

The Concept of Harmful Information in the Context of Legal Support of Information Security in the Republic of Kazakhstan

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Abstract: This article focuses on issues of spreading harmful information, which negatively affects the psyche, behavior, health, society and destabilizes the government administration. The article makes the case for improving the legislation of the Republic of Kazakhstan in strengthening informational security of individuals, society, the state, measures to prevent the destructive impact of harmful information.

Key words: Harmful Information • Information Security • Negative Information

INTRODUCTION

Nowadays the approach to the understanding of information security only as providing of technological information security is clearly outdated.

In the concept of information security in the Republic of Kazakhstan the information security is considered in terms of technical, social and political aspects [1].

According to the concept, the technical aspect includes the protection of national information systems, information and telecommunication infrastructure from unauthorized access, use, disclosure, violation, changes, reading, inspection, recording or destruction to ensure the integrity, confidentiality and availability of information.

Social and political aspect of information security lies in protection of information space and media vehicles from the targeted negative information and organizational impact, which can impair the national interests of the Republic of Kazakhstan.

As Krutskih A.V. [2] exactly notes, "the influence of targeted information on the opponent (competitor, opponent) is as old as the hills. However, only now, thanks to the latest technology, it evolves from the individual information diversions and disinformation activities to completely formed way of international policy featuring massive and universal nature of the application."

The fact that the information can have an impact on the consciousness and psyche of the man became clear not only in our days, it's also justified by a number of scientists involved in research of such an impact.

So, G.V. Grachev [3], H. Domozetov, I.K. Melnik proved that the influence of the information has different directions on the person.

For example, the available information has an impact mainly on its user in such a way to induce him to extremely positive acts in the exercise of own rights and responsibilities. Accordingly harmful (destructive) information has the opposite effect on it's owner or user.

The Constitution of the Republic of Kazakhstan establishes only general provisions of prohibiting the distribution of harmful information, on this basis we can conclude that harmful information is clearly equated to illegal information. For example the clause 3 of article 13 in the Law of the Republic of Kazakhstan "On mass media" issued on 23rd of July, 1999 constates the basis for stopping to issue or distribute mass media: disclosure of information constituting state secrets or other secrets protected by law, information dissemination, revealing the techniques and tactics of anti-terrorist operations during their implementation, promotion of narcotic drugs, psychotropic substances and precursors, propaganda or agitation of cult of cruelty and violence, social, racial, national, religious, class and tribal superiority, the transmission of radio, television programs and pornographic and sexual - erotic film and video

demonstration, use of media for breaching the pre election campaign, for execution of activities by foreigners, stateless persons, foreign legal bodies, interfering and (or) promoting the nominating or electing of candidates, political parties that nominate party list and achieving certain results in elections, campaigning while its prohibited, forcing to participate or not participate in the strike [4, 5].

And the reasons for their termination are propaganda or agitation of forced change of the constitutional structure, violation of integrity of the Republic of Kazakhstan, undermining of state security, war, propaganda of extremism or terrorism, publication and dissemination of information materials aimed at inciting ethnic and religious hatred (paragraph 4 of Article 13 of the Law of the Republic of Kazakhstan "On the mass media" dated 23 July 1999).

The definition of harmful information in the legal context for the first time was given by I.L. Bachilo [6]. In her opinion, the harmful information its a such information "the dissemination or use of which entails the need to protect legal entities from its negative impact." But this is not the only definition of harmful information. Others understand by this the massive information, *i.e.* that is not confidential which damage entities as a result of its use or disseminating. Note that the definitions of harmful information are generalized and without specifying. However I.Panarin attempted to define them concretely and as an information that can negatively affect the human psyche he refers the information that creates negative character and specially selected negative facts of reality that may be transmitted on television and in newspapers, information flow to extract one thing from which is impossible.

If we uphold his view, then such programs as "The court is in session", "Trial by Jury" which have purpose of legal propaganda also refer to the range of information with negative impact on the human psyche. This specification implies the creation of a special structure that would include psychologists and other professionals who adequately determine the content of the information for its harmfulness.

In any case the harmful information infringes on the legal rights and interests of individuals, society and the state. Therefore, the state should respond properly by taking measures of protection from harm and damage from such information.

Obviously, the information can be related to harmful because of its specific features, most of which are characterized by psychological qualities that affect the psyche of a person and as a consequence his behavior.

These features include: falsity (inaccuracy), incompleteness, misrepresentation; the causing or threatening of harm to the legitimate interests and rights of the individual, society and the state, including a negative impact. In our opinion, false information in itself may not always be harmful. False information or misinformation means false signals, failure to inform (concealment), distortion. In addition, there are also paradisinforming (transfer of mental images or "game" of meanings) and metadisinforming (using of fabrications). False information will be harmful only if it has harmful content. If you put the information that the bank incurs losses and soon will go bankrupt, then depositors will likely take their money from the bank and that will cause damages to the bank. But the false information that the powder is the only means to remove any stain can unlikely cause harm. A stain can be removed, not so much clearly as we would like, but anyways.

Foreign legislation also does not contain a clear notion of hazard information, the definition is generalized or specific types of harmful information are listed. For example, in UK the law on obscene publications accordingly recognizes the publication and dissemination of obscene being illegal. However it is recognized for legal persons of marriageable age to possess or watch obscene conten t[7, 8].

A.V. Minbaleev Lists the Harmful Information Types:

- False (doubtful, incomplete, inaccurate, corrupted);
- Propaganda of pornography, violence, cruelty;
- Inciting social, racial, national or religious hatred, hostility and superiority;
- Destructively influencing on the psyche of the people;
- Information about the unhealthy goods and services with limited turnover;
- Offences;
- Harmful to the health, moral and spiritual development of children
- Improper advertising.

Although in our opinion it's not correct to derive unfair advertising as a separate type of harmful information, since it is included in the general concept of

the false information. In addition, the propaganda of pornography, violence, cruelty is a part of information harmful to the health, moral and spiritual development of children.

In our view, today we with complete confidence should talk about the availability of such kind of information as imposed information too, which also has a negative impact on the human psyche and health.

Spamming is so relevant to Internet users that not only a fine and maximum 6 million dollars, but also an imprisonment of up to five years for spamming were set by US federal law in 2003. But this law rest responsibility on illegal spammers.

Companies officially registered in the United States are not threatened. Also it's impossible to stop the spam that comes from servers located outside the United States. Spamming is becoming sophisticated so that the installed anti-spam filters and special protection programs are not able to recognize spam. For example, the message comes from the alleged user with whom the person assertedly had conversations or they are friends on social networks. Therefore, it's not difficult for receiver to respond to such a message, in fact spam protection system is cracked by such a response to this message. For example in Hong Kong since 2007 a law establishing responsibility for spamming as a fine of 2 million Hong Kong dollars or 128 thousand dollars and imprisonment for five years. And if a malicious spam program was spread by spam, then penalty will not be limited in size and the deprivation of freedom will be prolonged to 10 years. Legislations of Austria and Italy contain regulation entitling user to claim for compensation from the sender of spam to the extent of 5000 euros in the case of spamming without his (her) consent.

Thus, the notion of false information expands due to the imposed information that becomes a subtype of false information [9].

Based on the abovementioned the classification of harmful information can be represented as follows:

- False information, incomplete, corrupted, inaccurate, also imposed;
- Inciting social, racial, national or religious hatred, hostility and enmity;
- Encroach on the honor, dignity, name and reputation (in the case of recognition it to be false and misleading);
- Obscene;
- Destructively affects not only on the human psyche, but also on health.

However, in Kazakhstan's legislation there are no clear criteria for determining harmful information, no any explanation of the "harmful information" concept, there is no provision on execution of an examination by its definition, also it does not contain any rule governing the mechanism for dissemination of this information.

In our opinion the harmful information is information about persons, objects, facts, events, phenomena and processes regardless of its format, including databases, databanks and other information resources in information systems, negatively affecting the vital interests of society, the state and personality by changing it's mind, behavior and health. Furthermore, it is possible to distinguish between information and legal security of the person and the information-psychological security.

Information and legal security of the person is the protection of all rights relating to the admission to information, which in its turn includes seeking, receiving, possessing, transfer, distribution, copying, non-proliferation, the creation of information.

And information-psychological security of the person is the protection of person from harmful information.

We should take into account the fact that human consciousness and subconsciousness can be manipulated due to the effect of information. Undoubtedly, manipulation specifically aimed at harming can harm one person as well as indefinite group of people. Manipulation is possible in any sphere of human activity. In the religious sphere the manipulation is aimed at attracting new believers into a particular religious group, in which they became zombie obedient to their leaders directions.

Manipulation is also possible in the economic sphere, when imposing one commodity that characterize the features and qualities which are exaggerated in comparison with similar products. Manipulation is possible in the political sphere too, where errors of policy are exaggerated and there is no mention of the measures taken to address them. Undoubtedly, criminal manipulation is also dangerous.

Therefore, the information security of the person forms by protecting the information from threats and harm, by protecting the individual from harmful information.

Information security depends not only on the technical possibilities of such protection, but also on the individual and to what he (she) understands the problems of causing damage to the computer system and information and him(her)self.

Of course, the legal base must settle information security, but it will be heavier to protect information user from the use of harmful information only by technical, legal means and methods without focusing on the development of information culture of using information flows.

Until now the phrase "Who owns the information-owns the world" has not lost its signification and actuality. Indeed, the "intensification of information dependency of the person on the growing volume of information needs requires arranged and systematically organized information, including on accessing to information, creating effective mechanisms to protect people from "harmful information", to implement clear criteria for its determination, to develop regulations for examination on the definition of "harmful information".

Also we think that the spread of information should be controlled by government. This control does not mean censorship. Due to the fact that modern information technology allows disguise the real content of the information so that its users do not suspect a violation of their rights, special professional knowledge are required to determine the harmful information. In this regard, we propose to form a special organization as a part of an existing Joint committee of the Republic of Kazakhstan on coordination of activities in the field of informatization and providing of information security which would deal with problems of determining the harms of information from internet. Regulations on the work of this organization must be based on legal restrictions of the human rights of access to information.

Information is a good that is being successfully sold. Without proper information you can create problems for yourself in different spheres of life. And it's clear that information without legal support cannot become a positively organizing thing in society.

Apparently, the problem of determining the harmfulness of information has matured and requires its legislative solution. Since only comprehensive legal regulation of information security can guarantee stability and peace in society.

CONCLUSION

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