

PROTECTION OF THE RIGHTS OF A PERSON IN THE CASE OF DISTRIBUTION OF UNTRUE INFORMATION ABOUT HIM ON THE INTERNET: PROLEMATICS

The problem of the spread of unreliable information on the Internet and the responsibility of individuals for these actions is quite relevant.

It is extremely important to know and be able to choose the right method of protection in the event of these violations.

According to the traditional concept, the right to defense is a component of the subjective right, along with the right to take one's own actions, as well as the right to demand certain behavior from obligated persons.

Protection of the right is carried out using the appropriate form and methods. The form of protection refers to a set of internally agreed organizational measures to protect the subjective rights and legally protected interests of a person. As you know, the science of civil law distinguishes two main forms of protection of the violated right: jurisdictional (Articles 16-18 of the Civil Code of Ukraine) and non-jurisdictional (Article 19 of the Civil Code of Ukraine).

The non-jurisdictional form of protection includes the actions of individuals or legal entities regarding the protection of rights and interests protected by law, which are carried out independently, without recourse to state and judicial authorities. Usually, the protection of a person's rights in case of dissemination of false information about him is carried out in court, although the possibility of "self-defense" is not excluded.

The jurisdictional form of protection (Article 16 of the Civil Code of Ukraine) provides that every person has the right to apply to the court for the protection of his personal or property right or interest.

Also, Article 32 of the Constitution of Ukraine guarantees everyone the right to legal protection of the right to refute false information about themselves and their family members and the right to demand the removal of any information, as well as the right to compensation for material and moral damage caused by the collection, storage, use and dissemination of such false information.

The author proposes to consider the issue of protecting a person's rights in case of dissemination of inaccurate information about him on the Internet from a practical point of view.

As you know, the judicial procedure for protection includes a person's application to the court for the protection of the violated right.

In order to apply to the court with a claim, it is necessary, first of all, to establish the fact of the spread of false information on the Internet and to

confirm this with proper and admissible evidence. For example, the evidence could be a printed web page from a website showing the website address and the author of the information.

It is also necessary to establish the persons (person) who created and disseminated false information and who will be the defendants in the case in the event of a request for legal protection.

According to the resolution of the Plenum of the Supreme Court of Ukraine “On judicial practice in cases of protection of the dignity and honor of an individual, as well as the business reputation of an individual and a legal entity”, the proper defendants in case of dissemination of inaccurate information on the Internet are the author of the relevant informational material and the owner of the website. In addition, the Supreme Court of Ukraine noted that it is the plaintiff who is responsible for establishing and specifying these persons in the statement of claim.

According to the Law of Ukraine “On Copyright and Related Rights”, the owner of the website is the person who is the owner of the account and establishes the procedure and conditions for using the website. In the absence of evidence to the contrary, the owner of the website shall be considered the registrant of the corresponding domain name by which the website is accessed, and (or) the recipient of hosting services.

In accordance with part 6 of Article 277 of the Civil Code of Ukraine, the legislator grants the right to an individual whose personal non-property rights have been violated in printed or other mass media, to a response, as well as to refutation of inaccurate information in the same mass media in the manner established by law.

However, if a person’s right is violated on the Internet, then in practice the implementation of the right to reply is problematic, at least for the reason that the person does not always have the opportunity to establish the person who owns the website and posts personally created information as well as informational messages of others persons.

It does not solve the specified problem and the possibility of obtaining data about the owner of the website by the court when considering the case in accordance with the provisions of the Civil Procedure Code of Ukraine from the administrator of the system of registration and accounting of domain names and addresses of the Ukrainian segment of the Internet.

There are websites that contain insufficient data to establish it or no information about the owner at all. Also, it should be noted that in practice domain name registration and ordering of hosting services for these websites is usually carried out abroad, which makes it impossible to establish data about the person who owns the website.

In this case, the person whose rights have been violated can use the legislative options specified in paragraph 3 of part 4 of Article 277 of the Civil Code of Ukraine, namely – if the person who spread the false information is

unknown, the natural person whose right has been violated can apply to the court with a statement establishing the fact that this information is unreliable and refuting it. Such a fact is established by the courts in the order of a separate court proceeding.

In accordance with part 7 of Article 277 of the Civil Code of Ukraine, it is noted that refutation of false information is carried out in the same way in which it was disseminated. However, in the case of the distribution of such information via the Internet, certain difficulties may arise when applying the method of refutation specified in the specified article.

A problematic issue arises when unreliable information is posted, for example, on the Facebook network. Yes, a person can register a fake account, that is, under a fictitious name and use a social network, spreading false information, which will make it impossible to establish the guilty person and identify the offender.

In this case, if it is impossible to establish the owner of the account, for example, on the Facebook network, then the Ukrainian courts will refuse to satisfy the claim because the defendant in the case has not been established (not specified).

The Law of Ukraine “On Media” will be able to partially solve the issue of establishing subjects of dissemination of unreliable information on the Internet. This Law N 267 was adopted by the Parliament on December 13 and signed by the President of Ukraine on December 29 and published on December 31 in “Voice of Ukraine”. According to the final provisions, it will enter into force three months after its publication on March 31, 2023.

Thus, the Law of Ukraine “On Media” establishes the definition of a media (a means of mass information) – a means of disseminating mass information in any form, which is periodically or regularly released to the world under editorial control and a permanent name as an individualizing feature.

For the first time since independence, the corresponding Law was adopted and the concept of “online media” was defined at the legislative level as a media that regularly distributes information in text, audio, audiovisual or other forms in electronic (digital) form using the Internet on its own website. site, except for media that are classified as audiovisual media by this Law.

Also, the Law of Ukraine “On Media” enshrines entities in the field of online media (Article 16) and methods of dissemination of mass information in the field of online media. The specified Law proposes to define the following as methods of dissemination of mass information in the field of online media:

- broadcasting, rebroadcasting of any audio or video information using the Internet;
- downloading for public access or opening access to one or more downloaded files (parts of files) containing distributed information, on storage devices of computers, servers, etc., accessed by users using the Internet;
- posting text messages on your own website or web page.

Also, Article 43 of the Law of Ukraine “On Media” enshrines the right to answer and refute inaccurate information, where a person who believes that an entity in the field of audiovisual, print or online media has disseminated information about him that does not correspond to reality (stated incomplete or inaccurate) and denigrate her honor, dignity or business reputation, has the right to demand refutation of inaccurate information or to exercise the right of reply.

Therefore, legislative regulation of the legal status and activity of subjects in the field of online media, as well as the right to answer and refute inaccurate information that has been disseminated about a person, is relevant, which will allow to eliminate at least part of the gaps in legal regulation, in particular, regarding the dissemination of inaccurate information on the Internet.

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ПРАВО НА МЕДИЧНУ ДОПОМОГУ ПІД ЧАС ВОЄННОГО СТАНУ

Міністерством охорони здоров'я України було вжило всіх необхідні заходів, які на час дії воєнного стану спростили доступ щодо отримання медичної допомоги на всій території України, де є можливість повноцінного функціонування медичних закладів та лікарів, незалежно від місця реєстрації та наявної декларації щодо отримання медичних послуг.

Відповідно до наказів МОЗ та уряду України, на час дії воєнного стану передбачені наступні можливості для безперешкодної реалізації громадянами свого права на медичну допомогу:

- медичні заклади надаватимуть екстрену медичну допомогу цілодобово всім, хто її потребує;
- без жодних умов щодо наявності/відсутності укладеної громадянами декларації;
- наявності чи відсутності документів, на підтвердження своєї особи;
- незалежно від місця реєстрації чи проживання того, хто звернувся за медичною допомогою або був доставлений до найближчого медичного закладу [1].

Міністерство охорони здоров'я України задля забезпечення усіх громадян, які покинули місця постійного проживання і тимчасово змушені проживати в інших регіонах країни, належним рівнем медичного обслуговування, звертає увагу, що на сьогодні вживаються усі заходи для того, щоб вимушені переселенці отримували необхідну медичну допомогу безкоштовно та у повному обсязі. Так згідно з наказом Міністерства охорони здоров'я України від 17.03.2022 р. № 496 «Деякі питання надання