

UDC 343.346.8:004

Tarassenko O. – Ph.D in Law, Associate Professor of the Department of Operative and Searching Activity of the National Academy of Internal Affairs, Kyiv, Ukraine
E-mail: o.s.taras@ukr.net
ORCID 0000-0002-3179-0143

The Concept of Illegal Content on the Internet

The article is devoted to the study of information in the information space (content) that has become not only the possession of knowledge, data storage and transmission, but a peculiar influence on the person's consciousness. It depends on its content, what effect does it make on the person's consciousness.

The content that is spreading in the information space today is a global informational threat and has a detrimental effect on the moral, physical, psychological, social and cultural aspects of people's lives, especially young people. The information in the information space has become not only the possession of knowledge, the preservation and transmission of data, but is a unique means of influencing the consciousness of the individual.

In legal literature there are such types of content that violates legal provisions: dangerous, illegal, unlawful, prohibited. It is proved that the most complete term that reflects illegal actions is illegal content. It is noted that the danger of illegal content is to distribute its content as a non-target audience, and it may be directed to a separate group or user, and also hidden, with modified text, but in a language that is understandable to the consumer of this content.

On the basis of the author's research, author's definition of the concept of illegal content on the Internet is determined. The concept of illegal content is a dissemination of information in the Internet, the liability is provided for criminal law.

It was investigated that information in the information space (content) has become not only the possession of knowledge, the preservation and transmission of data, but a kind of influence on the consciousness of the individual. From this contents depends the influence on the human consciousness.

Keywords: illegal content; Internet; information; crime; site; dissemination.

Problem statement. The Internet is a means of data transfer, disclosure of information, making public and preservation of information. Today, no sphere of activity of the society can be avoided without the use of information resources, information space and Internet.

The Internet is a virtual reality that has own life and rules – this is a real virtual world in which millions of users communicate, as a result there are peculiar Internet terms that have grown into a number of dictionaries that simplify the communication of users to each other [1].

The popularity of the Internet is great because it provides round-the-clock access to the information, fast data transfer, the ability to carry out various operations, and so on. The Internet is a great means for communication [2].

The Internet has drastically changed the way we work, spend our leisure time and communicate with one another. The number of Internet users worldwide has skyrocketed since the birth of the World Wide Web. It is estimated that the number of Internet users worldwide is 4 billion.

Every year, the number of Internet users increases, and today their number is more than 50 % of the population of the Earth [3] and about 6 % of the world's population has Internet addiction [4]. Compared to these data, more than 60 % of in Ukrainian peoples use the Internet [5], and this figure is increasing every year.

The rise of the internet as well as the continued growth of access around the world and through different technologies is likely to continue and change communication and how we access information. Access to the Internet is almost universal in developed countries and although usage rates are much lower in the developing world, they are increasing.

Today, a computer, a smartphone, a tablet with access to a global network is not a luxury, it's a necessity. Unlimited access to information, the possibility of free communication between countries and continents, Internet banking and Internet trading – all this is a separate world whose possibilities are immense [6, p. 360].

The World Wide Web opens up great opportunities for development, expansion of outlook and communication. However, the nature of the Internet has a different side – its spontaneous uncontrolled distribution has generated a number of global problems with serious consequences [7, p. 134]. For example, using social networks is the most powerful means of impact on users of different ages by creating groups and communities [8, p. 164].

It is necessary to stress that the content of the Internet is not threatening, its content is the threat, because it contains information that contributes to the commission of unlawful actions and so on.

The Internet is a pervasive part of our lives and as a legal community. the Internet has become a powerful influence in many fields of people's life, it is empowering citizens, lowering the barriers to the creation and distribution of content, offering universal access to ever richer sources of digital information. The classification of Internet use has become the subject of debate in the legal community.

Role of the Internet in the commission of crime studied in scientific works of many scientists. Among them we'll note V. Butuzov, K. Chaplynskyi, S. Chernyavskyi, V. Havlovskyi, Yu. Orlov, V. Shendryk, O. Striltsiv, K. Titunina, A. Volobuev and others, they investigate the questions concerned the use of information technologies and the Internet for committing a crime, but information of illegal (forbidden) content in the Internet resource and site is examined rather superficially.

The purpose of the article is to study the essence of information in the information space of the Internet, to determine the illegal content and the forms of its manifestation in the Internet.

Information is a universal instrument of human progress, the main resource of the development of modern society, one of the main universal and national values [9]. has become not only the possession of knowledge, data storage and transmission, but a peculiar influence on the person`s consciousness. The content of the content depends on the impact that it exercises on the individual`s consciousness.

Illegal and prohibited content can be found almost anywhere online: newsgroups, forums, blogs, social media, peer-to-peer file sharing platforms, live visual and audio, and the list goes on. Illegal and prohibited content is sometimes hard to avoid, as it is sometimes accessed by accident. One of the major risks when uploading illegal and prohibited content is that it may reach children, for whom such content can be especially damaging.

Illegal content is extremely offensive material that is placed online, and can include things like:

- child pornography or child abuse;
- content that shows extreme sexual violence or materials that are overly violent;
- materials that provoke the viewer into committing crimes and carrying out violent acts. This might be material that instructs, promotes or incites violent acts;
- content that promotes terrorism or encourages terrorist acts.

Prohibited content might include any of the following:

- any materials which encourages violence, criminal behaviour, or dangerous behaviour, such as creating weapons, taking or making drugs, or carrying out fraudulent/terrorist acts;

- highly graphic sexual acts that would be likely to offend a «reasonable adult»;
- footage that shows violence or crimes that are real or simulated [10].

Information direction of the Internet, networks or site are carried out by filling them with the corresponding text, the media, graphics – content that is filling the site with any data in electronic form [7, p. 136].

Illegal content is doing a pernicious blow to the person's consciousness. There are some cases of distribution of content dangerous for a person's life and health, the content of which causes significant damage to the interests of the state and society.

Special attention should be paid to uncontrolled access to the Internet for children. Recently, it has expanded significantly due to the mobile means of communication and the natural avant-garde of young people regarding the perception and participation in new projects and processes.

This environment also gives them a sense of personal freedom and independence from adults, and therefore attracts them as a kind of forbidden fruit, and therefore such content in the network is extremely detrimental to the unstable psyche of the younger generation, forms a distorted morality and culture.

According to O. Kozekych, with the development of information resources, the Internet has become the main source of information for many people who do not imagine life without it [7, p. 134].

The information space formed the world information community, where the information is a commodity and a way of knowing, a means of managing the world and one of the main tools of power.

The peculiarity and uniqueness of the information Internet space is in the openness and globalization of the market, which contributes to increasing the channels of distribution and liquidation of intermediate stages of content realisation. The Internet has more effective opportunities for automatic interaction with the consumers and simultaneous tracking of information about them [11, p. 92].

Today it is difficult to overestimate the importance of the Internet in people's lives. Every day, this service expands and becomes the main source of information for millions of people, as well as a kind of instrument of influence [7, p. 134]. At the moment, there is no doubt that the impact of the Internet on the user's consciousness is deeper and more systematic than the impact of any other technological system [9].

The growth of information technologies in the world has resulted not only in the rapid development and effective use of information networks in the activities of the state and in everyday life, but also the growth of new threats. The anonymity of global information networks, the speed of the transfer of information and the ease of use, are the main causes of the technological boom and penetration of the Internet in all spheres of life, – at the same time, allows us to use all these advantages for committing unlawful acts. Information and communication technologies are being implemented and developed much faster than lawmakers and law enforcement bodies can respond to this growth.

The Internet is a mind field of the addicting and the didactic, the legal and the illegal. When traversing the murky depths of the web, it's important to be careful of these things, and keep in mind that what you're doing exists in a public sphere, and can often be viewed by very public people.

As the use of social media has become more prevalent in recent years, so has its use for somewhat nefarious purposes, particularly in the realm of cyberbullying.

The information posted on the Internet produces relevant people` convictions, affects the mind and provokes mass acts of constructive and destructive nature.

So, the content posted on the Internet is a global information threat and has a detrimental effect on the moral, physical, psychological, social and cultural aspects of people's lives, especially young people.

In scientific publications there are several types of content which contrary to the provisions of the law. Thus, its types include: dangerous (information as a threat or causes hostility [8, p. 165]), illegal (contrary to legal norms, the law [12]), illegal, prohibited (content containing the information that is forbidden by law or must be deleted, because it contains the information that violates such law).

In our opinion, the concept "illegal content" is the most complete, because it includes the information that is directly prohibited by law (for example, appeals to commit a terrorist act), and also the information, the use of which can lead to certain illegal actions (for example, arms trade, that is, the transfer of information about the buy/sell of weapons).

In this context, the category of «illegal» information includes: restricted data (about a person, about commercial and state secrets, etc.; lie, that is defamation about a person or organization). It's all

about the new concept «language of hatred»; which creates a threat to national state and social system, territorial integrity and constitutional order of the power, spread xenophobia, totalitarianism and fascism; information from which we want to protect children (violence, pornography, etc.) [13].

Illicit information resource (content) is an information resource (content) containing the information, post on the Internet of which has signs of a criminal offense provided by the law of Ukraine on criminal liability [14]. Unlawful content includes content that promotes extremism, terrorism, drug addiction, pornography, the cult of cruelty and violence [6, p. 362].

Reflecting these opportunities, the vast majority of Internet content is for purposes of information for totally legitimate (and often highly productive) business or private usage: However, like any other communication technologies, particularly in the initial stages of their development, the Internet carries an amount of potentially harmful or illegal contents or can be misused as a vehicle for criminal activities. Although statistically a limited phenomenon, a wide range of distinct areas are concerned. These are covered' by different legal regimes and instruments at the national and international level, e.g.:

- national security (instructions on bomb-making, illegal drug production, terrorist activities);
- protection of minors (abusive forms of marketing, violence pornography);
- protection of human dignity (incitement to racial hatred or racial discrimination);
- economic security (fraud, instructions on pirating credit cards);
- information security (malicious hacking);
- protection of privacy (unauthorised communication of personal data, electronic harassment);
- protection of reputation (libel, unlawful comparative advertising);
- intellectual property (unauthorised distribution of copyrighted works, e.g. software or music) [10].

Such material can be found on websites, forums, peer-to-peer networks, and sites providing access to live streamed video. When inadvertently accessed, prohibited offensive and illegal content can be highly distressing – especially for children.

The peculiarity of the Internet is that this illegal content can be created and post on the Internet (on web-sites) in different parts of the world, which makes it impossible to detect and block the primary source.

The content that is spreading in the information space today is a global informational threat and has a detrimental effect on the moral, physical, psychological, social and cultural aspects of people`s lives, especially young people.

It is noted that the danger of illegal content is to distribute its content as a non-target audience, and it may be directed to a separate group or user, and also hidden, with modified text, but in a language that is understandable to the consumer of this content.

Taking into account this aspect, an important component is the definition of illegal content based on the provisions of the Criminal Code of Ukraine. Of course, if the content contains information about the direct appeals for committing an offense as provided by the Special Part of the Criminal Code of Ukraine (for example, appeals for a coup d`etat, a terrorist act, etc.), then there are no issues related to legal qualification of crime. But the main problems can arise in situations of distribution of content, which:

Firstly, there is a way of committing a crime. Under these conditions, the Internet space is used as a means of data transfer, that is, content is used exclusively as a means of committing a crime. As an example, the user on his social page posts on the Internet the information about his interest in firearms, however, the real purpose is to inform some users about the types of weapons that can be bought, delivered, transported, etc.

Secondly, the use of this content may lead to a crime. It is this content of illegal content is the most dangerous, since the criminal liability is the consequences of the information provided to the user. As an example, the content contains an instruction on the medicinal product, however, the replacement of a specific component serves the manufacture of a narcotic drug, or else – an instruction to commit suicide.

If you see online content that you think is offensive there are number of easy ways to deal with it:

– close the page straight away, hit control-alt-delete if the site does not allow you to exit use a filter or other tool to block adult content, and use safe search settings in your browser report

offensive content to the site administrator talk to someone you trust if you have seen something that has shocked or upset you.

Consequently, we can conclude that illegal content in the Internet is the information in the form of text, media, graphics, which is located in the Internet resource (site, social page, blog, forum, chat, etc.), including modified (distorted), but understandable to the user's language, for which liability is provided in accordance with the Criminal Code of Ukraine and / or contains information the use of which leads to the commission of unlawful actions.

While the benefits of the Internet far outweigh its negative aspects, these aspects cannot be ignored. They are pressing issues of public, political, commercial and legal interest.

REFERENCES

1. Shcho take kontent? [What is content?]. (2016). *Rabotaonline.in.ua*. Retrieved from <http://sartraccu.ru/Pub/socialthno.htm> [in Ukrainian].
2. Dovbysh, N. (2013). *Kiberzlochynnist v Ukraini [Cybercrime in Ukraine]*. Retrieved from <http://www.science-community.org/ru/node/16132> [in Ukrainian].
3. Skytivska, M. (2017). Internet okhoptiuiie svit: vzhe ponad 50 % naselennia Zemli ye korystuvachamy Vsesvitnoi pavutyny [Internet covers the world: already more than 50 % of the Earth's population are users of the World Wide Web]. *Energolife.info*. Retrieved from <http://energolife.info/ua/2016/Science/2594/> [in Ukrainian].
4. Blyzko 182 mln liudei na planeti maiut internet-zalezhnist [About 182 million people on the planet are Internet addiction]. (2014). *Espresso novyny vid 22 hrud. 2014, Espresso news from December 22, 2014*. Retrieved from https://espresso.tv/news/2014/12/22/blyzko_182_mln_lyudey_na_planeti_mayut_internet_zalezhnist____doslidzhennya [in Ukrainian].
5. Internetom korystuiutsia ponad 60 % ukrainsiv [The Internet is used by more than 60 % of Ukrainians]. (2016). *Korrespondent.net*. Retrieved from <https://ua.korrespondent.net/ukraine/3658364-internetom-korystuiutsia-ponad-60-ukrainsiv> [in Ukrainian].
6. Markiv, S. (2017). *Kiberzlochynnist. Nova kryminalna zahroza [Cybercrime. New criminal threat]. Ukraina v umovakh reformuvannia pravovoi systemy: suchasni realii ta mizhnarodnyi dosvid, Ukraine in the context of reforming the legal system: current realities and international experience: Proceeding of the Scientific and Practical Conference* (pp. 360-362). Ternopil: Ekonomichna dumka [in Ukrainian].
7. Kozevich, O. (2013). Kontentna filtratsia - tekhnolohiia kompleksnoho kontroliu Internet-resursiv. Osnovni pidkhody i problemy [Content filtering - technology of integrated control of Internet resources. Basic approaches and problems]. *Visnyk Natsionalnoho universytetu "Lvivska politekhnik", Bulletin of the National University "Lviv Polytechnic"*, 774, 134-141 [in Ukrainian].
8. Shakhova, N. (2012). Opasnyi kontent internetu kak ugroza informacionno - psihologicheskoi bezopasnosti lichnosti podrostka [Dangerous Internet Content as a threat to the informational and psychological security of the personality of a teenager].

Visnyk Luhanskoho natsionalnogo universytetu imeni Tarasa Shevchenka, Bulletin of Luhansk Taras Shevchenko National University, 20, 162-170 [in Russian].

9. Akmasova, A. (2003). *Informacionno-psihologicheskaja bezopasnost lichnosti [Information and psychological security of the person]*. Retrieved from www.bla.by/public/conf_2/1_2003.pdf [in Russian].

10. What is illegal and prohibited content? (2015). *Legalvision*. Retrieved from <http://legalvision.com.au/illegal-prohibited-content>.

11. Vysotka, V., Chyrun, L., & Chirun, L. (2012). *Metody i prohramni zasoby opratsiuvannia informatsiinykh resursiv system elektronnoi kontent-komertsii*. [Methods and software tools for the processing of information resources of systems of electronic content-commerce]. *Naukovi pratsi Chornomorskoho derzhavnoho universytetu imeni Petra Mohyly, Scientific Works of the Petro Mohyla Black Sea State University, 179, 92-101 [in Ukrainian]*.

12. Poleyvi, V. (2014). *Protypravnyi kontent. Bezpeka chy tsenzura? [Abusive content. Security or censorship?]* *Ukrinform: multymediina platforma inomovlennia Ukrainy vid 4 lystop. 2014 r., Ukrinform: multimedia platform for inbounding of Ukraine*. Retrieved from https://www.ukrinform.ua/rubric-other_news/1724958-protipravniy_kontent_bezpeka_chi_tsenzura_1988134.html [in Ukrainian].

13. *Protypravnyi informatsiyni resurs (kontent) [Illicit information resource (content)]*. (2013). *Wiki bill*. Retrieved from <http://uk.zakonoproekt.wikia.com> [in Ukrainian].

14. Holub, A. (2016). *Kiberzlochynnist u vsikh yii proiavakh: vydy, naslidky ta sposoby borotby [Cybercrime in all its manifestations: types, consequences and methods of struggle]*. *Resursnyi tsentr HURT: informuiemo hromadske suspiilstvo Ukrainy, GURT Resource Center: inform the civil society of Ukraine*. Retrieved from <http://gurt.org.ua/articles/34602/> [in Ukrainian].

Стаття надійшла до редколегії 19.02.2018

Тарасенко О. С. – кандидат юридичних наук, доцент кафедри оперативного-розшукової діяльності Національної академії внутрішніх справ, м. Київ

E-mail: o.s.taras@ukr.net

ORCID 0000-0002-3179-0143

Поняття протиправного контенту в мережі Інтернет

Аргументовано, що інформація в інформаційному просторі (контент) асоціюється не лише з оволодінням знаннями, збереженням та передачею даних, а й зі своєрідним впливом на свідомість особи. Саме від змісту контенту залежить, який він чинить вплив на свідомість особи.

Контент, який поширюється в інформаційному просторі, стає сьогодні глобальною інформаційною загрозою і негативно позначається на моральних, фізичних, психологічних, соціальних і культурних аспектах життєдіяльності людей, особливо молоді.

Зазначено, що небезпека протиправного контенту полягає в тому, що його зміст може бути розрахований як на аудиторію загалом (без цільової аудиторії), так і на окрему групу або користувача, з прихованим або видозміненим текстом.

У юридичній літературі виокремлюють такі види контенту, зміст якого порушує положення закону: небезпечний, протиправний, незаконний, заборонений. Доведено, що найбільш змістовним терміном, який відображає ці незаконні дії, є протиправний контент.

На основі проведеного дослідження надано авторське визначення поняття протиправного контенту, яке потлумачено як поширення інформації в мережі Інтернет, відповідальність за яку передбачена кримінальним законодавством.

Ключові слова: протиправний контент; мережа Інтернет; інформація; злочин; сайт; поширення інформації.