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XIII Халықаралық ғылыми конференциясы

**СБОРНИК МАТЕРИАЛОВ**

XIII Международная научная конференция  
студентов и молодых ученых  
**«НАУКА И ОБРАЗОВАНИЕ - 2018»**

The XIII International Scientific Conference  
for Students and Young Scientists  
**«SCIENCE AND EDUCATION - 2018»**



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2. KazInform, The approval of the Digital Kazakhstan Programme. 2017. Retrieved from <http://mic.gov.kz/en/news/national-digital-kazakhstan-program-approved-government/>
3. R. Yessenbayev, Transforming through modern technology. Zerde infocommunication Holding. 2018. P.28

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## ISSUES OF LEGAL REGULATION OF E-COMMERCE IN INTERNATIONAL LAW

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In the twentieth century, scientific and technological progress radically changed the system of information exchange and communication between people and significantly affected the main spheres of life, the conditions of existence and the way of life of each person. The use of information transmission systems in the economy, social sphere, culture, science, education, medicine became commonplace. One of the most important means of communication was the Internet network, which in a short time became an integral part of everyday life.

By influencing the main spheres of human activity, scientific and technological progress in the field of communication and information transfer significantly affects the economic life of society. Due to the fact that economic activity with the use of information and communication technologies has significant features, it began to be called as a special term - "electronic commerce". Despite serious technical, organizational, psychological and legal obstacles, e-commerce is becoming one of the most common methods of economic activity.

E-commerce is a form of product delivery, mediated by computer networks. The topic of e-commerce is one of the most widely discussed in foreign scientific literature. The attractiveness of this form is based on a lower cost of transactions in comparison with the traditional form differ by an order of magnitude. E-commerce, in fact, leveled the differences in market access opportunities for small, medium and large companies, which increased competition in the markets. Companies gain access to a potentially more capacious market, have the ability to differentiate services, perform efficient services, usually with the least cost.

One of the most common thedefinition of e-commerce is given by *Yurasov A.V.*, which indicates that the e-commerce is the sphere of the economy, which includes all financial and commercial transactions carried out by means of computer networks and business processes associated with conducting such transactions[1].

According to *Gavrilov N.K.*, e-commerce is the process of purchase and sale of goods or services in which the entire cycle of a commercial transaction or part of it is carried out electronically[2]. In the legal sense, it is understood as the conclusion on both domestic and international markets of trade transactions through electronic document exchange.

Another definition of e-commerce reads as follows: "Any kind of transactions, in which the interaction between the parties is carried out electronically instead of a physical exchange or direct physical contact". Being precise, this definition does not reflect the revolutionary spirit of e-commerce generated by the emergence of new demands, technologies and leading to fundamental changes in the way business is conducted. Also, this term is simply defined by *Laudon and Traver* as «the use of the Internet and Web to transact business» within the context of a global marketplace[3].

In international organizations engaged in electronic commerce, there is no unambiguous understanding of what is relevant in the field of e-commerce. For example, in the Microsoft newsletter for government services, the term is used only for specific activities of government

employees. In addition, such an interpretation of e-commerce conflicts with the interpretation of the concept of "electronic business".

*Kobelev O.A.* characterizes e-commerce as an entrepreneurial activity for commercial transactions using electronic means of data exchange[4]. On the other hand, *Balabanov I.T.* defines e-business as a joint action of a business process through an automated means of communication on the exchange of information[5].

In most cases, the concept of electronic business is treated as a general concept of business activity on the Internet. This can be explained by the fact that e-commerce itself is often treated solely as an activity carried out via the web. However, despite its uniqueness and worldwide distribution, the Internet is not the only existing computer network. Electronic trading activities can be carried out with the help of other networks, for example, using a closed network, 'intranet', and other networks, the creation of which uses not only computers, but also other communication tools, such as mobile phones[6]. M-commerce, or mobile commerce, is an important growth area for e-commerce. According to *Tian and Stewart*, m-commerce will be adopted by an increasing number of industries, given its capacity to facilitate interactions between companies and consumers, create mobile virtual malls, and tailor products and services according to customers' purchasing habits in real time[7].

*Kosiur D.* introduces the concept of e-commerce as a process of conducting business transactions related to both commercial operations (purchase and sale of services and products) for direct profit-making, and support for the extraction of profits (facilitating interaction between business partners, creating demand for products and services, after-sales support and customer service, etc.). In his work «Understanding electronic commerce» the author concludes that e-commerce is based on the structure of traditional commerce[8].

E-commerce has a favorable effect on the economic sphere of society and the state as a whole. Can this field of activity be regulated by regulations that have been applied, for example, in relation to a consumer contract or are new regulations required to apply and regulate this particular sphere of economic activity?

The absence of e-commerce data and statistics for most developing countries remains a concern. Without it, their governments are handicapped when formulating and implementing relevant policies and legislation. E-commerce statistics are also needed for private enterprises to make informed investments and strategic decisions. A much more concerted effort is needed to strengthen the capacity of developing countries to carry out enterprise and household surveys with a view to generating the statistics needed for analyses of e-commerce trends and development impacts. Particular attention should be given to collecting statistics related to both B2B and B2C e-commerce.

However, the development of e-commerce posed a new task for participating States of the world community - the task of unifying and harmonizing national legislation with a view to establishing a uniform internal regulation of electronic transactions. Indeed, the lack of adequate legal regulation not only hinders the development of e-commerce, but also prevents the introduction of new mechanisms for carrying out trade activities and the establishment of a cross-border market.

M.M. Boguslavsky emphasizes that unification can «*be carried out by introducing into the national legislation normative provisions developed in the framework of international treaties; formation of model and uniform laws; development of various model contracts; the formulation by international organizations of the prevailing commercial customs, in the form of so-called trade terms*»[9].

The absence of uniform substantive rules governing international trade makes it necessary to resort to a conflict method and adversely affect the development of international trade. Resolution 2205 (XXI) of the UN General Assembly of December 17, 1966 justifiably noted that the differences in the laws of different states on international trade are one of the obstacles to its development.

There are a multitude of legal and commercial issues arising out of e-commerce. However, four main concerns emanate from the abundance of literature in this area:

1. the ability of e-commerce to create binding electronic contracts (how to: ensure that a person who purports to electronically sign and/or lodge a document is in fact the person who signed and/or lodged the document; how to ensure that the document sent by a person is received and stored in the same form in which it was sent);
2. privacy; (how to prevent unauthorized access to documents during transmission)
3. security; and
4. jurisdiction (consumer protection, cybercrime, etc.).

National laws are very diverse and often contain conflicting rules on the same issues. Therefore, the issue of how the conflict issue will be resolved, what right will be applied to the contract in resolving the dispute depends on determining whether the contract should be considered as a prisoner, how lawful the claims are made by the parties to each other, what is the scope of responsibility of the parties and etc.

As an example of a uniform legal instrument, regulating e-commerce, Hague Conventions can be mentioned. At the session of the Hague Conference in 1964, the Hague Convention on a Uniform Law on the Formation of Contracts for the International Sale of Goods and the Hague Convention on a Uniform Law on the International Sale of Goods were adopted. However, mainly states of the West were represented at the conference. This led to the fact that the content of the abovementioned Hague conventions are not fully universal.

Hague conventions of 1964 have not been widely used. The UN Commission on International Trade Law has set itself the task of developing such unified rules that would be acceptable to most countries with different systems of law. As a result of the work of this commission, a project was developed, on the basis of which the UN Convention on Contracts for the International Sale of Goods was adopted at a conference in Vienna in 1980. In the preamble of the convention it is noted that, in the opinion of its member states, the adoption of uniform rules governing contracts for the international sale of goods and taking into account the difference in social, economic and legal systems will help to remove legal barriers to international trade and promote its development[10].

Thirty-eight years have passed since the signing of the text of the United Nations Convention on Contracts for the International Sale of Goods in Vienna in 1980. Since then, the ways of conducting business messages have changed due to the introduction of new technologies and applications, such as the Internet, electronic data interchange and fax. It can be seen from the text of Article 13 that the Convention did not foresee changes in this sphere, since only the telegram and telex are indicated there. On the other hand, having analyzed the text of the convention, it can be understood that the Convention and its fundamental principles are sufficiently reliable and flexible, which positively influences the possibility of its use in regulating electronic legal relations between the seller and the buyer.

The very nature of e-commerce - its variability and limitlessness - jeopardizes the static and monotonous nature of the jurisdictional law. As M. Thatcher has remarked *«If you are trying to legislate for information technology, it is many years, some will say light years, ahead of the capacity of law makers to comprehend and then address the problems»*[11].

Thus, e-commerce is a new phenomenon in the world economy, which has a number of undoubted advantages, but this economic sphere requires special attention and detailed legal regulation.

Legal regulation of electronic commercial relations is important to building confidence and trust of local and foreign consumers and other parties. It is crucial to analyze bilateral free trade agreements (hereinafter - FTAs) between states and Kazakhstani legislation on e-commerce.

Most of the FTAs contain now provisions relevant to electronic commerce and the digital economy. The Singapore - Australia FTA of 2003 was one of the first such treaties that include a complete chapter on e-commerce. It also has covered many issues that continue to be of great importance in the international political agenda, such as electronic certification, data and consumer protection on the internet. Many of the free trade agreements agreed upon by the United States and the EU also include provisions on electronic commerce.

A review of regional trade agreements informed to the WTO discovered that more than half of agreements containing provisions on electronic commerce on transparency and non-discrimination similar to those contained in WTO agreements[12]. Common issues addressed in these agreements include transparency, customs duties, and exceptions. Internal regulation and cooperation are also often manifested. Other general provisions concern definitions, scope, non-discrimination, consumer protection, unsolicited electronic communications, electronic authentication and data flow.

For now, Kazakhstan has FTAs with 11 states through multilateral and bilateral agreements: Armenia, Belarus, Kyrgyzstan, Moldova, Russia, Ukraine, Tajikistan, Uzbekistan, Serbia, Georgia and the Socialist Republic of Viet Nam. Only FTA with Viet Nam contains a special chapter on e-commerce. It specifies that electronic commerce may increase trade opportunities and contribute to economic growth, and underscore the importance of promoting the use of electronic technologies in trade in order to minimize the costs and facilitate trade, as well as the importance of cooperation between the Parties on the issues of electronic commerce[13].

By the Law of the Republic of Kazakhstan of February 24, 2016, the Free Trade Agreement with Vietnam has been ratified. The rest of the EAEU member states and the Vietnamese side have completed all ratification procedures, and on 5 October the free trade agreement between the Eurasian Economic Union and Vietnam came into force. According to it, the Parties recognize the need for cooperation at the bilateral, regional and multilateral levels on the establishment of a legal framework governing electronic commerce.

Legal regulation in states, where e-commerce is new or still in development process, is crucial to building confidence and trust of consumers and other parties. For example, in Turkmenistan and the Kyrgyz Republic, consumer's (in particular over 35 years old) confidence in e-commerce remains low, which restricts its development. In contrast, since 2009, electronic commerce and public trust have been growing in Azerbaijan. Adoption of laws on information security and related issues has become a critical factor. For Tajikistan, the accession to the WTO is also one of the foundations of legal transparency that facilitates the further development of e-commerce.

Legal framework on electronic commerce in Kazakhstan consists of the provisions in the Code of the Republic of Kazakhstan on Taxes and Other Mandatory Payments to the Budget, the Civil Code of the Republic of Kazakhstan, the Criminal Code of the Republic of Kazakhstan, the Law of the Republic of Kazakhstan on the Regulation of Trading Activities and etc.

Also, the Order of Acting Minister of National Economy of the Republic of Kazakhstan On Approval of the Rules for the Implementation of Electronic Commerce of November 25, 2015 has significance. The order introduced the concepts of electronic commerce, participants in electronic commerce (seller, buyer and intermediary), and provides for the regulation of the procedure for electronic commerce.

In the new Tax Code of the RoK, as well as in other legal acts on E-commerce, there is no term of «E-commerce» – only «electronic trade» is mentioned. As it was discussed in the Chapter I, these two terms can be interpreted differently. When most of the states all over the world use the term «e-commerce», it is not efficient to confuse it. According to the abovementioned Code, electronic trade in goods is an entrepreneurial activity for the sale of goods to individuals, carried out through information technology through an online store and (or) the Internet[14].

Consumers' rights are implemented by the Law of the Republic of Kazakhstan on Protection of Consumer Rights of May 4, 2010. From the table 3 we see that no data was available in 2015 by UNCTAD. Provisions of the abovementioned Law were changed and new provision on e-commerce consumers' rights was added by the Law of the Republic of Kazakhstan On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan Concerning the Protection of Consumer Rights of April 21, 2016. According to it, when selling goods by samples, by mail, by electronic commerce, and also in cases where the moment of concluding the contract of sale and the moment of transfer of the goods to the consumer do not coincide, the warranty period or the time period for revealing the shortcomings of the goods is calculated from the date of delivery of the goods to the consumer, and if the product needs a special installation

(connection) or assembly, - from the day of its installation (connection) or assembly (art. 17, p.2)[15]. However, it is not sufficient for e-commerce parties' right's protection.

Today, in the Age of Information Technology Development, legislation does not have time to develop. IT outruns it.

### Literature

1. Юрасов А.В. Электронная коммерция: Учеб. пособие. – М.: Дело, 2003. – 480 с.
2. Гаврилов Н.К. Понятие электронной торговли // Право и политика. 2008. № 12. С. 3444.
3. Laudon K.C., Traver C.G. E-commerce: Business, Technology, Society. PrenticeHall, 2009.
4. Кобелев О.А. Электронная коммерция: учеб. пособие / Под ред. проф. С.В. Пирогова. – 2-е изд., перераб. и доп. – М., 2003. – С. 10.
5. Балабанов И.Т. Электронная коммерция. – СПб.: Питер, 2001. – С. 12.
6. Kučera B.Z. Přeshraniční aspekty soukromoprávních deliktů v kyberprostoru (Cross-border aspects of torts in cyberspace). Thesis, Charles University in Prague, 2014
7. Tian Y., Stewart C. History of E-Commerce/ /Electronic Commerce: Concepts, Methodologies, Tools, and Applications /ed. Becker A. – NY: IGI Global, 2007, p. 5
8. Kosiur D. Understanding electronic commerce. – Redmond: Microsoft Press, 1997.
9. Boguslavsky M.M. Private International Law. - М., 2010.
10. Preamble of 1980 United Nations Convention on Contracts for the International Sale of Goods
11. M.Thatcher, World Congress on Information Technology, Fairfax, Virginia – USA, June 1998
12. UNCTAD Information Economy Report 2017: Digitalization, Trade and Development
13. Free Trade Agreement between the Eurasian Economic Union and the Socialist Republic of Viet Nam (2015). Art. 13.1
14. The Code of the Republic of Kazakhstan On Taxes and Other Mandatory Payments to the Budget (Tax Code) of December 25, 2017
15. Law of the Republic of Kazakhstan on Protection of Consumer Rights of May 4, 2010. Art. 17, p.2

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## INTERNATIONAL AND LEGAL MECHANISMS FOR REGULATION OF RENDERING TERRORISM AND EXTREMISM

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In modern conditions, terrorism has been transformed into a large-scale and complex socio-political phenomenon of national (intra-state), regional and international scale. It is conditioned by the basic political, economic, social and cultural contradictions of national and international life. Terrorism, by its very nature, as an accessible and often effective form of violence, tends to spread more and more. Violence in various forms (especially terrorist ones) largely determines the face of the modern world order, pointing to the imperfection of human society, and also to the weakness of the organizational and legal system that opposes it. This actualizes the need for scientific understanding of both the phenomenon of terrorism itself and the legal mechanisms for combating it.