

Mykytyuk Yu., PhD-Student of Educational, Scientific and Production Center of the National University of Civil Defense of Ukraine, Kharkiv, ORCID: 0000-0003-4651-6312

Микитюк Ю.М., здобувач ННВЦ НУЦЗУ, м. Харків

DEVELOPMENT OF THE STATE POLICY OF UKRAINE IN THE SPHERE OF LEGAL REGULATION OF DIGITALIZATION

РОЗВИТОК ДЕРЖАВНОЇ ПОЛІТИКИ УКРАЇНИ У СФЕРІ ПРАВОВОГО РЕГУЛЮВАННЯ ЦИФРОВІЗАЦІЇ

It is revealed that today digitalization is considered as a systemic factor of socio-economic development. It is determined that the reasons for this are the synergetic and paradigmatic development of digitalization itself. Ensuring its effectiveness requires effective legal regulation. In this context, the state of such regulation in Ukraine and the directions of its development within the relevant state policy are studied.

Key words: *public policy, digitalization, legal regulation.*

Виявлено, що на сьогодні цифровізація розглядається як системний фактор соціально-економічного розвитку. Визначено, що причинами цього є синергетичний і парадигмальний розвиток самої цифровізації. Забезпечення його результативності вимагає дієвого правового регулювання. У цьому контексті досліджено стан такого регулювання в Україні та напрямки його розвитку в межах відповідної державної політики.

Ключові слова: *державне регулювання, цифровізація, правове регулювання.*

Problem setting. Significant changes in the domestic legal system are due to the formation of a new digital reality, which is a determining factor in the development of modern society. This in turn affects the mechanism of legal regulation and the activities of various state, legal and social institutions. Strictly speaking, the life of modern society is becoming more dynamic, its space is expanding, technology is changing. Under the influence of globalization, paradigms of thinking are transformed, institutions of civil society, public authorities, and the system of legislation are improved [7]. They ensure the state of implementation of digitalization and socio-economic development of the state. In view of this, it is important to study the peculiarities of the legal regulation of digitalization and the state of public policy within which it is implemented.

Analysis of recent research and publications. The works of many domestic and foreign scientists L. Hren, S. Dombrovskaya, P. Drucker,

O. Durman, D. Elkington, O. Karpenko, A. Carroll, S. Maystro, O. Orlov, G. Ortina are devoted to the study of digitalization. V. Togobytska, F. Fukuyama and others [2; 9–10]. At the same time, we emphasize that in domestic science the topic of digitalization in the field of public administration, legal regulation and ethics is gaining importance. Evidence of this is the work of L. Antonova, I. Zhukova, K. Lobodenko, L. Novak-Kalyaeva, A. Pomaza-Ponomarenko and others. [3; 6; 8]. Given the urgency of this problem, there is a need to deepen research on the above issues.

Paper objective. The purpose of the research is to determine the directions of development of the state policy of Ukraine in the field of legal regulation of digitalization.

Paper main body. Digitization in the narrow sense is seen as the transformation of information into a certain digital form, which contributes to the formation of new opportunities in certain areas of life. In a broad sense, digitalization is defined as a global trend of effective global development of all spheres of public life based on the conversion of information into digital form, which contributes to improving the quality of life [9].

Modern basic and applied science is faced with the need to comprehend at the theoretical level of complex processes occurring in the field of legal regulation of digitalization based on the use of new methodological approaches that prevent one-sidedness of classical scientific theories in understanding socio-political and legal reality. In our opinion, the study of modern problems of digitalization is most effectively carried out within a comprehensive integrative methodology, methods of concrete-historical analysis, methods of legal modeling, content analysis, etc. [10].

Of particular importance in modern conditions is the need to identify trends in legal regulation and public policy under the influence of digitalization, development of forecasts for further development of such policy, socio-economic sphere and the institutional system of public administration in general. Of course, the key role in the development of these phenomena and processes is given to digitalization, which is transformed in the formation of artificial intelligence technologies, updating regulatory tools and ensuring the development of innovation potential, as well as efficiency and social orientation of public policy.

In the context of the formation of the social and legal state, the provision of digital rights of the individual in the virtual space, which represent the concretization of universal human rights on the basis of law, and law enforcement acts, acquires special significance [6].

Ukraine has a Concept for the Development of Artificial Intelligence (2020), as well as a number of legal documents designed to ensure information protection, development of information technology and regulation of the functioning of the information sphere of public life. In this context, one can insist on the expediency of "or":

1) incorporation (systematization) of the current information legislation of Ukraine, in order to eliminate its contradictions, inaccuracies, gaps and duplication;

2) codification of the current legislation of Ukraine through the development of the Information Code, which should provide for the improvement of the constitutional right of citizens to information. In continuation, we note that the possibilities of digitalization are expressed in the field of private law, social transformation and lawmaking and law enforcement [ibid.].

Thus, there are opportunities to use artificial intelligence in providing legal advice, in forensic examinations, in the process of obtaining electronic evidence, in organizing court activities through electronic document management, as well as new opportunities in the implementation of electronic litigation. It should be borne in mind that the main guideline in this area should be legal norms in general and constitutional principles in particular. According to scientists, digitalization processes should be regulated by the Constitution, which has the highest legal force in the domestic legal system. A significant role is played by digitalization processes related to the legal regulation of the economy and social development, which are the scope of public policy mechanisms. To achieve positive results, it is planned to create a modern management of the socio-economic sphere, which corresponds to the world trends of an efficient economy. Therefore, it is especially important to identify the challenges, threats and possible negative consequences of digitalization of the domestic economy.

It should be noted that in the Concept of Artificial Intelligence Development in Ukraine (for the period up to 2030) [4], approved by the Government, the most important role in the digitalization of the economy and society is given to "legal regulation and ethics". The analysis of the Concept allowed to insist that the specified sphere covers, first of all, law enforcement. However, law-making (rule-making) was left out of consideration. Justice is defined as a separate area for the introduction of artificial intelligence technologies.

It should also be noted that the consideration of the Concept makes it possible to assert the need to clarify the mechanisms of state policy on the use of such legal means and technologies as legal monitoring, legal experiment, digitization of legal facts. After all, it is not enough just to indicate the need to solve a certain problem without disclosing its mechanisms. Strictly speaking, this is a fixed requirement that "the processes of analysis and evaluation of international information, political, economic and defense trends should be optimized to use such results in management decisions in Ukraine's foreign and domestic policy" [ibid., Concept Section "Ways and ways to solve the problem in key areas of public policy"].

In addition, we emphasize that the sphere of legal regulation of digitalization is undergoing significant changes, in which relations are formed that exclude the direct participation of citizens. Relationships arise and will arise that

have not yet been resolved due to the lack of appropriate digital technologies and the ability to monitor their implementation. Public administration practice requires an optimal combination of legal and digital technologies of a significant range of relations that fall under the scope of legal regulation, determined by the objective conditions of public life.

Thus, in the domestic legal system, public relations are formed, which previously did not require legal regulation. Their participants are anonymous digital entities that operate in cyberspace. State and legal regulation of such relations involves the modernization of a number of legal procedures in existing law, related to:

- 1) with the identification of the person as a subject of legal relations;
- 2) with the implementation of human rights in the digital space;
- 3) with financial digital technologies;
- 4) using databases;
- 5) with the definition of "virtual thing";
- 6) with the identification of its creators and other realities of the digital economy and the requirements of the time [6; 10].

Digitization of public policy implies the need to immerse in the virtual legal space of numerous state functions, areas of activity of regional bodies, electronic participation of citizens in lawmaking and law enforcement, as well as examination of draft regulations.

It should be noted that now the public need for digitalization of public administration based on the formation of algorithms for public decisions at both national and regional levels has increased. In the context of digitalization, the scope of legal regulation must be assessed as a basis for the emergence of the latest form of relationship between government and civil society in accordance with the moral principles of public life.

Given this, it is especially important to reform the system of state control in the field of security of the individual and society, in the fight against corruption, as well as control of processes occurring in cyberspace through the use of all modern information technologies.

Objective processes of state and legal digitalization determine the need to improve regulations in the field of civil, administrative, labor, criminal and other areas of domestic law, as well as the transformation of regulatory systems in the field of information, medicine, education and more. We believe that in the modernization of the legal basis it is important to adopt certain regulations that determine the possibility of implementing the most important interests and needs of society, their implementation in existing regulations, as well as the reorientation of the legislation to implement social programs. Updating such a basis requires a rethinking of the processes of their implementation in law enforcement practice, within which the interpretation of legal norms, overcoming legal gaps and eliminating legal conflicts is of particular importance.

Thus, digitalization determines the processes of formation of the content of law, it outlines significant institutional changes in the state and society, as new social relations are formed that arise between digital virtual institutions. These processes, in turn, contribute to the development of international legal relations, unification and standardization of law, as well as the formation of domestic legal standards appropriate to the peculiarities of the national legal system. Digitization covers the processes of emergence, change, termination of legal relations that are formed in the modern virtual space, the implementation of subjective rights and legal obligations of the subjects of legal relations.

It should be noted that digitalization has a significant impact on the understanding of the systemic organization of law. Therefore, there is a need to develop new criteria for distinguishing the components of the legal system in the transition processes taking place in domestic society [7].

Of course, some features of Soviet law, characterized by staticity, lack of temporary transformations and modern challenges, continue to be preserved in the legal system of Ukraine. However, the law and the state are called to act as regulators and self-organizing systems, the links are therefore formed objectively, independently, contribute to the dynamism of socio-economic systems, find their place in existing legal complexes, improve with them and ensure their development. In modern basic and applied science, scientific approaches have been formed that recognize the special importance of various genetic, substantive, functional and other links between the structural elements of socio-political and legal reality.

At the same time, the emphasis should be shifted towards clarifying the mechanism of public policy, as digitalization has a significant impact on the legal system and legislation. It is worth noting that the digital computer-software formalization of law can help streamline regulations in the electronic virtual world. With the help of formal logic, it is possible to identify contradictions in the laws, the incomplete regulation of specific social relations. In the process of active use of new technologies of database processing, prospects of further processes of digital formalization of the state are formed. Formalization allows us to represent its development through a system of artificial symbols and signs. Thus, the formalization is characterized by the consolidation in the verbal-documentary form of a certain content of the legal act.

According to scientists, the idea of drawing up laws in the program code should not be rejected in order to ensure clarity and unambiguity of the content of regulations [1]. Semantically and logically, the content of the text of a legal act, which expresses a certain opinion, is a consistent presentation of symbols that can be perceived by a particular subject.

Returning to the conditional research plan, we can say that the Concept of Artificial Intelligence in Ukraine needs to be refined in terms of defining such a direction of its development as lawmaking (rulemaking). Currently, digital rulemaking is developing on the basis of two approaches, namely:

1) "from the model" (formation of regulations on the basis of digital models);

2) "from paper" (transformation of classical paper legislation into rules suitable for both human and machine use).

Formally, legal sources of law are set out in the relevant electronic versions (Legislation of Ukraine) (on the Official Web Portal of the Verkhovna Rada of Ukraine, etc.), which are in demand, but there are web portals that are not official sources of publication. The modern, so-called "current" version of regulations can become a prototype of the future digital model, which should be created not on the principle of a database, but on the principle of "Knowledge base".

In our opinion, the analysis of digitalization processes allows us to predict changes in the mechanism of lawmaking and the composition of the existing model of socio-political and legal regulation, adjusting the boundaries of known social regulators and education in it, which involves defining the appropriate "program code". This means that the law is transformed in its content, structure, form of manifestation and action in real life.

Digitization of state and legal reality contributes to the formation of new civilizational phenomena and processes, the emergence of new legal understanding, worldview and legal culture. The new digital reality puts forward new requirements for basic and applied science, which are associated with the improvement of mechanisms of public policy and legal regulation of various spheres of public life on the basis of modern digital technologies.

In our opinion, the further development of communication and information technologies provides a new vector of scientific and technological progress and the transformation of society in a new phase of development, which is determined by the postmodern era [7]. In the context of digitalization, the preservation of moral and legal foundations, their organizing and mobilizing role in society, is becoming of great importance, as legal institutions are increasingly becoming a tool for the application of digital technologies and themselves are influenced by digitalization processes.

Conclusions of the research. Thus, the digital space of modern Ukraine and its state and legal reality must develop systematically and not cause the formation of a state of cognitive dissonance in the individual and society as a whole. The state and society should not lose the accumulated spiritual and intellectual landmarks, institutional memory [6-7].

Modern society with the help of regulations must ensure the regulation of their own lives in the context of digitalization on the basis of moral universal values. At the same time, the task of the state is to determine their legal basis, ie rule-making. It was found that the Concept for the Development of Artificial Intelligence in Ukraine does not require the importance of ensuring AI law-making on a par with AI law enforcement (ie lawmaking and law enforcement using artificial intelligence technologies). In view of this, it is proposed to finalize this Concept, ensuring the effectiveness of legal regulation of the most important

spheres of public life. In addition, it insists on the need to clarify the mechanisms of state policy on the use of such legal means and technologies as legal monitoring, legal experiment, digitization of legal facts. All this should ensure the active formation of regulatory and institutional complexes, which in turn will form the basis of the digital economy and development of Ukraine 4.0.

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