

INTERNATIONAL LEGAL FOUNDATIONS FOR PROTECTING DIGITAL HUMAN RIGHTS

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Abstract: *In this article, the extent to which the protection of human rights in the digital space is reflected in national and foreign legislation is deeply and comprehensively analyzed. Also, the works being carried out in this field and their effectiveness have been mentioned. In today's globalization process, cyberbullying and other similar threats that can be encountered in the protection of human rights in the Internet system are analyzed. The main problems that countries may encounter in the field of protection of human rights in the Internet system have been analyzed and appropriate proposals have been developed for solving these problems.*


Key words: *human rights, digital space, General Data Protection Regulation, cyberattacks.*

In today's process of globalization, accelerated development and achieving certain stability are pressing tasks for every country. In the current difficult conditions, that is, during the pandemic, ensuring human rights is becoming more important than ever. In this period, in the process of digitalization and technological changes, special attention is being paid to the glorification of human dignity and honor. Furthermore, today, based on the Constitution and taking into account relevant international documents, as well as ensuring the constitutional and legal security of the individual and society, the ability to distinguish and protect the digital rights of citizens from any violations remains one of the main tasks of states.

Indeed, everyone is aware of the personal, socio-economic, and political rights of citizens, but digital rights are almost never mentioned. First, we need to understand what digital rights are and how they differ from personal, political, and other rights. Therefore, digital rights are a special type of subjective rights of individuals, expressed in their ability to access information, electronic devices, and communication networks and perform various actions with them.

In connection with the rapid development of digital technologies and the information society, completely new, previously nonexistent legal relations have emerged, which are currently not regulated by law. These legal relations arose at the beginning of the 21st century, and therefore we can consider these relations to belong to the 4th generation of human rights. Digital rights include the rights of people to use, create, and publish digital





works, computers and other electronic devices, as well as access to and use communication networks, such as the Internet. It is also important to know the main features that distinguish digital rights from other subjective rights. We may include the following:

- The object of these rights is information;
- Information is provided in a special digital form;
- Digital rights are realized through the use of digital technologies;
- Digital rights apply only to participants in digital communication.


To understand the characteristics of digital rights, it is also important to understand their difference from the digital form of implementing other rights (political, economic, social, etc.). The fact is that many subjective rights can be realized with the help of digital technologies. For example, the right of a citizen to apply to a state body is a political right that can be expressed digitally through an application through the official website or portal of a state body. However, this application will not be an expression of digital rights, as this application can be submitted to the carrier in physical form (for example, a paper application). Digital rights are distinguished by the fact that they exist only in the digital space, can only be realized using digital technologies, and cannot be materially expressed.

It is also known that all countries around the world have intensified efforts to combat the COVID-19 pandemic, and this situation has changed our daily lives. Improving resilience to future threats, including pandemics, has become a key issue for many heads of state. It is precisely during this period, as a result of the widespread introduction of digital transformation and innovation, that many sectors and industries, even the life of society, are digitalized. Therefore, digitalization processes are of great importance in shaping the worldview of today's young people, who are the largest generation in human history, and in obtaining high-quality information. This indicates the widespread introduction of the concept of "digital generation" into our lives. The pandemic has had a unique impact on the development of information technologies and the digitization of a number of data. There was a break in real relations due to lockdown and quarantine measures. However, this did not stop the development of society. On the contrary, he was able to carry out his activities remotely.

According to M.S. Buryanov, a lawyer and expert at the Global Shapers Society in Moscow, without digital communication, it is difficult to talk about global ius communications (the right to communicate). A person who does not have access to the Internet cannot participate in political life today, so he cannot be an active citizen. Therefore, ius communications is used to legitimize the right of modern man to access the Internet.⁶⁴

⁶⁴ М. С. Бурьянов. Глобальные цифровые права человека. Век глобализации 3/2020 54–70 DOI: 10.30884/vglob/2020.03.05;





The need for recognition and protection of digital rights are stated in a number of international legal documents. The "Regulations of the Global Information Society" (Okinawa, July 22, 2000), adopted by representatives of eight leading world countries, including Russia, also stipulate the need to implement measures to optimize global networks, strengthen relevant political and regulatory frameworks that contribute to the development of cooperation in combating abuses, as well as eliminate digital gaps that violate the integrity of the network, invest in people and ensure participation in this process. The Regulations provide for the following as the main provisions:

- Development of an effective mechanism for protecting the privacy of consumers, as well as confidentiality in the processing of personal data, while ensuring the free flow of data;
- Further development and effective operation of electronic identification, electronic signature, and other means of ensuring the security and reliability of transactions.⁶⁵

The UN General Assembly Resolution No. 68/167 of December 18, 2013, "On the Right to Personal Infringement in the Digital Age," also notes that the rapid pace of technological progress allows people in all regions of the world to access new information and communication technologies. The resolution calls on all states to:

- Respect and protection of the right to privacy, including in the context of digital communications;
- Eliminate violations of these rights and create conditions to prevent such violations, including ensuring their compliance with international obligations in national legislation;
- Monitor communications and review procedures, practices and legislation related to the collection of personal data, including public monitoring and collection, to protect the right to privacy by ensuring the full and effective implementation of all requirements;
- Establish or continue to use independent, effective local oversight mechanisms capable of ensuring the transparency and accountability of States for monitoring communications and collecting personal data where necessary.

Digital human rights are, in essence, the concretization of universal human rights (by law and law enforcement agencies, including through judicial acts), guaranteed by international law and the constitutions of states in connection with the needs of the individual and the citizen in society. As we know, the task of the state in this area is to be able to distinguish and protect the digital rights of citizens from any violations. However,

⁶⁵ Окинавская хартия Глобального информационного общества // СПС КонсультантПлюс. URL: <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=INT&n=8382#007623742668632194>;





the current legislation does not fully meet the demands of the time, as there are very few legislative acts regulating digital rights. In this regard, I consider it necessary to further expand the legislative framework in this area and systematize information legislation, eliminate duplication and bring its conceptual apparatus into a consistent state.

According to UN Secretary-General António Guterres, we should focus on the negative side of digitalization, as new technologies are developing so fast that we do not have time not only to respond to them, but sometimes even to understand their essence. In addition to the huge benefits of digital technologies and artificial intelligence, they become a means of full control, interference in private life, encouragement, dissemination of false information, exploitation of people, as well as the commission of offenses. Therefore, the improvement of digital rights is one of the issues that needs to be studied long and extensively.

According to Professor E.V. Talapina of the Institute of State and Law of the Russian Academy of Sciences, in the field of ensuring human rights on the Internet, states should address the following three problems:


- Not to prevent or restrict the enjoyment of human rights on the Internet (e.g. not to censor);
- Protect legal access to information and communications and protect against third-party cyberattacks;
- Guaranteeing and facilitating the legal use of information and communication technologies (access to the Internet for low-income individuals).⁶⁶

Digital rights are simply the expansion of the rights outlined in the United Nations Universal Declaration of Human Rights into the online world. Its main goal is to guarantee access to the Internet, prevent so-called digital discrepancies, and ensure the proper use of the network as a common property belonging to all humanity. However, the lack of an international document has led each country to develop its own Charter of Digital Rights. Nevertheless, national higher authorities, such as the European Union, offer at least a general framework for the right to protect personal data. For example, the "General Data Protection Regulation" (GDPR), which came into force in 2018, obliges member states to keep personal data of citizens and allow free data movement. Also, in the US, on the contrary, there is no federal data protection law, and each state has different rules. More than 120 countries around the world have laws protecting personal data and access to information on the Internet.

Cybersecurity is important for ensuring the freedom of people to exercise their digital rights, such as keeping their privacy by encrypting messages. But what do we do if digital rights are violated? That is, when the company sells or discloses our personal information,

⁶⁶ Э.В.Талапина. Право и свободы человека Труды Института государства и права РАН. 2019. Том 14. № 3;





or when there is unauthorized access, among other things. In most countries with cyber rights laws, such offenses can be sued. In the case of the European Union, member states have bodies that investigate and prosecute offenses, such as the European Data Protection Committee or the European Data Protection Supervisory Authority, which impose sanctions for offenses that can reach up to one hundred thousand euros.

Analysis and the course of reforms show that a new era in the field of human rights is beginning at a new stage of our national development. This serves as a program for uniting all citizens around the idea of national revival to national progress. We also know that today all spheres of society are being digitized. However, in the virtual world, there are very few documents regulating these changes and protecting human digital rights. In international law, the use of the Internet by states in the digital space and the development of mechanisms for digitizing human rights is a process that requires the efforts of all countries, not of a single state. Therefore, it is necessary to adopt an international legal document on the digitalization of human rights, which imposes obligations on all states and defines the mechanisms of their cooperation.

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