

UDC 341

LEGAL REGULATION OF ELECTRONIC COMMERCE WITHIN THE FRAMEWORK OF THE EURASIAN ECONOMIC UNION

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One of the most dynamically developing sectors of the economy is trade, because it significantly changes and updates. The Internet, in turn, is a very convenient platform for buying and selling goods. Thus, electronic commerce (hereinafter – e-Commerce) is one of the most common ways to meet the daily needs of consumers in cyberspace.

The issues of legal regulation of e-Commerce are enshrined in both international and national legal acts. The practice of legal regulation of e-Commerce in the member countries of the Eurasian economic Union (hereinafter – the EAEU) is very interesting.

Currently, the EAEU is considering the adoption of a unified document that would regulate the procedure for cross-border e-Commerce.

On October 11, 2017 were approved the Main directions for the implementation of the EAEU Digital Agenda until 2025 within the framework of the EAEU in accordance with the statement on the EAEU Digital Agenda adopted by the Supreme Eurasian Economic Council dated December 26, 2016 No. 21 [1].

One of the directions of development of the digital economy should be the digital transformation of the markets for goods, services, capital and labor. The implementation of this direction should contribute to a significant simplification of trade procedures by switching to digital form, which will require harmonization in the field of cross-border e-Commerce rules, stimulating digital business, coordinating actions in the field of protecting the rights of consumers in the digital market.

However, for the effective development of e-Commerce in the EAEU space, it is necessary to formulate common standards for the member countries. As Nikishina V.O., Member of the

Collegium (Minister) for Trade of the Eurasian Economic Commission, notes, today all states are beginning to form their national legislation in the field of regulation of the “digit”. This can lead to the fact that national regulatory laws will not be combined with each other. So, according to her, there will be no single digital space. This will create objective problems for all digital commerce participants [2].

In this regard, as part of the analysis of the legal regulation of electronic commerce in the EAEU and for the further improvement of legal relations related to it, we would consider the legislation of the EAEU member countries separately (Kazakhstan, Belarus, Russia, Kyrgyzstan and Armenia).

In the Republic of Kazakhstan trade via the Internet is governed by the Law of Republic of Kazakhstan dated April 12, 2004 No. 544-II “On regulation of commercial activities” (hereinafter – the Law “On regulation of commercial activities”) [3].

However, it should be noted that the concept of “e-Commerce” was introduced in the Law “On regulation of commercial activities” only in 2015.

So, in article 1 of the Law “On regulation of commercial activities” the following is indicated:

E-commerce - entrepreneurial activity on the sale of goods, carried out through information and communication technologies.

E-Commerce platform - an Internet resource that provides infrastructure to e-commerce participants, including the conclusion of agreements between them for the provision of works and services using information and communication technologies.

E-commerce participants - individuals and legal entities participating as a buyer, seller and (or) e-Commerce platform.

In addition, the definition of e-Commerce is given in the Code of the Republic of Kazakhstan “On taxes and other obligatory payments to the budget” dated December 25, 2017 No. 120-VI (hereinafter – the Tax Code) [4].

According to the Tax Code of the Republic of Kazakhstan, e-Commerce is an entrepreneurial activity for the sale of goods to individuals, carried out through information technology through an online store and (or) an online platform, while observing the following conditions:

- execution of transactions for the sale of goods is carried out in electronic form;
- payment is made by bank transfer;
- the existence of an own service for the delivery of goods to the buyer (recipient), or the existence of contracts with persons providing services for the transport of goods, courier and (or) postal activities.

Also, the Tax Code defines such terms as an Internet platform and an online store.

Internet platform – an information system located on the Internet that provides intermediary services for organizing e-Commerce.

Online store – an information system located on the Internet intended to sell products on its own Internet resource.

During the consideration of the legislative consolidation of e-Commerce in the Republic of Kazakhstan, it was found that the Tax Code of the Republic of Kazakhstan gives a broader interpretation of the term “e-Commerce”. In our opinion, this is due to the fact that taxes and payments to the budget of the Republic of Kazakhstan should be determined. The certainty of taxation means the establishment in the tax legislation of the Republic of Kazakhstan of all the grounds and procedure for the occurrence, fulfillment and termination of a taxpayer’s obligation.

The Tax Code of the Republic of Kazakhstan reduces corporate income tax by 100% for persons engaged in e-Commerce, until January 1, 2023. In this regard, the Kazakh legislator gives the most clear and detailed definition of the potential object of taxation.

The legislation of the Republic of Kazakhstan clearly defines the concept and basic principles of e-Commerce. However, in our opinion, attention should be paid to the details of the regulation of legal relations related to this type of entrepreneurial activity. In recent years, there is a

high demand of citizens for the purchase of goods via the Internet, which leads to an increase in the number of e-Commerce platforms.

The current legislative acts regulating trade activities in the Republic of Belarus do not provide a specific definition of “e-Commerce”. But in accordance with the Law of the Republic of Belarus dated July 28, 2003 “On Trade”, e-Commerce is the wholesale, retail trade characterized by ordering, buying, selling goods using information systems and networks [5].

With the adoption of the Law of the Republic of Belarus dated January 8, 2014 “On state regulation of trade and public catering in the Republic of Belarus”, the Law of the Republic of Belarus dated July 28, 2003 “On Trade” is no longer valid.

The new law does not reflect the definition of the term “e-Commerce”, but introduces the concept of “online store”.

An online store is an information resource of a subject of trade in the global computer network, which allows to order goods without (outside) a retail object.

The subject of trade has the right to carry out retail trade using the Internet only through online stores registered in the Commercial Register, and using the domain name, the right to administer of which was obtained by the subject of trade established by the legislation of the Republic of Belarus [6].

In the Russian Federation, the Kyrgyz Republic, and the Republic of Armenia, where e-Commerce is currently in its infancy, trade operations through information and communication technologies are quite common. But despite this, the national legislation of these countries do not have specific definitions and provisions on how to conduct e-Commerce. New electronic payment systems appear, and sellers and buyers are increasingly united on trading floors via the Internet. Nevertheless, the popularity of e-Commerce in these countries is currently not high enough, because of which there are no prerequisites for legislative consolidation of this format of trade.

From the above it can be concluded that in all EAEU member states there is an increasing need for various measures to develop electronic commerce and increase the level of unity of information systems in the EAEU. In this regard, it is necessary that in the national legislation of the EAEU member states will be clearly defined the conditions that guarantee the availability and development of information and communication technologies and the coordination of work in the state information system.

In addition, the existence of certain regulation acts within the EAEU could lead to uniformity in the interpretation and regulation of e-Commerce by the EAEU member states.

Literature

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