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SUPPORT FOR THE STATE SOVEREIGNTY IN THE FIELD OF INFORMATION RELATIONSHIP

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The article deals with the problems of support for the state sovereignty in the field of information relationship. Relevance of the topic is confirmed by the necessity to implement the Strategy of Information Security of Ukraine, which requires theoretical and legal studies on support for the state sovereignty in the field of information relationship. It is determined that state sovereignty in the information space is implemented by exercising the state’s information function and its information policy. State sovereignty in the information space is defined as a juridical property of the state being a specific subject of the information and legal relationship, conducting legal regulation both within its territory, and in the global and regional information space.

The legislative fundamentals of the information and legal support for the state sovereignty include identification of the sphere of the sovereignty implementation, support for the state sovereignty as a goal and principle of the legal regulation of information relationship, specification of the powers of public authorities on its support. Analysis of the goal and principles, approved in the key laws regulating relationship in the information space, shows that, but for some regulations, the mentioned laws do not enshrine the main regulatory elements of the information and legal support for the state sovereignty of Ukraine. In particular, the laws do not identify the sphere of the sovereignty implementation, as well as the goal and principle of the legal regulation of information relationship, do not clearly specify powers of public authorities on its support. Actually, the laws do not approve the mechanism for exercising the state’s information function and the state information policy, which are functional elements of the information and legal support for the state sovereignty of Ukraine.

Key words: state sovereignty, information relationship, goal of legal regulation, principles of legal regulation, information function.

Problem formulation. The processes of globalization, digital transformation of the state administration, as well as social and economic relationship influence both the forms of such relationship implementation and the content, subjects and objects, as well as set new challenges for legal regulation, based on the mechanisms and ideas, which are traditional for the legal doctrine, and which create a foundation for comprehension of the specific status of the state as a regulator of legal relationship and its key feature, i.e. state sovereignty. Information space is the main sphere of geopolitical and economic

competition of the state, which brings new threats for information security of the state, person and society. Actuality of those problems is manifested in the innovative documents on the strategic planning in Ukraine.

Analysis of the problem study. The problems of support for the information sovereignty are much considered in the works of law researchers, namely V. B. Averianov, O. F. Andriiko, O. A. Baranov, V. M. Bevzenko, A. I. Berlach, Yu. P. Bytiak, T. Z. Herasymiv, O. D. Dovhan, R. A. Kaliuzhnyi, A. A. Kozlovskyi, M. I. Koziubra, T. O. Kolomoiets, V. K. Kolpakov, O. V. Kuzmenko, V. I. Kurylo, Ye. V. Kurinnyi, A. I. Marushchak, H. V. Novytskyi, V. L. Ortynskyi, N. M. Onishchenko, O. I. Ostapenko, V. H. Pylypchuk, O. O. Tykhomyrov, M. Ya. Shvets, Yu. S. Shemchushenko and others. Development of the information and communication technologies requires continuous theoretical and legal studies on support for the state sovereignty in the information space of the state.

The aim of the article is to study the issue of support for the state sovereignty in the system of information relationship regulation in the information legislation.

Presenting main materials. The problem of the state sovereignty is currently one of the most heavily discussed in the national and international law because of the multi-directional process of fragmentation and globalization taking place in the world, and also ambiguity of interpretation of the concept of “sovereignty”.

The foundation of the juridical construction of sovereignty is made by the sovereign rights of the state. The sovereign rights create a basis for the country’s legal status and its supreme power. The mentioned rights constitute legal essence of the state power and juridical content of its activities. Unlike other authorities of the state, the sovereign rights are exercised directly by the state power.

Identification of the sphere of the sovereignty influence, its manifestation in the goal and principles of regulation, as well as in the powers of state authorities, constitute a legislative mechanism of support for the state sovereignty and can be applied for information relationship.

State sovereignty in the information space is implemented by exercising the state’s information function and its information policy. In the juridical science, there are different approaches to identification of the information function of the state. The information function of the state is a complex direction of the activities of public authorities that is determined by the demands of social and political development, to supply citizens, society and the state with the publically significant information by producing and distributing it in the legally approved forms.

The key task in exercising the information function by the state is to regulate information relationship. Law stability is one of the crucial factors of legitimacy of the legal system in public minds [1, p. 53].

State sovereignty in the information space is a juridical property of the state being a specific subject of the information and legal relationship, which performs legal regulation both within its borders and in the global and regional information space.

O. H. Yarema says that information sovereignty is the ability and intention of a policy subject to produce, distribute and consume information depending on the personal interests and to use information as a resource of political impact in the scale and amount, which satisfies the current and long-term political interest [2, p. 191].

O. M. Solodka writes that in the scientific literature one can find the concept of “digital sovereignty” along the concept of “information sovereignty”. Information sovereignty covers a wider range of concepts, which include the ability to influence not only the information and communication technologies generally, but also the content, whereas the impact should not be always interpreted as control, because it deals with the fight against information and psychological actions or personal actions. However, digital sovereignty is considered as the priority tasks on security of ICT-independence of the state, whereas the content is concerned episodically, just in terms of collecting data [3, p. 82].

According to Ye. M. Manuilov and Yu. Yu. Kalynovskyi, information sovereignty depends on a set of inter-dependent factors, namely information culture and level of subjects' intelligence, their critical thinking and skills to work with information, legislation of the country regulating the sphere of information, peculiarities of performance of the authorities of public society [4, p. 28].

The legislative fundamentals of the information and legal support for the state sovereignty include identification of the sphere of the sovereignty implementation, support for the state sovereignty as a goal and principle of the legal regulation of information relationship, specification of the powers of public authorities on its support.

To assess the degree of institutionalization of the information and legal support for the state sovereignty of Ukraine in the specific sphere, i.e. in the information space, it is reasonable to make analysis of such regulating elements as the goal of regulation, principles of regulation, powers of public authorities in the laws on information relationship concerning regulation of the defined spheres of relationship.

The key laws, regulating relationship in the information space include the Laws of Ukraine "On information"; "On printed media (press) in Ukraine"; "On television and radio"; "On electronic communication"; "On access to court decisions" "On the procedure of covering the activities of state authorities and local governments in Ukraine by mass media"; "On protection of social morality"; "On critical infrastructure"; "On protection of information in the information and communication systems" [5–13].

The analysis of the content of above-mentioned laws shows that none of them includes the regulations, which deal with the state sovereignty of Ukraine in the information space. The law of Ukraine "On electronic communication" defines the territory of Ukraine and the territories under its jurisdiction as the sphere, in relation to which the legal fundamentals of the activities in the field of electronic communication are set.

The goal of legal regulation as a regulatory element of the information and communication support for the state sovereignty of Ukraine is not defined in the Laws of Ukraine "On information", "On mass media", "On access to information on the activities of public authorities of Ukraine". Such goal is indirectly concerned in the Law of Ukraine "On electronic communication" (Article 4 "Goal and tasks of the state administration and regulation in the fields of electronic communication and radio spectrum"), which can be generally presented as creation of the conditions for supplying services of electronic communication on the whole territory of Ukraine; support for introduction of innovative technologies; defense of the interests of the users of services and economic entities in the mentioned field; support for the effective competition at the market of electronic communication services; creation of the conditions for development of infrastructure, support for integration with the networks of the European states; maintenance of the centralized management of radio spectrum and resource of numeration; creation of the conditions to satisfy demands for electronic communication of the bodies of public power, defense, national safety, law enforcement. The mentioned goal is not directly related with the support for the state sovereignty of Ukraine in the information space, but is principally focused on the support for the state sovereignty on the infrastructure of electronic communications and information technologies as the information space elements.

Appropriate performance of the critical infrastructure of Ukraine during cyberattacks is declared as the goal in the laws on the critical information infrastructure [14]. In the context of research on the "Legal support for cybersecurity of the critical information infrastructure of Ukraine", that goal is considered as a normative element of the information and legal support for the state sovereignty of Ukraine [15, p. 2015].

Analysis of the regulations on the goal of legal regulation as a normative element of the information and legal support for the state sovereignty in the legislation on the information space of Ukraine confirms that the normative element is enshrined in fragments but not in full.

The only regulating act, which provides a legally approved definition of the information sovereignty of the state and identifies the goal, is the National program of informatization. Information sovereignty of the state is the state's ability to control and regulate flows of information coming from outside the state in order to comply with the laws of Ukraine, rights and freedoms of citizens, guarantee of the national

security of the country [16]. However, the definition, which was supplied in 1998, didn't mention objects of the information relationship (program and technical complexes, information systems, instruments of connection and communication, which secured transmission of information; information, information resources, information products, information services; domain names; information integrity and information sovereignty of the state; information security; a set of technical systems and complexes, etc. [17, p. 149]).

The analysis of the principles of regulating relationship in the information space, enshrined in the above-mentioned laws, confirms that support for the state sovereignty in the information space is not considered in the context of support for the state sovereignty.

The laws on information and protection of information as the principles of legal regulation of information relationship approve freedom of actions with information (production, search, transmission, obtaining, distributing), and the opportunity to restrict access only at the legislative level, openness and reliability of information, support for cybersecurity of Ukraine while creating and operating information systems, protection of private life and technological neutrality. The mentioned principles mainly deal with information resources as an element of the information space.

The Laws of Ukraine "On the procedure of covering the activities of state authorities and local governments in Ukraine by mass media", "On protection of social morality" declare a set of principles of state regulation in the field of application of information technologies, including development of different information systems and support for their interaction, creation of conditions for using the Internet and other information and communication networks, support for the information security of population.

The Law of Ukraine "On information" includes the Article 2 "Main principles of information relationship": guarantee of the rights for information; openness, accessibility of information, freedom for information exchange; reliability and completeness of information; freedom of expressing beliefs; legitimacy of obtaining, employing, distributing, storing and protecting information; defense of a person from interfering with the person's private and family life. They are approved in some articles.

The Law of Ukraine "On the procedure of covering the activities of state authorities and local governments in Ukraine by mass media" does not identify the principles of information activities, but mentions about the support for access to information, openness, reliability and accessibility of information, relevance of supply, freedom of search, obtaining, transmission and distribution of information under simultaneous protecting citizens' rights of privacy, personal and family secrets, protection of honor and business reputation, right of legal entities to protect their business reputation.

The Law of Ukraine "On protection of social morality" does not include separate regulations on the principles. Moreover, the Article 7 regulates defense of children from information making harm to their health and development.

According to the Law of Ukraine "On critical infrastructure", which regulates information relationship, the principles of support for the security of critical infrastructure, as well as information one, include legitimacy, continuity and integrity of the support for critical information infrastructure, priority of preventing cyberattacks.

Analysis of the goal and principles, enshrined in the key laws regulating relationship in the information space, demonstrates that, but for some regulations, data of the laws do not include fundamental regulating elements of the information and legal support for the state sovereignty of Ukraine. In particular, they do not identify the sphere of the sovereignty implementation, the goal and principles of the legal regulation of information relationship, do not specify powers of public authorities on its support.

In fact, the mechanism of implementation of the state's information function and its information policy, which are the functional elements of the information and legal support for the state sovereignty of Ukraine, is not approved in the laws. The strategy of information security of Ukraine does not identify fundamentals of its information sovereignty.

The Doctrine on information security of Ukraine (acting from 2017 to 2021) determined the goal and principles, national interests in the information sphere by distinguishing the essential interests of a person

and essential interests of the society and the state. It also set the tasks on analysis and consolidation of the information on conditions of Ukrainian legislation and the juridical practice in the field of protecting the state sovereignty and preventing interference with the internal affairs of Ukraine; preparation of proposals on improvement on the legislation in the field of defense of the state sovereignty and prevention of interference with the internal affairs of Ukraine; monitoring of the activities of foreign countries, focused on interfering with the political, economic, cultural, humanitarian sphere of activities in Ukraine.

In the doctrine of information law, much attention is paid to the issue of trans border information interaction and problems of application of the jurisdictions of different countries in the information sphere, but little attention – to the analysis of peculiarities of the very mechanism of implementation, maintenance and defense of the state sovereignty in the information space. These circumstances force the necessity and relevance of a new conceptual approach to the content and essence of the state sovereignty in the information space, as well as the mechanism of its information and legal support while making strategic planning.

The issues of information sovereignty are not considered in the Regulation on the Ministry of Culture and Information Policy and the Regulation on the Ministry of Digital Transformation of Ukraine.

The strategic direction of “Information and communication technologies” of the National economic strategy until 2030 also omits the issues concerning the state information sovereignty [19].

S. H. Hordiienko says that Ukraine currently does not demonstrate features of the policy of information security, including the information sovereignty, although there are numerous theoretical and applied, as well as scientifically substantiated theories of its support. In means the power authorities adopt legal regulations with no theoretical justification of them [18]. In that aspect, it is also expedient to make a comparative analysis of the information legislation of the European Union states in the fields, which are the most vulnerable to foreign interference (election, political parties, business, mass media, Internet, social networks) to make appropriate amendments to the current Ukrainian laws in case of necessity.

While assessing expediency of introducing the public expert estimates of legislative acts in the field of information law on the information sovereignty, it is necessary to consider that in the conditions of information society, which is viewed as a public, democratic and legal one, implementation of the information sovereignty as a basis of the state sovereignty is secured by direct participation of citizens and public organization in the rule-making process, including the independent expert estimates.

Conclusions. Implementation of the state sovereignty in the information space is related with the information function of the state as a direction of activities of the public authorities on regulation of relationship, which appear in the information space, and the national information policy. In the information legislation, principles of the information and legal support for the state sovereignty are not enshrined. The laws do not approve the sphere of the sovereignty implementation, do not describe the support for the state sovereignty as a goal and principle of the legal regulation of information relationship, as well as do not specify powers of the public authorities on its support. These gaps necessitate introducing the appropriate amendments to the corresponding laws of Ukraine.

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ЗАБЕЗПЕЧЕННЯ ДЕРЖАВНОГО СУВЕРЕНІТЕТУ У СФЕРІ ІНФОРМАЦІЙНИХ ВІДНОСИН

Розкриваються проблеми забезпечення державного суверенітету у сфері інформаційних відносин. Актуальність теми зумовлена необхідністю реалізації Стратегії інформаційної безпеки України, що вимагає проведення теоретико-правових досліджень забезпечення державного суве-

ренітету у сфері інформаційних відносин. Вказано, що державний суверенітет в інформаційному просторі реалізується за допомогою інформаційної функції держави та її інформаційної політики.

Державний суверенітет в інформаційному просторі визначено як юридичну властивість держави як особливого суб'єкта інформаційно-правових відносин, що здійснює правове регулювання як у межах своєї території, так і в глобальному та регіональному інформаційному просторі. Законодавчі основи інформаційно-правового забезпечення державного суверенітету враховують визначення сфери реалізації суверенітету, визначення забезпечення державного суверенітету як мету та принцип нормативно-правового регулювання інформаційних відносин, конкретизацію повноважень органів публічної влади щодо його забезпечення. Аналіз мети та принципів, встановлених у ключових законах, що регулюють відносини в інформаційному просторі, показав, що, за винятком окремих положень, дані закони не містять основних нормативних елементів інформаційно-правового забезпечення державного суверенітету України. Зокрема, не визначається сфера реалізації суверенітету, мета та принципи нормативно-правового регулювання інформаційних відносин, не конкретизовано повноваження органів публічної влади щодо його забезпечення. Фактично законодавством не закріплено механізм реалізації інформаційної функції держави та державної інформаційної політики, які є функціональними елементами інформаційно-правового забезпечення державного суверенітету України.

Ключові слова: державний суверенітет, інформаційні відносини, мета правового регулювання, принципи правового регулювання, інформаційна функція.