



COMPONENT OF INTERNET ACCESS RIGHTS

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Abstract

In the modern world, the Internet has become not only a means of obtaining information, but also an important component of human rights and freedoms. The right to use the Internet is one of the fundamental rights that ensures everyone's free access to information, its receipt, and dissemination. This right is an integral part of democracy, economic development, and social well-being. However, freedom of access to the Internet is provided differently in different countries. In some regions, full internet access is limited due to underdeveloped technological infrastructure or legal restrictions. Therefore, the study of the components of the Internet legal space, the analysis of existing legal frameworks, and the search for ways to eliminate digital inequality are important issues.

Introduction

Let's move on to justifying the components of the right to use the Internet directly.

The technical factor predetermines:

1. The right of the user to possess the means that allow them to work on the Internet

The most important condition for using the Internet is the availability of a device that allows the user to interact with this network and corresponds to their personal needs and capabilities (if such features are available). The issue of ownership of equipment necessary for working on the Internet is not specifically regulated by the state. However, situations with limited access to the Internet (we will consider them later), information security, and ensuring "digital sovereignty" should be regulated.



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In this case, the state's non-interference in the selection of equipment and software is a negative obligation. Exceptions are cases related to information security. That is, there are negative obligations of the state in cases where very important information is processed on devices with the function of collecting confidential information and transmitting it abroad.

The positive obligation of the state in this regard is to provide computer equipment to individuals or organizations experiencing difficulties in independently purchasing it, to assist in reducing the cost of equipment for the population, as well as to provide access to equipment to persons with health impairments. This obligation is also a guarantee of ensuring the level and quality of use necessary for the exercise of a person's rights.

The Okinawa Charter of the Global Information Society (paragraph 10) details this obligation within the framework of providing schools, classrooms, and libraries with computer equipment[1]. This positive commitment is also reflected in subparagraph f) of paragraph 9 of the Action Plan of the High-Level Meeting on Information Society Issues at the Geneva stage. Here, the state's obligation to "promote the development and production of affordable and cost-effective ICT-based equipment and services for all people, including the elderly, people with disabilities, children, especially children in difficult social situations, as well as other vulnerable and disadvantaged groups of the population" is indicated[2].

2. The right to use the infrastructure of a provider - a telecom operator that has the technical capabilities to provide an IP address to the user's device on the Internet and carries out the reception and transmission of information in accordance with requests from the user's device.

A negative commitment to the Internet infrastructure is not to interfere in the daily technical and operational issues of the Internet. This obligation is reflected in paragraph 1.3 of the Committee of Ministers of the Council of Europe's "Recommendation to Member States on the Protection and Promotion of the Universality, Integrity, and Openness of the Internet" [3]. Here, a positive commitment is indicated, aimed at preventing cross-border disruptions and interference in Internet infrastructure in cooperation with states and



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stakeholders, and reducing the negative consequences caused by such events. This obligation guarantees the stable functioning of the Internet, as well as the individual's ability to freely use it at their discretion.

Many international documents mention the positive commitment of the state to promote the development of access infrastructure. In particular, this is noted in subparagraph c) of paragraph 23 of the "Tunisian Program for the Information Society" [4].

3. The right to assign addresses on a global computer network.

To be an integral part of a computer network, to be able to receive and transmit data, it is necessary to undergo identification in this network.

The state's obligations, such as non-interference in the exercise of the right to use the Internet, also include a negative obligation not to substitute Internet use for access to another computer network. As we analyzed above, there is no alternative to the Internet that can provide similar opportunities for the realization of human rights. This obligation serves as a guarantee that the right to use the Internet is exercised precisely on this network (on the Internet), and not on another functionally similar computer network. A person who wants to use the Internet, as a rule, does not think about all the stages of the connection process; their main goal is to connect to the Internet. For this, the addressing must be carried out on the Internet, not in any other replacement network [5]. Of course, the creation of an alternative network can be justified for the needs of the state, but this should not affect the ability of ordinary citizens to fully use the Internet.

There cannot be specific positive obligations for states regarding the right to assign addresses on the global computer network. Because the addressing process on the Internet is determined only by the technologies that form the basis of this network and proceeds without additional external interference. ICANN and IANA organizations deal with IP address usage issues at the international level.



4. The right to demand the removal of unlawful restrictions on the receipt and transmission of information and to be aware of the facts and grounds for such restrictions.

The technical condition for the possibility of data exchange with the Internet is the absence of obstacles at the level of software and/or devices. Such negative impacts can be diverse and can affect access to the Internet or individual resources. Many possible reasons for such restrictions require guarantees in the form of a number of positive and negative state obligations. These guarantees are aimed at reducing the likelihood of unlawful restrictions arising, as well as creating legal measures against them if such restrictions arise. The existence of negative and positive government obligations in this area is confirmed by the previously mentioned recommendation of the Committee of Ministers of the Council of Europe No. 6 CM/Rec (2008) "On Measures to Develop Respect for Freedom of Opinion and Information Related to Internet Filters," addressed to Member States. This recommendation outlines the criteria that states must adhere to when implementing a particular blockade (Section III) [6].

Negative liabilities mean:

- refrain from filtering Internet content in electronic communication networks controlled by state bodies, except for the grounds specified in paragraph 2 of Article 10 of the Convention on the Protection of Human Rights and Fundamental Freedoms, in accordance with the interpretation of the European Court of Human Rights;
- avoid universal and universal blocking of any offensive or harmful content and implement a blocking system only for individual users (who belong to the group with the filter activated for protection) (for example, universal and universal blocking of illegal content is inappropriate for users who need access to such content for the purpose of conducting scientific research).

Positive obligations include:

- guarantee that generally adopted blocking or filtering measures at the national level are implemented by the state only if the conditions set forth in paragraph 2 of Article 10 of the Convention on the Protection of Human Rights and Fundamental Freedoms are met;



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- adopt provisions within the framework of national legislation to prevent the intentional misuse of filters to restrict citizens' access to legitimate content (restriction should be necessary and appropriate);
 - introduce a system for assessing the proportionality of the constraints necessary in a democratic society to their function (in order to obtain results and prevent unjustified content blocking, before and during the implementation of all filters), i.e., ensure that the effect of filters corresponds to the intended purpose;
 - provide effective and accessible appeal and compensation measures, ensuring that filters are terminated when users and/or content creators claim that a source has been unreasonably blocked;
 - ensure the observance of the right to privacy and confidentiality of correspondence when using and applying filters, as well as the use of personal data entered, recorded, and processed through filters exclusively for legal and non-commercial purposes.

5. Right to protection from automated processing of personal data.

At the present stage of information technology development, a large volume of personal data is processed automatically. This situation poses a serious threat to the economic and spiritual development of society. The ability to have a large amount of information about each person and process it without control is a serious violation of Internet access guarantees.

Automated computer analysis is determined by which stores a person visits, what products they purchase, what queries they enter in Internet search engines, which TV programs they watch, and other information.

In recent years, the media have repeatedly reported on the illegal collection and processing of personal data (public surveillance) by the secret services of various countries[7], as well as by transnational corporations. These reports showed that not only secret services, but also large companies could collect and use citizens' personal data without permission [8].

In the era of the widespread use of the Internet, the scope of automated processing of personal data is rapidly expanding. Modern social networks offer to disclose information about many important aspects of a person's life,



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including political and religious views, attitudes towards smoking and alcohol consumption, and even what they consider most important in life. In some cases, disclosing such information may be beneficial for the user themselves (for example, to search for people with common interests). However, the user is not guaranteed that the information they provide will not be used for other purposes or destroyed at their own discretion.

6. The right to a quality network connection.

The quality of the connection is an important technical factor. Today, there are certain requirements for Internet connection speed, which is relevant and most in demand among users. Although these requirements are not always formally established, they do exist. Technological flexibility allows you to connect in different ways, and each of them provides a different quality of communication. Technically, satellite connection is already available in most parts of the Earth, but the cost of such services is quite high.

There are no clear instructions in regulatory documents regarding the negative obligations of the state to ensure the speed and stability of the Internet. Regulatory documents are aimed at restricting access to more information. The state's obligation to ensure access to the Internet of reasonable quality for the realization of human rights stems from a number of international documents. In particular, the obligation to ensure the stability of the Internet is stated in paragraphs 31 and 57 of the "Tunisian Information Society Program." As for connection speed, the corresponding obligations also exist at the national state level. For example, as we noted earlier, in Finland there are requirements for connection speed characteristics [9]. The importance of such a parameter can be understood through a systematic analysis of the provisions of part 2 of Article 57 of the Law "On Communications." It indicates that the access point must be connected using an optical fiber communication line and provide the ability to transmit data to the user's device at a speed of at least 10 megabits per second. The concept of "access point" is defined in subparagraph 28.4 of Article 2 as follows: a means of collective use designed to provide access to communication services for data transmission to an unlimited number of persons and the



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possibility of accessing the information and telecommunications network Internet through the subscriber's user equipment.

Conclusions:

1. Internet usage is determined by two types of factors - technical and non-technical factors.

Technical factors include:

- the user must have computer network equipment that allows them to work on the Internet;
- availability of a provider - the infrastructure of a telecom operator, which has the technical capabilities to provide the user's device with an IP address on the Internet and carries out the reception and transmission of information in accordance with requests from the user's device;
- successfully provide the device with an IP address in the global computer network;
- absence of restrictions on the reception and transmission of information by devices and software that consciously block the reception and transmission of information;
- The presence of a sufficiently high-quality connection with the network.

The non-technical factor is complex and includes:

- subjective factor, i.e., the totality of a person's knowledge and abilities that allow them to realize the potential capabilities of the Internet;
- The objective factor embodied in the state's policy regarding internet access, its potential capabilities, and ensuring the realization of these capabilities by the individual.

2. Components of Internet access rights (related to technical and non-technical factors):

- The user's right to own the means that allow them to work on the Internet.
- The right to use the infrastructure of a provider - a telecom operator, which has the technical capabilities to provide an IP address on the Internet to the user's device and carries out the reception and transmission of information in accordance with requests from the user's device.



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- The right to assign addresses on a global computer network.
 - The right to demand the removal of unlawful restrictions on the receipt and transmission of information and to be aware of the facts and grounds for such restrictions.
 - Right to protection from automated processing of personal data.
 - Right to a high-quality network connection.
 - Subjective factor.
 - Objective factor.

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