ABSTRACT

of the dissertation submitted by Aigerim Isakhankyzy for the degree of Doctor of Philosophy (Ph.D.) under the educational programme "8D04202 – Theoretical Jurisprudence", scientific and pedagogical track

on the topic "Legal Mechanism for Regulating Duties in the Information Sphere"

General description of the work. The dissertation examines the legal foundations for regulating the duties of various participants in information legal relations in the Republic of Kazakhstan.

Relevance of the research topic. The new Constitution of Kazakhstan establishes principles for protecting human rights in the digital and information environment, while legislation must ensure that these rights can be exercised by providing a comprehensive framework of digital and information duties.

The exercise of a person's right to seek, receive and transmit information is a central and defining institution of information law. This institution rests on information-law rules that establish the rights and duties of the participants in information legal relations. While the scope of information rights is defined and enshrined in both international and national law, the scope of information duties remains a variable concept determined by a range of circumstances. Such duties are intended both to enable the exercise of the right itself and to protect the interests of the other participants involved. Duties have been studied extensively in other branches of law, but have not been subjected to a dedicated analysis in information law.

A distinctive feature of information duties is that they are often not even defined in current legislation. This is largely because lawmakers have not kept pace with the need to determine the requirements applicable to different participants and prefer to impose restrictions on rights. Such an approach provokes resistance and frequently discredits the rights themselves.

Many duties are defined in subordinate legislation, which also affects the quality of their performance. Some duties are purely technical in nature because the participant's role is an executive one, whereas information itself and its continuous circulation play the principal role.

Another distinctive feature of information duties should be noted: under otherwise identical circumstances, they differ among participants in legal relations depending on their status as owners, possessors or users of information systems and resources, among other things. This differentiated approach reflects the need to protect the interests of individuals, society and the state during the present period of emergence and development of the information society.

Each country seeks to develop its information legislation in accordance with the level of development of information technologies and the extent to which its citizens participate in information processes. Attempts by international organizations to harmonize legal regulation do not always produce the desired result: national legislation may either liberalize those approaches or make them more stringent.

Information security issues are particularly relevant and important. In essence, information security is maintained through compliance with specific information duties. Lawmakers should clearly define the scope of these duties and provide for legal liability where they are breached or not performed. It is precisely on this issue that the international community should adopt common positions, since the globalization of information exchange requires coordinated, adequate responses to risks and threats. Experience, both

past and present, nevertheless shows a lack of common approaches, which facilitates the growth of online fraud and other criminal activity.

Another factor adding urgency to the question of information duties is that providers of financial, information and other services now stipulate them with increasing strictness in their own instruments. Many duties are established by contract.

All these factors demonstrate an acute need for a theoretical analysis of the nature of information duties, their classification and systematization, and other theoretical and practical issues. Kazakhstan's information legislation is still taking shape. At the same time, the Digital Code and legislation on artificial intelligence have been adopted, indicating that Kazakhstan is accelerating the development of its digital economy and plans to make increasingly broad use of artificial intelligence.

These and other circumstances have generated scholarly interest in the mechanism of legal regulation through which information duties are established and their performance is ensured in a digital society.

Research aim. The aim is to develop conceptual propositions concerning the theoretical foundations of the legal regulation of duties in the information sphere and to formulate specific proposals for improving the information legislation and artificial-intelligence legislation of the Republic of Kazakhstan. These propositions and proposals are based on a comprehensive study of the fundamental characteristics of the legal nature of information duties, the particular features of information legal relations, their current state and the prospects for developing the system of legal regulation as an information society emerges in the Republic of Kazakhstan.

Achieving this aim entails addressing the following research objectives:

– to examine the principal approaches to the contemporary problem of the relationship between legal duties and the other integral component of a legal relationship, the subjective right;

– to analyse the concept of information duties as a component of information legal relations;

– to propose a classification of information duties;

– to examine how the scope and characteristics of information duties depend on the specific nature of the information being circulated;

– to analyse the role of the state as a key participant in information legal relations;

– to develop a mechanism for the effective allocation and implementation of the information duties of the state, society, natural persons and legal entities in the contemporary information society;

– to identify the problems and tasks of information legislation amid the active introduction and application of artificial intelligence.

Object of the dissertation research. The research concerns social relations arising within information legal relations in the context of the development of the information society.

Research methodology and methods. The methodology combines general philosophical, general scientific and specialized research methods. The philosophical method provided the methodological basis for legal inquiry, enabling the study of the nature of law, its values and its role in society through general principles of knowledge. It also made it possible to combine logical and historical analysis and to move from abstract concepts to more specific conclusions. Systems analysis was applied, together with dialectical, historical-logical, formal-logical and other methods of reasoning. The systems approach helped to demonstrate the connections among the elements of information legal

relations and to explain the distinctive features of duties in the information sphere. The study also employs formal legal, historical legal, comparative legal and other analytical methods.

Scientific novelty of the dissertation. For the first time in the post-Soviet area, the concept of information duties as a legal category is subjected to a scholarly analysis based on the experience of the Republic of Kazakhstan.

Theoretical significance of the dissertation research. The work contributes to the development of legal theory and the theories of information and digital law. Its findings may be used in research into other questions of information and digital law and into the legal regulation of information legal relations.

In addition, the results of the dissertation research may be used to improve teaching and methodological materials for subjects in the field of public law, as well as textbooks and teaching aids concerning the development of information and digital law.

Practical significance of the research. The conclusions and results may be applied in the practical work of the legislative body, including in efforts to improve lawmaking and law enforcement.

Main propositions submitted for defence:

1. A certain imbalance has been identified between the statutory recognition of rights and duties in contemporary international and national law. Human rights are regulated in greater detail than legal duties. This imbalance calls for further scholarly examination and development of the institution of duties.

2. An original definition of the term “information duty” is offered: a unified set of measures, actions and rules that must be performed by virtue of law, contract, office, moral norms or other grounds so as not to prevent a counterparty from enjoying a benefit to which that counterparty is entitled in the information sphere.

Information duties and rights are mutually dependent elements of a unified system that ensures the stable functioning of the information space by balancing the interests of all participants in information legal relations.

The content and scope of information duties are determined by the information policy pursued by each state.

The study concludes that further theoretical and legal examination of the content and nature of information duties is necessary, as is improvement of their statutory recognition in current legislation in view of the conditions of a digital society and the active use of artificial-intelligence technologies.

3. It has been demonstrated that duties in the information sphere arise from the existence of rights. On this basis, the following classification of information duties is proposed:

– duties to ensure access to information and information resources;

– duties to ensure the right to produce or create and disseminate information;

– duties to ensure the protection of information and information security as a whole.

4. It has been demonstrated that the legal status of information determines how it may be used and circulated. That status defines the range of duties borne by participants in information relations to protect the interests of the state, society and citizens and to ensure the stable functioning of information processes.

It is proposed that the information regime be treated as a systemic legal factor determining the scope of information duties. The information regime establishes not only the permissible ways of handling information but also the set of affirmative and restrictive information duties imposed on participants, their content, intensity and limits. A change in

the legal regime applicable to information therefore changes the scope of the corresponding information duties.

5. It is argued that the state bears the principal share of information duties and obligations because it is a key participant in information legal relations. The state holds major information resources and state information systems, generates state information policy and ensures the unity of its information space by shaping information legislation. Its principal task in the information sphere is to ensure that the circulation and protection of information are systematic and predictable.

6. It has been shown that the stable functioning of the information society, the protection of national interests and the development of a safe digital environment are ensured when the following responsibilities are fulfilled:

– the state must establish and implement a regulatory framework and certified means of protection, secure technological sovereignty, monitor information threats and respond to them promptly, and develop international cooperation in cybersecurity;

– society performs its information duties through self-regulation, oversight of the dissemination of false and unlawful information, preservation of moral and spiritual values, participation in initiatives of public importance, and protection of children and other vulnerable groups;

– natural persons and legal entities must comply with legislation on personal data and online platforms, promote digital culture and digital hygiene, supervise children's use of information, and exercise their rights and fulfil their duties in the information sphere.

7. As legislation governing the use of artificial intelligence takes shape, international practice has encountered a low level of effectiveness in legal regulation owing to its advisory character. It is argued that a current task for national legislation on the application of artificial intelligence is to establish clear duties for all participants in these legal relations. Such duties should arise from the combination of individual responsibility, public oversight and state regulation.

Personal contribution of the degree candidate. All results of the dissertation were obtained with the author's personal participation. The candidate independently analysed the literature relevant to the research topic, conducted a sociological survey, processed and analysed the research results, and wrote and prepared the dissertation manuscript.

Dissemination and testing of the research results. The testing of the results is based on the research methods and the empirical foundation developed in view of the object and subject of the study. The principal results were tested and presented in scholarly publications and in presentations at international scientific conferences.

The research results were reflected in an article published in 2024 in the International Jornal of Electronic Security and Digital Forensics. The article addresses the problem of legally regulating the establishment of duties in the information sphere. The scholarly findings of the study were also tested during an internship at Katowic Business University in Katowice, Poland.

Extent of publication of the dissertation materials. The scientific results are presented in seven publications by the author, including one article in an international journal indexed in Scopus, three articles in in journals recommended by the Committee for Quality Assurance in Science and Higher Education of the Ministry of Science and Higher Education of the Republic of Kazakhstan, three articles in the proceedings of international conferences, and one article in a domestic scholarly law journal.