

Introduction

The government of Belarus is said to have introduced, in 2001, a bill requiring every Internet¹ web-site accessible from Belarus to contain detailed and specific information about the company or person behind the site. But does a single nation have the right to regulate the contents of websites? If the answer is yes, then we run the risk of a worldwide chaos, as Internet web-sites can normally be accessed from all (or almost all) countries. On the other hand, if the answer to the above question is negative, then we face the opposite risk: if no country is entitled to regulate the contents of web-pages, the "Cyberspace" may become a legal vacuum, where all kinds of undesirable phenomena can flourish beyond any legal control. The root of the problem is of a technical nature. It seems that there is at present no reliable software making it possible to divide the Internet along national boundaries. This creates difficulties in particular for defining the territorial limits of application of national law, both public (such as criminal and administrative law) and private (such as the law of contracts and torts). The traditional national rules on jurisdiction and applicable law, based on geographical connecting factors such as the place of contracting, the place of the wrongful act, or the place of performance, are rather unsuitable for the Internet. As put by an observer, the greatest problem with the Internet is that "there is no 'there' there". This must not be misunderstood, though. Anything that happens on the Internet does, of course, happen somewhere in the physical reality, but this place may

be difficult to define and find and it may, furthermore, appear to be fortuitous and irrelevant, for example if a person acts by means of a portable computer and a cellular phone while he or she sits in the transit lounge of an airport between two connecting international flights.

It must, nevertheless, be kept in mind that the existing rules on jurisdiction and choice of applicable law, however unsuited for Internet purposes they may appear to be, are valid law and have to be followed. It is not possible to disregard them simply because they do not seem appropriate or practical, unless they make, or can be interpreted to make, an exception for Internet-related situations.

Another problem arising in connection with discussions about possible alternative solutions *de lege ferenda* is that such solutions must not be too closely tied to the computer technology as it is today, since that technology can become obsolete within a very short time. Furthermore, even specialists in computer science have at times diverging opinions on what actually happens, from the technical viewpoint, when communication takes place on the Internet. For example, while some consider advertising on a foreign web-site as equal to advertising in a foreign satellite TV-channel, others point out that there are legally relevant technical differences between the two situations: the TV signals are sent across borders upon the advertiser's own initiative, while publicity on a web-site is not sent at all but is, rather, "fetched" by the customer surfing on the Internet and "virtually visiting" the country of the web-site. I have some difficulty to accept such reasoning, since the advertisement is