International Review of Management and Marketing

ISSN: 2146-4405

available at http: www.econjournals.com

International Review of Management and Marketing, 2016, 6(S6) 165-168.

Special Issue on "Management of Systems of Socio-Economic and Legal Relations in Modern Conditions of Development of Education and Society"

The Criminal Law Influence on the Modern Electronic and Information Society of the Russian Federation

Anton A. Komarov[1]*, Elena A. Dorozhinskaya[2], Valeria I. Krupnitskaya[3], Irina V. Rozuman[4]

[1]Siberian Institute of Management-Branch of the Russian Presidential Academy of National Economy and Public Administration, Novosibirsk, Russia, [2]Siberian Institute of Management-Branch of the Russian Presidential Academy of National Economy and Public Administration, Novosibirsk, Russia, [3]Siberian Institute of Management-Branch of the Russian Presidential Academy of National Economy and Public Administration, Novosibirsk, Russia, [4]Siberian Institute of Management-Branch of the Russian Presidential Academy of National Economy and Public Administration, Novosibirsk, Russia. *Email: reise83@mail.ru

ABSTRACT

The present work is focused on the study of the prospects for further improvement of the territorial and extraterritorial principles of the criminal law in respect of the global information space. When carrying out in Russian judicial and legal reform according to the Constitution of the Russian Federation the problems concerning protection of the rights and personal freedoms, its interests by all law-enforcement system of the Russian Federation are priority. Certainly, considering tendencies of the informatization development of the world public process, the documentalization of criminal procedure has to be carried out by means of electronic and information technologies. The main result of our study was made by building a set of recommendations of criminal law relating to the institution of the criminal law. However, it is obvious that the criminal law in time and space is made by a few different rights institutions. Therefore, in the first case we receive the formal answer to the question: What law is the subject to application; and in the second-on whom does its action extend.

Keywords: Internet, Information Society, Criminal Law, Jurisdiction, Electronic Society
JEL Classifications: K14, K40, K49

1. INTRODUCTION

The theory of law gives the full answer on the actions of any legal act in general. However, with respect to the individual branches of law and the very specific rules, often there are numerous disputes. It is well known that in the process of the legal norms implementation there are the questions about the actions in time, the persons and territories. The fact that the action of the Russian criminal law focused on the particular area, it is clear from the literal interpretation of the title of Chapter 2 of the Criminal Code, "Application of criminal law in time and space." However, it is completely absent indication of the possibility of the criminal law on the public. This is stated in the title of specific articles 11, 12 of the criminal code, as the limits of the law against the perpetrators of the crime. Only by analyzing the rules in the entirety, it becomes clear that all the ways of the law named in the theory of law, have been embodied in the sectoral legislation.

The global computer network itself represents rather interesting social phenomenon. Here it is difficult to approve the concrete way of action of the criminal law connected with the existence of the "virtual space," or being limited exclusively to a group of people. Not incidentally, scientists often speak about the modern society evolution, which is treated as the electronic and information society now (Mkrtumova et al., 2016). Even in conservative treatments of the operating criminal law, action to a group of persons is differentiated in relation to the concrete territory: Out- and of-the state borders. At the same time, the concrete territory is always connected with concept of the state jurisdiction, and in a case about the Internet, it becomes difficult to establish such jurisdiction. If further to continue judgment about the government sovereignty, it is clear what exactly it supports a certain law and order in the territory under control. Who and what sort of law and order supports in the Internet space is not absolutely obviously. Therefore, there is a question of applicability as national, so

the right in general in connection with the people's behavior in the Internet. Undoubtedly, peculiar public relations arise there. Nevertheless, whether can they be settled by the right in general?

2. MATERIALS AND METHODS

The criminal legislation of the Russian Federation establishes the four basic principles of the criminal law in space: Territorial, personal, real and universal. As in most countries, the territorial principle is the fundamental, and the rest merely supplement its provisions. From our point of view, it is not entirely justified, since in theory most of them have the possibility of direct action, without taking into account the basic principle, as implied by scientists, nominated by the respective concept (Lyubashits et al., 2015). However, we see no need to question the doctrinal position regarding the limits of the action of the principles totality applied to traditional forms of crime. We consider it appropriate to analyze the capabilities of each of the principles in isolation on their adaptation to the provisions of crimes committed via the Internet.

To define the initial, not limited by the fact of the territorial dominations principle, the rules content we propose to start to consider some theoretical position of each of them individually in relation to the "virtual space."

The federal law "About the electronic digital signature" dated January 10, 2002 No. 1-FL accelerated the transition of the information sphere of the criminal procedure to the computer basis, but the organizational and legal development of the modern information sphere of criminal trial is not finished yet. Today questions of legal responsibility at commission of crimes in the computer information sphere of criminal procedure are not analyzed, classification of these crimes is not carried out.

However, the territorial principle badly works when it is about the exterritorial and not geographical objects, such as the global computer network Internet. Even the national "RU" segment of the Internet is only in the material sense, a set of e-mail addresses associated with the Russian Federation. Thus, the servers ranked as this segment are not obliged to be physically in the territory of Russia. Therefore, in strict sense the right of the Russian Federation is not quite applicable to the owners of such information resources (Matulionyte, 2011). Even worse is the case with the Russian resources located in the domain name space of the first level of other states or non-state commercial segments.

As to aforesaid, the organizational structure research of the criminal procedure information sphere, the crimes analysis in it, the methodological drawing up the criminal proceedings uniform legal base at the crimes committed in the information sphere of the criminal trial, the definition of the computer form of the criminal trial information sphere place and role in uniform system of criminal legal proceedings of Russia are essential and extremely actual both for science of criminal trial, and for law-enforcement practice.

The crimes appearance in the electronic-computer structure of the criminal process and the electronic documents use require the introduction of new and changing old articles of the Criminal Procedure Code of the Russian Federation, ensuring compliance with criminal procedure with the new conditions of its implementation.

The main problem is the impossibility to define accurately a place of crime the commission. Recall that in the Russian criminal and procedural legislation such concept is absent, but that cannot be said about the foreign (Zyubanov, 2001).

Instead of attempts to interpret broadly a place of the crime commission in relation to the crimes made from the territory of other state, we could suggest to expand or narrow the concept of the territory on which jurisdiction of this or that state extends.

The study objects are the procedural relations arising in the practice of the law enforcement officials in cases of crimes in the information sphere of the criminal procedure, the structure of the computer information environment of the criminal process.

The research subject are the problems associated with the use of the criminal process electronic information technologies in various stages, from the legal assessment of the crimes committed in the computer information environment of the criminal process.

The methodological basis of the study is the general scientific method of the dialectical cognition (Kobersy et al., 2015). In addition, the analysis of the criminal process structures the logical method, the system-structural analysis is used. In the crimes' classification and comparing ways to use electronic document management in the variety of foreign systems of the criminal law, the method of comparative law is applied. When conducting sociological analysis, a range of methods is used: Statistical, sociological, method of expert evaluations. Using the legal modeling method, the authors formulated the specific proposals on the improvement of a number of norms of the existing Criminal Procedure Code of the Russian Federation.

The works of scientists-philosophers, historians, sociologists, jurists made the research theoretical basis. The study base was made by the works of theorists in the field of the criminal procedural law: A.C. Alexandrova, C.B. Bazhanova, P.C. Belkin, V.P. Bozhyev, S.E. Vitsin, M. A. Krasnov, P. A. Lupinskoy, V. F. Popov, M.P. Polyakov, N. S. Polevy, C.B. Polenina, M.S. Strogovich, V. T. Tomin, A.I. Chuchayev, and the works of scientists-jurists in the field of the computer crimes research: T.V. Averyanova, B.C. Komissarova, V. V. Krylov, P. K. Protasov, E.R. Rossiyskoy. The important place in the work was featured for studying and use of the prominent domestic scientists' works in the field of the information: I.L. Bachilo, I.M. Gostev, V.A. Kopylov is right (Baranov et al., 2015).

The research empirical base is obtained in the author study of the judicial practice review of the Supreme Court of the Russian Federation of the criminal cases (according to the official publications-Bulletin of the Supreme Court of the Russian Federation), the judicial statistics official review, materials and criminal cases, including the decisions taken by them in the

regional provincial courts; the analysis of the Russian legislation and universally recognized international legal acts regulating legal relations in the field of computer-related crime and also during interviewing.

Hence one, but very significant lack of the criminal law universal principle. Today, the universal jurisdiction is exclusively contractual nature, i.e., in fact the obligation of a particular government to take all possible measures to punish the offender, when the opportunity arises. Consequently, a number of crimes, this agreement cannot extend by virtue of optionality. For example, when in state the interests, the crime against another will be committed.

3. RESULTS AND DISCUSSION

To increase the criminal procedure efficiency, the coordination and interaction of the regional divisions of the law enforcement agencies and related organizations, and close and operative communication with federal structures (Zhalinsky, 2006) is important. The organization of the Unified federal information network of law enforcement agencies gives the chance to attract during criminal procedure to consultations of the most high-class lawyers, quickly to solve complex legal problems, considering the international and various national rules of law, the united front to fight against terrorism, to expand possibilities of the democratic principles realization of the citizens' access to information of law enforcement agencies (Matulionyte, 2011).

Legal modeling based on the information technologies (Shulga, 2009), the use of legal computer programs for the crimes analysis and qualification is very perspective during the criminal proceedings (Falaleev, 2011).

In connection with the need to use the electronic information technologies in criminal proceedings based on the analysis of theoretical sources, domestic and foreign experience and the results of concrete sociological research (Frolova, 2013) developed proposals to improve the Criminal Procedure Code, which, being embedded in the practice of criminal proceedings, allow to solve quickly and efficiently complex task proceedings (Komarov, 2013). The presence of the new computer field of criminal process leads to the emergence of the new crimes types that require their detailed analysis (Karabulatova et al., 2016).

Considering a large number of the offenses, which are available in the information environment of criminal process existing today, including plunder of criminal cases it is necessary to develop measures for the information computer protection of the criminal procedure. The fact that insufficient computer equipment of courts, low level of the information technologies uses in the criminal procedure do not lead to mass unauthorized accesses to the criminal trial information yet, should not constrain joint introduction of information technologies and measures of their protection in the criminal, and cost of the stolen information trained in modern technologies, can be a process. In this area it is expected the extremely highest and affect the interests and lives of many people.

The information protection means of criminal proceeding trial must provide two directions: The citizens' right to know about the state public life and the citizens' right for the government bodies' ignorance of their private life (Agamirov et al., 2015). The revival of "the general right of the civilized world" idea, which quitted the stage owing to the development of national codifications in the first quarter of the XIX century, is urged to play a crucial role in legal regulation of the electronic and information technologies use and development in modern conditions (Köstlin, 1845). The need for uniform rules and take into account the jurisprudence of each country determines in the legal regulation of the electronic information technology use and development, the priority conflict rules and legal fictions. For Russia, the international experience can be useful in terms of the analysis of its negative part. This will allow our country in dealing with existing and future problems not to make the mistakes made by the other countries, save resources and time.

To build a legal framework in the field of informatization it is necessary to understand that information is the intangible object, but can be contained in the material object, which may belong to another subject. Information is different from the intellectual property and is divided into public, confidential and closed.

Information security in the criminal process has two components: The protection of individual rights and freedoms and the security of person, corporation, society and the state leakage at leak or plunder of information from the information environment of the law enforcement agencies.

The author's sociological survey results confirmed the relevance of the criminal process problems of the technology information environment, poor information environment of the criminal process and the legal basis of its use. Moreover, it should be noted small amount of statistical deviation of the respondents' opinions, which indicates the high reliability of the results: 83%-against 17% from the 150 respondents.

Many respondents are alarmed by the possibility of unauthorized entry into the information environment of the criminal process and with the help of it carrying out the commercial and political PR.

Therefore, the development of legislative measures to protect the information environment of criminal process is necessary, and it is not only about the information security, which is in law enforcement agencies but about the information, which is held by experts, interpreters and other specialists.

4. CONCLUSION

The language barrier is erased the Internet thanks to the technology. The third circumstance is the computer information nature-its electronic character. In order that it took the form, digestible for the person, its transformation from the machine binary code to some visualized forms, unlike the same written messages of the XIX century is necessary.

We believe that the computer information, possessing similar properties, may not be required quasi-object within the territorial

principle of the criminal law in space. It is, of course, the subject of rights and being fixed on the physical carrier-the material object. Its distribution and use should be regulated by other legal methods different from the earlier known. You can draw an analogy between the cash to be transported and declared by citizens and plastic cards, the funds for which are not declared. However, those and other subjects represent material values.

Information is the integral component of the activity of society and each person separately; it turned into a condition of implementation by the person of all other vital rights and freedoms. There was a problem of information security as conditions of security of the personal society and state major interests, from external and internal threats in the sphere of the information turn. The information security problem is among the most important priorities of national security of Russia that is fixed in the concept of national security of the Russian Federation and the Doctrine of information security. Information processes cover all public spheres and relations of production that demands development of the corresponding information infrastructure, necessary means for storage, transfer, processing, use and information security, and system of legal regulation of the information relations and information security. Norms of the criminal law, which is guarding branch of Russian law, are also directed on protection of information security of the individual, society and state.

5. ACKNOWLEDGMENT

The work was supported by the Russian President's grant No. MK-5413.2016.6

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