

## Liability issues of news agencies

### *1. The concept, features, types of media. A legal status of Internet publications/ websites.*

Art. 1 of the Law "On mass media" (hereinafter the "Law on Mass Media") provides a comprehensive list of media types, which include:

newspapers, magazines and the annex thereto, almanacs, books, bulletins/newsletter, occasional publications intended for public distribution, with a permanent title, as well as television and radio broadcasting, film and video studios, audiovisual recording and software produced by government agencies, news agencies, political, social and other organizations, individuals.

The list of types of mass media can be divided into a group covering periodicals (newspapers, magazines, etc.), and a group of television and radio broadcasting, film and video studios, audiovisual records and programs.

News agencies, placing information on websites (the "Online publications") do not belong to any of the groups and fall within the legal definition of the Mass Media, therefore, they are not the Mass Media.

However, it should be noted that Online publications as well as traditional Mass Media, ensure collection, processing and dissemination of public information on a massive scale. The existing Online publications contain information intended for the general public, and have the form of periodical distribution, therefore, these Online publications can be considered as the media.

In addition, the issue of registration with the justice authorities should be considered as a legal criterion that distinguishes Online publications from Mass Media. Thus, the law provides that any kind of Mass Media shall register with the justice authorities of the KR in order to carry out their activities, which is inappropriate for Online publications because, even though they meet the essential features of traditional Mass Media, they are not defined by the legislation as Mass Media. Ministry of Justice of the Kyrgyz Republic shares the same point of view. Namely, the latter refuses to accept voluntarily submitted applications to register Online publications as Mass Media, justifying its refusal by the uniqueness of dissemination of information on the Internet, the complexity of determining the maximum volume of the number, circulation and areas of product distribution. These features are necessary for registration of traditional Mass Media.

However, as practice has shown, Online publications often register as non-profit organizations or entities (LLC).

Thus, despite the fact that the Online publications correspond to all Mass Media attributes and perform functions similar to those of traditional mass media, currently their formal legal status has not been determined.

### *2. Issues of liability of online publications / websites*

When considering issues of liability, it should be noted that the Law on Mass Media was passed in 1992, and it was amended only once in 1993, i.e., the Law was passed 19 years ago. At the time of the adoption of this Law such things as an online resource or website did not exist in the Kyrgyz Republic.

However, for the recent years, news agencies, placing information on websites, has become the main provider of information. TV channels, radio stations, print media are often based on information provided by news agencies.

Failure to legally classify online news agencies and websites as mass media is the gap of the current legislation of the Kyrgyz Republic. The legislation of the Kyrgyz Republic does not contain definition of the website as a source of information.

However, Article 1 of the Law on Mass Media establishes characteristic features of mass media. These are the entities maintaining a permanent name and dealing with public dissemination of information. The above stated features, such news agencies (as akipress.kg, 24.kg) are fully consistent with the above stated features, since the activities of agencies are focused on daily operational deployment of socio-political, news and other information on their websites.

We believe that the above allows applying to legal relations connected with the activities of news agencies, by analogy the provisions of the Law on Mass Media (p.1 of Art. 5 of the Civil Code of the Kyrgyz Republic).

Thus, even if the court recognizes the distributed information inconsistent with the reality, the news agencies cannot be entrusted/imposed with the measures of civil liability in the form of compensating non-pecuniary damages and publishing a refutation, as Article 26 of the Law on Mass Media stipulates that bodies of Mass Media are not responsible for spreading information in mass media that does not correspond to reality:

- a) if the information is contained in the official documents and messages;
- b) if they are obtained from news agencies or press services of state and public authorities;
- c) if they are literal reproduction of public speaking;
- g) if they are contained in the statements of citizens that go on air without an appointment.

Thus, when considering the issue of news agency's liability, which have placed the information on the websites for the dissemination of information not corresponding to reality, we come to conclusion that the argument of news agencies in limiting their liability is a reference to the fact that every time they perform only as an information platform for dissemination of information previously placed by press service of any state authority of the Kyrgyz Republic or reproduced through public statements at a press conference or other means, i.e., act as Mass Media, and therefore, by virtue of Article 26 of the above Law on Mass Media, news agencies are exempt from incurring liability for dissemination of relevant information contradicting to the reality.