

On 14 May 2013, amendments to the Criminal Code of the Republic of Azerbaijan (“**Criminal Code**”) came into effect. The amendments introduce criminal liability for defamation (libel) and affront of a person in public through Internet resources (web-pages of forums, social networks, and the like).

Under the Criminal Code, a place of a criminal offence can be the territory of the Republic of Azerbaijan as well as a territory of a foreign state. Because, previously, there were no provisions on crimes over cyberspace, provisions of the Criminal Code applied in the following cases:

Parties Culprit – Victim	Did Criminal Code Apply?	
	Crime committed in Azerbaijan	Crime committed outside Azerbaijan
Foreign Citizen – Foreign Citizen	Yes	No
Foreign Citizen – Citizen of Azerbaijan	Yes	Yes
Citizen of Azerbaijan – Citizen of Azerbaijan	Yes	No
Citizen of Azerbaijan – Foreign Citizen	Yes	No ¹

Because the provisions on crimes committed on the Internet were absent, affront and defamation on social networks, Internet forums and blogs might not have been subject to prosecution. In majority of cases, those resources are located in the countries of Europe and North America as their location is determined by reference to the server locations of those websites.

Considering the fact that, in the countries above, there might be no clear-cut distinction between a freedom of speech and defamation and affront (or it is different from what Azerbaijani law provides for), publications that can be regarded defamation or affront were possible and available to all Internet users (with the exception of users in the countries with limited access to various Internet resources). In this regard, something that can be qualified as defamation or affront in the Republic of Azerbaijan and, therefore, be a criminal offense, can be qualified otherwise within the framework of a free expression of speech in the country where a particular Internet resource is located.

As a result, application of the provisions of the Criminal Code in the cases where an Azerbaijani citizen insults another Azerbaijani citizen over an Internet resource located outside Azerbaijan was impossible because an act would have been qualified as committed outside Azerbaijan.

In a number of countries, a combat against defamation and affront online has been underway for quite a while and there are examples in the international practice when persons were convicted for defamation and affront over Internet.

For instance, in May this year, for insulting the King of Bahrain, Hamad bin Isa Al Khalifa, on the social network, Twitter, the country’s court sentenced to imprisonment six bloggers referring to their “misusing

¹ Pursuant to the provisions of the Criminal Code, citizens of Azerbaijan committing crimes outside Azerbaijan are subject to the criminal liability if a crime is recognized as such in the Republic of Azerbaijan and in the state, in the territory of which it was committed, and if such persons have not been convicted in that foreign state for the crime.

the right of free expression” and their remarks “undermining the values and traditions of Bahrain's society towards the king on Twitter” (Aljazeera, 15 May 2013).

We would like to note that, from now on, because of the amendments approved, if a person residing in Azerbaijan or abroad posts on an Internet resource (located outside Azerbaijan) false and unreliable information of another citizen of Azerbaijan, then that person can be subject to the criminal liability in the Republic of Azerbaijan.

After the amendments took effect, provisions of the Criminal Code regarding defamation and affront on the Internet would be applicable as follows:

Parties Culprit – Victim	Did Criminal Code Apply?	
	Crime committed in Azerbaijan	Crime committed outside Azerbaijan
Foreign Citizen – Foreign Citizen	Yes	No
Foreign Citizen – Citizen of Azerbaijan	Yes	Yes
Citizen of Azerbaijan – Citizen of Azerbaijan	Yes	Yes
Citizen of Azerbaijan – Foreign Citizen	Yes	No ²

Punishment for defamation and affront over Internet resources is as follows: a fine in the amount ranging from AZN100 to AZN1,000, social or corrective works, or imprisonment for up to six months.

We understand that the issues of prosecution of defamation and affront through other “non-traditional” means of delivery of information, such as, electronic means of delivery (e-mail and text messages), would be governed by the general rules of the Criminal Code, *i.e.*, without regard to the amendments taking effect 14 May this year.

² Please refer to the footnote above.

**PLEASE CONTACT US FOR ANY QUESTIONS AND FURTHER
INFORMATION AT:**

BM Morrison Partners
Tel: (994 12) 497 19 14; 497 19 15
Fax: (994 12) 497 19 13
E-mail: info@bmlawaz.com

©2013 BM Morrison Partners. All rights reserved.

* Information in our updates does not constitute legal or other professional advice.