

Online Contractual Process: Status and Technology

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Abstract: This article discusses the legal status of electronic messages of country leaders published on the Internet in public access. The development of information technologies has contributed to the evolution of a new direction in international negotiations, which can be called the online contractual process. It is much more significant than traditional agreements in terms of power, effectiveness and influence. The struggle for economic and political spheres of influence, capital and power is unfolding in the virtual information space and is acquiring new, post-traditional virtual forms. Country leaders can instantly transfer information into the sphere of action using virtual space to express their position. When working on the article, the authors used the methods of collecting and studying individual facts, generalization, scientific abstraction, pattern recognition, as well as the method of objectivity, concreteness and pluralism. It has been concluded that electronic messages of country leaders on social networks are of particular importance in international relations since they represent unilateral constitutional acts, which in some cases seriously change the political situation. The legal nature of legally significant electronic messages of country leaders is an independent legal category, which has a set of its own unique characteristics. Electronic messages expressing the will of a person vested with authority belong to legally significant messages, which can be placed between legal transactions and legal actions. This determines the existence of elements of both categories. However, the existence of independent characteristics peculiar only to this phenomenon allows concluding about the emergence of a new legal phenomenon – legally significant electronic messages of country leaders, the essence of which represents one of the types of lawful actions with a specific legal procedure. Conclusions, made in the research, allow qualifying the communication of politicians online as a full-fledged negotiation process, generating certain legal consequences and introducing a category of politicians' public electronic messages into the legal field.

Index Terms: buyer, deal, electronic commerce, electronic digital signature, electronic documents, legally significant messages, seller.

I. INTRODUCTION

Communication via electronic messages in social networks is widely used in the 21st century without the mutual relations of the parties causing serious problems. Nevertheless,

recently, heads of governments have begun to form their policies using public electronic messages on social networks on the Internet. Country leaders' publicly expressed point of view on important issues often leads to unpredictable consequences: from cancellation of negotiations or refusal to sign contracts to panic on the stock exchange and the collapse of the Dow Jones rate. At the same time, the legal status and significance of such open statements made via the Internet have not been determined. There are many questions concerning the response to such statements, their category and whether it is necessary to fix the presumption of authenticity and legal significance of country leaders' statements made online in their personal accounts in social networks. In this regard, the question arises about the legal status of country leaders' messages on social networks.

II. LITERATURE REVIEW

Experts, discussing the problem of the legal status of electronic messages of legal significance, aptly note that courts carefully consider any Internet information as evidence and often perceive it as a source of misinformation and insinuation [1]. Such a position is justified since any user can post unverified information on the Internet. Websites do not check the information for authenticity and do not verify it. Moreover, hackers are able to change the content of any website around the world and at any time [2]. Based on the stated reasons, courts consider any evidence obtained from the Internet as having almost zero value. Courts rely on paper-based evidence that meets admissibility requirements instead of relying on voodoo information from the Internet [3]. It is necessary to review the existing legal concepts and apply a more flexible and functionally equivalent approach to messages on social networks posted by country leaders and governments. The main goal of the research is to determine the legal status and legal power of country leaders' and governments' electronic messages on the Internet and to give recommendations on the unification of international requirements to such messages. The researchers have not developed this particular problem, however, they have considered some issues of the legal status of electronic documents, electronic messages and their evidentiary force and the norms of the Internet law in general. In this paper, we rely on the following works: Mickael Benaim [4] explored innovation on the Internet; Marian Petcu [5] considered the problems of the media and the Internet (Romanian experience); Daniel Laufer [6] analyzed global crisis communications in the social media world; Dan Jerker B. Svantesson [1]

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investigated the relationship between jurisdictional issues and the Internet; Robert Aalberts, David Hames, Percy Poon, Paul D. [7] analyzed common law and its impact on the Internet.

Many other researchers consider various aspects of Internet communications, but the legal significance of electronic communications of country leaders and government on the Internet has not been determined, raising practical questions.

III. PROPOSED METHODOLOGY

A. General description (basic principles and methods, description and characteristics)

The object of the research is the legal status and the role of electronic messages and documents used by country leaders and government to solve important issues related to the conduct of negotiations and conclusion of contracts. The following methods were used: collection and study of individual facts, generalization, scientific abstraction and pattern recognition.

It became possible to determine the role, significance and legal status of country leaders' and governments' electronic messages on the Internet due to the method of objectivity. The essence of the concept "legally significant electronic message in social networks" was defined using the principle of objectivity.

One can examine the object under study from different perspectives and reveal various properties of legally significant electronic messages using the pluralism method.

B. Algorithm

Achieving specific scientific results requires limiting the subject matter and defining the methodological tools of the research, which are most relevant to its goals. The nomothetic approach allowed to group the economic, social and legal phenomena included in the process of creating legally significant messages on the Internet and to identify common patterns and relationships, as well as put forward assumptions on further development and configuration of the relevant

phenomena, taking into account trends in the spread of Internet information.

The interdisciplinary nature of this work predetermined the use of not only general scientific methods but also specific scientific methods of jurisprudence:

- the formal legal method that allowed studying the legal phenomena and legal texts, their interpretation in a logical sequence using special legal terms and structures;
- the method of legal modeling, due to which the theoretical foundations of the construction of human interaction legal models with Internet messages are studied.

The most optimal knowledge system, where objective data on the principle of the validity of country leaders' and governments' electronic messages on the Internet are reflected, was created using the pluralistic approach to the cognition of the legal status of electronic documentation.

The law interpretation methods were used at the stage of collecting and studying individual facts. The evidentiary presumption of electronic messages was discovered due to such methods.

It is possible to make scientifically based predictions on the application of certain requirements to electronic messages and to develop recommendations for law enforcement practice due to the prognostic method. Moreover, the logical-semantic analysis was used in conjunction with the listed methods, which allowed considering the legal nature peculiarities of electronic messages used in electronic commerce in detail.

C. Flow chart

The study was conducted using certain research algorithms, due to which the results were obtained. The research algorithm is presented in Fig. 1.

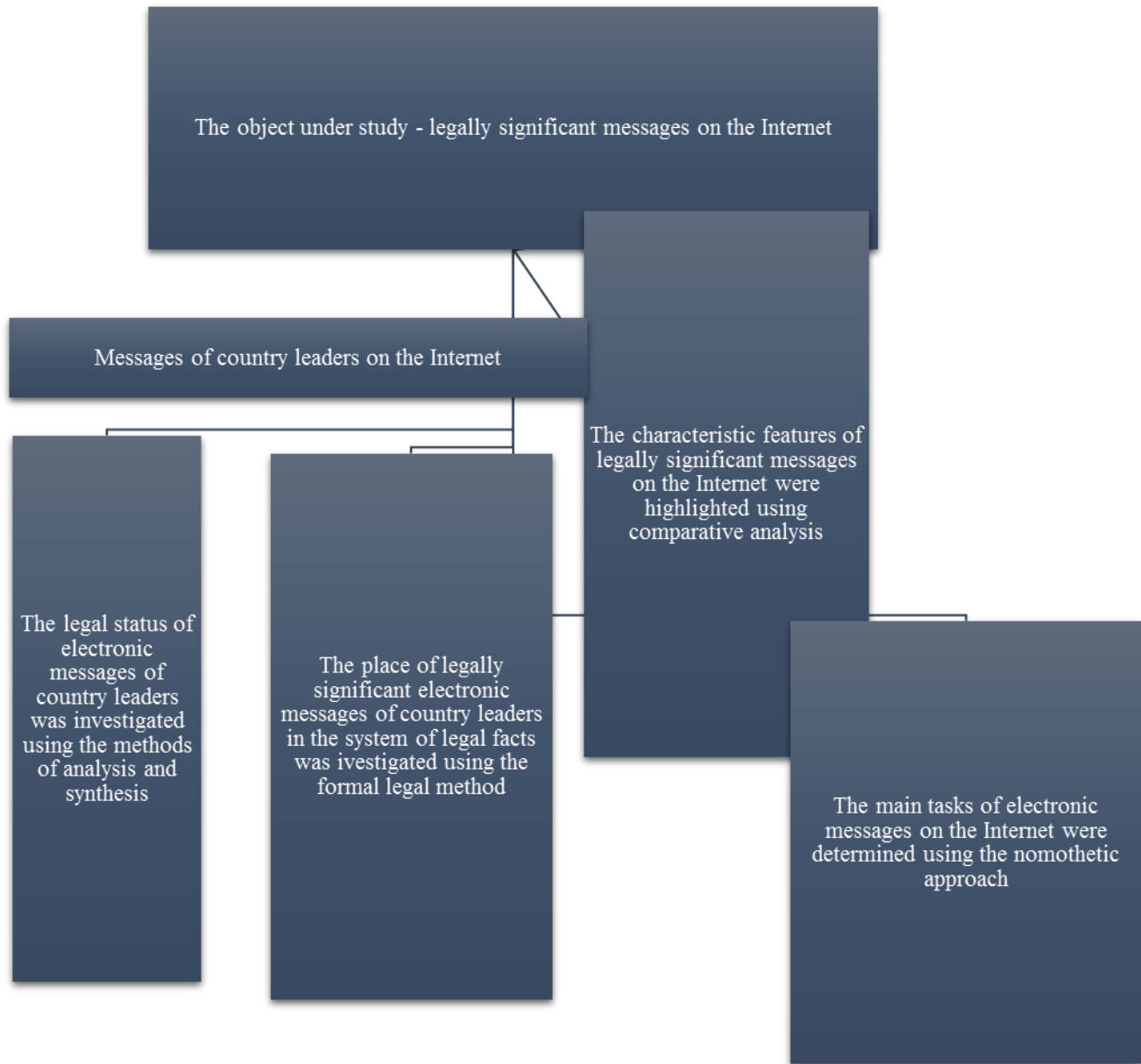


Fig.1. The research algorithm

IV. RESULT ANALYSIS

The Internet is an innovative way of communication; millions of citizens communicate via e-mail, Skype or messages in social networks [8]. Nevertheless, a trend has recently appeared, when country leaders report on their decisions publicly on social networks and such decisions take effect from the moment they appear on the Internet. At the same time, attempts are made to use these messages to solve important political problems, such as signing contracts, cancellation of negotiations, application of response measures to certain actions of politicians, etc. Therefore, it is necessary to qualify the communication of politicians online as a full-fledged negotiation process, generating certain legal consequences and to introduce the category of "politicians' public electronic messages" into the legal field.

Country leaders' electronic messages in social networks, being legally significant, require analysis since they represent a new legal institution, the role and legal nature of which should be determined. Some researchers believe that

electronic messages are not legally binding [9]. It is impossible to agree with this statement, as a law or bylaws may require the preparation of a document on paper in certain situations, but often its electronic form is self-sufficient.

The issue of the recognition of country leaders' electronic messages in social networks as legally significant is ambiguous. In order to determine the legal nature of legally significant electronic messages, it is necessary to designate their place in the system of legal facts. At the same time, it is agreed among most researchers, that legally significant electronic messages are a legal fact [10]. Legally significant messages as a legal fact do not give rise to civil law consequences independently; they perform the function of an element of the legal composition, which is necessary and sufficient for the occurrence of specific legal consequences for the subjects of the main legal relationship [11].

A legal fact is generally accepted as a circumstance (or fact of reality) in the doctrine, with which the rule of law (law or another legal act) associates legal consequences in the form of occurrence, modification or termination of legal relations. Legal facts are divided into actions and events depending on the presence of the subjects' will. In turn, actions include lawful and unlawful actions. Lawful actions depending on the subjects' will's direction (their goals) include legal acts and actions [12].

The purpose of a legal act is to achieve a certain legal result, while legal actions are subjects' lawful actions related to the occurrence of certain legal consequences, regardless of the purposes the subjects were guided by during the commission of such acts [5].

The relationship between this concept and the institution of transactions and legal actions is the most controversial issue [13] in determining the place of legally significant electronic messages.

Particular features of legally significant messages are pointed out in the theory. We can say in relation to electronic messages of country leaders that they are a manifestation of the subject's will and constitute the category of intention messages [14]. In this case, the law subject still produces a certain expression in the framework of legally significant messages. However, it is not the will directed at certain desired legal consequences (as in the expression of the will), but the will directed at sending information on a certain fact to another person (or persons).

Analyzing the ratio of legally significant actions and legally significant electronic messages, we can note the following. On the one hand, a leader who sends an electronic message, not only proportions their actions with the norms of law (regulations, departmental instructions, business customs, etc.), being aware of the legal consequences of their actions, but also purposefully wants them to occur, and is guided by the norms of law, performing exactly the actions that are prescribed by it [6]. A leader does not just send a message, which subsequently (perhaps unexpectedly for them) leads to well-defined legal consequences and affects the rights and obligations of individuals, and their will is directed precisely at the occurrence of such legal consequences. On the other hand, a leader, by sending an electronic message, aims to perform an actual (rather than legal) action, for example, to inform the leaders of other countries about the possibility of withdrawal of the treaty. The subject does not realize that with their action (in particular, the message), the right binds occurrence (change, termination) of any legal relationship, they do not assume further conflict and do not realize that this message will have (or has) any legal value [15]. In this case, any message (email, text message, fax message, verbal message) may be subsequently recognized as having legal

value, i.e. a legally significant message.

Restricting the concept of "country leaders' legally significant electronic messages" only to the first approach, i.e. in cases where the person initially had the intention to achieve certain consequences when sending a legally significant message, obviously, narrows the content of the institution under consideration. A legally significant message may be a one-way deal in such a form. Thus, legally significant electronic messages are a cross between legal acts and legal actions. According to this understanding, they are defined as "transaction-like acts" (or "transaction-like actions") in the doctrine. At the same time, transaction-like actions are neither a legal transaction (Rechtsgeschäft) nor a real act (Realakt), possessing elements of both a transaction and a real act [4]. In particular, the similarity of transaction-like actions and real acts is manifested in the fact that within both legal categories, legal consequences arise by virtue of the law and regardless of the presence of the will to the occurrence of these legal consequences. In turn, the similarity of transaction-like actions and legal transactions is determined by the presence of statements [16]. On receipt of this position, the category of transaction-like actions in the doctrine is given an independent character and a certain place is assigned to it, where the legal transaction, in essence, is no longer the same but has not yet acquired the signs of a real act [17].

Transaction-like actions within the boundaries of legal transactions and real acts are much closer to legal transactions, which reasonably indicates that they have much more in common with transaction-like actions than transactional actions and real acts. As part of a transaction-like action, the recipient of the statement is not obliged to match the will of the claimant with the corresponding expression of will [18]. It is enough for them to determine the way the corresponding action would be perceived by an average person involved in the exchange. If an average person concludes that a transaction-like action is taking place, then the recipient of the statement can rely on the protection of their confidence in the statement. The consequence of such protection for the recipient in some cases may be related to the fact that the person who committed the transaction can only cancel the consequences of the transaction for the future, but not dispute it with retrospective action [19]. This feature justifies a narrower scope of transaction-like actions compared to legal transactions.

The following characteristics of legally significant electronic messages can be distinguished (Fig. 2).

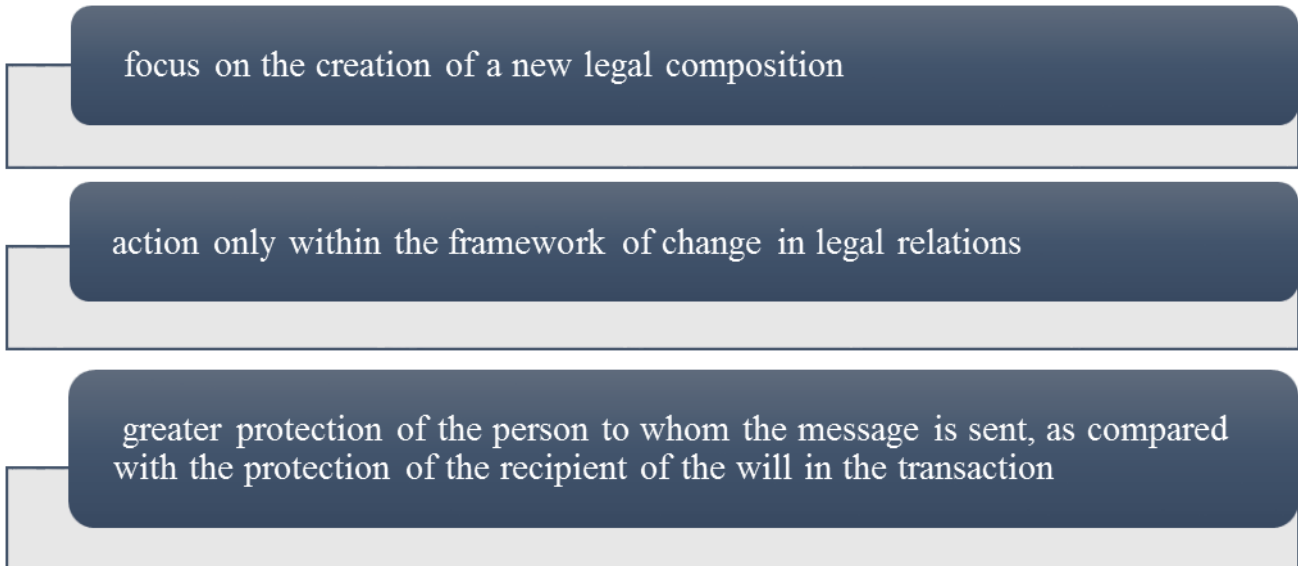


Fig. 2. Characteristic features of legally significant electronic messages of country leaders on the Internet

These features correspond to the special legal nature of legally significant electronic messages. Their consideration leads to reasonable and fair conclusions concerning the fact that not every public electronic message of a state leader on the Internet is legally significant. Only those messages that have all the listed features are legally significant.

It is worth considering to what extent a legally significant electronic country leaders' message is an independent circumstance that generates the emergence, change or termination of rights, obligations or legal relations.

It seems that the main purpose and role of legally significant messages is related to the fact that they are not the basis for the emergence, change and termination of civil rights and obligations, like other legal facts, but that they determine the moment of such occurrence, change and termination [7]. This feature determines their legal nature as legal facts of a special kind of "auxiliary" legal facts.

The legal nature of legally significant electronic messages of country leaders is an independent legal category and has a set of its own unique characteristics. Electronic messages expressing the will of a person vested with authority belong to legally significant messages that can be placed between legal transactions and legal actions, which determines the existence of elements of both categories.

The legal nature of legally significant electronic messages allows them to be distinguished from any categories and institutions that have been previously known to international law since they have a set of their own unique characteristics.

The formation of the modern information society is associated with a change in the structure of information resources and ways of fixing people's activities. In addition,

the documentary field of the information space expands and a person becomes a participant not only in relations within the territory of their state but they can also actively communicate with various participants in the global information space [20]. In such conditions, it is necessary to ensure the organizational interaction of states at the international level, to coordinate the forms and methods of their activities through electronic messages. Today, all countries have adopted and implemented the concepts and strategies of the information society, including the use of electronic and paper documents.

The information revolution, encroaching on the political spheres of modern society, dictates new principles and rules of international political communication, which go from offline to online. Therefore, using the virtual space to express their position, country leaders can instantly transfer information into the action sphere. Electronic messages of country leaders in social networks are of particular importance in international relations since they are unilateral constitutional acts that in some cases seriously change the political situation.

The main tasks performed by electronic messages of politicians on the Internet are shown in Fig. 3.



Fig. 3. Goals and objectives of electronic messages of country leaders

The development of information technologies has contributed to the evolution of a new direction in international negotiations, which can be called the online contractual process. It is much more significant than traditional agreements in terms of power, effectiveness and influence. The struggle for economic and political spheres of influence, capital and power is unfolding in the virtual information space and is acquiring new, post-traditional virtual forms. Country leaders can instantly transfer information into the sphere of action using virtual space to express their position [21]. The new information paradigm of international negotiations means that the effectiveness of leaders' actions at the meeting table largely depends on the information superiority in the virtual space. The modern concept of international negotiations requires a revision of the old schemes and rules based on the latest information technologies and socio-cultural priorities.

Today, thorough preparation for international negotiations is not only a careful selection of a negotiation dossier and development of a strategy and tactics but also conduction of a public online campaign in social networks [22]. Country leaders actively use new information technologies, developing public relations and have a subtle influence on world public opinion.

As a result of the study, the legal nature of legally significant country leaders' messages on the Internet was determined.

It can be concluded that the international online negotiation process is forming a new sub-branch of the law of international treaties and includes relations connected with the rules for coordinating factors of international relations regarding the content of treaty norms and the responsibility of subjects of international law.

V. CONCLUSION

1. Country leaders' electronic messages in social networks are of particular importance in international relations since

they represent unilateral constitutional acts that in some cases seriously change the political situation. Country leaders' electronic messages on the Internet published in the open access are a lawful action of the subject aimed at the transfer of certain information, from the moment of acquaintance with which legal consequences arise for the person (addressee). Legally significant messages contain information of legal significance for the addressees.

2. The legal nature of country leaders' legally significant electronic messages is an independent legal category and has a set of its own unique characteristics. Electronic messages expressing the will of a person vested with authority belong to legally significant messages that can be placed between legal transactions and legal actions, which determines the existence of elements of both categories. However, the presence of independent characteristics inherent only in this phenomenon allows us to conclude that the new legal phenomenon of country leaders' legally significant electronic messages has an independent nature as one of the types of lawful actions with a specific legal procedure.

3. Electronic messages of country leaders published on the Internet in open access are characterized by the following features:

- They are a form of activity of people in authority;
- They are a form of activity associated with the discussion of the circumstances and facts that entail certain legal consequences;
- They are an area of human activity, which is an organically interconnected system of actions concerning negotiation processes.

Given that the institute of legally significant electronic messages of leaders published on the Internet in open access is new to international law, science and its representatives have yet to determine its place in the legal system, considering the peculiarities of law enforcement practice and the needs of trade.

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