

# PROTECTING THE BUSINESS REPUTATION OF BUSINESS SUBJECTS: NATIONAL AND FOREIGN EXPERIENCE

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## Abstract:

This article reflects the importance and necessity of protecting the business reputation of business entities, the legal guarantee of the business reputation of business entities in national legislation, the guarantees stipulated in the legislation of foreign countries, and the rules of proceedings in this regard.

**Keywords:** business entities, business reputation, business reputation, protection of business reputation.

## INTRODUCTION

Today, large-scale reforms are being implemented to improve the income of the population by supporting business entities and developing the economy. The main goal of these ongoing works is to develop the economy by supporting small business entities.

Taking into account the importance of the reforms implemented in this field for the state and society, there is a need for a systematic study of the means of protecting the business reputation of business entities and development of the field.

Issues related to the regulation of intangible benefits such as honor, dignity and business reputation are very relevant for entrepreneurs in the conditions of actively developing trade turnover. It's no secret that the business of any entrepreneur is closely related to information that reflects his moral and business qualities, so their negative evaluation can have a significant impact on the well-being of the business entity.

In this regard, the protection of intangible benefits belonging to a person is important, because an entrepreneur should know how to act in a specific situation, if his rights are violated.

Protection of honor, dignity and business reputation has its own characteristics.

As for the methods of protecting the business reputation of business entities in the national legislation, first of all, in accordance with Articles 31 and 55 of the Constitution of the Republic of Uzbekistan, everyone has the right to the protection of personal information, as well as the right to correct incorrect information, collected about him illegally or without legal grounds. has the right to request the deletion of the remaining data.

Everyone has the right to protect their rights and freedoms in all ways not prohibited by law, and everyone is guaranteed the right to protect their rights and freedoms through the courts, to

appeal to the court against illegal decisions, actions and inactions of state bodies and other organizations and their officials<sup>1</sup>.

Also, a person's life and health, honor and dignity, personal integrity, business reputation, the right to a name, the right to an image, copyright are recognized as personal non-property rights, and the law includes a number of guarantees.

In accordance with the requirements of Article 100 of the Civil Code, a legal entity shall perform the following actions in cases where information damaging its honor, dignity or business reputation is disseminated<sup>2</sup>:

- Request a judicial rebuttal. This case is used in situations where the information disseminated by a person who harmed the business reputation of a legal entity is not considered true.
- If the information damaging the business reputation of a legal entity is found in a document obtained from other organizations, this document will be replaced or revoked based on a court decision.
- Non-enforcement of a court decision aimed at restoring business reputation will result in a fine being imposed on the violator.
- A legal entity that has damaged its business reputation has the right to demand compensation for damages and moral damage caused by the dissemination of information. Also, this norm is defined in the Law "On Guarantees of Freedom of Entrepreneurial Activity", which directly regulates the activities of business entities and reflects the system of its guarantees. According to its article 35, the business entity may receive information that harms its business reputation, if the person who disseminated such information is their if he cannot prove that it is true, he has the right to demand a denial in court.

If the information damaging the business reputation of the subject of business activity was distributed in the mass media, the denial of this information should be given in the same mass media. If such information is contained in a document received from the organization, such document must be replaced or recalled. In other cases, the order of refusal is determined by the court<sup>3</sup>.

In the case of dissemination of information damaging to the business reputation, the subject of business activity has the right to deny such information as well as demand compensation for the damage caused by its dissemination and compensation for moral damage.

If we refer to the experience of foreign countries in this regard, the Constitution of the Russian Federation stipulates that everyone has the right to protect their rights and freedoms by all means not prohibited by law, and this right is guaranteed<sup>4</sup>.

Article 151 of the Civil Code of the Russian Federation envisages the possibility of financial compensation for moral damage in case of violation of personal property rights of a person<sup>5</sup>.

<sup>1</sup> Constitution of the Republic of Uzbekistan // National database of legislative information, 01.05.2023, No. 03/23/837/0241

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<sup>3</sup> "Law on Guarantees of Freedom of Entrepreneurial Activity", National Database of Legislative Information, 30.06.2022, No. 03/22/782/0576

<sup>4</sup> [https://www.consultant.ru/document/cons\\_doc\\_LAW\\_28399/](https://www.consultant.ru/document/cons_doc_LAW_28399/)

<sup>5</sup> Гражданский кодекс Российской Федерации от 30.11.1994 г. № 51-ФЗ (ред. от 31.01.2016). Справочно-правовая система «Консультант Плюс». URL:[http://www.consultant.ru/document/cons\\_doc\\_LAW\\_5142/](http://www.consultant.ru/document/cons_doc_LAW_5142/)

Article 152 of the Civil Code guarantees business reputation to business entities with the following protective measures:

- To remove, copy, destroy and prohibit further distribution of information that harms honor, dignity or business reputation. This method is used in cases where the information damaging the honor, dignity or business reputation of a legal entity is not widely known and the denial cannot be brought to public attention.
- Removal of information that harms honor, dignity or business reputation, demand that the objection to the indicated information is brought to the attention of Internet users. This method of protection is used in the event that information that harms honor, dignity or business reputation is available on the Internet after its distribution.<sup>6</sup>

In the Civil Code of the Republic of Kazakhstan, the introduction of a separate chapter dedicated to the protection of honor, dignity or business reputation has become a guarantee of the protection of personal property rights of a person through the court.

In particular, the concept of business reputation was defined for the first time according to the decision of the Supreme Court of Kazakhstan dated December 18, 1992 No. 6 "On the protection of citizens' honor, dignity and business reputation" in judicial practice, as follows: Business reputation is a stable positive assessment of a person's business (production), professional) services by public opinion.<sup>7</sup>

In the Republic of Azerbaijan, information in a general sense means any information (verbal or written statements), as well as information recorded and distributed about the life of a citizen, his actions, the activities of a physical or legal entity. may contain information indicating a mismatch between the qualities required for promotion; about the low quality of the offered products or services, their non-compliance with the established standards; about the subject's dishonest, dishonest behavior towards customers and counterparties, etc<sup>8</sup>. Defamation, in particular, information containing allegations of violation of applicable laws, dishonest behavior, wrongful, immoral behavior by a citizen or legal entity. personal, public or political life, production, economic and entrepreneurial activity includes false confidence, violation of work ethics or business practice that lowers the honor and dignity of a citizen or the business reputation of a citizen or a legal entity<sup>9</sup>.

According to Ukrainian legislation, the concept of business reputation is not reflected, only according to the decision of the Plenum of the Supreme Court of Ukraine dated February 27, 2009 No. 1 "On judicial practice on protecting the honor and dignity of an individual, as well as the business reputation of an individual and a legal entity." , business reputation means the assessment given by the public to the business and professional qualities acquired by a person during the performance of his work, service, public or other obligations, as well as to the business and professional qualities acquired by a legal entity (including natural persons)<sup>10</sup>.

6 Рожкова М.А. О некоторых вопросах применения статьи 10 Гражданского кодекса Российской Федерации при рассмотрении дел о защите чести, достоинства и деловой репутации // Комментарий судебной практики / Под ред.К.Б. Ярошенко. Вып. 20. М., 2015. С. 3–11

7 [https://online.zakon.kz/Document/?doc\\_id=31056716&pos=6;-106#pos=6;-106](https://online.zakon.kz/Document/?doc_id=31056716&pos=6;-106#pos=6;-106)

8 Аббасов Р.Г. Гражданско-правовая защита чести, достоинства и деловой репутации. Баку: Араз, 2002

9 Анисимов А. Л. Гражданско-правовая защита чести, достоинства и деловой репутации по законодательству Российской Федерации: Учебное пособие. М.: Владос-Пресс, 2001

10 <https://www.legalalliance.com.ua/rus/publikacii/osobennosti-sudebnoj-zasity-i-dokazyvaniya-po-delam-o-zasite-delovoj-reputacii/>

According to the legislation of Ukraine, any person whose business reputation has been damaged can use the following protection methods:

- request data deletion;
- exercising the right of reply;
- demand the denial of false information;
- appeal to the court with a request to reject false information and recover damages and (or) moral damages caused by the dissemination of such information<sup>11</sup>.

In accordance with the requirements of the Civil Code of Ukraine, a person can file a lawsuit to deny false information within one year from the moment when a person knows (may have known) that an offense has been committed.<sup>12</sup>

Also, the cases in which the protection of honor and business reputation cannot be carried out through the court are clearly defined, which include the following:

- Dissemination of correct information available in official sources as public domain (information obtained from the state, registers, declarations, statistics);
- Regarding public figures who influence the life of society (politics, economy, culture, social sphere);
- If as a result of giving instructions, one's honor, dignity, and business reputation are damaged;
- Expressing valuable opinions, beliefs, opinions, critical evaluation of some facts (if the subjective opinion is expressed in an obscene, derogatory way, the issue of compensation for moral damage will be considered);
- If a reference to an official source is indicated in the dissemination of information.
- According to the requirements of Article 18 of the Civil Code of Georgia, a business entity whose business reputation has been damaged will be able to use the following means of protection:
  - If the information that degrades the honor, dignity, professional reputation of a person, encroaches on the secret of personal life is distributed by the mass media, they should be rejected by the same means;
  - If such information is contained in a document issued by the organization, this document should be changed and interested parties should be informed about it;
  - The person to whom information degrading his honor and dignity has been published in the mass media should publish response information in the same mass media;
  - If the offense was caused by a culpable act, the person should demand compensation for the damage (damages) caused;
  - Requiring profit received by the offender as compensation for damages.
  - In case of culpable aggression, the person who has the right to demand compensation and compensation for non-property (moral) damage<sup>13</sup>.

11 Ивачев И. Деловая репутация юридического лица и ее гражданско-правовая защита // Финансовая газета. 2006. № 13 (март).

12 Маленна М.Н. Защита чести и деловой репутации неопределенного круга лиц // Вестник гражданского права. 2010. № 1. Т. 10. С. 173–180.

13 <https://matsne.gov.ge/ru/document/view/31702?publication=122>

In the Republic of Moldova, in judicial practice, the following actions are distinguished that lead to violation of honor, dignity and business reputation:

First, information must be disseminated.

Dissemination of information derogatory to the honor and dignity of citizens or business reputation of legal entities should be understood as publication of such information in the following sources:

- a) in print;
- b) broadcasting on radio and television, video programs and other mass media;
- c) statement in the service description, statements written in the name of officials;
- d) in a public speech;
- e) to inform several or at least one person in another form;

Secondly, the distributed information should not correspond to the truth, that is false.

Third, the information being disseminated must be discredited.

This situation is related to the fact that any negative information is unpleasant for the person in question. For example, untrue information can be recognized as defamatory.

- 1) about the violation of the current legislation by the person (for example, the person does not have a license to perform any activity);
- 2) violation of moral standards (acting dishonestly, engaging in services of an intimate nature, etc.).

In connection with the development of information technology, the modern judicial practice on the protection of the property rights of business entities may face a number of problems in the application of current legislation in the presence of information that is untrue, damaging to the honor, dignity and business reputation. Modern legislation does not directly regulate relationships that can occur on the Internet. Оммавий ахборот воситалари орқали қандай маълумотлар тарқатилганлиги ва улар қадр-қимматга қанчалик путур етказгани каби масалалар юзасидан амалиётда бир қатор муаммолар юзага келмоқда.

In particular, the clear method of denying information that harms honor and dignity, as well as the time limit for denying, are not clearly expressed in court decisions, which leads to the delay in the execution of this issue and the delay in the restoration of the rights of the interested party.

In addition, several adjournments of the case in the court, as a result of the loss of importance of the dispute due to the suspension of the proceedings due to an unreasonable action, lead to the fact that the plaintiffs are forced to abandon their claims and the applications are left unheard in the courts.

The above-mentioned cases lead to non-compliance with the means of protecting the business reputation of business entities, failure to provide a clear mechanism and effective solution, weakening of the efforts to protect the business reputation from the illegal actions of other persons, in turn, causes a negative impact on the investment attractiveness of the country.

Therefore, it is desirable to improve the existing legal documents and create an effective mechanism on the protection of the business reputation of business entities.



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