

## LEGAL REGULATION OF ELECTRONIC COMMERCE IN THE ROMANO-GERMANIC AND ANGLO-SAXON LEGAL SYSTEMS: A COMPARATIVE ANALYSIS

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### Abstract

This article provides a comparative analysis of the legal regulation of electronic commerce in accordance with the national legislations of such countries of the Romano-Germanic legal system as Uzbekistan and France, and such countries of the Anglo-Saxon system as Great Britain and the USA. As a result of the analysis similar and distinctive features of the legislations of these countries are revealed.

**Keywords:** electronic commerce, legal system, legal family, information system, electronic platform, electronic document, commercial relations.

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**Introduction.** Living in the modern world, it is impossible to deny the great relevance and popularity of e-commerce. A great role in the growth of e-commerce was played by the events of recent years in the form of the global pandemic. According to the majority, e-commerce is understood as the purchase - sale of goods, works and services through the Internet global network.

More detailed, detailed definitions of "e-commerce" can be found in the works of researchers. For example, O.A. Kobelev defines e-commerce as "business activities on the implementation of commercial transactions using electronic means of data exchange"<sup>1</sup>. According to I. Goldovsky, e-commerce is «the sale of goods in which at least the organization of demand for goods is carried out through the Internet»<sup>2</sup>. Loudon and Trever argue that e-commerce refers to the use of the Internet, the World Wide Web, and mobile applications and browsers on mobile devices to conduct business, and that more formally e-commerce can be defined as commercial transactions between organizations and individuals using digital technology<sup>3</sup>.

The emergence and great growth of e-commerce has led to the adoption in almost all countries of special regulations governing this area. In this paper, in order to have an idea of this kind of laws, the legislative acts of some countries of the Romano-Germanic and Anglo-Saxon legal system, namely Uzbekistan, France, Great Britain and the United States will be considered.

**E-commerce in the Republic of Uzbekistan.** The main statutory act regulating electronic commerce in the Republic of Uzbekistan is the Law of the Republic of Uzbekistan No. 792 of 29.09.2022 "On electronic commerce"<sup>4</sup>. According to Article 3 of this law, e-commerce is the purchase and sale of goods, works or services by concluding a contract through an electronic trading platform (information system).

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<sup>1</sup> Кобелев О.А. Электронная коммерция: Учеб. пособие / Под ред. С.В. Пирогова. 3-е изд., перераб. и доп. М.: Издательско-торговая корпорация «Дашков и К», 2008.

<sup>2</sup> Голдовский И. Безопасность платежей в Интернете. СПб.: Питер, 2001.

<sup>3</sup> Loudon, K. C., & Traver, C. G. E-commerce 2021–2022: business. technology. society., eBook, Global Edition. Pearson Education, 2021.

<sup>4</sup> ЗРУ-792-сон 29.09.2022. Об электронной коммерции (lex.uz)

Also, in accordance with Chapter 3 of the Act, the participants of e-commerce include sellers and buyers, as well as e-commerce operators. Sellers in e-commerce are legal entities and individual entrepreneurs who are entitled to engage in wholesale and retail trade, as well as self-employed persons who are engaged in retail trade. Buyers can be any individuals or legal entities. E-commerce operators are providers, operators of electronic trading platforms, providers of payment services, as well as legal entities that provide services for storage of electronic documents and electronic messages of e-commerce subjects.

Another important document in the field of regulation of e-commerce in Uzbekistan is the Decree of the Cabinet of Ministers of the Republic of Uzbekistan No. 185 of 02.06.2016 "On measures to further improve the procedure for transactions in e-commerce"<sup>5</sup>. The Decree contains the Rules for e-commerce.

According to paragraph 4 of these Rules, e-commerce entities are not required to obtain authorization documents to participate in e-commerce. However, there is a National Register of e-commerce subjects, the entry to which, according to the Decree of the President of the Republic of Uzbekistan No. 3724 of 14.05.2018 "On measures to accelerate the development of e-commerce"<sup>6</sup> is voluntary and free for the subjects, whose income from selling goods (works, services) through e-commerce accounts for at least 80 percent of the total volume of goods sold by them. The advantage of joining this register is a lower tax rate of 2 percent in accordance with Article 467 of the Tax Code of the Republic of Uzbekistan No. 599 of 30.12.2019<sup>7</sup>.

Transactions in e-commerce are concluded through the conclusion of a contract. According to Article 15 of the law "On electronic commerce"<sup>8</sup>, an electronic contract is equal to a contract made in writing and has the same legal effect. At the same time, according to Article 14, general requirements for a contract in electronic commerce come from the Civil Code of the Republic of Uzbekistan. It should be added that there are contracts that require a signature of the parties, and in this case an electronic contract is signed respectively with an electronic digital signature (EDS). Procedure of electronic digital signature use is regulated by the Law of Republic of Uzbekistan "On electronic digital signature".

**E-commerce in France.** France as well as Uzbekistan is a country belonging to the Romano-Germanic legal system. The main legal acts regulating e-commerce sphere in France are the Civil Code<sup>9</sup>, the Commercial Code<sup>10</sup> and Law No. 2004-575 of June 21, 2004 on Trust in the Digital Economy (Loi n° 2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique)<sup>11</sup>.

The French Civil Code generally regulates civil legal relations, including contractual relations, which are those in electronic commerce. The French Commercial Code also generally regulates commercial actions where both parties are acting for commercial purposes.

The Law on Trust in the Digital Economy is a specific law in the field of e-commerce. According to Article 14 of this law, e-commerce is an economic activity in which a person sells goods or services by electronic means. The law also contains the duties of the seller in e-commerce. For example, Article 19 contains the seller's obligation to disclose such information to the buyer as name or business name, address, e-mail, telephone number, registration number, TIN, etc. Article 20 requires that when advertising the seller must specify that it is advertising and not to mislead customers about the advertised product.

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<sup>5</sup> 185-сон 02.06.2016. О мерах по дальнейшему совершенствованию порядка осуществления сделок в электронной коммерции (lex.uz)

<sup>6</sup> ПП-3724-сон 14.05.2018. О мерах по ускоренному развитию электронной коммерции (lex.uz)

<sup>7</sup> 30.12.2019. Налоговый кодекс Республики Узбекистан (lex.uz)

<sup>8</sup> ЗРУ-793-сон 12.10.2022. Об электронной цифровой подписи (lex.uz)

<sup>9</sup> Code civil - Légifrance (legifrance.gouv.fr)

<sup>10</sup> Code de commerce - Légifrance (legifrance.gouv.fr)

<sup>11</sup> Loi n° 2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique - Légifrance (legifrance.gouv.fr)

It is worth mentioning that France is part of the European Union, which also adopts legal acts at its level. To regulate e-commerce in the EU, such documents have been adopted as follows:

- Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the internal market (Directive on electronic commerce)<sup>12</sup>, which was implemented in the French law on trust in the digital economy;
- Regulation (EC) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on the single market for digital services and amending Directive 2000/31/EC (Regulation on digital services)<sup>13</sup>;
- Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on competitive and fair markets in the digital sector (Regulation on Digital Markets)<sup>14</sup>.

**E-commerce in the UK.** The UK belongs to the countries of the Anglo-Saxon legal system, which means that its main legal sources are precedents. However, despite this, it is legislative acts that play the main role in regulating e-commerce in Great Britain.

One of such legislative acts of Great Britain is the Electronic Commerce Regulations 2002<sup>15</sup>, which contains the norms taken from the EU Directive 2000/31/EC on electronic commerce, despite the fact that Great Britain is no longer a member of the EU. For example, according to article 6 of the Regulation, electronic platforms are obliged to provide the user with necessary information, according to article 7 platforms are obliged to state explicitly that there is a commercial relationship between them and the user, and according to article 15 the buyer has the right to unilaterally terminate the contract.

Other important U.K. regulations concerning the e-commerce industry are:

- Data Protection Act of 2018<sup>16</sup>, which contains provisions on the use of personal data, including those relating to website users;
- The Privacy and Electronic Communications Regulations of 2003<sup>17</sup>, governing direct marketing through electronic communications;
- The Online Intermediation Services for Business Users Regulations of 2020<sup>18</sup>, imposing obligations on online platforms, including search engines, that organizations use to reach consumers.

**E-commerce in the United States.** The U.S., along with the UK is part of the Anglo-Saxon legal family. However, unlike Great Britain, there is no special law in the U.S., mainly regulating electronic commerce. For this reason, the acts that regulate offline commerce apply to online commerce as well.

Laws regulating the "electronic" part of commercial relations are mainly aimed at protecting consumers' personal information, but even in such a situation, due to the fact that the USA is a federal state, each state has its own regulations in this sphere. For example, the state of Texas has the Consumer Privacy Act of 2020<sup>19</sup>, which establishes a framework for the use of electronic platforms of its users' personal information (Section 541.002, clause 4).

Other important U.S. regulations related to e-commerce are laws aimed at regulating advertising. One of the most important acts in this field is the US federal law CAN - SPAM Act 2003<sup>20</sup>. According to this

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<sup>12</sup> Directive 2000/31/EC (eur-lex.europa.eu)

<sup>13</sup> Regulation (EU) 2022/2065 (eur-lex.europa.eu)

<sup>14</sup> Regulation (EU) 2022/1925 (eur-lex.europa.eu)

<sup>15</sup> The Electronic Commerce Regulations 2002 (legislation.gov.uk)

<sup>16</sup> Data Protection Act 2018 (legislation.gov.uk)

<sup>17</sup> The Privacy and Electronic Communications Regulations 2003 (legislation.gov.uk)

<sup>18</sup> The Online Intermediation Services for Business Users Regulations 2020 (legislation.gov.uk)

<sup>19</sup> Texas Consumer Privacy Act (capitol.texas.gov)

<sup>20</sup> CAN-SPAM ACT OF 2003 (govinfo.gov)

law, it is not forbidden to send spam, but it sets conditions and certain limits which the platforms have to observe. These conditions are mainly related to the content and format of the email containing the advertisement as well as the possibility for the recipients to unsubscribe from the mailing.

**Conclusion.** In most cases, such actions of e-commerce participants as the conclusion of transactions, contracts are regulated in the general order. In such situations, the main regulatory sources are civil, commercial codes. Special laws on electronic commerce in the countries under consideration are mainly aimed at protection of personal information of users, their privacy.

However, if we talk about the law of the Republic of Uzbekistan "on electronic commerce", it is an exception to the rule, because unlike regulatory documents of other countries, it describes in more detail the order of making contracts in electronic commerce. Legislative acts of other countries in the sphere of e-commerce leave such issues to the laws of general order, the bright example of such country is France.

In a country such as France, because of its membership in the EU, its national laws are a reflection of EU regulations. The same can be said of the United Kingdom, despite the fact that it is a former member of the EU. At the same time, the UK, unlike France, belongs to the Anglo-Saxon legal family, but despite this, the main legal sources in the field of e-commerce in the UK are legislative acts.

The United States, being a federal state, does not have a unified legislative act in the field of regulation of electronic commerce, and leaves the adoption of such acts to the states themselves.

In terms of content, the norms of the above-mentioned countries in the field of e-commerce regulation, in fact, do not differ much from each other. They all establish a certain set of requirements and obligations in relation to electronic platforms. For example, when entering into relations with their users, platforms are obliged to disclose all necessary information about themselves, the algorithm of their work, content and products, as well as to use information of their users only within the established limits. The most important difference between the countries reviewed is the kind of legal acts that establish such norms and requirements. Some countries have a single special law, while others have several different documents that make up the country's legislation in the area of e-commerce regulation.

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