LAW IN THE CONTEXT OF SOCIAL AND DIGITAL TRANSFORMATION

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As scientists note, the modern change in the managerial, economic and social landscape is largely due to digital technologies that transform the way of life of people and the algorithms of functioning of enterprises and public authorities. Given the accelerated impact of information technologies on society, the interpenetration of various spheres and directions, the boundaries of the action of public administration on subordinate objects are becoming unclear. Future transformations involve the construction of new technologies and management models based on a full replacement of the existing paradigm, which was largely formed in the "pre-digital" era. Digital transformation is organizational or social changes based on the introduction of digital technologies into all aspects of human interaction. Transformational changes are manifested in the emergence of innovative methods of work in the process of using technologies, which replaces the simple expansion or support of traditional approaches. Further development of digital transformation is seen in building a smart society, in which the "digital state" will be able to anticipate and satisfy the complex and individually differentiated needs of a particular person based on his personal characteristics and interests, forming an integral array of high-quality services in various areas of activity. Of course, a smart society should be formed on the basis of timely implementation of innovations; a modernized education system; the functioning of new paradigms of public administration that interact with most social and business processes; the ability of citizens to directly influence the main processes of digital transformation and control these actions [1].

Digital transformation significantly affects the quality of life of ordinary citizens, the efficiency of business entities based on automation, mechanization and robotization. Digital transformation affects all areas of activity. Society, the state and business entities are consumers of innovative information technologies. In the context of globalization, digital transformation is the main factor in increasing the competitiveness of world economies, creating services and products of higher quality and value, etc. Therefore, studying the advantages and disadvantages of digitalization of the economy is a necessary condition for the spread of innovative information technologies in all industries and areas of activity [2].

In the current conditions of social and digital transformation, it is quite logical that law is developing accordingly. It is not static, it is constantly in dynamics, receiving in the process of development of society an appropriate impetus for its

further development, especially regarding the regulation of social relations in the process of digital transformation of society. Thus, both strategies and doctrines are designed to determine the basic principles and principles on which legislative and all other regulatory legal acts of government bodies should be based in order to legally regulate emerging and functioning social relations related to digital transformation. Human rights are undergoing special changes in the conditions of digital transformation.

Particularly indicative in this context is the rapid development of electronic democracy; the introduction of electronic document management; access to the Internet; the development of telecommunications; the introduction of national electronic information resources; the provision of electronic services in all spheres of public life; the implementation of electronic identification; the digitalization of administrative services, etc. As scientists note, the process of transformation of human rights has significantly accelerated in the context of technological globalization and leads to the emergence of the fifth generation of human rights, which are characterized by artificial intelligence and the digital transformation of society [3, p. 5].

As scientists note, the practice of developing law in the modern world gradually introduces the category of "digital rights" (also known as Internet rights, network rights) into the conceptual and legal circulation, which has become widespread as an important element for characterizing the legal status of a person on the Internet. At the same time, such a category of rights as "digital rights" has not yet received general recognition either in law or in doctrine, including in view of domestic legal and law enforcement experience. Obviously, this is due to the fact that the problem of searching for and determining the specifics of fundamental human rights (their content and implementation) in the digital environment arose relatively recently and, perhaps, the solution to this issue is a matter of the near future [4, p. 19].

It is difficult to agree with this position, since the so-called "digital rights" are actually human rights in the information sphere, and digitalization is actually the saturation of society with various devices, means, systems using electronic and digital technology and the establishment of electronic communication exchange between them. Before the advent of digital technologies, society went through mechanical, tube, semiconductor, microcircuit, chip technologies, and at the same time there was no question of introducing the types of rights associated with these terms (mechanical, tube, semiconductor, microcircuit, chip rights). That is, it is not advisable to "invent" human rights for each technology, since society has adopted an appropriate approach to defining rights in large spheres of life (political, economic, social, natural), which, in turn, are divided into smaller ones, according to the sphere of human activity - in medical, environmental, cultural, trade, etc. spheres.

In view of the above, the so-called "digital rights" of a person that arise on the Internet (thereby being human rights in the information sphere) are correlated with other fundamental human rights specified in the Charter of Fundamental Rights of the European Union [5], which enshrines the main political, social and

economic rights of citizens of the European Union. This corresponds to the provisions of Part One of Article 8 of the Constitution of Ukraine, according to which the principle of the rule of law is recognized and operates in Ukraine. The rule of law is the rule of law in society [6].

The rule of law stands in sharp contrast to the idea that a ruler, a legislator, can be above the law, which was a feature of Roman law, Soviet law, Nazi law, and some other legal systems. Today, it is a fundamental principle of law, meaning that no person is above the law, that no one can be punished by the state except for a violation of the law, and that no one can be held accountable for a crime other than in accordance with the procedure established by the law.

At the same time, it should be noted that this term is now proposed to be replaced by the term "pravoladdya", which was introduced by Doctor of Law, member of the Venice Commission from Ukraine S. Holovaty in his fundamental study "The Rule of Law: Monograph: In 3 volumes" (2006) as a counterpart to the English concept "the rule of law", proposed by him at one time [7].

The reasons for the transition from the two-word "rule of law" to the one-word "rule of law" as the equivalent of the English "the rule of Law" were several factors:

1. After the adoption of the Constitution of Ukraine, domestic scientists resorted to explaining the essence of the concept of "rule of law" by means of an "element-by-element analysis" of the content of each of the components of the two-word expression, and not by clarifying the essence of the concept as a whole, that is, indecomposable. An example of such an approach was the proposal to "establish, first, what phenomenon is reflected by the concept of "law", and, secondly, what the supremacy of this phenomenon consists of.

2. The expression "Rule of law" is lexically close to one of the basic elements of the positivist doctrine of law in the form of the concept of "rule of law", which, in turn, led to the identification of both concepts. As an example, the thesis that "the principle of the rule of law has the expression of the rule of law".

3. Another common direction of interpretation of the essence of the concept of "rule of law" in domestic science was the approach in which it was recognized either as a "necessary feature", or as a "fundamental principle", or as a "part of the characteristics" of another concept – "rule of law". Here there was a crossing of two completely independent legal concepts, while "rule of law" and "rule of law" have never historically been and are not materially structurally interconnected [8].

There is consensus on the core elements of the concept of "the rule of law". These core elements are:

1. Legality – including a transparent, accountable and democratic procedure for the implementation of legal provisions.

2. Legal certainty.

3. Prohibition of arbitrariness.

4. Access to justice in independent and impartial courts – including judicial review of administrative acts.

5. Respect for human rights.

6. Non-discrimination and equality before the law [8].

At the same time, a number of well-known Ukrainian scientists (P. Rabinovych, O. Lutsiv) believe that the translation of the English expression "the rule of law" into Ukrainian proposed by S. Holovaty using the one-word term "rule of law" is not accurate and does not solve the problem of a universal understanding of the principle of the rule of law. After all, even in this case, without clarifying the content of the concept of law, it still remains unclear which phenomenon should "rule" (and, moreover, over whom/what...) [9].

Retired judge of the Constitutional Court of Ukraine Mykola Kozyubra also initially believed that the new term introduces confusion when applying concepts in science and practice. However, recently the scientist changed his view and agreed that in Ukrainian "rule of law" can be a substitute for the phrase "supremacy of law".

On June 27, 2016, the National Presentation of the document "Rule of Law Checklist" was held in Kyiv with the participation of the President of the Venice Commission Gianni Buquicchio, translated into Ukrainian as "The Rule of Law Checklist". The document of the Venice Commission "Report on the Rule of Law" (CDL-AD (2011) 003rev) translated into Ukrainian is presented as "Report on the Rule of Law" [8]. Thus, the factors for the transition to the term "rule of law", corresponding to the English "the rule of Law", are the following factors:

1. After the adoption of the Constitution of Ukraine, domestic scientists resorted to explaining the essence of the concept of "rule of law" by means of an "element-by-element analysis" of the content of each of the components of a two-word expression, and not by clarifying the essence of the concept as a whole, that is, indecomposable. An example of such an approach was the proposal to "establish, first, what phenomenon is reflected by the concept of "law", and, secondly, what the rule of this phenomenon consists of" [10].

2. The expression "Rule of law" is lexically close to one of the basic elements of the positivist doctrine of law in the form of the concept of "rule of law", which, in turn, led to the identification of both concepts. As an example, the thesis that "the principle of the rule of law has the expression of the rule of law".

3. Another common direction of interpretation of the essence of the concept of "rule of law" in domestic science was the approach in which it was recognized either as a "necessary feature", or as a "fundamental principle", or as a "part of the characteristics" of another concept – "rule of law". Here there was a crossing of two completely independent legal concepts, while "rule of law" and "rule of law" have never historically been and are not materially structurally interconnected [8].

Thus, the established expression "Supremacy of Law" should be translated into English as "Supremacy of Right", which means that Human Rights (including Constitutional Rights) have the highest priority over any Law or by-law. Therefore, Human Rights cannot be narrowed or abolished. It is this important meaning that is embedded in the Constitution of Ukraine [11].

Thus, the idea of the rule of law as the foundation of modern states and civilizations has recently become an even more powerful talisman than the idea of democracy. The former Lord Chief Justice and one of the most insightful legal experts in this world, Tom Bingham, has investigated that this idea means the foundation of a beautiful and just society, a guarantee of responsible government, a means of ensuring peace and cooperation [12].

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