INTRODUCTION

I. DEFAMATION IN RUSSIAN LEGISLATION
   A. Defamation legislation
   B. Defamation
   C. Insult

II. DISTRIBUTION OF DEFAMATION ON THE INTERNET
   A. The subjects of the distribution of defamation on the Internet.
   B. The specifics of the distribution of defamation as related to public persons.
   C. Issues with the distribution of unreliable information about citizens on the Internet.

III. LIABILITY FOR DISTRIBUTION OF DEFAMATION ON THE INTERNET
   A. Civil liability.
   B. Criminal and administrative liability.

CONCLUSION

---

1 Defamation means the distribution of false and detractive information. The protection of honor, dignity and reputation in the Russian legislation relates equally to citizens and companies. There are some exceptions in terms or protection of reputation of a company and they are described in this article.
INTRODUCTION

The term defamation is directly related to the terms honor and dignity of a person, as defamation destroys these nonmaterial goods. This crime is as old as homicide and is criminal in many countries. Since ancient times, honor and dignity have been considered among the most important personal rights of man. One of the most disgraceful punitive measures for defamation in the Russian Empire was civil execution, i.e. when a person was deprived of his status and all material and nonmaterial rights. Although the Soviet Union abolished the legislation of the Russian Empire, crimes against the honor and dignity of a person - defamation and criminal insult- were provided by the Criminal Code established in 1922. Since their codification in Russia’s Criminal Code in 1933, defamation and insult have been dually codified in various other penal codes. And today, defamation and insult are widely spread in all areas of social life. The Internet is a very attractive field on which a person can disseminate false and defamatory information. Defamation has the potential to destroy a person’s family, personal life, his or her career, or even a relative’s health. Though in practice, criminal liability for defamation is not widely accepted.

The subject of this current research is defamation and insult, as both crimes encroach on the same object: honor and dignity; and have the same goal: to tarnish an individual’s personality. The goal of this research is to analyze the Russian legislation and regulatory enforcement practice in the area of protection of honor, dignity and reputation on the Internet as nonmaterial goods of a person.

This article consists of three parts, including an introduction and conclusion. Part I is devoted to the legal analysis of defamation and insult, and their legal elements. Analysis of the Russian legislation in the area of the protection of honor, dignity and reputation is given below as well.

---

2 Honor is the undamaged reputation of a person, which is worthy of respect. Dignity is the aggregation of higher moral qualities and respect of these qualities by a person himself. S. I. OZHEGOV & N.Y. SHVEDOVA, EXPLANATORY DICTIONARY OF THE RUSSIAN LANGUAGE 177, 882 (1997).
3 According to the Military Charter of Peter the First, a person who was penalized in this way was expelled from “good and loyal people,”; he became an outlaw. See Artikul Voinskiy, http://www.hist.msu.ru/ER/Text/articul.htm (last visited Dec. 4, 2015) (Russ.). Civil execution was done through the public humiliation of a person and the breaking of his sword above his head, which symbolized deprivation of all rights, including name.
4 According to the statistic from the Juridical Department of the Supreme Court of the Russian Federation, there were 107 people convicted of defamation in 2013, and 138 in 2014. A number of vindications is about 80 percent off all trials. See Dannyye Sudebnoy Statistiki, Sudebnyy Departament Pri Verkhovnom Suhe Rossiyskoy Federatsii, http://www.cdep.ru/index.php?id=79 (last visited Dec. 2, 2015).
The specifics concerning the distribution of defamatory information on the Internet are analyzed in Part II of this article. The legal nature of special subjects such as mass media, bloggers, and web-sites owners who disseminate defamatory information on the Internet will be defined in this paper. The elements of defamation directed at politicians are analyzed as well, given the active presence of the State on the Internet. According to modern changes in Russian Internet legislation, this part specifically looks at the issue of the distribution of false information about a person on the Internet. Although by its legal nature such information is false, it is not defamatory.

Part III of this article is devoted to an analysis of liability for the distribution of defamation. As in many countries, defamation in the Russian legislation is a criminal act. But the protection of honor, dignity and reputation is provided for mostly through civil methods. There are three types of liability in the Russian legislation for defamation: criminal liability, civil liability, and administrative liability for crimes of insult.

I. **Defamation in Russian Legislation.**

A. **Legislation on Defamation**

The Legislation of the Russian Federation consists of the Constitution, Federal Laws and other regulations. Generally accepted principles and norms of international law and international agreements ratified by the Russian Federation are also included in its legislation. Acts of the Constitutional Court of the Russian Federation on the protection of rights and freedoms of personality have an important place here. Acts of the Supreme Court do not set precedents, nor do the acts of lower courts.

The Constitution of the Russian Federation guarantees to everyone the rights of the protection of honor and good reputation. On the other hand, freedom of thought, freedom of speech, and freedom of the press are guaranteed to everyone as well. In this way,
the State has to maintain a balance between the rights of citizens to the protection of honor and dignity, and the rights and freedoms guaranteed by the Constitution.\textsuperscript{11}

The same rule is provided by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms.\textsuperscript{12} A position of the European Court of Human Rights is based on this rule.\textsuperscript{13}

In this way, the constitutional right of everyone to protect his or her honor and good reputation, as well as right of everyone to the legal protection of honor, dignity and goodwill from false, defamatory information,\textsuperscript{14} is a required limitation of freedom of speech and freedom of the media in cases where an abuse of such rights occurs. The distribution of false and defamatory information in the Russian legislation is regulated by the norms of civil, administrative and criminal legislation.

For a long period of time, insult and defamation were crimes. However, at the end of 2011, insult and defamation were decriminalized and became administrative offenses.\textsuperscript{15} This change lasted just for seven months. Then, in 2012, defamation became a punishable criminal offense again due to the danger posed to society.\textsuperscript{16} Insult is an administrative offense, liability for which is stated in Article 5.61 of the Code of Administrative Violations (“CAV”).\textsuperscript{17}

Due to the shift in the classification of these offenses between 2011 and 2012, there was a period of time when a person could not be held liable for insult or defamation. After such acts were decriminalized, people who previously committed such acts, but who were not

\textsuperscript{11} Article 23 guarantees the right to the inviolability of private life, personal and family secrets, and the protection of correspondence, telephone conversations and messages. Article 29 guarantees the freedom of ideas and the freedom of speech, as well as the freedom to freely search, receive, transmit, produce and disseminate information in any legal way. Article 23 guarantees the right to address state bodies and local self-government authorities.


\textsuperscript{13} In case of infringement of his/her conventional rights and freedoms, a citizen of the Russian Federation is able to file a lawsuit in the European Court of Human Rights.

\textsuperscript{14} See GRAZHDANSKII KODEKS ROSSIISKOI FEDERATSII [GK RF] [Civil Code] art. 152 (Russ.).


\textsuperscript{17} KODEKS ROSSIISKOI FEDERATSII OB ADMINISTRATIVNYKH PRAVONARUSHENIIAKH [KOAP RF] [Code of Administrative Violations] art 5.61 (Russ.).
brought to justice, could not be held criminally liable after the law came into force.18 But it was also not possible to hold them administratively liable, because they committed these actions before the changes that established liability for these wrongdoings under the CAV; before the law came into force.19 However, insult remained in the CAV. Apart from the main insult and defamation offenses, criminal and administrative laws support special offenses; the target of these offenses is a special categories of persons.

The Civil Code of the Russian Federation ("Civil Code")20 also provides protection of the honor, dignity and reputation of a person.21 But before the reform of the Civil Code in 2013, it was not possible for a person to protect his reputation from anonymous defamers on the Internet. This issue was solved by the Constitutional Court, which established the removal of such information from the Internet as a primary tool to protect the honor and dignity of a person.22 Later, this norm was included in the new edition of the Civil Code.23

A huge reform of the civil legislation also changed the regulations concerning the goodwill of a legal entity. Before the Federal Law No. 142-FZ on Amendments in Subsection 3, Section 1, Part 1 of the Civil Code of the Russian Federation ("Federal Law No. 142-FZ") came into force,24 under section 7 of Article 152 of the Civil Code, the goodwill of the legal entity was protected by the same laws as the reputation of a person. The Constitutional Court reviewed a question of compensation for moral damages to legal entities in a famous case of the Constitutional Court of the Russian Federation. The decision stated that the absence of methods of protection of goodwill in the law does not hinder companies or legal entities from receiving compensation for nonmaterial harm. The Court also held that nonmaterial harm to

---

18 Criminal law, which removes criminality of a deed, is applied retroactively. UGOLOVNYI KODEKS ROSSIISKOI FEDERATSII [UK RF] [Criminal Code] art 10 (Russ.).
19 See Postanovlenie Verhovnogo Suda RF ot 28 fevr. 2013 g., No. 32-AD12-5 [Decision of the Supreme Court of Russian of Feb. 28, 2013, No. 32- AD12-5] 2013, http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=ARB;n=323399;dst=0;rnd=180312.0725 9647897444665;SRDS MODE=QSP GENERAL;SEARCH PLUS=%F0%E5%F8%E5%ED%E8%E5%20%E2%E5%F0%F5%EE%E2%ED%EE%E3%EE%20%F1%F3%E4%E0%20%B9%2032- %C0%C412- 5; EXCL=PBUN%2CQSBO%2CKRB0%2CPKBO;SRD=true;ts=94223780618031258550437960774 (Russ.)
20 GK RF Part I (Russ.).
21 Id. at art. 152.
24 Id.
legal entities is not the same as moral harm done to a person, and that the content of nonmaterial harm is derived, in essence, from the infringed nonmaterial right.  

Thus, a norm concerning the "compensation of harm of reputation" appeared in the Russian legislation, but only for ten years. According to the new edition of Article 152 of the Civil Code, this method of protecting the goodwill or reputation of legal entities, in terms of compensation for moral damages, does not exist. Today, compensation for the moral harm inflicted by the lessening of a legal entity's goodwill is not provided by the law. Legal entities can ask for material compensation of losses only.

Therefore, honor, dignity, and reputation are protected by criminal and administrative law, and the legal means of protection of these nonmaterial goods are provided by the norms of civil law.

---


26 There have been no more than ten cases for more than one million rubles concerning the compensation of reputational harm during the last ten years. The biggest award was for 30 million rubles in the case of Alfa Bank about Kommersant Publishing House. See Ostanovlenie Federal'nogo Arbitrazhnogo Suda Moskovskogo Okruga ot 30 mart. 2005 g., No. KG-A40/1052-05 [Federal Arbitration Court of Moscow of Mar. 30, 2005 No. KG-A40/1052-05. 2005, http://base.consult ant.ru/cons/cgi/online.cgi?req=doc;base=AMS;n=48672;dst=0;rnd=180312.9374 17094828561;SRDS MODE=QSP;GEN ERA=SEARCH PLUS=%B9%20%CA%C3-%C040/1052- 05.;EXCL=PBUN%2CQSBO%2CKRBO%2CPKBO;SRD=true;ts=76692883718031255748960779306 (Russ.).

27 GK RF art. 152(11) (Russ.).

B. Defamation

Defamation in the Russian law is defined as the distribution of false and detractive information. Defamation is criminalized in the Russian legislation. Several types of criminal offenses fall under this category of wrongdoing. Defamation in the Criminal Code of the Russian Federation ("Criminal Code") is defined as the distribution of misleading information, which tarnishes the honor and dignity of a person or hurts his reputation. Nonmaterial goods of a person, such as honor, dignity and goodwill, are the target of this crime. These nonmaterial goods, consequently, can be defended in criminal and civil judicial proceedings. A person’s rights and freedoms are of the highest value; this is why crimes against them are socially dangerous. Although a law-maker tried to decriminalize defamation in 2011, it came back in the Criminal Code the next year.

Defamation should have the following elements: the distribution of information about a person; that has a detractive character; where there is a discrepancy with reality. In the absence of even one of these elements, such information will not be considered defamatory.

The distribution of detractive information, which tarnishes the honor, dignity and reputation of citizens, means that it was communicated in any form to at least one person, aside from the victim. Publishing such information on the Internet and mass media, or including it in job reviews, public speech, or statements addressed to officers is also considered a distribution of detractive information. The major goal of defamation is to create a certain impression for third parties about the victim. If a disseminator has taken any measures to ensure confidentiality, it is not considered distribution.

Statements of facts or acts, which did not happen in reality, are false information. There are a few exceptions; for example, information that is stated in court decisions or sentences, statements of preliminary investigation agencies, or other procedural or official documents. It is difficult to distinguish false facts from value judgments, opinions, and beliefs. The latter

31 UK RF art. 128(1) (defamation); Id. at art. 298(1) (defamation of a judge, juror, prosecutor, criminal investigator, inquiry officer or bailiff).
32 The danger to society is one of the constituent elements of the offense. Id. at art. 14.
33 In the Russian legal criminal doctrine, it is called the objective aspect of the crime.
34 For example, information that is stated in an employee termination letter. Even if it is false, an appeal should be conducted in accordance with the Labor Code.
are derived from subjective opinions and views, and thus, cannot be confirmed if they are true and reflect reality.\textsuperscript{35}

Information is considered detractive when it contains false statements about a citizen’s: violation of law; wrongdoings; non ethical, abusive behavior, which occurs in private; social and political life; unfair practices conducted in entrepreneurial or business activities; or breach of business ethics or business practices. All of these impair the honor, dignity or reputation of a citizen.

As an example from case law, the court did not consider as slander the statement of a tenant of an apartment building who claimed that her neighbor was a thief and stole electricity from her. The conflict between the neighbors resulted from the connection of several garages to her power meter without permission, one of which belonging to her neighbor. The court decided that the woman’s words were not information about facts that should be verified, but rather her judgment and subjective opinion. Her opinion about her neighbor was rude and negative, but it did not contain abusive or derogative terms regarding his honor and dignity. The court also did not find that the tenant had distributed any information. The words were addressed directly to a neighbor, and she did not intend any witnesses to hear them. The witnesses just happened to be outside, taking out the garage when the conversation occurred.\textsuperscript{36} Therefore, this case lacked all three elements of defamation.

\textsuperscript{35} Internet reviews about services provided by different companies (for example, medical clinics) are, in general, just opinions; \textit{See} Postanovlenie Arbitrazhnogo Suda Moskovskogo Okruga ot 29 okt. 2014 g., No. F05-11769/14 Po Delu N A41-62795/13 [Decision of the Arbitration court of Moscow region of Oct. 29, 2014 on case No. A41-62795/13] 2014, \url{http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=AMS;n=211748;dst=0;rnd=180312.8259016443043947;SRDS MODE=QSP_GENERAL;SEARCH PLUS=%B9%20%C041-62795/13;EXCL=PBUN%2CQBSBO%2CRBO%2CPKBO;SRD=true;ts=5723304001803120925816614180833} (Russ.).

\textsuperscript{36} \textit{See} Apelliacionnoe Opredelenie Kaliningradskogo oblastnogo Suda ot 15 ianv. 2014 g., po delu No. 33-96/2014 [Appeal Decision of Kaliningrad Regional Court of Jan. 15, 2014 on case No. 33-96/2014] 2014, \url{http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=SOJ;n=794395;dst=0;rnd=180312.005992055172100663;SRDS MODE=QSP_GENERAL;SEARCH PLUS=%B9%20%E9%20%E3%82%93%20%2CQBSBO%2CQBSBO%2CPKBO;SRD=true;ts=11599506361803125315683817025274} (Russ.).
Moreover, in defining defamation, we should also consider that such a crime should be intentional, so that a defamer knew that the disseminated information was false.\textsuperscript{37} This crime may be committed by a physical person, over 16 years old.

Contrary to mass media, defamation on the Internet is very easily and anonymously disseminated. And that makes defamers more irresponsible in terms of moral and ethical norms. One young person hacked his friend’s social network page on Odnoklassniki, put online a pornographic picture, and started to communicate intimately with people on behalf of the friend. He also changed the password, so that the owner of the page could no longer log on. Due to the actions of this “prankster,” the court has criminalized the illegal access to computer information and defamation.\textsuperscript{38}

One of the most common infringements on the Internet is the creation of false accounts on social networks. Under a name of another person, a violator communicates with other people in offensive ways, putting the person in a bad light. Although this is a kind of defamation, members of the State Duma have considered introducing a new kind of administrative offense for such activities.\textsuperscript{39}

C. Insult

One of the crimes, which is similar to defamation, is insult. It has the same target: a person’s honor, dignity and reputation; and the same goal: to detract from an individual’s personality. The only difference is the absence of false information.

Insult in the CAV, as well as earlier in the Criminal Code, is defined as the humiliation of a person’s honor and dignity, which is done in an obscene way. A court should decide

\textsuperscript{37} A magistrate judge declared the person accused not guilty in a case brought under Article 128(1) of the Criminal Code for defamation on the grounds of an abuse of rights. The accused posted information online concerning the behavior of the plaintiff, stating that the plaintiff owed him money for services rendered. In this case, the plaintiff knew the facts were true, but nevertheless filed a case against the accused for defamation. See Apelliacionnoe Opredelenie Omskogo Oblastnogo Suda ot 23 apr. 2014 g., po delu No. 33-2235 [Appellate Decision of Omsk City Court of Apr. 23, 2014 on case No. 332235] 2014, http://base.con suit.ant.ru/cons/cgi/online.cgi?req=doc;base=SOL;n=870515;dst=0;rn=180312.0151275820099881735;SRDSMODE=QSP_GENERAL;SEARCHPLUS=%B9%2033-2235.;EXCL=PBUN%2CQSBO%2CKRBO%2CPKBO;SRD=true;ts=108801218718031284501026108652 (Russ.).

\textsuperscript{38} See Michael Belyi, Ne Ponjali Jumora, NEW IZVESTIYA, (Dec. 10, 2009), http://www.newizv.ru/accidents/2009-12-10/118781-ne-ponjali-jumora.html (Russ.).

whether the way the insult occurs is obscene. There are no recommendations or explanations about this matter given by the Supreme Court. That is why the judge can order a linguistic forensic expert in cases where the element of obscenity is unclear.

To classify insult as a crime, a court should consider two factors. First of all, whether the negation of value of honor and dignity of a particular person as a universal human value has occurred. Moreover, such conclusions should be made with respect not only to the injuriousness of an expression, but its applicability to a particular person.  

Abusive comments addressed to unidentified groups of people, attributes of a profession, or nationality do not meet the elements of an insult crime.

The use of words in an obscene form in written complaints against authorities is additional proof that an insult is humiliating. Apart from a verbal form, an insult can be nonverbal, such as gestures, spits, or a slap in the face. Obscene language is a priori an insult. Words of a standard language related to a situation are considered to be an insult if, for example, they give a negative evaluation of a plaintiff or compare him or her with an unworthy person or animal.

Secondly, a court should consider whether the actions of an offender should reflect the negative traits or personalities of a plaintiff. The negative evaluation of work activities of an employee is not considered an insult. Unlike defamation, in the case of insult, the accused party does not need to be informed about the precise facts related to the Plaintiff; rather, the accused party need only give an opinion about the plaintiff’s personality and behavior in general. In order to evaluate insulting words or actions, the courts inquire into the following: whether the honor and dignity of a plaintiff were humiliated; whether these acts contradict established moral standards, common social rules of behavior, or way of interacting with oth-

---

40 A citizen posted a video on the Internet with an insulting comment related to an assistant of the district attorney. See Postanovlenie Tomskogo oblastnogo suda ot 21 apr. 2014 g., No. 4a-105/2014 [Decision of the Tomsk Regional Court of Apr. 21, 2014 No. 4a1052014] 2014, http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=SOJ;n=925904;dst=0;rnd=180312.6959956448990852;SRDSMODE=QSP_GENERAL;SEARCHPLUS=%B9%204%E0-105/2014;EXCL=PBUN%2CQSBO%2CRRBO%2CPKB;SRD=true;ts=10981745191803121863245885819197 (Russ.).

41 In some cases, it might be classified as a crime. See, e.g., UK RF art. 282 (Russ.); KOAP RF art. 282 (Russ.).

42 See Postanovlenie Permskogo Kraevogo Suda ot 19 sent. 2012 g., po delu No. 44a-885-2012 [Decision of the Perm Regional Court, Sept. 19, 2012 on case No. 44a8852012] 2012, http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=SOJ;n=424679;dst=0;rnd=180312.18497697915881872;SRDSMODE=QSP_GENERAL;SEARCHPLUS=%B9%204%E0-885-2012;EXCL=PBUN%2CQSBO%2CRRBO%2CPKB;SRD=true;ts=15606171461803124367404659278691 (Russ.).
er people in general; the specific relationship between the accused party and the plaintiff; and any moral rules. Courts also define whether or not these words are cynical.

Most often, insult stands together with defamation. False information might be communicated in an abusive form, which humiliates honor, dignity and reputation. This case will be considered to be insult only.

II. Distribution of Defamation on the Internet.

A. The subjects of the distribution of defamation on the Internet.

The main distributors of insults and defamatory information on the Internet are Internet mass media publications, bloggers, web site owners and network users. Internet providers are not distributors of defamatory information on the Internet. The law sets special requirements for mass media publications and bloggers.

1. Mass Media

In order to produce and publish media information, a mass media organization should register with the State. The State organization that organizes the registration of mass media on the Internet is the Roskomnadzor. A mass media organization publishes information on its web-site. Anyone can register the Internet mass media organization with the Roskomnadzor. In this case, a registration organization and registration number should be posted on the web-site of the media. It is not required to receive a license to publish mass quantities of information on the web-site.

Freedom of speech is a constitutional right. Although the press should not cross certain boundaries, especially relating to the reputation and rights of people, its duty is to disseminate information and ideas that are interesting to everyone. From a legal perspective, there

43 See Apelliacionnoe Opredelenie Volgogradskogo Oblastnogo Suda ot 4 okt. 2013 g., po delu No. 33-10735/2013 [The Decision on Appeal of the Volgograd Regional Court of Oct. 4, 2013 on case No. 33-10735/2013] 2013, http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=SOJ;n=735366;dst=0;rnd=180312.34398229024372995;SRDSMODE=QSP_GENERAL;SEARCHPLUS=%B9%2033-10735/2013;EXCL=PBUN%2CQSBO%2CKRBO%2CPKBO;SRD=true;ts=3181603061803121180154979228973 (Russ.).

44 See Apelliacionnoe Opredelenie Zabaikal'skogo Kraevogo Suda ot 12 mart. 2014 g., po delu No. 33-965-2014 [The Decision on appeal of the Zabaikal regional court of Mar. 12, 2014 on case No. 33-965-2014] 2014, http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=SOJ;n=840943;dst=0;rnd=180312.9590178783982992;SRDSMODE=QSP_GENERAL;SEARCHPLUS=%B9%2033-965-2014;EXCL=PBUN%2CQSBO%2CKRBO%2CPKBO;SRD=true;ts=318401201180312929338893912733 (Russ.).

are increased requirements for a journalist with respect to the distribution of information, especially when there is an issue concerning the violation of the honor, dignity and reputation of a particular person.

According to the law, journalist have several responsibilities, including the duty to: verify the authenticity of the information that he or she reports about; keep information and/or a source confidential; obtain consent to distribute information about a citizen’s private life on the mass media publication; inform citizens and government officers that they are being recorded either by audio, video, filming or photo-shoot; notify the chief editor about possible law suits related to the distribution of prepared material; and refuse tasks given by the editorial board if they are related to a violation of law. The state guarantees the protection of the honor, health, dignity, life and property of a journalist as a person who performs a public duty.

Special circumstances are required to release a mass media organization from its common responsibility to verify statements about facts that belittle the reputation of persons. These circumstances depend on the character and level of defamation, and the reliability of that media’s sources. If publications are based on an interview, a court should distinguish whether the statements come from a journalist, or are quotations from other people. The punishment of a journalist for assisting in the distribution of statements made by another person in an interview might seriously hinder the input of the press in discussions concerning issues of common interest to the public; these statements should not be used if there is no compelling reason.

Where a mass media organization has been accused of publishing defamatory statements, the editorial board should take the following actions: refute the information in the same publication if the organization does not have proof of the authenticity of the information; distribute a retraction provided by the citizen about whom the information was disseminated; allow a person to give a reply in the next issue of the mass media; and follow the requirements of the Roskomnadzor in cases of abusive use of freedom of the press, par-

---

46 Id. at art. 49
47 Id.
49 Federal Law No. 2124-1, art. 43 (Russ.).
50 Id. at art. 46.
ticularly the use of expletive language that might be contained in an insulting or defamatory statement.51

In light of these rules, the requirements of journalists and the media in general are quite high. On the other hand, there are many exceptions to the liability of journalists.52 The mass media is controlled by the Roskomnadzor. In the case of infringement, the media might even be halted.53 However, with the active development of the Internet, it is easier to distribute information. You do not even need to create a mass media publication to do so. Blogs are now an everyday occurrence.

2. Bloggers

According to Article 10.2 of the Federal Law No. 149-FZ of the Russian Federation on Information, Information Technologies and Information Protection (“Federal Law No. 149-FZ”), a blogger is an owner of a web-site or/and web-page on the Internet, where the publicly available information is placed and access to which during 24 hours exceeds 3,000 users.54 Web-sites should not be mandatorily registered as mass media. Until quite recently, the State did not control the contents of blogs.55 With the new law56 coming into force, bloggers received additional responsibilities. Now, they are de facto journalists. A blogger is now required to: check the authenticity of the publicly available information it posts before posting, and immediately delete false information; follow the requirements of the legislation of the Russian Federation, which regulates a process of distributing mass information; and abide by rights and legal interests of citizens and organizations, particularly a citizen’s right to their honor, dignity and reputation, and a business’s reputation and the goodwill of organizations.57

51 Id. at art. 4; See Prikaz Roskomnadzora No. 420 [Order of the Roskomnadzor No. 420] ROSSIISKAIA GAZETA [ROS. GAZ.] July 12, 2010.
52 More on that in Part III of this article.
53 For example, repeated violations of the law during a 12-month period. See Federal Law No. 2124-1, art. 12 (Russ.).
55 This changed in August 1, 2014.
While posting information online, a blogger is not allowed to do two things. First, a blogger may not use a web-site or web-page in order to conceal or forge publicly significant information, or distribute false information designed to look like the truth. Second, a blogger may not distribute information in order to detract from a citizen or group of people on the grounds of sex, age, race or nationality, language, relation to religion, profession, place of living and work, or political beliefs.58

Due to the heightened requirements, unlike a common web-site owner, a blogger should verify the authenticity of the information. Having such requirements stated in a law, the State did not provide a blogger with the same rights as journalists have. Moreover, bloggers cannot be exempted from liability for the distribution of defamatory or false information.59 Such status allows the State to control bloggers more efficiently than the mass media. When a plaintiff files a lawsuit against a blogger in a court, the plaintiff should also prove that a site owner is also a blogger, in order to find him or her liable as well.60

The Roskomnadzor maintains a Register of bloggers, monitors the appearance of new sites on the Internet and requests all the required information to identify a blogger via Internet providers. A blogger can fill out a special form online itself to be registered, or it can wait for a special notice from the Roskomnadzor on inclusion into the Register. Hosting providers are required to inform the Roskomnadzor about such bloggers.61

### 3. Other subjects

General Internet users can also distribute libel on the Internet. Usually, it happens in commentaries, on forums, or on social networks. A special case occurs when libel is distrib-

---

58 Id. at art. 10.2(2).
59 Persons or entities that are not registered and violate the Federal Law No. 2124-1 on Mass Media by distrib-
uting information on the Internet, are subject to criminal administrative and civil liability, regardless of any ex-
ceptions stated in the Federal Law No. 2124-1 on Mass Media. See Postanovlenie Plenuma Verhovnogo Suda
Rossiiskoi Federatsii "O Praktike Primeneniya Sudami Zakona Rossijskoj Federacii "O Sredstvah Massovoj
Informacii ot 15 iyun 2010 g., No. 16., abz. 6 [Section 6 of the Russian Federation Supreme Court Plenary Rul-
ing, No. 16 “On court practice on mass media organizations” of Jun. 15, 2010.] ROSSIISKAIA GAZETA [ROS.
60 See Apelliacionnoe opredelenie Verhovnogo suda Chuvashskoi Respubliki ot 24 dek. 2014 g., po delu No.
33-5045/2014 [Decision on Appeal of the Supreme Court of Chuvash Republic of Dec. 24, 2014 r. on case No.
312.7114306471776217;SRDS MODE=QSP GEN ERAL;SEARCH PLUS=%B9%2033-
5045/2014;EXCL=PBUN%2CQSBO%2CKRBO%2CPKBO;SRD=true;ts=3793872131803128519483499694
616 (Russ.).
61 The penalty for legal entities that do not follow the requirements of Roskomnadzor range from 50,000 to
30,000 rubles, and repeated infringements that occur within one year range from 300,000 to 500,000 rubles, or
a suspension of operation for up to 30 days. KOAP RF art. 19.7.10 (Russ.).
uted by an anonymous user. If a user is not identified,\textsuperscript{62} the owner of a web-site or domain name should delete the libel itself, based on a request from a citizen, or a court decision.\textsuperscript{63}

A new subject of the distribution of defamation on the Internet is an operator of search engines.\textsuperscript{64} Although it is not a direct distributor, search engines can help to search for information and give the searcher an opportunity to preview defamatory messages by posting links that contain the defamatory statements.\textsuperscript{65} An operator is required to delete links to false information about a citizen. No court order is required for such information to be deleted. A request by a citizen will be enough in this case.

Cases concerning the protection of the honor, dignity and reputation of citizens are quite specific. Here, controlling agencies of the executive power cannot interfere in the process of regulating and controlling the distribution of defamatory statements on the Internet as they do with illegal information. For example, the Roskomnadzor\textsuperscript{66} cannot control the presence of defamation on the Internet.\textsuperscript{67} In a case brought to the Moscow Regional Court, a citizen took legal action against the Roskomnadzor for not blocking an Internet source that was libelous. A decision of the court established that libel had, in fact, occurred. However, the

\textsuperscript{62} If a criminal case on defamation is pending, these questions are dealt with by Department “K” of the Internal Affairs Agency.

\textsuperscript{63} If information that is false or detracts from a person’s honor and dignity is distributed on an Internet website that is not mass media, that person can require the site administrator to delete the information, even if the distributor of the information cannot be identified. See Postanovlenie Konstitucionnogo Suda Rossiskoi Federatsii ot 7 iyul’ 2013 g., N. 18-P [The Ruling of the Russian Federation Constitutional Court of July 9, 2013, № 18-P] ROSSIISKAIA GAZETA [ROS. GAZ.] July 19, 2013.


\textsuperscript{65} A search engine is an informational system, which upon the request of a user, searches the Internet and provides that user with a URL-address of the webpage where the user can access the information, which may belong to other parties. \textit{Id.} at art. 1 (Russ.).

\textsuperscript{66} The Federal Service for Supervision of Communications, Information Technology, and Mass Media.

\textsuperscript{67} It is the responsibility of the Roskomnadzor to keep a register of websites with the following types of forbidden information, where they are automatically blocked by communications operations: juvenile pornography; information on the production and use of drugs; materials with suicide propaganda, extremist materials; gambling cites; information about the illegal distribution of a citizen of a gambling cites. See Federal’nii Zakon No. 149-FZ RF o Ob Informacii, Informacionnykh Tekhologiyakh i o Zashchite Informacii [Federal Law No. 149-FZ of the Russian Federation on Information, Information Technologies, and Information Protection], ROSSIISKAIA GAZETA [ROS. GAZ.] July 29, 2006. For example, a plaintiff, V. Sjutkin, appealed to the Roskomnadzor about the illegal distribution of his person data, i.e., his photo on the Lurkmore website. Based on a ruling of the Meshanskiy Court, the Roskomnadzor blocked the webpage containing the photo. The singer subsequently filed a lawsuit against Lurkmore to protect his honor and dignity related to the offensive inscription of his photo. See Roskomnadzor Zaakom Valerija Sjutkina o Internetteitl v Sude, IZVestiya, Dec. 9, 2014, http://izvestia.ru/news/580505 (Russ.).
court dismissed the case. The court explained that libel is not false information, and the Roskomnadzor has no right to delete it by blocking the Internet-source.  

A. The specifics of the distribution of defamation with respect to political figures and state officials.

Freedom of expression is one of the substantial basics of a democratic society. But expression of someone's opinion is not always favorably received by society. Quite often, shocking and insulting information is poured into the masses. From time to time, political figures and state officials become the center point of such discussion. In this case, it is quite difficult to maintain a balance between the interests of the society and interests of a specific person, in this case, the politician or State official. Politicians who want to gather support from public opinion implicitly agree to become an object of social and political discussions, and be critiqued by the mass media. State officials may be criticized in the mass media for the performance of their political duties, because it is necessary to ensure the public and responsible performance of their obligations. In this way, State officials and politicians feel stronger pressures and experience more critique than other people.

The media is not the only source of information and opinions. Society also has a right to receive such information. Otherwise, the media would not be able to fulfill its very important role as a “public auditor.” But this freedom of information flow contains several exceptions, which should be clearly explained. The importance of these limitations should be stated...
without doubt, and a solution to such a difficult issue should be found by the court. The most important question the court should answer is: where does critique end and defamation begin? In order to consider this question, courts should take the following actions: explore whether a misuse of freedom of the press took place; take into account not only the words and phrases used in an article, TV or radio show, but also their context; and take into account the social and political conditions in the country in general or in the specific region.

The Governor of Kirovskaya region, N. Belykh, filed a law suit against a deputy of the State Duma, S. Mamaev, to protect his own reputation. The plaintiff said that the defendant distributed false and detractive information during a session of the State Duma. The court granted the petition in part. The court found that the information distributed by the defendant was negative towards the plaintiff and detracted from his reputation. The defendant was not able to prove the truthfulness of this information. The decision was appealed to the Judicial Division for Civil Cases in the Supreme Court. The Judicial panel decided that the case was reviewed without taking into account the legal practice of the European Court of Human Rights. The decision was reversed and remand for a new trial.

The outer-limits of acceptable critique are much wider in cases that involve the Government, in comparison to a regular person, and even politician. In a democratic society, the State’s actions, or absence of the State’s actions, should be attentively controlled not only by the legislative and judicial powers, but also by public opinion. Moreover, the Government’s dominant position requires moderation when a question of criminal prosecution appears, es-

71 See generally Opredelenie Konstitucionnogo Suda RF ot 27 sent. 1995 g., No. 69-O [Decision of the Constitutional Court of Russian Federation, Sept. 27, 1995, № 69-O], http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=ARB;n=5289;dst=0;rnd=180312.5079915451351553;SRDS MODE=QSP_GENERAL;SEARCH PLUS=%EE%EF%F0%E5%E4%E5%EB%E5%ED%E8%E5%E0%EA%EE%ED%F1%F2%E8%F2%F3%F6%E8%EE%ED%EE%E3%E2%F1%E3%EE%20%F1%E3%EE%20%20%20%20%069-%CE;EXCL=PBUN%2CQSBO%2CKRBO%2CPSBO;SRD=true;ts=7852751121803125348908952437341 (Russ.).
72 The goal, genre and style of the article can all be perceived as an expression of opinion of public discussion or can draw attention to the discussion of publicly important questions. Whether or not the article, program, or material is based off an interview is an important considerations. Another consideration concerns the attitude of the interviewer towards the opinions, judgments, or definitions.
74 The Russian Federation, as a member of Convention for the Protection of Human Rights and Fundamental Freedoms, accepts jurisdiction of regulatory in cases of interpretation and usage of the Convention.
especially when there are others means to answer unjustified accusations or critique from the opposition.⁷⁵

Critiques of the actions and beliefs of State officials and professional politicians in the media should not be treated as humble action. The boundaries of critique towards such persons are wider than critique directed toward private persons.⁷⁶

Under these circumstances, a case of the editor of a newspaper Bryanskie Budni was brought to the European Court of Human Rights.⁷⁷ After conducting a journalistic investigation concerning the activities of high level regional officials and the publication of the article “Examination for public official. Where are money of the children?”,⁷⁸ the plaintiff, a State official, won his case on the protection of honor and dignity in a national court. But the Russian Federation lost this same case in the European Court of Human Rights.⁷⁹ Examination of this case on the protection of honor, dignity and reputation was related not to the whole article, but several parts of it. The Russian court found defamation; the European Court said that it was just an opinion.

The European court justified its decision in several ways. First, the European Court stated that it is a duty of the press to distribute information and ideas on all questions that are of common interest to the public. Freedom of the press covers the ability to exaggerate or even provoke. The topic of the article was related to the condition of the educational system in Bryansk region. In this way, the article was part of a wider discussion on the topic of common interest to the public, which was proven by the fact that various issues concerning the middle schools and colleges of the Bryansk region were discussed in several other news-

---

⁷⁵ See Opredelenie Verhovnogo Suda RF ot 10 dek. 2013 g., No. 10-KG13-2 [Decision of the Supreme Court of Russian Federation of Dec. 10, 2013, No. 10K-G13-2], http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=ARB;n=373794;dst=0;rnd=180312.17797105317004025;SRDSMODE=QSP_GENERAL;SEARCHPLUS=10-%CA%C313-2;EXCL=PBUN%2CQSBO%2CKRBO%2CPKBO;SRD=true;ts=12000953671803128503900501562089 (Russ.).


⁷⁷ See Fedchenko v. Russia (no. 2), supra note 48.

⁷⁸ An article describes the dire state of educational system in Bryansk region due to inappropriate expenditures of public funds by the head of the Department of Education of this region I. Gerashenkov. The issue was actively discussed in both Bryansk newspapers and Rossiyskaya Gazeta July 6, 2005 (a state newspaper based in Moscow) and draw a massive public outcry. An audit has shown inappropriate expenditures of public funds. But the official was reinstated to his position. More than that, I. Gerashenkov combined two jobs: head of the Department of Education of Bryansk region and rector of the Institute of the Professional Advancement of Teachers. See id.

⁷⁹ See id.
papers. The European Court mentioned that effective critique is impossible without mentioning concrete names and data. An opposite approach might infringe the right on public debates of questions of common interest to the public and make it useless. In this case, I. Gerashenkov was the head of the Department of Education of the region. Public debates about the regional educational system are not possible without mentioning a name of the lead department official. And if an official agrees to take this position, he or she should be ready to withstand significant public critique.80

Thus, public officials and politicians are usually subject to heavy critique, which sometimes borders on defamation. However, by virtue of their position of power, the best way to protect the reputation of this social group is via non-judiciary action. For example, a person who thinks that a media opinion encroaches on his rights and legal interests can use a right to an answer, commentary, or reply in the same media in order to prove the inconsistency of these judgments, or give another meaning to their actions. Lately, politicians have started to actively use the Internet to comment on critical information directed towards them.81

B. Issues with distribution of false information on the Internet.

There are situations when false but not defamatory information encroaches on the interests of a citizen. In this case, we should distinguish defamation from false information. False information is any information about a citizen which is not true.82 Before October 1, 2013, false information aimed at a citizen might be distributed without obstruction. But the Federal Law No. 142-FZ introduced substantial changes to this situation.83 Now, rules that protect

80 See id.
81 A post on LiveJournal of a politician, A. Navalny, was published with a critique directed at a deputy of the State Duma S. Zhelezniak. Rude expressions were made concerning the financial status of the deputy, his expenses, and the expenses of his family. The deputy did not file a suit in the court. Instead, he posted a reply on his Facebook page, directly related to the post of A. Navalny. Later, both parties exchanged pleasantries in the Internet again. This case received wide coverage in media and attracted public attention.
82 GK RF art. 152(10) (Russ.).
against defamation are being used to protect against the distribution of false data,\textsuperscript{84} except the requirements of compensation for moral damage.

In this way, the element of depravity is no longer a necessary element for the protection of rights. Though, a citizen whose rights were infringed should prove the falseness of distributed information.\textsuperscript{85} The statute of limitation on actions related to distribution of false information in the media is one year from the date of publication.

The rule protecting citizens from the distribution of false information does not cover legal entities.\textsuperscript{86} For example, Mashzavod, a company, filed a law suit to challenge a statement about working conditions at the company as false and asked to refute it. The court denied the motion and dismissed the case. The court said that the norms of Article 152 of the Civil Code are applied only to legal entities in terms of the protection of goodwill.\textsuperscript{87} This rule, regarding false information,\textsuperscript{88} does not contain provisions about the protection of the reputation of a citizen.\textsuperscript{89} Therefore, if false data does not contain the depravity element, companies cannot ask for a protection on that basis.

Another novelty about false information related to a citizen is stated in the Federal Law No. 264-FZ of the Russian Federation on Amendments to the Federal Law on Information, Informational Technologies and Protection of Information (“Federal Law No. 264-

\textsuperscript{84} By the common rule, a law has no retroactive action. Amendments, such as the Federal Law of the Russian Federation on Amendments in Subsection 3, Section 1, Part 1 of the Civil Code of the Russian Federation, are used in acts, and appear after the law comes into force. For example, if contested information was published on April 8, the new rules provided by Article 152, section 10 of the Civil Code would not apply to this information. See Apelliaciionnoe Opredelenie Moskovskogo Gorodskogo Suda ot 28 mart. 2014 g., po delu No. 33-10143 [Appellate Decision of the Moscow City Court of Mar. 28, 2014, in case No. 33-10143] 2014, http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=SOJ;n=880235;dst=0;rnd=180312.22770889103412628;SRDSMODE=QSP_GENERAL;SEARCH PLUS=%B9%20%1033-10143;EXCL=PBUN%2CQSBO%2CKRBO%2CPKBO;SRD=true;ts=1947897974180312206450904021039

\textsuperscript{85} Plaintiff does not have these burden of proof in cases of distributing false and depraved data about a citizen.

\textsuperscript{86} GK RF art. 152(10), (11) (Russ.).

\textsuperscript{87} The norms of Article 152, “Protection of honor, dignity and goodwill” apply to a citizen. Only section 11 of Article 152 states that norms of this article on protection of a goodwill applies to companies.

\textsuperscript{88} GK RF art. 152(10) (Russ.).

\textsuperscript{89} See Postanovlenie Vosemnadcatogo Arbitrazhnogo Apelliaciionnogo Suda ot 24 iiul' 2015 g., No. 18AP-8060/2015 po delu No. A76-17229/2014 [Decision of the Eighteenth Arbitration court of July 24, 2015, No. 18AP-8060/2015 on case No. A76-17229/2014] http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=RA PS018;n=85948;dst=0;rnd=180312.8234862918034196;SRDSMODE=QSP_GENERAL;SEARCHPLUS=N%2018%0C0%CF-%

\textsuperscript{8060/2015;EXCL=PBUN%2CQSBO%2CKRBO%2CPKBO;SRD=true;ts=8772152741803120390830279793

5903 (Russ.).
Upon the request of a citizen, an operator of a search engine should remove false information about this person. Conditions of removing a link to false information by the operator of a search engine arise when the search engine operator distributes advertisements on the Internet, the information is distributed on the Russian segment of the Internet, and the applicant lives in Russia. In addition, an applicant should provide the following information: personal data, including surname, name, patronym, and contact information; consent for the processing of personal data; the content of the false information; a reference to a web-page with false information; and a basis for denial of delivering the links. An operator can give an applicant a motivated refusal. In the case of refusal, a citizen can appeal to the court. In fact, this norm is the realization of a technical measure to protect the rights of a citizen from the distribution of false data. This norm is fully codified in section 10 of Article 152 of the Civil Code.

The main issue search operators face is a question of who will verify the authenticity of the information? The operator can ask the applicant to specify a request, but the law does not require the applicant to review and verify the information for authenticity. Usually, this aspect will be determined by a court. But for deleting a link from the search engine, a judicial act is not required. However, no one knows how this law will work out. It will come into force on January 1, 2016.

A citizen can be protected from distribution of false information by the following legal measures: refutation of false information in the same media source and in the same way; publication of an answer in response to the false information published in the same media source; a replacement or withdrawal of a document of a company that contains false information; removal of any corresponding information from the Internet; denial of further distribution of the false information; compensation for damages; and removal of links from search engines on the Internet. Only the last method, removal of a link from a search engine, is used by an operator of a search engine.

---


91 The methods of protection are explained in depth in Part III, section A, “Civil Responsibility.”
III. Liability for the distribution of defamation on the Internet.

A. Civil liability

Civil responsibility is a proprietary responsibility. Civil liability has the following elements: an infringement of the norms of civil legislation, breach of contract or improper fulfillment of contract obligations; that is the fault of the infringer; which results in the infliction of material or moral damage; and is the actual cause of plaintiff’s damages.\textsuperscript{92} The subjects of liability for distribution of defamation and insult include: the author of information in the media or the editorial board of media organization if there is no author; the organization, if the information was distributed by its employee on behalf of company’s name (for example, recommendation letter); a person, on behalf of whom the information was distributed on a web-site; or a blogger or web-site/domain name owner.\textsuperscript{93}

When information is disseminated, which defames honor, dignity and the reputation of a citizen,\textsuperscript{94} liability comes in the form of compensation for moral damages or compensation for losses: monetary damages.

Moral damage is any physical or moral suffering caused by actions or non-actions that encroach on the non-material goods of a citizen: their honor, dignity, or reputation.\textsuperscript{95} Monetary compensation for moral damages is considered separately from compensation of losses. Therefore, the court should take into account the degree of moral and physical suffering in relation to the individual peculiarities of the citizen who was harmed. To define an amount of compensation for moral damages, the court takes into account the degree of fault of the infringer and other substantial considerations. If defamation or insult is distributed in the media, the court should take into account the character and contents of a publication as well as how widely the information was distributed. Monetary damages and moral damages will be awarded only to the plaintiff. However, there is a novelty in the Russian law that excepts compensation of moral damages for legal entities.\textsuperscript{96}

The principle of full compensation for damages is defined in Article 15 of the Civil Code. Monetary damages include direct damages and loss of profits. Usually, this rule is

\textsuperscript{92} GK RF art. 401 (Russ.).

\textsuperscript{93} This assumes that an owner of a web-site in fact created technical opportunity for anonymous presence.

\textsuperscript{94} This can be defamation or insult.


\textsuperscript{96} A method of protecting the goodwill of legal entities by means of compensation for moral damages existed in the Russian legislation from 2003 to 2013.
applied to legal entities, however, it is very difficult to prove loss of profits. A supply agreement and termination letter from a contractor that terminates a contract because of defamatory information could help to calculate loss of profits.\footnote{See Postanovlenie Arbitrazhnogo Suda Moskovskogo Okruga ot 23 mart 2015 g., No. F05-1531/2015 po delu No. A40-54340/14 [Decision of the Regional Arbitration Court of Moscow of Mar. 23, 2015, No. F05-1531/2015 in case No. A4054340/14] 2015, http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=AMS;n=219358;dst=0;rnd=180312.89198701935462;SRDS MODE=QSP_GENER;SEARCH PLUS=%B9%20%D405-1531/2015;EXCL=PBUN%2CQSBO%2CKRBO%2CPKBO;SRD=true;ts=48430181518031237523182349612 (Russ.).}

Under Russian law there are some specific instances of liability of domain name and web-site owners for the placement of defamation on their Internet resources. Usually, a plaintiff asks not only for removal of the libelous material, but also for compensation for the moral damages, or compensation for losses. In these circumstances, the following should be noticed. An owner of a web-site is objectively limited in his or her ability to determine the authenticity of information placed on the site by third parties. A website owner cannot unconditionally delete defamatory information if its unreliability cannot be proved. In case of doubt, the defamatory character of the information should be proved by a decision of a court. A web-site owner will be liable for his or her refusal to delete information from a site only after a court establishes that this information is defamatory.\footnote{See Postanovlenie Arbitrazhnogo Suda Moskovskogo Okruga ot 21 iul’ 2015 g., No. F05-8820/2015 po delu No. A40-69753/14 [Decision of the Regional Arbitration Court of Moscow of July 21, 2015, No. F05-8820/2015 in case No. A40-69753/14] 2015, http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=AMS;n=226381;dst=0;rnd=180312.0093467922437191;SRDS MODE=QSP_GENER;SEARCH PLUS=%D405-8820/2015;EXCL=PBUN%2CQSBO%2CKRBO%2CPKBO;SRD=true;ts=162847895218031231987890554599013 (Russ.).}

Moreover, if a web-site owner allows for the creation of blogs on its site, the responsibility for distribution of defamation will be imposed on the blogger, or the author of libelous information.

A citizen, Sergeev, brought an action against the company Muros with a claim concerning the protection of his honor and dignity. The company distributed defamatory statements on its page in LiveJournal. Mr. Sergeev also brought action against a co-defendant, the US company LiveJournal Inc., asking for the refutation and removal of the libel. The court refused to recognize LiveJournal Inc. as a co-defendant based on the following. As a registered user who created an online blog using the services of LiveJournal, a registered user is an owner of corresponding page on a web-site and has an ability to post text or other information or content there. Muros operated a blog on LiveJournal, and it is a blogger. Thus, as a blogger, the company has additional obligations and by a decision of the court should refute
the defamatory information. If Muros is unable to perform this duty, a plaintiff is able to enforce the court decision and demand that LiveJournal Inc. execute it.\textsuperscript{99}

There are also special means of protection of the honor, dignity and reputation of a citizen. These means include: refutation of defamation or insult in the same media source in the same way; publication of an answer on defamation and insult in the same media; replacement or removal of a document of a company, which contained insulting or defamatory information;\textsuperscript{100} removal of corresponding information from the Internet; or suppression of further distribution of defamatory or insulting information.\textsuperscript{101} Apologizing is not a remedy for the legal protection of honor, dignity and reputation under Russian law. But the court can approve a settlement agreement, according to which parties may mutually agree to the defendant’s apologies.

There is no statute of limitation for actions commenced to protect a citizen’s honor, dignity and reputation.\textsuperscript{102} However, if the editorial board of a media organization denied to retract the defamatory information or denied to publish an answer, the statute of limitation for a denial action is one year.\textsuperscript{103} There is no such thing as a statute of limitation for an action brought by a person, information about whom was distributed, against an editorial board of a media organization to protect his honor, dignity and reputation.\textsuperscript{104}

The following cases are exceptions from liability of media, including the Internet media, for distribution of defamatory, insulting or false information under the current Russian law. These exception apply if the information is: \textsuperscript{105} received from a news agency; contained in a response to a request for information or in materials of press-offices of the state bodies and organizations or interviews; a word-for-word reproduction of fragments of official speeches of the state officials or companies' officials; a quotation of materials of other media


\textsuperscript{100} This might be a letter of reference or a recommendation.

\textsuperscript{101} Withdrawal/confiscation without compensation of a publication or edition, for example.

\textsuperscript{102} Except for cases provided by the law. GK RF art. 208 (Russ); \textit{id.} at art. 152(10) (Russ.). One of such case is distribution of false information about a citizen in media. The statute of limitation for such action is one year. \textit{Id.} at art. 152(1).


\textsuperscript{105} Federal Law of the Russian Federation on Mass Media, art 57.
sources contained in works of authorship, which are transmitted without pre-recording, or in
texts, which are not to be edited;\textsuperscript{106} or the information exists in mandatory messages of an
editorial board of media organization or the Roskomnadzor.

In the Regnum case, the Chief Editor of the news agency Regnum filed a law suit
against the news agency Interfax to protect his honor, dignity and reputation. Interfax pub-
lished an article with a phrase: “unnamed source from the Administration of the President of
the Russian Federation mentioned,” that “he was fired from the Administration for profes-
sional impropriety and with a bad trace.”\textsuperscript{107} The court decided that this publication was the
material of a press-service of a state authority, and the same information existed in other me-
dia. Such conditions released Interfax from liability.\textsuperscript{108}

An Internet provider will be relieved from liability if it transmits the information with-
out changes, and was not aware, or unable to become aware, about the illegality of the dis-
tributed information.\textsuperscript{109} Generally, Internet providers do not create information, but just
transmit it, as an access provider, or store it having no access to its contents, as a hosting pro-
vider. In this regard, there is no fault for them in the distribution of defamatory information.
This fact provides for an exception from liability of a provider for the technical distribution
of defamatory and insulting information.

B. Criminal and administrative liability for defamation and insult.

1. Criminal liability for defamation.

Defamation is criminalized in the Russian Federation.\textsuperscript{110} Criminal liability is triggered
if a person intentionally disseminates defamatory information that detracts from the honor
and dignity of another person or hits his reputation.\textsuperscript{111} This crime is formal. The crime will be
considered completed at the time the defamatory or libelous statement is distributed, and will

\textsuperscript{106} This rule is also applied to the Internet media. In case of publication of commentaries of readers without edit-
ing (for example, on a forum) on the Internet web site.
\textsuperscript{107} V. Rossi, Kreml’ Prizyvayet k Ostorozhnosti Pri Pol’zovanii Informatsiyey "Regnuma," INTERFAX (Dec. 8
2010), http://www.interfax.ru/russia/168305 (Russ.).
\textsuperscript{108} Opredelenie Moskovskogo Gorodskogo Suda ot 28 iyun’ 2011 g., po delu No. 33-19635 [Decision of the
Moscow City Court of Jun. 28, 2011, in case No. 33-
19635] 2011, http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=SOJ;n=123221;dst=0;rnd=180312.27
6637812377885;SRDS MODE=QSP _GEN ERAL;SEARCHPLUS=%B9%2033-
19635;EXCL=PBUN%2CQSBO%2CGRBBO%2CNPBBO;SRD=true;ts=1167830505180312860850719735026
4 (Russ.).
\textsuperscript{109} Federal’nyi Zakon No. 149-FZ RF o Ob Informacii, Informacii, Tekhnologii i O Zashchite Informacii
[Federal Law No. 149-FZ of the Russian Federation on Information, Information Technologies, and Inform-
\textsuperscript{110} UK RF art. 128(1) (Russ.).
\textsuperscript{111} False information should be specific, i.e. contains information which might be verified.
not be dependent on the occurrence of damages. In other words, damage is not a necessary element of defamation.

One specific aspect of the criminal liability for defamation under part 1 of Article 128.1 of the Criminal Code is that these cases are cases of private prosecution. This means that they are initiated only by a request of an individual instead of a prosecutor. The question, whether or not distributed fabrications are defamation, will be decided by the complainant. However, the court has to determine whether or not defamation has occurred, based on the court’s understanding of the level of social danger of the harm caused to the complainant. Today, most of the cases on defamation are resolved in civil proceedings, including cases where elements of criminal defamation exist. A basis for excluding criminal liability could be a settlement between the parties.

In order to qualify defamation as an offense, it is very important to establish not only its presence, but that the information has been distributed by a person legally capable of committing the offense. The subject of the crime, the offender, is a sane, physical person, at least 16 years old; special subjects include journalists, bloggers and state officials.

The Federal Law No. 141-FZ has differentiated criminal liability for defamation into various offenses. The Criminal Code provides four specific types of offenses. The first offense includes defamatory statements contained in a public speech, made at a public demonstration or on a work published on the mass media. The punishment for such acts is a fine up to one million rubles or corrections work up to 240 hours. The second offense concerns defamatory information in an individual’s capacity in their official position. The criminal punishment provided for this act is a fine up to two million rubles or correction work up to 320 hours. Third, criminal liability arises from a defamatory statement that states that a person suffers from an illness, which is dangerous for society, or defamation linked with the ac-

---

112 UGOLOVNYI-PROTESSUAL’NYI KODEKS ROSSIISKOI FEDERATSII [UPK RF] [Criminal Procedural Code] art. 20(2) (Russ.).
114 Publicity of a speech or public demonstration means informing many persons in mass media, the Internet and public events about defamatory fabrications. UK RF art. 128(1), (2) (Russ.).
115 Id. § 3.
cussion that a person committed a sexual crime. This may result in a penalty up to three million rubles or correction work up to 400 hours. Finally, criminal liability exists for defamation linked with an accusation of a person who commits a grave, or especially grave crime. The punishment for this offense is a penalty up to five million rubles or correction work up to 480 hours.

However, criminal liability will not apply if a person has made an honest mistake and distributes disgraceful false data, and, although disgraceful, the information is authentic and true. A person is excluded from criminal liability due to the expiry of statute of limitations. Subjects of this protection could be citizens and legal entities who think that disgraceful, false information about them was distributed.

Criminal liability for defamation towards a judge, juror, prosecutor, crime investigator, inquiry officer, bailiff is quite rare.

A general insult offense was decriminalized in 2011. Insult is now an administrative violation. Administrative liability is triggered if a person committed actions intended to humiliate the honor and dignity of another person in an offensive way, and the humiliation was intentional. This offense is formal. That means that a causal relationship between the wrongful act and the harm that results is not a necessary element. The subject of an administrative defamation violation is a sane physical citizen, at least 16 years old. The penalty for the administrative offense is a fine, varying in amount from 1,000 to 3,000 rubles for a citizen’s offense; by officials – from 10,000 to 30,000 rubles; by legal entities – from 50,000 to 100,000 rubles.

116 A woman was penalized with a penalty of 100,000 rubles for distribution of defamation about hepatitis C and the dissolve life regarding a complainant. See Apellyacionnoe Opredelenie Moskovskogo Gorodskogo Suda ot 14 iul 2015 g., po delu No. 10-8112/2015 [Appellate Decision of the Moscow City Court of July 14, 2015, on case No. 10-8112/2015] 2015, http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=SOJ;n=1280777;dst=0;rnd=180312.12544288230128586;SRDS MODE=QSP GENER AL;SEARCH PLUS=%%B9%2010-8112/2015;EXCL=PBUN%2CQSOBO%2CPRBO%2CPKBO;SRD=true;ts=6792761751803125679372027516365 (Russ.); UK RF art. 128.1(3) (Russ.).
117 Id. § 5
118 This crime is non-grave. The statute of limitation is 2 years. Id. at art. 78(1) (Russ.).
119 Statistical data of the Juridical Department of the Supreme Court of the Russian Federation indicates that there were only two judgments of conviction in the year 2013 and no convictions in the year 2014. See Dannyye Sudebnoy Statistiki, supra note 4.
120 Special aggravations remain in the Criminal Code. See, e.g., UK RF art. 148(1), (2); Id. at art. 297; Id. at art. 319. Under Article 148, only one conviction occurred between 2013 and 2014. In comparison, under Article 319, conviction rates rose to 7,872 people convicted in 2013, and 8,851 convicted in 2014. The two latter aggravations are difficult to commit via the Internet, as they require the personal presence of the parties. This is why these crimes will not be covered in this article.
121 KOAP RF art. 5.61 (Russ.).
Section 2 of Article 5.61 of the CAV provides for an aggravation of that administrative violation of insult in the form of public speaking, public demonstration of a work, or in mass media. The qualifying element for such violations is the publicity of the insulting actions, which publicly humiliates a person. This can happen via the Internet, for example. Penalty for this type of administrative offense for citizens is a fine in amount of 3,000 to 5,000 rubles; for officials – from 30,000 to 50,000 rubles; for legal entities – from 100,000 to 500,000 rubles.

The Russian Administrative legislation introduced another novelty in defamation law that established liability for the failure to take measures to stop or prevent insult in a public demonstration of a work or in mass media. The subjects of liability for this administrative violation can only be officials and legal entities that should have prevented the insult in the performance of their duties. These officials may be editors of newspapers, magazines, other mass media publications, or other people who are responsible for the preparation and publication of a public demonstrated work or mass media publication. The penalty for not preventing insult for officials is fine in amount from 10,000 to 30,000 rubles for citizens, and 30,000 to 50,000 rubles for legal entities.

Despite the positive preventative character of such aggravation, in practice, there can be specific issues in qualification of such acts and ability to prove fault of the officials and legal entities, especially if it happens on the Internet. In this case, Internet mass media publications are partially relieved from responsibility as provided Article 57 of the Federal Law No. 2124-1 of the Russian Federation on Mass Media (“Federal Law No. 2124-1”). Bloggers, on the contrary, will bear full responsibility as well as officials, or legal entities. The duty to respect the rights and legal interests of citizens and organizations, particularly honor, dignity and goodwill of citizens, is provided by Article 10.2 of the Federal Law No. 149-FZ. The same liability can be imposed on web-site or forum administrators, but only if these responsibilities are established by their employment obligations.

Internet service providers do not have this duty. If they are not able to edit the information, it is not possible to prove their fault and technical ability to prevent the distribution

---

122 Id. § 3.
124 If a blogger is a physical person.
125 This is true if a blogger is a company.
The liability of a provider in this case occurs only if its fault is established by a decision of the court. However, the legal practice of imposing liability for distribution of insult on the Internet providers shows that there were no cases where fault of provider was proved. Moreover, there is not yet a legal practice of holding providers administratively liable based on section 3 of Article 5.61 of the CAV.

Before 2012, the statute of limitation for these actions was two years. These cases were investigated by the police department, or a complainant filed a law suit himself. According to the current law, a statute of limitation for all these administrative violations is three months from the moment when the act has occurred. A case can be filed with the court by a public prosecutor. Settlements are not allowed in administrative proceedings. Many cases do not reach a court due to the expiration of the statute of limitation; on the Internet, it is not easy to determine who the defendant should be, especially if it is anonymous.

One of specifics of the protection of honor and dignity of a citizen from defamation and insult under Russian law, apart from the initiation of administrative or criminal proceedings, is the ability to file a civil law suit for compensation for moral damages. For example, citizen N. was convicted for defamation. One month after the judgment came into legal force, the plaintiff filed a law suit for compensation for moral damages. The court upheld the plaintiff’s claim. When the court considers a civil case which was based on a criminal case, it cannot determine fault or guilt of a defendant, but only defines an amount of remedy. In the criminal case, as a result of criminal conviction, N. paid a penalty to the State, the Russian Federation. According to the decision of the court in the civil case, he submitted a retraction on the websites where the defamation was distributed and compensated the Complainant for moral damages.

---

127 A legal entity might be considered guilty for the administrative crime if it is discovered that it had the capabilities to follow the rules and norms, breach of which incur administrative liability, but this entity did not apply its best efforts to follow them. KOAP RF art. 2(1),(2) (Russ).
128 See Apellyacionnoe Opredelenie Rostovskogo Oblastnogo Suda ot 14 iiun’ 2012 g., po delu No. 33-6469 [Appellate Decision of the Rostov Area Court of Jun. 14, 2012 on case No. 33-6469] 2015, http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=SOI;n=224718;dst=0;rnd=180312.9932317838538438;SRDS MODE=QSP GENERAL;SEARCH PLUS=%B9%2033-6469;EXCL=PBUN%2CQSBO%2COKBO%2CPKBO;SRD=true;ts=1954301941803126272082263603806 (Russ.).
129 See Apellyacionnoe Opredelenie Verhovnogo Suda Respubliki Dagestan ot 21 mai 2015 g., [Appellate Decision of the Supreme Court of Dagestan Republic, May 21, 2015 on case No. 33-2137/2015, 2015, http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=SOI;n=1206219;dst=0;rnd=180312.2674235829617828;SRDS MODE=QSP GENERAL;SEARCH PLUS=%B9%2033-2137/2015;EXCL=PBUN%2CQSBO%2COKBO%2CPKBO;SRD=true;ts=60608072918031244791854033246636 (Russ.).
In this respect, individuals who are liable for defamation and insult on the Internet are mainly citizens-users of this network. It should be noted that the number of people convicted for defamation that was publicly distributed in mass media and the Internet was 14 in 2012, 11 in 2013, and 14 in 2014.\textsuperscript{130} In 2011, 25 people were convicted for public insult.\textsuperscript{131} Based on this data, we see that defamation on the Internet as a criminal offense is extremely rare. Also, citizens prefer to use civil mechanisms of protection of their rights, instead of punishing the defamer.

CONCLUSION

Questions of honor, dignity and reputation in the Russian legislation have a purely private character and the State does not interfere with the private life of its citizens. Insult was decriminalized, and although defamation stayed in the Criminal Code, these are still cases of private prosecution.

With the development of the informational space of the Internet and desire of the State to control it, the requirements for participants of the Russian segment of the Internet have changed accordingly. If the majority of distributors of information on the Internet in the past were mass media publications, now, anyone can distribute information. The Internet has become one of the most convenient and accessible sources of information. Unlike professional journalists, users of the network do not always fully understand the consequences of their insulting and defamatory acts. That is why a lot of information that appears on blogs, social networks and commentaries is false, detractive, and insults the honor, dignity and reputation of a personality.

Therefore, the State has provided for additional requirements for professional Internet users: namely, bloggers. One such requirements, apart from prohibiting the distribution of false, detractive information, is the requirement of verifying the authenticity of distributed information. This legal requirement has created quite a strong reaction amongst the Internet-society. Nevertheless, that does not mean that the State attempts to interfere with the Internet or censure it. The State has attempted to make the Internet more ethical, and tried to prevent the widely spread distribution of defamation and insult. Internet providers are excluded from liability, because the distribution of defamation and insult assumes intentional fault.

\textsuperscript{130} See \textit{Dannyye Sudebnoy Statistiki}, supra note 4.

\textsuperscript{131} According to the data of the Juridical Department of the Supreme Court of the Russian Federation, insult was decriminalized in July 2011. \textit{Id.}
The ethics and morality of communication have never been controlled by the State, and with appearance of the Internet, the situation is the same. The mechanism which protects honor and dignity is fully self-regulated. The State only provided for methods of civil protection and has criminalized some of the most socially dangerous acts of impairment of rights and freedoms of citizens, such as defamation. Though, citizens do not often use criminal means to prosecute for defamation. Also, it should be noted that the State is very tolerant of the critique of politicians and state officials.\textsuperscript{132}

Most difficulties exist with the application of the law that requires search engines operators to delete unreliable and irrelevant information. At the moment, only courts and law enforcement agencies can establish the unreliability and depravity of information.

In conclusion, we should emphasize that the Russian segment of the Internet in the legal area of protection of honor, dignity, and reputation of a citizen is based on principles of self-regulation.\textsuperscript{133}

\textsuperscript{132} The historical traditions and mentality of Russia.

\textsuperscript{133} Self-regulation means regulation of relations without government interference.