL LEGAL CAPACİTY OF İNTERNATİONAL NON-GOVERNMENTAL ORGANİZATİONS İN THE PRACTİCAL ACTİVİTY OF İNTERNATİONAL JUDİCİAL İNSTİTUTİONS

Abstract. The article was prepared on the basis of scientific-theoretical provisions, judicial practice, international-legal documents and decisions of international organizations, focusing on the issues of procedural legal capacity of international non-governmental organizations and its manifestation in participation in international judicial institutions. In addition, the relevant provisions of the Constitution of the Republic of Azerbaijan were reviewed. Also, the specific differences of the international judicial institutions, the specificity of the participation of international non-governmental organizations in the considered cases, as

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well as the impact on the formation of new trends of the international legal order by speaking in the processes on behalf of the applicants were analyzed in detail.

Keywords: *judicial protection of human rights, international non-governmental organizations, procedural legal capacity, legal state, respondent State.*

Introduction. Establishing human rights only in national legislative acts and international documents isn`t the main condition. At the same time, judicial protection of human and civil rights and freedoms, judicial protection in the field of restoration of violated rights, as well as payment of material and moral damage by applying to the court play an important role in ensuring human rights. Judicial protection of human rights is also one of the important conditions for establishing a legal state and civil society. According to E. Lukasheva, the formation and confirmation of the principles of a democratic legal state (or "state of law") requires an increase in the role of the legal mechanisms of real democracy in public and state life, as well as strengthening the legal protection of the individual (Lukasheva, 1990). On the other hand, the judicial mechanism allows the state to protect important social values (life, conscience, dignity, health, rights and freedoms) (Snezhko, 1999).

Analysis of recent research and publications. In the conducted scientific studies, special importance is given to judicial protection of human rights. It's true, despite the opinion that the main responsibility for the provision and protection of human rights and freedoms belongs to all branches of government (legislative, executive and judicial authorities) in the legal literature (Saidov, 2004), another group of authors consider that the formation of civil society and the establishment of a legal state require the creation of a strong, independent and favorable judicial power for the population (Kashepov, 1998).

It should also be noted that in the early stages of history, the idea that the court as a repressive body has the function of punishing and imposing sanctions was formed in the minds of the people, but in the modern era, the court in legal states mainly plays the role of protecting citizens from arbitrariness and lawlessness (Human rights, 1996). It's necessary to emphasize one issue that the role of international documents in the judicial protection of human rights is undeniable, which in turn doesn't remain unaffected by the national legislations of world states, including the Republic of Azerbaijan. For example, Article 8 of the "Universal Declaration of Human Rights" (1948) directly states that in cases of violation of fundamental rights specified by the constitution or law, people have the right to effective restoration of these rights by competent courts. It's true that, despite the fact that the right to judicial protection of fundamental rights is reflected in the said provision and the norms of the analyzed Declaration are of a political and advisory nature, it has had its influence on the legislation of the states since the 50^{s} of the 20th century.

This effect can be analyzed in two directions:

1. Despite the fact that it's a recommendation and not legally binding, the norm established in the 1948 Declaration on judicial protection of rights has been intensively introduced as a "customary norm" into domestic legislation;

2. In the modern era, the norms on judicial protection of not only basic human rights, but also human and civil rights and freedoms as a whole have been reflected in the legislation of various states/

At the same time, other international documents also contain provisions on judicial protection of human rights. Thus, in accordance with Article 2 of the

1966 International Covenant on Civil and Political Rights, the participating-states must be provided with effective means of protection for the violated rights and freedoms, as well as the determination of the right to defense of any person who requires legal protection by a competent court. responsibilities of making and developing court defense opportunities in this regard. Provisions related to judicial protection of human rights and freedoms are also reflected in domestic legislation. Thus, in accordance with Article 60 of the Constitution of the Republic of Azerbaijan, in addition to guaranteeing the protection of everyone's rights and freedoms in court, as well as appeal to the court against the decisions and actions (or inaction) of state bodies, political parties, trade unions and other public associations, officials the right to do so is also taken into account.

Provisions related to judicial protection of human rights and freedoms are also reflected in domestic legislation. Thus, in accordance with Article 60 of the Constitution of the Republic of Azerbaijan, everyone is guaranteed protection of his/her rights and liberties through the administrative remedies and in court; as well as may appeal against the actions and inaction of state bodies, political parties, legal entities, municipalities and their officials in administrative manner or in courts (The Constitution of the Republic of Azerbaijan, 2009). As for the role of the interaction of international judicial mechanisms and INGOs, depending on the specific characteristics of each court, it varies from the normative base and from the practical point of view.

Even in the conducted scientific-theoretical and practical studies, it's noted that by participating in the consideration of cases in international judicial bodies, INGOs contribute to the development of international law. In this way, INGOs can initiate and participate in court cases, participate as experts appointed or invited by the court to determine the facts or legal analysis of a case, testify as a witness, or as a "third party", in addition, they can participate in the court proceedings as such with the permission of the court, and they have the right to present the facts of the lawsuit and the interpretation of the law as they know (Shelton, 1994).

Formulation of the main material. As it is known, according to Article 34.1 of the Statute of the UN International Court of Justice, only states can be parties to the cases considered by the Court. However, Articles 65 and 96 of the Statute regulate relations regarding the right of international intergovernmental organizations included in the UN system to apply for advisory opinions. But, an experience formed in this matter – the "World Court" project, initiated by three non-governmental organizations in 1992 and resulting in the adoption of an advisory opinion on the legality of nuclear weapons, led to the expansion of the range of subjects from a practical and realistic point of view.The essence of that project is that those NGOs apply to the Court to recognize the legality of nuclear weapons, as a means of pressure on the UN General Assembly and the World Health Organization *(by the way, both international institutions and bodies have the right to apply to the Court for an advisory opinion)* organized a campaign.

It should also be noted that the current project is evaluated by scientists and researchers conducting research in this field from two aspects.In the first instance, a request to review the legality of the use and threat of use of nuclear weapons was ultimately successfully issued by the International Court of Justice.Secondly, the lobbying activity of NGOs in this direction played the role of a "warning signal" for the judges of the Court and the representatives

representing the states.Even as a clear example of this, the objections of nuclear weapons states, especially NATO member states, at the decision-making stage can be cited (Gowlland-Debbas, 1994). The United Kingdom also emphasized in its submission (comment) to the Court the need to consider the relevant issue as the result of a campaign by NGO groups (Forlati, 2014).

The European Convention For the Protection of Human Rights and Fundamental Freedoms (November 4, 1950) addressed the participation of non-state subjects (actors) in the activities of the European Court of Human Rights (ECtHR) based on two provisions. So that, the Court may receive applications from any person, nongovernmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right under the Article 34. The second direction of regulation is arising from Article 36:

1. In all cases before a Chamber or the Grand Chamber, a High Contracting Party one of whose nationals is an applicant shall have the right to submit written comments and to take part in hearings.

2. The President of the Court may, in the interest of the proper administration of justice, invite any High Contracting Party which is not a party to the proceedings or any person concerned who is not the applicant to submit written comments or take part in hearings.

3. In all cases before a Chamber or the Grand Chamber, the Council of Europe Commissioner for Human Rights may submit written comments and take part in hearings.

Article 34 of the Convention does not clearly distinguish between the category of "group of persons" and the category of "non-governmental organization", which are specified as separate categories. In a number of cases, the European Commission has noted that the applicant can be considered either a non-governmental organization or a group of individuals (Gomien et al., 1996).

As for non-governmental organizations, Court's experience allows to include public organizations, trade unions, mass media, political parties, companies, shareholder associations, and religious associations in this list. State organizations and bodies performing other government functions arenеt included in this group. The Court itself determines whether this or that organization is governmental or non-governmental. In addition, the non-governmental organization that has filed a complaint with the Court is required to be the victim of a violation of the Convention as a result of the actions or activities of state authorities. At the same time, the right of the non-governmental organization as a whole (as a legal entity) should be violated, not individual members. That organization should demand the protection of its rights as a legal entity as a whole, not the subjective rights of its individual members. For example, in the "*Agrotexim and Others v. Greece*" case, the company's shareholders appealed to the Court and stated that the company's rights were violated.

However, the Court refused to consider the complaint *ratione personae* on the basis that the rights of individual shareholders weren't violated. In judicial practice, applications from organizations that can be considered "non-governmental organizations" are often encountered. For example, trade unions *("National Union of Belgian Police v. Belgium", "Swedish Engine Drivers` Union v. Sweden",* " *Wilson and National Union of Journalists v. United*

Kingdom"), mass media *("Sunday Times v. United Kingdom")*, political parties ("*United Communist Party of Turkey and Others v. Turkey*", "*Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*", *"Refah Partisi and Others v. Turkey"*), religious organizations *("Holy monasteries v. Greece", "The Canea Catholic Church v. Greece", "X. and Church of Scientology v. Sweden")*, commercial organizations, shareholder associations ("*Pressos Compania Naviera S.A. and Others v. Belgium", "Kaplan v. The United Kingdom", "Sovtransavto Holding v. Ukraine", "AO Uralmash v. russia")*, etc. non-governmental organizations, that is, organizations that do not perform any form of government functions, have applied (Aliyev, 2012).

It should also be noted that the request for permission to participate in the process as a third party must be sufficiently justified and submitted in one of the official languages of the Court. In addition to states and individuals, non-governmental organizations can participate in the court as a third party. Examples of third-party participation in proceedings include *"Pretty v. United Kingdom"* (Voluntary Euthanasia Legalization Society and *Catholic Bishops` Conference of England and Wales*), *"Hatton and Others v. United Kingdom"* (Friends of the Earth International and etc.) and the participation of non-state subjects as a third party in other cases.

In addition, national or international non-governmental organizations acted as third parties in many other cases reviewed by the ECtHR, and this process is still ongoing. For example, participation of the Amnesty International in "*McCann and Others v. United Kingdom*", "*John Murray v. United Kingdom*", *"Chahal v. United Kingdom"*, Northern Ireland Human Rights Commission in *"Khan v. United Kingdom"*, *"Nikula v. Finland", "MC v. Bulgaria"*, *"Incal v. Turkey"*, INTERIGHTS and the International Commission of Jurists "*Mamatkulov and Abdurasulovich v. Turkey"*, as well as their submission of written records at the court hearings, can be clearly shown. This is due to the right of the ECHR to obtain relevant and appropriate information on any issue, as well as to express its position on it or to prepare a report, to apply (e.g. the practice of the Court hearing the Secretary General of the applicant body at its discretion in the case of "Belgium National Police Union v. Belgium", etc.) to any person or organization based on their consent and the Court's choice.

By the way, when analyzing the relevant issues, it should not be overlooked that one of the first cases related to the participation of non-governmental organizations during the review at the European Court of Human Rights was the *"Tyrer v. United Kingdom"*case (1978, 1980). During the review of the said case, where the application of corporal punishment existed and aimed at clarifying whether such actions constituted degrading treatment or punishment, the Court came to the conclusion that the bodily injury or corporal punishment inflicted on the applicant was degrading, which is considered the content of Article 3 of the European Convention equal to punishment.It was during the review of this case that a non-governmental organization specialized in the field of human rights protection – the National Council for Civil Liberties applied to the Court for permission to submit written records and make oral comments *(in the field of a written application or comment of a non-governmental organization specialized in the field of human rights protection in one of the first experimental examples – author)*. However, the request of the

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mentioned organization was rejected by the Trial Chamber without discussion (Phillips, 1994).

In the case of *"Youth Initiative for Human Rights v. Serbia"*, which includes issues related to access to information obtained by Serbian intelligence through electronic surveillance and surveillance, the Court addressed the issue of the practical consequences of violations, as well as the importance of the application and interpretation of Article 46 of the European Convention on Human Rights. touched. Thus, the Court invited the intelligence service to provide the applicant non-governmental organization with the requested relevant information regarding the number of persons subject to electronic surveillance. In doing so, the Court found that persistent refusal to comply with a final and binding order to provide information about the unlawful collection of data constitutes a violation of Article 10 of the European Convention on Human Rights (Pavoni, 2015). Addressing the protection of the rights of Ostrava (a city located in the north-east of the Czech Republic and considered the administrative center of the Moravian-Silesian region) Roma children, *"D.H. and others v. Czech Republic"* clearly demonstrated the manifestation of network aspects in the development of human rights law. Thus, the judicial review of the mentioned case proved that the ECtHR doesn't operate in isolation from other participants in the field of human rights protection, as well as that the European Convention on Human Rights isn't a "mechanism deprived of integration".

One of the facts confirming this is the Court's use of innovative solutions to new human rights problems in the field of law enforcement (for example, the use of statistical indicators as evidence, which international justice institutions consider unusual, etc.) and shows them in its decisions. On the other hand, the "Ostrava" case also revealed the fact that the Court also needs the existence of continuous facts (mainly provided by the INGOs) in order to rely on and rely on the information collected and submitted by the national authorities. From this point of view, the INGO has an important role in cases with "serious and complex subject of review". The role of civil society institutions such as the Roma Education Fund, *The European Association* for *Research* on *Adolescence* (*EARA*), Minority Rights Group International (MRG), *The European Network Against Racism* (ENAR), and *The European Roma Information Office* (ERIO) is undeniable (Kosař & Petrov, 2018).

There are provisions regarding non-governmental organizations on two cases reviewed by the European Court of Human Rights – *"Sanles Sanles v. Spain"* and *"Pretti v. the United Kingdom"* cases – where the issues of "right to die", which is closely related to the right to life and one of the natural human rights. In the first of these cases, a man named Sampedro, who had been terminally ill since the age of 25, sought from the Spanish courts in 1993, when he was about 50 years old, to have his right to end his life with the help of other people (including his doctor) without the intervention of the state. However, before the proceedings were completed in Spain, that person had already died, and his relative Sanles Sanles was appointed heir to the claim. Both the Spanish court and the European Court of Human Rights didn't recognize Sanles Sanles' procedural legal capacity, in other words, didn`t consider him a "victim" of the alleged violation of the Convention.

The issues touched in this case were directly raised before the European Court again in *"Pretty v. the United Kingdom"*. The complaint was submitted to the Court

by a 43-year-old married woman (Mrs. Pretty) suffering from a degenerative and incurable disease – motor neurone disease. He was completely paralyzed from the neck down and had no intelligible speech, but his mental and decision-making skills were intact. His long illness caused him great suffering. Since there is no treatment for such patients, they die of suffocation after a certain period of time, as soon as the lungs stop functioning. Mrs. Pretty, who had suicidal thoughts, asked her husband to help her kill herself, as she couldn't do it herself. Suicide isn't a criminal offense in the United Kingdom, but assisting someone to commit suicide is an offense under the Suicide Act 1961. However, the prosecution of this crime can be carried out only with the consent of the Prosecutor General. Therefore, Mrs. Pretty tried to get a guarantee from the Prosecutor General that they wouldn't bring her husband to criminal responsibility if he helped her to commit suicide. Nevertheless, the Prosecutor General rejected this request. The courts of the United Kingdom considered the stated decision of the Prosecutor General to be legal after a detailed analysis of the case law of the European Commission of Human Rights and the European Court of Human Rights. After that, Ms. Pretty appealed to the European Court of Human Rights.

The European Court accepted the case and allowed the intervention of a third party, the Voluntary Euthanasia Legalization Society (a UK non-governmental organization that supports voluntary euthanasia) and the Catholic Bishops' Conference of England and Wales, in addition to receiving submissions from the applicant and the respondent State. The Court also referred to Resolution No. 1418 (1999) of the Parliamentary Assembly of the Council of Europe. In paragraph 9 of the resolution, the Assembly recommends, inter alia, the following: "The Assembly therefore recommends that the Committee of Ministers encourage the member states of the Council of Europe to respect and protect the dignity of terminally ill or dying persons in all respects, by upholding the prohibition against intentionally taking the life of terminally ill or dying persons, while:

– recognizing that the right to life, especially with regard to a terminally ill or dying person, is guaranteed by the member states, in accordance with Article 2 of the European Convention on Human Rights which states that "no one shall be deprived of his life intentionally";

– recognizing that a terminally ill or dying person's wish to die never constitutes any legal claim to die at the hand of another person;

– recognizing that a terminally ill or dying person's wish to die cannot of itself constitute a legal justification to carry out actions intended to bring about death" (Sanderson, 2002).

The Court rejected outright the argument that Article 2 of the Convention should be interpreted as giving individuals the right to commit suicide. Referring to the previous case law, the Court noted that "in well-defined cases, Article 2 may impose a positive obligation on public authorities to "take preventive and operational measures to protect an individual whose life is in danger" and this also includes "a mental disorder that has shown signs of suicide risk. applies to sick prisoners. However, the Court highlighted the following: "In all cases considered by the Court, the emphasis has always been on the state`s obligation to protect life. The Court isn't convinced that the "right to life" enshrined in Article 2 can be interpreted as a provision containing a negative aspect. In relation to Article 11 of the Convention, although it's determined that the freedom of association includes not only the right to join the union, but also the

right not to be forced to join the union, the Court considers that the concept of freedom presupposes the existence of a certain choice regarding its implementation. Article 2 of the Convention is expressed differently.

Quality of life or the choices a person makes about their life is irrelevant to this article. Article 2 can't, without prejudice to its language, be interpreted as providing for the opposite right for the individual, namely the right to die. The Court therefore considers that Article 2 of the Convention doesn't imply the right to die with the assistance of a third person or a state representative. However, the Court had to emphasize one point in particular. According to it, this decision doesn't mean that if a state recognizes such a right (for example, Switzerland), it will in itself be contrary to Article 2 of the European Convention on Human Rights. Let us note one fact about this important decision, that although the European Court didn't find a violation of Article 2 of the Convention, the decision itself had a certain impact on the authorities of the United Kingdom; so that some time after this they considered it possible for another terminally ill woman to voluntarily depart from life.

In the decisions issued by the European Court of Human Rights on the cases related to Azerbaijan, the role of non-governmental organizations was also touched upon, or NGOs or other institutions of civil society acted as the opposite party in relation to the country. Thus, the case *"Tebieti Mühafize Cemiyyeti and Israfilov v. Azerbaijan"* (2009) is a non-profit non-governmental organization that operated in 1995-2002 and was later liquidated and its former chairman – Sabir Israfilov, born in 1948, European Human Rights It is based on the claim of violation of Article 11 (freedom of assembly and association) of the Convention.

The Government submitted that the interference with the applicants' right to freedom of association was provided for by domestic legislation which was accessible and foreseeable. The union's actions and inactions, which led to warnings by the Ministry of Justice, clearly contradicted the legal requirements applicable to non-commercial legal entities, including public associations. As a result of such violations, the possibility of liquidation of the institution was foreseen and expected by the domestic legislation. In this regard, the Government noted that compulsory liquidation was the only sanction possible under the national legislation applicable at the relevant time against an association that did not continuously conform its activities to domestic legislation after at least three warnings issued by the Ministry of Justice within a calendar year. At the same time, according to the Government's position, intervention was necessary in a democratic society. The Union's activities have been in violation of national legislation for a long time (at least since the first warning in 1997) and, despite repeated warnings during this period, it hasn't taken any steps to remedy the situation. In such a case, there was a "pressing public necessity" that justified the interference with the rights of the applicants (https://aihmaz.org).

The applicants stated that the position of the Ministry of Justice regarding the alleged violation of the legal requirements related to the management of the Union was unfounded, and in particular, they focused on the fact that the general meeting of the Union was held on August 26, 2002. It was noted that this meeting was held in accordance with the requirements of the Charter of the Union and domestic legislation, that all members were informed in advance about the general meeting, thereby respecting their rights in the management of the Union.

The Court, in turn, noted that the right to form an association is an integral part of the right established in Article 11 of the Convention. It has been shown that

"the possibility of citizens to establish a legal entity to act collectively in the field of common interests is one of the most important aspects of the right to freedom of association. Without this, that right loses its meaning. The manner in which the national legislation expresses this right and its practical application by the authorities reflect the state of democracy in the respective country".

Also, it was emphasized that in the context of Article 11 of the Convention, in addition to the reference by the Court to the main role played by political parties in ensuring pluralism and democracy, associations established for other purposes are also important for the proper functioning of democracy. Pluralism is also based on the true recognition and observance of the diversity and dynamics of cultural traditions, ethnic and cultural differences, religious beliefs, artistic, literary and socio-economic ideas and concepts. The harmonious interaction of different types of people and groups plays a key role in achieving social harmony.

According to Article 44 of the Statute of the International Criminal Court (ICC), in exceptional cases, the Court has the opportunity to use staff offered by participating states, intergovernmental and non-governmental organizations on a gratuitous basis in order to assist the work of any of its bodies. The Prosecutor may accept such offer on behalf of the Office of the Prosecutor. Staff working on such a non-reimbursable basis shall be employed in accordance with the guiding principles established by the Assembly of States Parties.

It's as a result of this that up to the current period, the Court has organized over 50 events involving more than 1,000 participants, including more than 90 state and non-state parties to the Rome Statute, more than 40 international and regional organizations, national bar associations and civil society organizations (www.icc-cpi.int). The "burden" of determining the interaction of civil society institutions, including non-governmental organizations, with the ICC falls on the Coalition for the ICC. The coalition's core strategic vision is to achieve a safer and more peaceful world by ensuring universal access to justice for victims of war crimes, crimes against humanity and genocide. Mission (supporting all states to become parties to the ICC Statute; improving stronger national laws that ensure justice for victims of war crimes, crimes against humanity and genocide; strengthening state support for and cooperation with the ICC; ensuring the fairness, effectiveness and independence of the Court; access to justice provision; promotion of the efforts of the global civil society related to international justice; formation of the global movement of those fighting for the protection of justice) is based on this (www.coalitionfortheicc.org).

On the other hand, the international criminal tribunals for Rwanda and the former Yugoslavia created conditions for the submission of amicus curiae briefs and reports *(it's an individual or organization who is not a party to a legal case, but who is permitted to assist a court by offering information, expertise, or insight that has a bearing on the issues in the case. The decision on whether to consider an amicus brief lies within the discretion of the court)* by NGOs (including NGOs). Even the procedural and evidentiary rules of the mentioned international justice institutions provide for the provisions that include inviting NGOs to court hearings or appellate chamber meetings to provide relevant briefings. Thus, the International Criminal Tribunal for the former Yugoslavia received a number of information from NGOs that will play a fundamental role as amucis curiae for making recommendations on important aspects of international common law and international criminal law during the review of

the *"Duško Tadić"* and *"Blaškić"* cases (Malanczuk, 1998).

The International Criminal Tribunal for Rwanda used a similar experience during the review of the *"Kaniruka"* and *"Akayesu"* cases and the preparation of the final decision to be issued.However, one issue shouldn't be overlooked that it's absurd to evaluate the experience of both international criminal tribunals in this field the same.Thus, the International Criminal Tribunal for the former Yugoslavia has resorted to and used relatively more amucis curiae briefs (*Prosecutor v. Akayesu*, 1993).

In the decision of the Grand Chamber of the European Court of Human Rights in the case "*Centre for Legal Resources* on *behalf of Valentin Câmpeanu v. Romania*" (2014), it was established that even if the said institution is not itself the victim of a serious violation of the Convention, in the exceptional circumstances of the case and taking into account the serious nature of the violation is fully open to acting as a representative of *Câmpeanu*. By the way, it should be noted that the case is related to the death of a young man of Roma origin who was infected with HIV and suffered from severe mental retardation in a psychiatric institution. Undoubtedly, a non-governmental organization acted as the applicant on his behalf. The Court concluded that Article 2 (right to life) of the European Convention, as well as Article 13 (right to an effective remedy) were violated in terms of substance and procedural aspects. Regarding the violation of Article 2, the Court found that Campeanu was placed in medical facilities that were not adequately equipped to provide the necessary care for his condition, that he was transferred from one unit to another without a proper diagnosis, as well as the authorities couldn't provide him with appropriate treatment with antiretroviral drugs (Vylder, 2017).

Conclusions. Regarding the role of NGOs in the activities of the Inter-American Court and Commission on Human Rights, the specific features of the relevant issue can be expressed in the following:

1. National, regional and international non-governmental organizations specialized in the protection of human rights, or their networks, documenting violations, disseminating related information, setting standards, justice for victims of human rights violations, for the restoration of justice in relation to victims of human rights and violations of the rule of law by filing cases played a key role with the inter-American monitoring bodies in terms of providing judgment. This manifests itself in various forms – monitoring the implementation of court decisions or temporary (interim) measures, as well as the Commission's recommendations, raising awareness amongcivil society institutions about international human rights standards and the current situation in the practical field, reviewing the importance of the rule of law in assessing human rights violations, and etc. manifests itself in forms.

2. It should also be noted that both the Commission and the Court have made extraordinary contributions to the application and interpretation of human rights standards in the respective region. Thus, the Inter-American Human Rights System was established during the existence and management of military dictatorships and repressive regimes in most countries of the region. It is in this context that the Inter-American Human Rights bodies have gained legitimacy that is not inferior to the European system in terms of their permanent activities, as well as their openness towards non-governmental organizations and other institutions of civil society.

3. In addition to having political and social influence in the inter-American legal and judicial system, NGOs also play an important role in the expansive interpretation of provisions, which encourages the provision of judicial protection to a wide range of victims of human rights violations.

The African Court on Human and Peoples' Rights, in cooperation with non-governmental organizations, manifests itself in a relatively different context. So that at the time of ratification of this Protocol or any time thereafter, the State shall make a declaration accepting the competence of the Court to receive cases under Article 5 (3) of Protocol. The Court shall not receive any petition under aticle 5 (3) involving a State Party which has not made such a declaration under para. 6 of Article of the "Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights" which was adopted by the African Union in Burkina-Faso in 1998 (www.af7ican-court.org). Thus, para. 3 Article 5 provides for the possibility of the Court to grant the right to file a case-related petition directly before the Commission to the relevant non-governmental organization and individuals with observer status before the Commission, in accordance with para. 6, Article 34 of the Protocol. However, the shortcoming is that only 10 (Benin, Burkina Faso, Côte d'Ivoire, Gambia, Ghana, Malawi, Mali, Rwanda, Tanzania and Tunisia) of the 30 states that have accepted the jurisdiction of the African Union Court have made a declaration to accept obligations under Article 34 (Silvia). Later, Rwanda withdrew its corresponding statement (www.newtimes.co.rw).

Thus, the procedural legal capacity of the INGOs arising from their role in the functioning of international justice mechanisms and judicial institutions can be evaluated from two aspects. The first of these is related to participation as an applicant both on behalf of and on behalf of individuals and legal entities whose rights have been violated, and the second has the right and obligation to provide relevant information based on the request of a judicial institution. The latter case not only serves to confirm the correctness of the information provided by the states, but also indirectly makes the states to properly comply with the obligation "to provide correct and honest information".

Conflict of Interest and other Ethics Statements
The author declare no conflict of interest

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Ельнара МІРЗАЄВА

РОЛЬ ПРОЦЕСУАЛЬНОЇ ПРАВОЗДАТНОСТІ МІЖНАРОДНИХ НЕУРЯДОВИХ ОРГАНІЗАЦІЙ У ПРАКТИЧНІЙ ДІЯЛЬНОСТІ МІЖНАРОДНИХ СУДОВИХ УСТАНОВ

Анотація. Стаття підготовлена на основі науково-теоретичних положень, судової практики, міжнародно-правових документів та рішень міжнародних організацій, зосереджена на питаннях процесуальної правоздатності міжнародних неурядових організацій та її прояву в участі в міжнародних судових установах. Крім того, були переглянуті відповідні положення Конституції Азербайджанської Республіки. Також розглядаються специфічні відмінності міжнародних судових установ, специфіка участі міжнародних неурядових організацій у розглядуваних справах, а також вплив на формування нових тенденцій міжнародного правопорядку виступів у процесах від імені заявників були детально проаналізовані.

***Ключові слова**: судовий захист прав людини, міжнародні неурядові організації, процесуальна правоздатність, правова держава, держава-відповідач.*

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