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PROBLEMS OF LEGAL REGULATION OF THE INFORMATION SPHERE IN THE CONDITIONS OF GLOBAL DIGITALIZATION: THEORETICAL, LEGAL AND INDUSTRY-RELATED ASPECTS OF THE APPLICATION OF INFORMATION TECHNOLOGIES AND ARTIFICIAL INTELLIGENCE TECHNOLOGIES

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The article systematically examines some problematic issues of legal regulation of public relations in the global information space, in particular, concerning the provision of information security and cybersecurity in the information sphere in the conditions of global digitalization of society, especially concerning the use of information technologies and artificial intelligence technologies.

In the Constitution of Ukraine, the right to security is one of the fundamental rights of a citizen and encompasses human security as the highest social value, which includes, in particular, personal security, environmental security, citizen security in the state, information security. Therefore, the problem of legal regulation of relations in the information sphere is relevant in connection with the development of information technologies and artificial intelligence technologies. The digitalization of society and the digitalization of social relations through the rapid development of information technologies and artificial intelligence technologies, as well as through the comprehensive use of Internet networks – all this poses new challenges for the global provision of information and cybersecurity in connection with the urgent need to combat offenses in information and cyberspace, in particular regarding the use of information technologies and artificial intelligence technologies. It is noted that Ukraine, along with, first of all, developed countries in Europe and the world, is also moving along the path of legal regulation of the information and communication sphere. One of the ways to solve the problem of which relations in the information sphere require direct legal regulation, and which ones should be regulated by law, is to conduct, so to speak, an "inventory" of the existing legal framework in order to identify gaps and, on this basis, to further develop recommendations for improving the current legislation of Ukraine.

Keywords: legal support, legal regulation, information space, information technologies, artificial intelligence, national security, information security, cybersecurity, threats to information security, information terrorism, cyberterrorism, cybercrimes, offenses in the information sphere, responsibility for committing offenses in the information sphere.

Formulation of the problem. Today, the rapid development of the information society requires urgent legal regulation of relations in the information and, in particular, in the cyber sphere. Such legal regulation of social relations will undoubtedly contribute to the regulation of the use of the vast new achievements of mankind in the field of information technologies, and also, it is worth emphasizing that also in the field of the use of artificial intelligence technologies. Undoubtedly, such legal regulation of the above-mentioned social relations should be aimed, first of all, at ensuring the interests of man, society, and the state with strict adherence to the requirements of information security. Therefore, it is information law in close connection with other basic legal branches, which have in their arsenal a number of fundamental theoretical studies recognized by the scientific community, designed to implement the above-mentioned task through legislative regulation of the information sphere[5;6]. This is evidenced by the development of a new state information policy to ensure information security in various areas of the digitalized society and the development at the national level of a number of concepts and strategies to ensure and information security, in particular, in the field of improving information technologies and on the path of continuous development of artificial intelligence technologies[2;3;4], which is a component of national security. It should be noted that most developed countries (USA, France, Germany, Great Britain, Canada, Japan, etc.) have developed and approved relevant regulatory documents (strategies) that define the directions of countering threats in the information sphere. It should be agreed that the existing terminological diversity in the definition of concepts both in the science of information law and in rule-making practice, prompts, based on the global nature of information relations, to recognize the appropriate use of the term “relations in the information sphere”, on the basis of which the theory and practice of the relevant legal regulation should be formed [6, p. 39].

Analysis of the study of the problem. The issues of legal regulation of relations in the information sphere and, in particular, the cybersphere, have significantly changed over the past decades due to the relentless and global digitalization of all spheres of public life of society, which has led to the emergence of new legal studies. However, relations in the information sphere, in connection with the development of information technologies and artificial intelligence technologies, are increasingly becoming the object of research by scientists both from the position of theoretical and legal and philosophical and legal reflections on the problems of their regulation (I. M. Doronin, O. O. Zolotar, N. V. Kushakova-Kostytska, A. M. Novytsky, O. V. Pavlyshyn, L. V. Yarmol), and from the position of various sectoral aspects of the legal regulation of these relations (constitutional and legal aspects: Yu. V. Bogdan, T. V. Chubaruk, civil and legal aspects: B. M. Gogol, A. G. Diduk, O. V. Kokhanovskaya, O. O. Kulinich, A. I. Marushchak, S. V. Yasechko, administrative and legal aspects: V. M. Bryzhko, O. S. Dyakovsky, V. A. Zaliznyak, B. A. Kornych, A. L. Petrytsky, A. V. Tunik, T. I. Shynkar, criminal legal aspects: L. P. Bartashchuk, L. V. Borisova, L. K. Karpenko, S. O. Orlov, M. V. Rudyk, O. S. Subbotenko, S. O. Kharlamova, criminological and forensic aspects: A. V. Andrushko, N. A. Savinova (N. A. Rozenfeld) [8, p. 128–130], which are certainly more thoroughly developed both from a theoretical and practical point of view. At the same time, the active and global digitalization of society and the digitalization of social relations due to, in particular, the rapid development of information technologies and artificial intelligence technologies poses new challenges to the global provision of information and cyber security. With the development of technologies, the possibilities of their use for committing offenses in the information and cyberspace, which, in turn, encourages new scientific research and research to counteract these offenses.

The purpose of the article. Given the stated purpose of the article, a systematic study of problematic issues of legal regulation of public relations in the global information space was chosen, in particular, concerning the provision of information security and cybersecurity in the conditions of global digitalization of society, especially concerning the use of information technologies and artificial intelligence technologies.

Presenting main material. In the Constitution of Ukraine, the right to security is one of the fundamental rights of a citizen and encompasses human security as the highest social value, which includes, in particular, personal security, environmental security, citizen security in the state, information security, etc. [1]. Therefore, the problems of legal regulation of relations in the information sphere in connection with the development of information technologies and artificial intelligence technologies are increasingly becoming the object of research by scientists. The digitalization of society and the digitalization of public relations due to, in particular, the rapid development of information technologies and artificial intelligence technologies, as well as through the comprehensive use of Internet networks – all this poses new challenges to the global provision of information and cyber security in connection with the urgent need to counteract offenses in information and cyberspace, in particular with regard to the use of information technologies and artificial intelligence technologies. intelligence, which, in turn, are developing rapidly.

Today, when the global information space is confidently filled with mobile communications, powerful personal computers and smartphones, global network Internet communication – three major inventions at the turn of the 20th and 21st centuries, we are especially acutely experiencing the dynamic influx of complex information and technological methods and procedures for creating, distributing, using, evaluating, storing, destroying (liquidating) various information. This undoubtedly makes it necessary to develop a new regime for the legal regulation of social relations through expression in the norms of law and consolidation in the norms of legislation, taking into account the dynamic development of these technologies. At the same time, among the technologies, one should distinguish those based on the use of “artificial intelligence” (AI), which especially require ways to improve the current legislation by establishing legal restrictions to ensure both information security, public security, and therefore national security [7; p. 128].

First of all, we consider it appropriate to outline the essence of legal regulation. Prof. P. Rabinovich proposed to understand legal regulation as the power influence exercised by the state using all legal means on public relations with the aim of their regulation, consolidation, legal protection and development [10, p. 165]. From the position of the well-known theoretician O. Skakun, the category of “legal regulation” represents the regulation of public relations, their legal consolidation, protection and development, carried out by the state (its bodies and officials) using the law. At the same time, O. Skakun emphasizes that legal regulation of social relations can be carried out by both legal and non-legal means [11]. It is difficult to disagree with the positions of these scientists, because legal regulation is a targeted influence on social relations using both legal and non-legal means (which, undoubtedly, include information technologies and artificial intelligence technologies) in order to organize, protect and defend them. As for the essence of the category “information technologies”, from the position of I. Boyko, who considers information technologies to be appropriate to understand information processing based on computer computing systems [12]. Of course, the definition given by the author is somewhat narrow, since it does not fully reveal the essence of the category “information technologies” in social relations. At the same time, the current legislation of Ukraine contains a definition of the concept of “information and communication technologies”, under which the legislator defined the result of intellectual activity, a set of systematized scientific knowledge, technical, organizational and other decisions on the list and sequence of operations for collecting, processing, accumulating and using information products, providing information services (clause 15 of part 1 of article 1 of the Law of Ukraine “On the National Informatization Program” [3]. Such a definition is quite new, and its consolidation in the current legislation introduces positive trends into the scientific space. At the same time, we believe that the need to introduce the category of “information technologies” at the doctrinal level as a component of the information society is overdue, since the mentioned technologies represent a purposefully organized set of information processes in social relations using means (computer equipment and software) to perform the tasks of transforming, protecting, transmitting and receiving information, which provide high speed of information processing and searching, access to information sources regardless of their location. Since today modern Information technologies (IT) have penetrated into a wide variety of areas of social relations: processing, storage and presentation of information in graphic, sound,

video formats (multimedia technologies); automation of management processes (electronic governance technologies), use of remote data transmission (telecommunications technologies), software development (CASE technologies), ensuring data security (information protection technologies), progressive development of human intelligence imitation systems (artificial intelligence (AI) technologies) – all of them are actively developing in one way or another with the aim of improving social relations. At the same time, any social relations require appropriate legal regulation, especially social relations in the information sphere, which are related, in particular, to information technologies (IT) and, in particular, to artificial intelligence (AI) technologies. Therefore, today there is a need to legislatively consolidate the legal regime for the use of IT and, in particular, AI in order to exclude any socially harmful or even socially dangerous impact on social relations, including measures to combat computer crimes (cybercrimes).

We believe that the scientific position expressed deserves attention, that for the purpose of legal regulation of the specified sphere of social relations, it is justified to divide the status of relations in this sphere and, accordingly, their legal regime into two separate directions. From the author's position, the need for such a division is due to the different direction and content of social relations. In particular, it is argued that in the first direction, the object of legal regulation should be those social relations that are related to the creation of information technologies, as well as the means of their provision, in the second direction, the object of legal regulation should be social relations that are related to the further use of information technologies. Based on the above-mentioned directions of legal regulation of social relations, two global directions of the legal regime are also determined: 1. The regime of legal regulation of social relations related to the creation of information technologies and the means of their provision. The means of providing information technologies are automated systems and their networks, hardware, software, linguistic means. Legal regulation of social relations related to the creation and provision of information technologies consists in consolidating a system of legal norms in various fields: protection of intellectual property rights, international law, institutions for regulating technology transfer, etc. 2. The regime of legal regulation of social relations related to the use of information technologies. Since information technologies are widely used in almost all spheres of public life (multimedia technologies, e-government technologies, information protection technologies, artificial intelligence technologies), this in turn led to the emergence not only in the national but also in the international legal environment of a separate direction of legal regulation of the use of information technologies – information technology law (English – IT-Law). IT-Law is intended to become a harmonious part of the law, based on its own theoretical basis and operating with its own legal tools [13, p.66–67]. .

It should be noted that the main task of information technology law (IT-Law) should be to develop an interdisciplinary system of effective legal norms, as well as generate new ideas and scientific provisions as the results of analytical developments aimed at determining the sphere of social relations that are the subject of information technology law (IT-Law). At the same time, how they should be regulated, as well as what technical means should be used. National legislation contains a diverse set of legal norms that regulate the use of information technologies in individual branches of legal activity, in particular, in the process of legislative, judicial, law enforcement activities, organization of innovative activities of enterprises, in the field of personal data protection, etc. The most general goal of such regulation is actually established in the definition of the concept of “informatization” in the Law of Ukraine “On the National Program of Informatization”. Thus, informatization is a set of interconnected organizational, legal, political, socio-economic, scientific and technical, technological and production processes aimed at creating conditions for ensuring the development of the information society and the implementation of information and communication and digital technologies [3; 13, p. 66].

Separately, we consider it necessary to make an attempt to analyze the problem of legal regulation of the use of artificial intelligence technologies in the context of global digitalization of social relations. First of all, in terms of defining artificial intelligence, the most successful position is that artificial intelligence (AI) is “a certain set of methods, means, tools and technologies, primarily computer ones, that imitates (models) cognitive functions that have criteria, characteristics and indicators equivalent to the criteria, characteristics and indicators

of the corresponding human cognitive functions” [9, pp. 132–133]. Today, various scientific positions (sometimes quite controversial) are expressed on the legal regulation of legal relations regarding the use of AI technologies. For example, the position of scientists who define the role and place of artificial intelligence in the system of public legal relations as one of the current problems of our time is interesting, and also point to the connection between information security and research on artificial intelligence. On the one hand, they express signs of restrained optimism regarding robotization and the use of artificial intelligence, and, at the same time, on the other hand, they express reservations regarding the need and possibility of legal regulation of the use of artificial intelligence. The essence of this position is as follows: a) due to the ability to self-development, artificial intelligence will sooner or later turn into superintelligence; b) superintelligence will have its own needs and goals (perhaps not entirely humane and humane); d) superintelligence may try to manipulate and use people against their will (for example, in order to gain access to resources); e) superintelligence may want to subjugate people in order to remain the only intelligence; f) the person himself, as a system of conveniently grouped atoms, may be of interest to superintelligence as a resource; f) humanity is not ready and will not be ready to compete with superintelligence. [7, p.128] Therefore, from their position, participants in social relations must necessarily develop a legal mechanism for controlling the use of artificial intelligence in the information society.

In connection with the above circumstances, the question arises of the possibility and (or) expediency of recognizing artificial intelligence as a subject of legal relations, where a person will share his environment with artificial intelligence. Thus, the European Parliament has adopted for consideration a draft resolution on the legal status of robots based on AI as an “electronic person (electronic person)” [14], which indicates the quite possible appearance in the near future in the legal field (either international or national) of another subject along with an individual and a legal entity, which may well become an equal subject of legal relations (even civil or criminal).

In Ukraine, today, the Concept for the Development of Artificial Intelligence has been approved at the level of the Cabinet of Ministers of Ukraine, according to which artificial intelligence (AI) is an organized set of information technologies, with the use of which it is possible to perform complex complex tasks by using a system of scientific research methods and algorithms for processing information obtained or independently created during work, as well as create and use one's own knowledge bases, decision-making models, algorithms for working with information and determine ways to achieve the set tasks. In turn, the approved Concept regulates the field of artificial intelligence as a direction of activity in the field of information technologies, which ensures the creation, implementation and use of artificial intelligence technologies. In Ukraine, the development of artificial intelligence technologies is planned in the following sectors (areas) of public relations: education and vocational training, science, economics, cybersecurity, information security, defense, public administration, justice, legal regulation and ethics (based on the implementation of international legislative standards), which will be used to satisfy the rights and legitimate interests of individuals and legal entities, build a competitive national economy, and improve the public administration system[4].

At the same time, at the current stage of the application of artificial intelligence, legal regulation of such application of AI in Ukraine is proposed to be carried out for now by developing and implementing standards in the field of AI use and voluntary certification of products using artificial intelligence technologies[9, pp. 132–133]. The very problem of a comprehensive legislative approach to the legal regulation of AI is currently still in a discussion format in Ukraine.

Conclusions. Analysis of scientific research, as well as domestic and foreign legislation on the legal regulation of the information sphere in the context of global digitalization allows us to state that Ukraine, along with, first of all, developed countries of Europe and the world, is also moving along the path of legal regulation of the information and communication sphere. In this area, there is, to a certain extent, terminological diversity in the definition of concepts both in the science of information law and in normative practice. Based on the global nature of information relations, it is appropriate to use the term “relations in the information sphere”, on the basis of which the theory and practice of legal regulation should be formed.

Now, during the period of Russian aggression, the most important problem is ensuring information security, in particular, in the field of using information technologies and artificial intelligence technologies, the need for legal regulation of the use of these technologies. The digitalization of society and the digitalization of social relations due to, in particular, the rapid development of information technologies and artificial intelligence technologies, as well as the comprehensive use of Internet networks – all this poses new challenges for the global provision of information and cybersecurity in connection with the urgent need to combat offenses in information and cyberspace, in particular with regard to the use of information technologies and artificial intelligence technologies. Summarizing the above, we can state that the main goal and, oddly enough, the main problem of legal regulation of all existing methods of working with information is to determine the limit when legal regulation turns from being sufficiently necessary into being intrusive and bureaucratic, which is absolutely unacceptable in the context of such an object as information legal relations[13]. Thus, one of the ways to solve the problem of which relations in the information sphere require direct legal regulation, and which ones require the establishment of regulatory boundaries, is to conduct, so to speak, an "inventory" of the existing legal framework in order to identify gaps and, on this basis, further develop recommendations for improving the current legislation of Ukraine in order to ensure information security.

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ПРОБЛЕМИ ПРАВОВОГО РЕГУЛЮВАННЯ ІНФОРМАЦІЙНОЇ СФЕРИ В УМОВАХ ГЛОБАЛЬНОЇ ЦИФРОВІЗАЦІЇ: ТЕОРЕТИКО ПРАВОВІ ТА ГАЛУЗЕВІ АСПЕКТИ ЗАСТОСУВАННЯ ІНФОРМАЦІЙНИХ ТЕХНОЛОГІЙ ТА ТЕХНОЛОГІЙ ШТУЧНОГО ІНТЕЛЕКТУ

У статті системно досліджуються деякі проблемні питання правового врегулювання суспільних відносин у глобальному інформаційному просторі, зокрема, що стосується забезпечення у інформаційній сфері інформаційної безпеки та кібербезпеки в умовах глобальної цифровізації суспільства, особливо, що стосується використання інформаційних технологій та технологій штучного інтелекту.

У Конституції України право на безпеку є одним із фундаментальних прав громадянина і охоплює безпеку людини як найвищу соціальну цінність, яка включає, зокрема, особисту безпеку, безпеку довкілля, безпеку громадянина в державі, інформаційну безпеку. Тому актуалізується проблема правового регулювання відносин інформаційної сфери у зв'язку з розвитком інформаційних технологій та технологій штучного інтелекту. Цифровізація суспільства та діджиталізація суспільних відносин через швидкий розвиток інформаційних технологій та технологій штучного інтелекту, а також через всебічне використання мереж інтернет – все це ставить нові виклики щодо глобального забезпечення інформаційної та кібербезпеки у зв'язку з нагальною необхідністю протидії правопорушенням у інформаційному та кіберпросторі, зокрема що стосується використання інформаційних технологій та технологій штучного інтелекту.

Констатовано, що Україна нарівні, насамперед, з розвиненими державами Європи та світу також рухається по шляху правового врегулювання інформаційно-комунікативної сфери. Одним із способів вирішення проблеми про те, які саме відносини у інформаційній сфері потребують безпосереднього правового регулювання, а які встановити межі регулювання, є проведення так би мовити «інвентаризації» наявної правової бази з метою визначення прогалин та, на цій основі – подальшого вироблення рекомендацій із вдосконалення чинного законодавства України..

Ключові слова: правове забезпечення, правове регулювання, інформаційний простір, інформаційні технології, штучний інтелект, національна безпека, інформаційна безпека, кібербезпека, загрози інформаційній безпеці, інформаційний тероризм, кібертероризм, кіберправопорушення, правопорушення в інформаційній сфері, відповідальність за скоєння правопорушення в інформаційній сфері.