Usage the conventional committees is well-grounded as against the state that are not members of the Council of Europe (such as Belarus or Kazakhstan), or in cases where the volume of rights defended by the relevant UN treaty is much more wide, comparing with the Convention, 1950 and Protocols to it. Art. 10 of the International Covenant on Civil and Political Rights, guaranteeing the prisoners` rights, may be the easiest example of such situation. And more often the ECtHR refuses to research the individual application, or does not give any answer for passed application in a reasonable time, and the violations of the applicant`s rights by state are ongoing.

Other preference of the UN committees is in the modern extreme congestion of the ECtHR, elaborating more than 56 thousands of cases for the end of 2018. Such congestion cause the brutal simplifying by ECtHR the nature of cases, arbitrarily related by the Court`s Registry to group of certain «model cases» or «well –established cases», the adjournment of consideration of the principal and complicate cases for years and even decades. In this situation UN conventional committees are strongly tied by own Rules of Procedures in terms of considerations and communications on the individual communications and are able to execute such terms – as the number of cases in committees are extremely low. For example in 2018 UN Human Rights Committee got 189 individual communications and no one against Ukraine among them (comparing with 5 communications against Nederland, 9 against Spain and 15 against Russia). So this issue may be a fruitful ground not only for scientific researches but also for practical achievements.

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FREEDOM OF CREATIVITY AND RESTRICTIONS THEREON IN THE EUROPEAN COURT OF HUMAN RIGHTS JUDGMENTS

Key words: *creativity, restrictions thereon, freedom of creativity, European Court, human rights.*

The right of citizens to freedom of literary, artistic, scientific and technical creativity, freedom of thought and speech, as well as free expression of their views and convictions is guaranteed by the Constitution of Ukraine.

The freedom of creativity allows a subject of law to act in accordance with their internal convictions, which may differ from the generally accepted requirements, including those, which have been legally established. However, where an individual seeks public, in particular, state appraisal of his/her activity, he/she must correlate his/her behavior with the generally accepted model of conduct [1, p. 17].

The freedom of creativity can be divided into several types taking into account the phased character of creative activity. The freedom to create a

work involves the creator's choice of the sphere of creative activity, the type of works, themes, involvement of co-authors in the creative process, creation of an object on their own initiative or by request, in order to meet their own needs or for dissemination in the society, etc.

The freedom of publication (promulgation) and the use of intellectual property results are more limited, which is due to the need to observe the interests of the state, society, and individuals whose rights may be infringed as a result of such actions. Given the above mentioned, the issue of the possibility and expediency of establishing restrictions in the sphere of creative activity acquires special topicality.

Restrictions on the freedom of creativity may have various character, origin and purpose, due to which fact it appears possible to divide them into three categories. Firstly, these are restrictions, which have been established by the creator; they are individual in nature and determined by the creator's outlook, sphere of creative activity, purpose of the creation, etc. Secondly, these are restrictions of creativity, which have a social character and have been formed by the society and/or state. Such restrictions are moral, ethical, and preventive in nature. Thirdly, these are legislative restrictions, which are binding either on all creators or they may have been established for particular types of intellectual and/or creative activity.

The rules of the Law "On the Protection of Public Morals", which enforces the compliance with the norms of public morals, the prohibition of propaganda of violence, war, etc., may be classified as general restrictions on the freedom of creativity.

Despite the fact that the introduction of restrictions on the distribution of certain products is aimed at protecting the rights and interests of the users of intellectual property objects, their implementation raises numerous disputes both in domestic and foreign case law. In fact, even if certain creative works comply with the general criteria of morality and possess social utility there always remains a subjective approach to their assessment, from the viewpoint of both the creator and the public. Under these conditions, disputes over the lawfulness of dissemination of particular works have been increasingly resolved in courts.

The European Court of Human Rights case law dealing with creativity limitation cases, which is aimed at protecting the interests of particular categories of individuals as well as the society and state as a whole deserves particular attention.

An analysis of the practice of considering individual cases concerning the lawfulness of restrictions on the freedom of creation, in particular the freedom to disseminate individual works among the general public, suggests that the Court takes into account, among other things, several basic criteria for resolving the matter, particularly the nature of the information, which raises the question of the lawfulness of its dissemination (artistic works, publications in mass media); content and themes of works; possibility of a negative impact of the works on the rights and interests of different categories of individuals (special attention being paid to the protection of the rights and interests of children) or possibility to affect religious feelings, etc.

Restrictions on creativity and dissemination of information are deemed legitimate where this dissemination of information adversely affects the interests of certain categories of society members, violates religious or moral principles.

Thus, in the case of Wingro ve v. the United Kingdom, the European Court of Human Rights did not find encroachment upon the principle of freedom of creativity in the fact of restriction on the controversial film display, since, in this case, the state's intervention pursued a legitimate aim (protection of the rights of others, especially the right to freedom of religion) and was necessary in a democratic society. The European Court reached a similar conclusion in another case, namely Otto-Preminger-Institut v. Austria. This case concerned a ban on the distribution of the film, which distorted the doctrine of the Roman Catholic Church. The court, in particular, stated that, in the context of religious beliefs and religion, the artist could legitimately be obliged to avoid, where possible, the expression of opinions that are unreasonably offensive to others and thus violate their rights [2].

Therefore, in determining the lawfulness of restrictions on the dissemination of particular works, the European Court of Human Rights proceeds from assessment of their possible negative impact on the interests of society and certain categories of citizens, violations of established norms of public morals, religion, etc.

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ON THE DECISIONS OF THE EUROPEAN COURT OF HUMAN RIGHTS, WHICH ARE MOST OFTEN USED IN THE PRACTICE OF ECONOMIC COURTS OF UKRAINE

Key words: *European Court of Human Rights, case-law, economic courts.*

1. Court enforcement action remains one of the most important problems in the field of economic activity in Ukraine. Therefore, in the practice of