

LEGAL REGULATION IN SOCIAL NETWORK

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Abstract. *Article is devoted to one of the hottest topics today. Development of the Internet network represents a standard channel of social communication via which a large number of trade transactions, money transfer is carried out, besides, all connection functions are performed, and Mass Media broadcasting is realized. In article some changes in the legislation which are connected with legal regulation of the Internet relations are analyzed. Nowadays no country in the world has codified legislation which would regulate internet issues. With rapidly developing Internet more and more countries in the world realize the necessity of the Internet's legal regulation. It is caused by the fact that the Internet became one of the major factors of social, educational and cultural development, which provides new opportunities for humankind. The following article emphasizes the importance of not solely additional legal norms, but also a new effective approach to problem solution.*

Keywords: *Internet, virtual space, Social Networks, Internet relations, legal regulation.*

Nowadays development of the Internet network represents a standard channel of social communication via which a large number of trade transactions, money transfer is carried out, besides, all connection functions are performed, and Mass Media broadcasting is realized.

Today social communication channel can be used for both development and realizing of antisocial actions. In the absence of laws, regulating actions of users, organizations and governments on the Internet, arises and strengthens a double standard in the conscious of people: laws must be obeyed but not in the network.

One of the reasons that may lead to dangerous tendency is a legal one.

Legal reasons include lack of legal regulation, as well as conceptual complexity of providing evidence in the network.

Currently, for instance, from the perspective of Kazakhstani criminal law, any Kazakhstani segment of the Internet network represents a conglomerate of criminally punishable acts in the form of mudslinging and abuse, appearing everywhere on the Internet, misleading advertisement in the form of dispersal of materials with sexual content, as well as violation of intellectual property rights.

A number of specific and general-purpose issues arise as result of formulation and research of legal regulation issue. Among general-purpose issues, it is necessary to emphasize the following problems: network jurisdiction, legal personality of those, which represent, disseminate and use

information in the Internet network, as well as problem determining the time and place of the action on the Internet.

As for existing regulatory legal acts, in some or other way involving relation to the Internet can be described as follows:

1. No country in the world has comprehensive (codified) legislation on the Internet. Existing normative (subordinate) legislations regulate private aspects of the network functioning.
2. Rules that could be applied to the issues on the Internet are “scattered” upon legislative acts of different branches of law. They are primarily contained in the rules of intellectual and industrial property.
3. There is practically no control over Internet issues at the international (intergovernmental) level. Thus, the main problem is that the Internet has no territorial borders of distribution.

Analyzing activity associated with the use of electronic communications, it is important to consider the probability that this activity may be contrary to the interests of any other state in various fields of its competence.

There exist a number of gaps and contradictions associated with legal regulation of the network. Certainly, a number of rules are included in the civil law¹, criminal law, besides there exist a territorial principle, which distributes act of the laws over the whole territory of RK, a citizenship principle, and establishing criminal responsibility for citizens of RK in particular who committed a criminal offence beyond RK². Nevertheless, the above stated norms and principles are not enough for informational process regulation on the Internet.

In controversial situations, when different interests and legal systems arise, a conflict takes place: which right to apply, who is in charge of some or other informational process, jurisdiction of what state covers informational and public issues?

To answer these questions the so-called conflict norms exist in the international law. They do not solve the problem itself, but rather indicate the rules that should be applied in the particular situation.

Interests of the state in informational area involve creation of conditions for harmonious development of informational infrastructure in Kazakhstan, implementation of constitutional rights and freedom of a citizen in the field of information acquisition and use in order to provide inviolability of constitutional order, sovereignty and territorial integrity of Kazakhstan, political, economic and social stability; to ensure the law and order, as well as develop equal and mutually beneficial international cooperation.

A number of issues in RK legislation are to be developed, the solution of which is essential for effective legal regulation of relations within the Internet community.

In particular, the basic legal categories and concepts (such as “Internet-debates”, “cybersecurity”) are not properly defined; participants of Internet regulation and control procedure are not determined as well as their functions at information distribution via information and communication networks; rules for establishing the place and time of legal actions occurrence when using the Internet are not defines.

The most complicated tasks associated with social networks functioning include the definition of legal influence on formation of informational and communicational infrastructure within networks, such as users’-consumers’ interest provision of informational products and determination of legal regulation mechanism, as well as implementation of information rights in social networks.

One should agree with researches that stand for necessity to develop and accept legal framework, regulating internet relations, based on which internet right could be included into separate branch of law.

Objectives of such a regulation are as follows: creation of conditions for stable governing of internet-relations, assurance of information security, protection of legitimate interest of public, and right of natural and legal persons. According to some researches, creation of the Internet law should be started from adoption of law that would define the main terms, scope of law, principles of activity on the Internet, principles and main direction of state policy in this area, general provisions of licensing and certification in some areas within the Internet.

Nowadays establishment of legal boundaries for social internet networks and virtual activity functioning within the framework of the procedure of bringing to legal liability and imposition of limitations and proscription grow actual.

Internet specific character is determined by certain difficulties connected with identification of a subject of legal offense, one of which is internet extraterritoriality and anonymity of the major part of its users.

¹ See. Section VII, Civil Code of the Republic of Kazakhstan

² According to p. 1 of Article 7 and p. 1. of Article 8, Criminal Code of the Republic of Kazakhstan

For example, in March 2000, a new law was established in France, which involves compulsory registration of all owners of Internet resources. Website authors set on French servers must provide their personal data to internet providers before the start of internet resource operation. Users would face six months in prison in case of incomplete or incorrect data submittal. Thus, there was established a criminal liability on internet providers for hosting users who did not pass identification procedure.

An important issue is bringing internet service providers to responsibility, as they have organizational and technical capabilities to influence the information received from their clients any time. Forms of such an influence may be different: compete blocking of informational exchange, informing of authorized agencies on illicitness of information transfer via Internet.

Talking about liability of internet service providers, for wrongful content distribution by social network users, first of all providers differentiation should be taken into consideration upon type of internet services supplied by them.

Such services include as follows: Internet access by dial-up or dedicated channels, including wireless Internet access; separation of disk space for storage and maintenance of websites (hosting); work support of mailbox or virtual mail server; etc.

Internet providers by means of fulfilling their functions obtain certain results, the use of which must be fulfilled within limits of established corresponding legal regulations, that is each classification type, as it develops, becomes a subject for special legal regulation. Thus, differentiation of internet providers depending on the functions they perform is of practical importance for determination of legal-liability subjects.

The main feature of content providers is that they focus not on telecommunication but rather on informational content of Internet services. Content providers acting as providers of information distributed on websites, and offering an opportunity for users to publish this information on servers accessible for general public, must bear responsibility for law violation on the Internet.

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