

THE EMERGENCE OF A DISCIPLINE: INFORMATION LAW

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Abstract: *This paper aims to emphasize the fact that in the context of information society, regulations and laws governing information and data as well as information systems activities, must be prevalent. In this regard, we believe that at least on the educational and academic level the discipline of information law must be developed in accordance with the new challenges and threats to security, synchronized with the transformed paradigm of national and international security.*

Keywords: *information law, data, national security, legislation, cybersecurity, information systems.*

1. Introduction

Nowadays, all major human activities are influenced by the rapid development of technology, in a more and more interconnected world. We watch news, get medical assistance, and pay bills and taxes online. We live in a society that forty years ago was called by Yoneji Masuda “the information society”, a society in which the major production center is given by the information utility, developed information networks, data bases and data banks¹. Besides its positive issues, the information society develops challenges and threats, a series of social problems: *future shock, terrorism and invasion of privacy*², main forces of social change being *citizens’ movements and litigations*³.

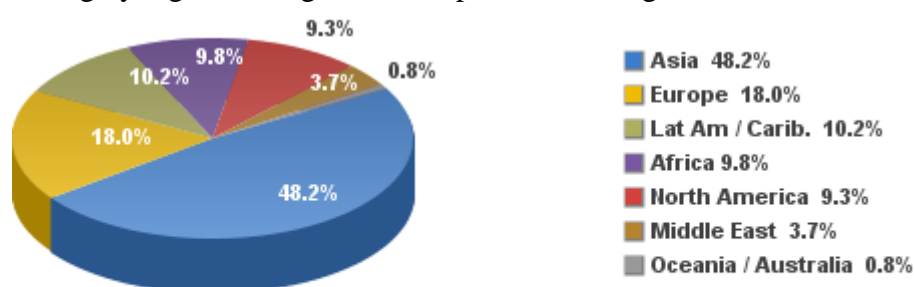
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¹ Yoneji Masuda, *The Information Society as Post-Industrial Society*, World Future Society, Washington D.C., 1981, pp. 30-33.

² *Ibidem*, p.30

³ *Ibidem*

Current statistical data confirm Masuda's predictive vision; thus at the end of the 2015 there were approximately 3.36 billions internet users from an estimated 7.26 billions world population⁴, the percentage of spreading by regions being the one depicted in the figure no. 1.



Source: Internet World Stats - www.internetworldstats.com/stats.htm
Basis: 3,366,261,156 Internet users on November 30, 2015
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Figure no 1. Internet users by world regions, November 2015

2.Context

Due to the deep penetration of cyber domain in every aspect of human activity, in the every day life vocabulary there emerged terms like: cyber crime, cyber espionage, cyber warfare, hacktivism etc.

A statistics published by Paolo Passeri for the year 2015 indicates that the number of cyber attacks is increasing as compared to the previous year, as shown in figure no. 2.

⁴ Internet World Stats, at www.Internetworldstats.com/stats.html

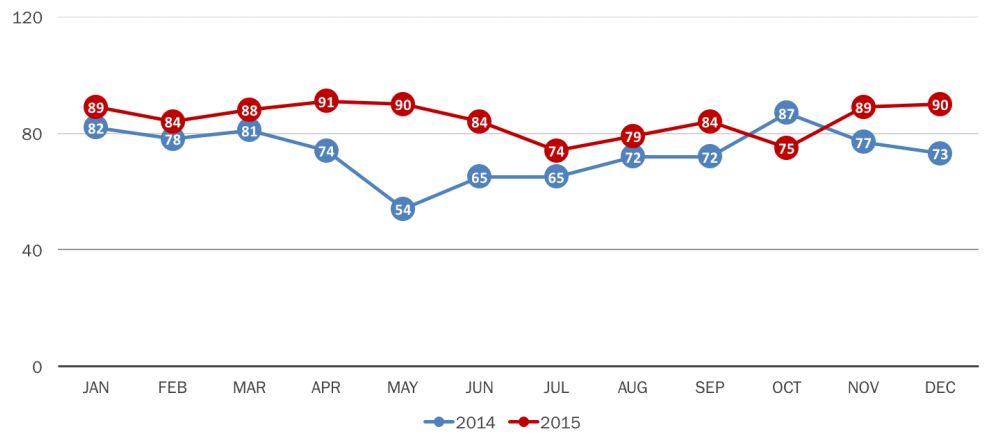


Figure no 2. Comparison between the number of cyber attacks in 2014 and 2015⁵

Regarding the motivation of these attack, the same series of statistics reveals the fact that the attacks having cyber crime purposes increased toward 2014 by 4.7%, reaching a 67% percent, followed by the hacktivism, cyber espionage and cyber warfare actions, as shown in the figure below.

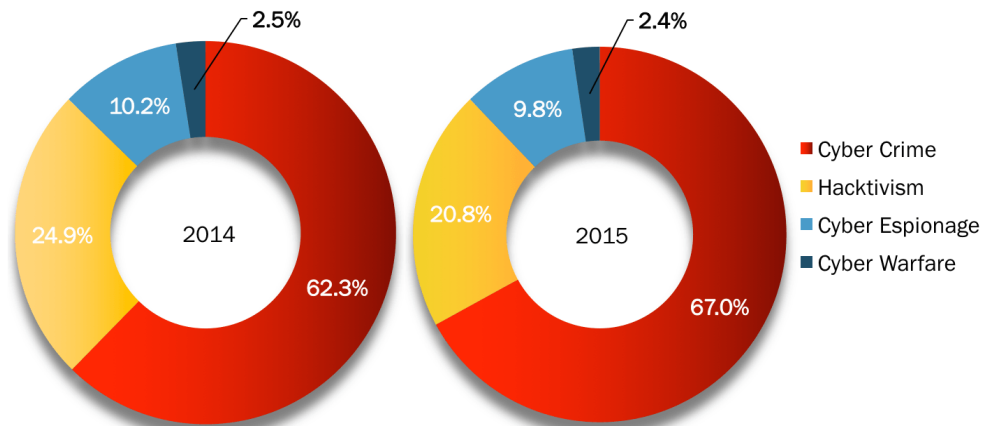


Figure no 3. Comparison between types of cyber attacks in 2014 and 2015⁶

⁵ Paolo Passeri, 2015 Cyber Attacks Statistics, at www.hackmageddon.com/2016/01/11/2015-cyber-attacks-statistics

⁶ *Ibidem*

Placing all the figures in the context of national security, we can relate the cyber domain to the concept of *extended national security* promoted by the *Romanian National Defense Strategy*⁷. According to the afore mentioned document, the extended national security concept focuses on those *interests that converge towards the achievement of national security in domains such as: defense (understood in its dual aspects of national and collective defense), public order, intelligence, counter-intelligence and security, education, public health, economic, financial, energy, environment and critical infrastructures.*

We can state that within security analysis we must consider the *cyber dimension of security* (figure no. 4), with its main issues involved⁸, especially if we take into account the fact that the proper functioning of the State is directly related to critical infrastructures, mainly to critical information infrastructures.

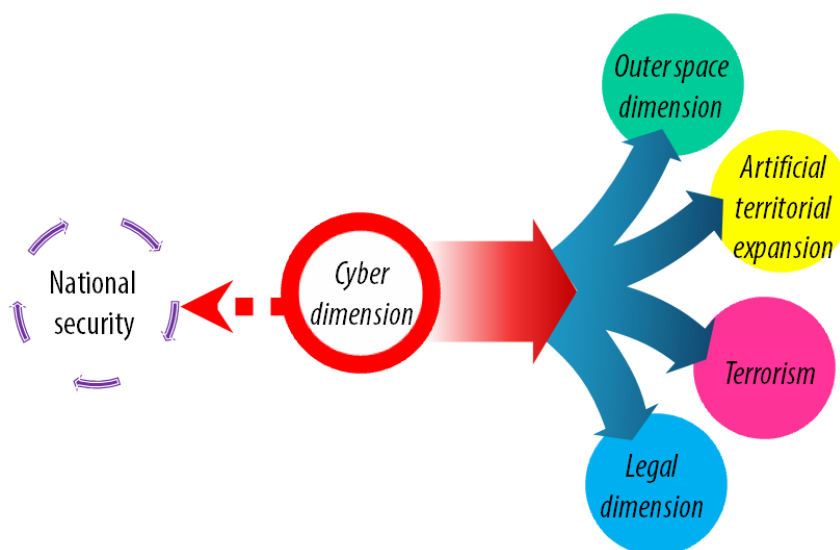


Figure no 4. Cyber dimension and its main subsequent aspects

⁷ ***, *Strategia Națională de Apărare pentru perioada 2015-2019: O Românie puternică în Europa și în lume*, Administrația prezidențială, Monitorul Oficial, partea I, nr. 450 din 23 iunie 2015, p. 6

⁸ Mihai-Ștefan Dinu, *Surse de insecuritate ale societății informaționale*, în vol. *Provocări și Strategii în ordinea și siguranța națională*, Editura Pro Universitaria, București, 2016, p. 381-384

Although it may be surprising, especially for the followers of traditional security approach, the presence of legal dimension in the aggregate dimensions of security, this makes sense mainly as support for the cyber domain, at the national level regarding critical infrastructure protection but also at the international level, relating to aspects such as cyber warfare, cyber weapons, cyber terrorism etc.

So, in this context, we consider that the emergence of information law is of crucial importance, not only as an academic discipline but also as a branch of law, founding our assertion on several main reasons:

- The development of information society as a result of advances in IT&C technology and the increased complexity of information systems linked to almost every human activity;

- The increasing trend in using cyber warfare as a tool in information warfare;

- The need to protect the personal data and the identity of citizens based on values such as human dignity, perceived as an essential attribute of a human being;

- The need to implement a cyber-security law⁹ which must be characterized by the clear regulations on the legal mechanisms regarding the protection of private life in the context of existing and future threats associated with the rapid technological progress and in conjunction with national and European security objectives;

- The increased safety of citizens by legally protecting their identity and proprietary rights;

- The prevention and avoidance of risks and threats generated by the hostile information operations, national interest counter-intelligence and classified information protection assurance;

- The need to improve cooperation in the process of information sharing and thus, the increasing level of trust in national structures from the security national architecture and consolidation of security provider status;

⁹ Dănuţ Turcu, *Considerations on Cyber Security Legislation and Regulations in Romania*, in *International Scientific Conference Strategies XXI Proceedings*, vol. 3, Carol I National Defence University Publishing House, Bucharest, 2016, p.178

- The need to improve the level of predictability and interoperability of state institutions;
- The support granted to the process of reviewing national legislation in order to strengthen the national security system through the Supreme Council for Homeland Defense based on the need of rapid adjustment to the continuous transformation of contemporary security environment;
- The avoidance of abuses that might be generated by an incoherent and somewhat deceitful legislation that would allow certain institutions with responsibilities in protecting national security to aggress the citizen or community by affecting the free exercise of constitutional rights in the context of a distorted perception on civilian control over the activity of previously mentioned institutions.

3. Definitions and Issues covered by the Information Law discipline

Overall, information law as an academic discipline is capable to contribute to the improvement of national security culture by adapting and integrating the knowledge developed in this field in the national curricula not only at the level of university studies but also in schools and high schools in the framework of civic education.

Considering the fact that almost all human activities are performed within the information society, those *social relationships emerging as a result of collecting, storing, and processing information* are placed under the effect of information law. Obviously, under the effect of information law we can also find data frequently used as raw material in order to get credible information.

Thus, information law *consists in the aggregate collection of legal norms adopted or issued by the State which regulates relationships in which individual and legal entities that are participating, each with equal legal positions, regulate social defense through the incrimination as felony, under the sanction of punishment of facts dangerous for social values based on data and information, in order to protect these values, either by preventing crime or by applying punishment to persons committing such crime.*

The legal norm concerning information law is *that social norm that meets legal provisions designed to order relationships regarding collection, storage and processing of information and data by imposing behaviors in*

order to protect certain values that underlie people's main rights and obligations, their violation being subject to civil or/and criminal sanctions.

The major issues to study within the framework of Information Law discipline are related to the Intelligence Community organization and functioning, state authorities with tasks in intelligence domain, covering also theoretical legal aspects on:

- Legal regime of the issued papers
- Rights regarding free access to public information
- Protection of personal data
- Rights regarding privacy
- Legal regime of classified information
- Cyber Crime
- Violations of legal regime applied to information and data
- International provisions regarding legal regime of information and

data

4. Conclusions

Due to the globalization of risks and threats the world today must adapt to the rapidly changing realities of the security environment. The disappearance of geographical borders due to the technological progress in information systems domain, the diverse and rapid digital devices designed for communication, as well as the emergence of new violent actors and phenomena like terrorist organizations lead to the situation in which the international community must adopt their legislative system in order to get a proper response to the newly emerged risks and threats.

These are the reasons for the increasing level of complexity in the intelligence domain, for the need of the international community to share information¹⁰ and, in order to do so, the need to cooperate in the legal domain on at least two levels: on the one hand regarding protection of state institutions and on the other hand to protect their citizens, in a global society that nowadays is an information society not only by its achievements in the field of technological field but also by the challenges raised by new and perverted threats.

¹⁰Julian E. Barnes, *NATO Moving to Create New Intelligence Chief Post*, Wall Street Journal, June 3, 2016.



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