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SPECIFICITIES OF GENERAL SOCIAL PREVENTION OF CRIMINAL OFFENCES RELATED TO ILLEGAL CONTENT ON THE INTERNET

Abstract. *The purpose* of the article is to identify actors of general social prevention of criminal offences related to illegal content on the Internet, to formulate general social guidelines to prevent the commission of such criminal offences. **Results.** The article defines the content and structure of the multi-level system of actors responsible for the prevention of criminal offences related to illegal content on the Internet as a totality of state bodies, the activities of which are related to the prevention of using the Internet for unlawful purposes. The main actor of prevention is the State, which performs functions in this field through the bodies of legislative, executive and judicial power (the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine etc.). It is proved that the Cabinet of Ministers of Ukraine is involved in developing public policy on preventing the commission of criminal offences, according to the Constitution, laws and decrees of the President of Ukraine, related to illegal content on the Internet, e. g., through the Concept and targeted programmes on the issue. In the narrow sense, a (specialized) system where the actors of prevention are only those state authorities for which the prevention of criminal offences related to illegal content on the Internet is (or should be) as one of the main functions (State Special Communications, Ministry of Digital Transformation of Ukraine, Security Service of Ukraine, National Police of Ukraine). **Conclusions.** The aim of general social prevention of illegal content on the Internet is to eliminate, attenuate and neutralize all negative effects of illegal content on social relations. Proposals have been made for the general social prevention of the commission of criminal offences related to illegal content on the Internet, grouped into economic, regulatory, organizational and managerial, scientific and educational.

Key words: general social prevention, illegal content, Internet, actors of prevention.

1. Introduction

Today, it is almost impossible to imagine a comfortable life without innovative technology. Through the Internet, we communicate, work, learn, buy goods and services, perform various banking operations, search for information and the like. We are used to finding a solution to any problem in a smartphone and a computer. In addition, state and local self-governments increasingly digitize. For example, they create and support the website, electronic mail, and provide their services through the Internet, electronic document flow system, etc.

However, the rapid development of information technologies in Ukraine is inevitably accompanied by a dynamic development of crimes in this field. Over the past five years, cybercrime has increased by a factor of 2.5, and cyberspace has become the fifth area of combat. Ukraine

is at the forefront of this new war (Avakov, 2020). A significant number of crimes committed on the Internet are illegal content contributing to unlawful interference in the operation of information systems and their intentional damage, unlawful collection, storage and use, destruction and dissemination of personal data and information with restricted access, establishment of arms and drug distribution channels; illegal financial transactions; theft and fraud on the Internet; spread of spam and virus programs.

In such circumstances, the organization and conduct of preventive measures against commission of criminal offences related to illegal content on the Internet are of importance in the activities of law enforcement bodies, in particular those units, which, in accordance with their functional duties, counteract to these criminal offences, requiring relevant studies on

the development of general social prevention of criminal offences related to illegal content on the Internet, making this article relevant.

Various issues of general social prevention of criminal offences connected with the Internet have been investigated by O.M. Bandurka, V.V. Vasilevich, A.V. Vozniuk, I.M. Danshyn, O.M. Dzhuzha, O.O. Dudorov, O.M. Lytvynov, M.I. Melnyk, Yu.Yu. Orlov, A.V. Savchenko, S.S. Cherniavskiy, V.I. Shakun and others.

However, despite the significant contributions by many scholars to studying general social prevention of criminal offences related to the Internet, today a number of issues regarding the definition of actors to be involved in such activities and their content and areas of implementation remain unrevealed.

The aim of the article is to identify actors of general social prevention of criminal offences related to illegal content on the Internet, as well as to formulate general social guidelines to prevent the commission of such criminal offences.

2. Subjects of general social prevention of criminal offences

The wide range of causes and conditions conducive to the spread of illegal content on the Internet determine the multi-level and diverse activities of the actors responsible for precautionary measures. Usually, the concept of the actor involved in the general social prevention of crime, including criminal offences related to illegal content on the Internet, is understood by scholars as a state body, organization or persons who: purposefully prevent criminal offences; are coordinated with and subordinated to other actors; organize their activities according to the commands of the "management mechanism" of the system; have the option of choosing a course of action depending on the state of the object of the preventive action (Bluvshstein et al., 1986, pp. 32–33).

However, while agreeing with the views of O.M. Dzhuzha and V.V. Vasylevych, we argue that the actors of general social prevention of criminal offences related to illegal content on the Internet should be understood as bodies, institutions and organizations, enterprises, as well as officials (employees) and individuals authorized by law or entrusted with tasks and functions to detect, eliminate, reduce and neutralize the causes and conditions conducive to the existence and spread of crime in general, its individual types and specific criminal offences, as well as gaining from transition to a criminal path and resocialization of persons, prone to commit criminal offences (recidivism) (Dzhuzha et al., 2011).

In the theory of criminology, it is common to consider the system of actors in crime prevention in a broad and narrow sense. In a broad

sense, the (general) system of actors responsible for the prevention of criminal offences related to illegal content on the Internet is a totality of state bodies, the activities thereof are related to the prevention of using the Internet for unlawful purposes. In the narrow sense, the (specialized) system of actors of prevention involves only those public authorities for which the prevention of criminal offences related to illegal content on the Internet is (or should be) a core function (Povolotska, 2015).

It should be noted that the President of Ukraine, as guarantor of the Constitution of Ukraine, and the National Security and Defence Council of Ukraine, the Verkhovna Rada of Ukraine are non-specialized actors involved in the prevention of criminal offences related to illegal content on the Internet.

Therefore, the President of Ukraine according to the Art. 106 of the Constitution of Ukraine (Verkhovna Rada of Ukraine, 1996) ensures the national security of the State and is therefore the overall head of the State system for the prevention of criminal offences related to illegal content on the Internet, for example, he issues relevant decrees and orders, which are binding in the territory of Ukraine. With a view to restricting access to resources on the Internet and prohibiting the dissemination of content, the President of Ukraine imposes sanctions on identified legal entities and individuals in accordance with the provisions of para. 9 of part 1 of article 4 of the Law of Ukraine "On Sanctions" from August 14, 2014 № 1644-VII (Verkhovna Rada of Ukraine, 2014), which stipulate, inter alia, "restriction or termination of telecommunication services and use of public telecommunication networks" (Decree of the President of Ukraine on the application of personal, special, economic and other restrictive measures (sanctions) from May 15, 2017 № 133/2017 (President of Ukraine, 2017)).

Furthermore, according to the decisions of the National Security and Defence Council of Ukraine, which provide for counteracting illegal content on the Internet, the Decree 96/2016 of the President of Ukraine of 15 March 2016 "On approval of the decision of the National Security and Defense Council of Ukraine of January 27, 2016 «On Cybersecurity Strategy of Ukraine»" (President of Ukraine, 2016a) has been put into effect. The aim of the Cybersecurity Strategy of Ukraine is to ensure the safe functioning of cyberspace and its use in the interests of the individual, society and the State.

The Decree 242/2016 of the President of Ukraine of 7 June 2016 approved the Regulations on the National Coordination Centre for Cyber Security (President of Ukraine, 2016b), aimed, inter alia, at coordinating and moni-

toring the activities of security and defence actors that provide cybersecurity; estimating and identifying potential and real threats in the field of cybersecurity in Ukraine; taking measures to ensure cyber protection of critical infrastructure and protect production processes in the real sector of the economy; ensuring that cybersecurity actors develop and implement mechanisms for the exchange of information needed to respond to cyberattacks and cyber incidents, eliminating their causes and negative consequences, etc. Furthermore, Decree 27/2020 of the President of Ukraine dated January 28, 2020 “On amendments to Decree 37 of the President of Ukraine of January 27, 2015 and Decree 242 of June 7, 2016” strengthened the powers of the National Cybersecurity Coordination Centre and changed the format of its activities, in particular, involved private experts who specialize in cybersecurity (President of Ukraine, 2020).

The National Security and Defence Council of Ukraine is also responsible for coordinating and monitoring the activities of the executive authorities, in particular with regard to ensuring public security and combating crime in matters of national security and defence (Law of Ukraine “On the National Security and Defense Council of Ukraine” from March 5, 1998 № 183/98-BP (Verkhovna Rada of Ukraine, 1998)).

The Verkhovna Rada of Ukraine, as the highest legislative body of our State, adopts legislative and other regulations against the spread of illegal content on the Internet, primarily the Criminal Code of Ukraine, which establishes the commission of criminal offences related to illegal content on the Internet as crimes, as well as the Code of Administrative Offences provides for liability for administrative offences in this field. The Law of Ukraine “On the National Police” from July 2, 2015 defines the legal basis for organization and activity of the National Police of Ukraine, the status of police officers (Verkhovna Rada of Ukraine, 2015). The Law of Ukraine “On Operational and Investigative Activities” from February 18, 1992 № 2135-XII provides for the legal basis for the organization and implementation of transparent and covert search and counter-intelligence measures, taken using operational and operational technical means, including detection and prevention of criminal offences related to illegal content on the Internet (Verkhovna Rada of Ukraine, 1992). The Law of Ukraine “On Telecommunications” from November 18, 2003 № 1280-IV defines the powers of the State with regard to managing and regulating telecommunications, as well as the rights, obligations and principles of liability of natural and legal persons that

engage in the activity or use telecommunication services (Verkhovna Rada of Ukraine, 2004).

The Cabinet of Ministers of Ukraine, through the issuance of decrees and orders, involves in making public policy on preventing the commission of criminal offences, related to illegal content on the Internet, on the basis of and in compliance with the Constitution, laws and decrees of the President of Ukraine, i. e. through a Concept and targeted programmes on the issue. The State authorities, responsible for preventing the commission of criminal offences related to illegal content on the Internet are the State Service for Special Communication and Information Protection (State Special Communication), entrusted with:

- making public policy on cryptographic and technical protection of information, cyber protection, telecommunications, the use of the radio frequency resource of Ukraine, postal communication for special purpose, government field communication, protection of State information resources and information required by law; on information, telecommunications, as well as information and telecommunication systems, and information facilities, as well as on the use of State information resources in terms of information protection and counteracting technical intelligence, functioning, security and development of the State system of governmental communication, the National System of Confidential Communication;

- participation in making public policy on electronic document flow (in terms of the protection of information of State and local self-government authorities), electronic identification (with the use of electronic trust services), electronic trust services (in terms of establishing security and protection requirements for the provision and use of electronic trust services, monitoring compliance with legislation in the field of electronic trust services) (Resolution of the Cabinet of Ministers of Ukraine “On Approval of the Regulations on the Administration of the State Service for Special Communications and Information Protection of Ukraine” from September 3, 2014 № 411 (Cabinet of Ministers of Ukraine, 2014)).

The Ministry of Digital Transformation of Ukraine, which is the main body within the system of central executive authorities responsible for making public policy on digitization, digital development and the digital economy, digital innovation and technology, e-government and e-democracy, information society development, informatization; one-document flow; digital skills development and citizens’ digital rights; on open data, development of national electronic information resources

and interoperability, development of broadband Internet and telecommunications infrastructure, electronic commerce and business; on electronic and administrative services; electronic trust services and e-identity; on IT Industry development (Resolution of the Cabinet of Ministers of Ukraine “On approval of the Regulation on the Ministry of Digital Transformation of Ukraine” from September 18, 2019 № 856 (Cabinet of Ministers of Ukraine, 2019)).

However, the National Police and the SSU are the main actors entrusted with the task of preventing the commission of criminal offences related to illegal content on the Internet. Under the current conditions, the system of actors of the National Police of Ukraine that take measures to prevent the commission of criminal offences related to illegal content on the Internet can be divided into two main groups. The first group should include those units specially authorized to take measures to prevent the commission of criminal offences related to illegal content on the Internet. These units include the Cyber Police Department of the National Police (hereinafter – CPD).

In accordance with the Regulations on the CPD, this unit is an interregional territorial body of the National Police of Ukraine and, in accordance with Ukrainian legislation, it ensures the implementation of public policy on countering cybercrime, provides information and analysis support to the headship of the National Police of Ukraine and the State authorities on the status of issues falling within their competence. The CPD participates in making public policy on preventing and combating criminal offences, preparation and commission or concealment thereof include the use of computers, systems and computer networks and telecommunications (Order of the National Police of Ukraine “On approval of the Regulations on the Cyber Police Department of the National Police of Ukraine” from November 10, 2015 № 85 (National Police of Ukraine, 2015)).

The second group consists of units that take measures to prevent the commission of criminal offences related to illegal content on the Internet, in parallel with the performance of basic duties. These are investigation units, anti-drug units, strategic investigation units, criminal investigation units, migration police units, internal security units, operational units, technical and operational units.

Therefore, in the country, a multi-level system of bodies has been established and is in operation to prevent the commission of criminal offences related to illegal content on the Internet. Some actors govern, direct and coordinate such prevention, while others directly organize and prevent such criminal offences.

3. Directions of general social prevention of criminal offenses

With regard to the definition of areas of general social prevention of the commission of criminal offences related to illegal content on the Internet, it is proposed to group them into four categories: economic support; legal and regulatory support; organizational and management support; scientific and educational activities.

An important factor in reducing the rate of commission of criminal offences related to illegal content on the Internet is the economic support provided by the State to the information technology sector of Ukraine, since IT-market of Ukraine develops faster than other industries. Under favourable conditions, the IT industry is expected to grow to \$840,000,000 by 2025, and the number of jobs will increase to more than 240,000 (Antonyuk, 2017). This will reduce the number of individuals involved in illegal cybercrime activities. To this end, we make proposals of:

- creating economic conditions for the growth of the IT industry in Ukraine, primarily in the private sector. The establishment of specialized funds enable to finance high-technology start-ups, to develop the IT sector, which produces various information products and services, as well as to increase the investment attractiveness of the IT sector and create favourable tax conditions to attract international and domestic investment in the development of the information infrastructure of the Ukrainian information and communication technology market;

- extending the coverage of the Internet to the regions of our State, increasing the speed of data transmission, including through the introduction of 5G communications, which will improve the population's access to information infrastructure and network services, along with protecting such networks, ensuring a safe and socially favourable environment for the use of information and communication technologies.

An analysis of our State's legal and regulatory instruments enables to identify the main lines of legal and regulatory support for the general social prevention of the commission of criminal offences related to illegal content on the Internet:

- to continue to improve the legal and regulatory framework for the use of information, in particular in the field of data protection in telecommunications networks; to improve and spread reliable identification and authentication procedures; to encourage the use of reliable cryptography by operators, especially in high-risk areas (satellite or mobile); to improve existing and create new security standards for

key or public functions, including the introduction of (where appropriate) mandatory quality control of information processes;

- to provide legal and regulatory framework for the procedure for terminating accounts, web pages, used to disseminate illegal content on the Internet, by law enforcement bodies, and to establish the grounds and procedure for the disclosure of information on users by operators and the Internet providers at the request of law enforcement bodies and the possibility of using such information in criminal, administrative and civil proceedings, etc.;

- to provide the legal and regulatory framework for citizens' information rights, as well as their rights to the results of creative work (intellectual property), including through the development of a system of special courts dealing with intellectual property issues;

- to harmonize Ukrainian legislation with the provisions of international law, primarily the EU, regarding the detection and prevention of illegal content on the Internet;

- to make users' identification and authentication on web-based platforms, used for the purchase/sale of property (goods), mandatory;

- to continue the improvement of existing and the creation of new legal and regulatory instruments for the protection of public information important to individuals, society and the State, and to establish penalties for new criminal offences, spreading due to illegal content on the Internet, as well as to identify other promising areas for the development of legislative and regulatory instruments against illegal content on the Internet.

The organizational and management support may be considered as measures of general social prevention of the commission of criminal offences related to illegal content on the Internet such as:

- to transfer most public services online, to make information accessible through computer networks, and to create public platforms to connect open public information resources to them;

- to improve ongoing cooperation between the competent State authorities (the Ministry of Digital Transformation, the State Special Communications, the SSU and the CPD of the National Police) and State bodies, local self-governments and businesses with a view to enhancing the cyber-security of their electronic information resources and increasing the media literacy of users of computer equipment, especially officials;

- to continue measures to establish units (individual posts) for the organization of information protection in State authorities, local self-government bodies and enterprises, institutions and organizations of all forms of ownership;

- to promote cooperation between international payment systems and issuing banks to detect illegal content and criminal offences committed on the Internet;

- to improve coordination, to strengthen cooperation and to establish closer cooperation between the National Police and the law enforcement agencies of foreign countries in preventing illegal content on the Internet;

- to continue a unified policy on certification of protective equipment, licensing of organizations working in the field of information protection, development and implementation of national standards and technical regulations, and application of information and communication technologies harmonized with relevant international standards, in particular for telecommunications operators and providers.

Scientific and educational activities envisage the following measures for the general social prevention of the commission of criminal offences related to illegal content on the Internet:

- introduction of new educational programmes to upgrade cybercrime specialists, provision of appropriate computer equipment, modern licensing software and highly qualified scientific and pedagogical staff to educational institutions that train such persons;

- development of the system of further training of persons, who combat cybercrime, primarily law enforcement bodies, involving international experts;

- monitoring and assessment of the state of affairs in illegal content on the Internet, research and development of appropriate methods for the prevention and detection of criminal offences, related to illegal content on the Internet.

4. Conclusions

The main actor of prevention is the State, which performs functions in this field through the bodies of legislative, executive and judicial power (the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine) and, in the narrow sense, a (specialized) system where the actors of prevention are only those State authorities for which the prevention of criminal offences related to illegal content on the Internet is (or should be) one of the main functions (State Special Communications, Ministry of Digital Transformation of Ukraine, Security Service of Ukraine, National Police of Ukraine). The aim of general social prevention of illegal content on the Internet is to eliminate, attenuate and neutralize all negative effects of illegal content on social relations. Proposals are made for the general social prevention of the commission of criminal offences related to illegal content on the Internet, grouped into economic, regulatory, organizational and managerial, scientific and educational.

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ОСОБЛИВОСТІ ЗАГАЛЬНОСОЦІАЛЬНОГО ЗАПОБІГАННЯ КРИМІНАЛЬНИМ ПРАВОПОРУШЕННЯМ, ПОВ'ЯЗАНИМ З ОБІГОМ ПРОТИПРАВНОГО КОНТЕНТУ В МЕРЕЖІ ІНТЕРНЕТ

Анотація. *Метою* статті є визначення суб'єктів, які здійснюють загальносоціальне запобігання кримінальним правопорушенням, пов'язаним з обігом протиправного контенту в мережі Інтернет, а також формулювання основних напрямів загальносоціального запобігання вчиненню вказаних кримінальних правопорушень. **Результати.** У статті визначено зміст і структуру багаторівневої системи суб'єктів, що здійснюють запобігання кримінальним правопорушенням, пов'язаним з обігом протиправного контенту в мережі Інтернет, яка являє собою сукупність державних органів, діяльність яких повністю чи в певній її частині пов'язана з вирішенням завдання недопущення використання мережі Інтернет у протиправних цілях. Основним суб'єктом запобігання є держава, що здійснює функції в цій сфері через органи законодавчої, виконавчої та судової влади (Президента України, Верховну Раду України, Кабінет Міністрів України тощо). З'ясовано, що Кабінет Міністрів України на підставі й на виконання Конституції України, законів, указів Президента України через видання постанов і розпоряджень бере участь у розробленні й реалізації державної політики з метою недопущення вчинення кримінальних правопорушень, пов'язаних з обігом протиправного контенту в мережі Інтернет, зокрема, шляхом розроблення концепцій і цільових програм із цього питання. У вузькому розумінні (спеціалізовану систему суб'єктів запобігання) становлять лише ті державні органи, для яких запобігання кримінальним правопорушенням, пов'язаним з обігом протиправного контенту в мережі Інтернет, є (або має бути) однією з основних функцій (це, наприклад, Державна служба спеціального зв'язку та захисту інформації України, Міністерство цифрової трансформації України, Служба безпеки України, Національна поліція України). **Висновки.** Метою загальносоціального запобігання обігу протиправного контенту в мережі Інтернет є усунення, послаблення, нейтралізація всього негативного впливу протиправного контенту на суспільні відносини. Запропоновано напрями загальносоціального запобігання вчиненню кримінальних правопорушень, пов'язаних з обігом протиправного контенту в мережі Інтернет, які умовно поділені на економічні, нормативно-правові, організаційно-управлінські та науково-освітні.

Ключові слова: загальносоціальне запобігання, протиправний контент, мережа Інтернет, суб'єкти запобігання.

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