

Law Enforcement in the Context of Digitalization: Problems and Prospects for Improving Efficiency

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ABSTRACT

The widespread adoption of digital technologies necessitates assessing the effectiveness of this process at present and considering the risks and opportunities existing here. The aim of the study is to consider the features and changes that the law enforcement process is undergoing in the context of digitalization. Traditional legal procedures are forced to undergo reforms, which, on the one hand, allows the most complete achievement of the goals of the legislator, and on the other hand, to respond to the challenges of modern crime, which is also armed with advanced technologies. The results of the study indicate not only the great potential that exists in the use of digital technologies for the effectiveness of law enforcement, but also the presence of objective and subjective obstacles that prevent their implementation. Practical recommendations have been developed to improve the efficiency of law enforcement in the context of the introduction of digital technologies.

Keywords: Law enforcement, reform, digitalization, digital rights, digital technologies, efficiency, legal procedures.

1. INTRODUCTION

Monitoring of the processes taking place in modern law enforcement shows that information technologies are becoming increasingly important. The development of franchising, international licensing agreements, the creation of large complex pools (patents, trademarks, know-how, etc.), together with the high mobility of financial and intellectual capital, the development of IT technologies and the Internet, have created a new technological and commercial environment, necessitating legislation react to ongoing changes.

Digitalization as a modern form of implementation of legal regulatory activities includes not only national, but also international regulation on the recognition of digital property rights in digital property circulation, the establishment of cybersecurity standards and legal liability for relevant offenses, protection of privacy and personal data (personal and biometric), regulation of digital transactions and the implementation of human rights and legitimate interests on the basis of new technological platforms, as well as the definition of new conditions for the provision of public services in the process of organizing new types of interactions. Emerging digital technologies are often not bound by state boundaries in the process of their implementation, and therefore the unification of national legislations in the field of digital law for its subsequent uniform application (in accordance with the existing experience of legal regulation of intellectual property law) is an urgent problem.

The purpose of this study is to examine the impact that digitalization processes have on enforcement processes. It is necessary to analyze the mechanisms for increasing the efficiency of law enforcement in the context of the introduction of digital technologies and the prevention of threats arising from the implementation of this process.

2. LITERATURE REVIEW

The problem of law enforcement in the context of digitalization has a long history of its study. Back in 1994, in her programmatic article, Saxby [1] wrote that more than thirty years have passed since the moment when lawyers first began to "speculate" on the problems of computers. In this case, the study of the problems of digitalization ("computerization") began in an article by Freed in 1960 [2]. The discussion started in this article was later supported by a large number of authors who began to analyze the problem of penetration in relation to various spheres of public relations [3].

Digital technologies became so widespread that in the 1990s legal scholars (for example, Barlow [4]) began to talk about the emergence of the next generation of human rights, the so-called "digital rights", the first normative documents were developed concerning this legal problem.

At the same time, the attention of legal scholars began to attract not only the advantages, but also the threats that the use of digital technologies entails. Such anxiety has been expressed in such fundamental works

as Akrivopoulou and Garipidis [5], Reed and Murray [6], Lessig [7].

This anxiety was confirmed by the practice of combating crime and was replaced by confidence in the danger of the uncontrolled use of digital technologies, and therefore a significant amount of research published in recent years is associated specifically with the fight against digital crime on the Internet. Thus, the publication of works by McCartan and McAlister [8], Jewkes [9], Banks [10] became a notable phenomenon.

In the modern legal literature devoted to the development of digital technologies, several directions have been outlined that study different aspects of the ongoing changes. So, some authors consider the impact of digital technologies on the life of modern states [11]. A much larger number of researchers are studying the impact of digital technologies on the development of law. Research by Khabrieva [12], [13] and Khalin and Chernova [14], Zorkin [15], Kartskhia [16], Mikheeva [17], Zaloilo and Pashentseva [18], Talapina [19]. A small number of works are also devoted to the impact of digitalization processes on the process of lawmaking [20] or law enforcement in public [21] or private [22] law. There are also interesting studies related to the constitutionalization of digital human rights [23], [24].

3. METHODS OF ASSESSMENT

The methodological basis of the work was formed by the dialectical method of researching legal phenomena in their relationship and interdependence. In addition, the validity of the results is achieved through the complex application of methods of historical and legal analysis, systemic and structural, comparative legal, statistical, logical and theoretical methods, as well as general scientific methods of synthesis, generalization, explanation, interpretation and classification. The initial data are modern views and provisions in the field of the theory of legal regulation of public administration, the analysis of which is made on the basis of official sources of legal information.

4. PROBLEMATIC ASPECTS OF INTRODUCING DIGITAL TECHNOLOGIES

As a social institution, the law is forced to respond to changes in society. It becomes not only a tool that ensures the introduction of digital technologies in various spheres of public life, but also a significant object of digitalization. In the prevailing conditions, changes are taking place in the sphere of the content, form and mechanisms of action of law. However, neither doctrine nor legal practice has developed a generally accepted

image of the direction of the changes taking place and the patterns of transformations being made.

The main problem at the moment is the inability to regulate the entire spectrum of emerging legal relations by regulatory means. Such a desire of the legislator deprives the corresponding relations of flexibility and serves as an obstacle to the development of the corresponding technologies. Another problem is that in the context of large-scale "digitalization" the possibility of regulating a number of social relations within the national jurisdiction of the state becomes very relative. In this regard, the role of international legal regulators is noticeably increasing.

Thus, at the moment, various options are possible in the development of law in the context of digitalization. It is possible as a transformation of law into another social regulator, allowing the use of the program code necessary for understanding the text of the regulations emanating from the state by technical means (up to the creation of an "electronic judge"). It is also possible for the law to preserve its substantial properties and its conservative existence in the digital reality - earlier the law has already experienced the emergence of such non-traditional phenomena as, for example, surrogacy or GMOs, in connection with which the adaptive capabilities of modern legal systems can be assessed as quite high. Finally, the emergence of a new normative system (along with law, morality, religion and other normative systems) is also possible, but the implementation of the latter option is possible only in the long term.

Artificial intelligence in the field of jurisprudence can be used to analyze the correctness of the preparation of documents, conduct a comprehensive legal analysis of legal situations, predict the outcome of a trial, and automate legal procedures. Already today, there are computer programs that allow you to solve standardized legal tasks (such as, for example, drafting simple complaints or contracts). Thus, digital technologies can directly influence the content of the legal profession, compete with lawyers who carry out standardized legal operations. In the professional community, opinions are expressed about the fundamental possibility of the formation of legal practice according to special technological algorithms. An important area of changes is amending the procedural legislation in terms of filing a statement of claim in electronic form, using video communication in the process of administering justice.

At the moment, digital technologies have already created a new reality ("digital economy", digital cyberspace), which is different from the physical world in which human life was traditionally carried on. Currently, digital technologies are beginning to dictate their conditions for the life of society, to which it is necessary to adapt legal institutions. Technological platforms

based on the principles of blockchain, Internet of Things, cloud computing, Smart Everything, Big Data, augmented & additive reality, cybersecurity, Telegram, Facebook, VK), electronic services that are used in a wide variety of areas of human activity - all this has created new conditions to change traditional legal institutions and their adaptation to the realities of the new technological environment for humanity. Often, the gap between the real and the digital world prevents us from using all the available information produced by many "smart" devices around the world [25]. In this area, certain technological automation capabilities are laid down.

5. THE PROBLEM OF ENSURING HUMAN RIGHTS IN THE CONTEXT OF DIGITALIZATION

Due to the explosive development of digital technologies and their acquisition of key positions in the life of society, digitalization of law is inevitable and necessary. However, digital technologies make it possible not only to make human life easier, but also to expose it to dangers previously unknown. Cybercrime, theft of funds from bank accounts, getting into the public domain of information concerning a person's private life - this is just a small list of the threats that modern society faces [26].

As noted in the literature, the development of digital technologies directly affects such constitutional human rights as privacy, personal and family secrets, the protection of one's honor and good name, as well as the prohibition on the collection, storage, use and dissemination of information about a person's private life without his consent.

The right to access the Internet, highlighted in the works of some modern researchers, is not yet enshrined in constitutions and international conventions, but it has every chance to acquire the status of a basic human and citizen right in the process of further development of digitalization processes. Genetically, the right to access the Internet goes back to two closely interrelated first generation rights - freedom of expression and the right to information, and in general can be seen as a means of realizing them. A number of international documents dedicated to ensuring freedom of information, freedom of expression and freedom of communication have emphasized the importance of the means and tools that allow them to be implemented [27]. The development of digital technologies determines both a change in the views of lawyers on the essence of human rights and the emergence of new rights that require the introduction of mechanisms for their legal protection.

6. DIGITALIZATION AND INCREASING THE EFFICIENCY OF LAW ENFORCEMENT IN THE FIELD OF PUBLIC LAW

Expert forecasts suggest that the systemic and widespread introduction of information and communication technologies (IT technologies) in all spheres of society, and especially in public administration, is a necessary condition for the effective development of the national economy.

Ensuring national interests is carried out through the implementation of, among other things, the following strategic national priorities: ensuring state and public security, also by improving the system for identifying and analyzing threats in the information sphere, countering them; improving the quality of life of citizens, also through the development of information infrastructure, the availability of information on various issues of social life, equal access to public services throughout the state.

In various states, it is planned to transfer citizens from a paper document to an electronic passport, the carrier of which can be a plastic card with an embedded chip. This electronic document will provide its owner with access to all state registers and services.

In order to develop a digital economy based on the use of data, it is necessary, through the introduction of digital technologies and digital platforms, to ensure the reduction of time and administrative costs in the provision of state and municipal services, the implementation of control and supervisory functions, the functioning of state and municipal bodies. The tendency of democratic development is the introduction into legal reality of the e-democracy model as a special form of interaction between government bodies and the people through the involvement of citizens in the management of state affairs using the latest information and communication technologies.

In the future, digitalization may also imply the participation of citizens in public administration through appropriate technological platforms - the formation of "electronic government", "electronic legislation" and "electronic government". In accordance with existing ideas, in the future the text of normative acts should be formulated in such a way that it is understandable not only to humans, but also to the relevant information systems.

7. DIGITALIZATION AND ENHANCING THE EFFICIENCY OF LAW ENFORCEMENT IN THE SPHERE OF PRIVATE LAW

A feature of the development of modern private law is that contractual relations are developing much more rapidly than the norms aimed at their settlement, which may indicate the inability of legal norms to fulfill their regulatory function in relation to them.

The process of improving contract law, taking into account the development of IT technologies and smart contracts, is inevitable. First of all, this applies to Blockchain technology.

An important object of civil law regulation, the frequency of which has been continuously increasing in recent years, is digital money, understood as a collection of data in an electronic information system. This set does not certify the right to any object of civil law, but facilitates the implementation of payments by users of this system [28].

The creation of complex objects built on the principle of integrated technologies (artificial intelligence, analytical structures based on Big Data, self-controlled systems like Smart Everything, etc.) generates a request to expand the list of protected intellectual property objects, change the methods of legal protection in the digital space, create segment of digital services as a variety of intellectual property objects, the creation of "cyber property" (rights to virtual objects of digital space).

Currently, it is necessary to develop legislation on digital civil turnover, containing the basic concepts and principles of such turnover, taking into account the use of digital technologies (smart contract, digital obligations, types of rights objects, digital technological platform, types of digital property, authentication rules, etc.). In connection with digitalization, legal science faces a fundamental problem - to comprehend the concept and matter of a virtual thing.

8. OPPORTUNITIES AND RISKS OF DIGITALIZATION OF LEGAL RELATIONS

The main problem hindering the wider introduction of digital technologies into the functioning of state mechanisms is the unwillingness of officials to change the usual methods of work and the use of traditional legal categories for new objects. In addition, digitalization determines the strengthening of the role of international regulation of human rights, international standards for ensuring these rights and tools for their protection, which leads to the universalization of human rights

and the leveling of national differences in their provision [29].

The right to access the Internet is awaiting constitutionalization. Thus, the question of whether or not a user of digital technologies needs anonymity is a matter of discussion. There is a perception that Internet users should be equipped with tools to communicate safely and comply with basic security rules such as not using real names; deletion of potentially confidential correspondence; using secure passwords and password managers; reducing risks when using smartphones and mobile phones; as well as deleting chat histories and browsers. They should also become familiar with additional layers of encryption and use them to transfer and store data [30]. However, such anonymity is not only a precondition for the safety of respectable Internet users, but it also creates the possibility for criminals to continue their digital activities with impunity. Relations in the digital space initially do not lend themselves to the same control as in traditional conditions, since in the electronic environment it is much more difficult to identify a person's identity, gender and age, place of residence, and therefore, take these features into account in legal regulation. Thus, the legal regulation of public relations in the Internet sphere goes beyond the national space and acquires an international legal sound.

Another problem of digitalization is the creation of information and reference systems of legislation. It is to such systems, and not to official sources of publication of normative legal acts, court decisions, etc., that professional lawyers turn to when carrying out their activities, while admitting that these systems may contain errors and inaccuracies. At the same time, the exact correspondence of the digital copy to the original is not guaranteed and the owner of such a non-state information system is not responsible for possible inaccuracies. In this case, it is possible to recommend to the states the development of national legal standards to regulate digitalization processes, which is necessary for building their own internal policies in this area.

9. RESULTS

In the context of the development of the information society, the main functions of the state are expanded and the state administration is transformed using digital technologies. In addition to the generally recognized functions of the state in a market economy, the importance of the information function is increasing, which covers the main areas of activity in the information sphere.

The digitalization of modern social relations is consistently shaping a new social, economic, political and legal reality. The legislative system as an invariable

external form (shell) of law also undergoes significant transformations and changes, while it is obvious that in the new conditions of digital reality, the legal system continues to be based on universal human rights guaranteed by the Constitution and international legal acts, the recognition and protection of which is the duty of the state and its authorized bodies. At the same time, in the future, under the influence of digitalization, changes are inevitable in the very mechanism of legal regulation, legal technologies, lawmaking and law enforcement.

10. CONCLUSIONS

The most important legal problem of digitalization is the lack of normative disclosure of the content of the terms “digital economy”, “electronic person”, “electronic state”, “digital law” used in legal doctrine, legislation and judicial practice. In theoretical and legal terms, attempts to isolate digital law into a separate legal branch are of interest, which indicates the need to highlight its subject and method.

The further development of the legal system of modern states is due to the ever-increasing influence of the processes of development of digital technologies on them. This is not only about the large-scale digitalization of the sale and purchase sector, but also about those areas of law in respect of which their movement on the Internet was not previously envisaged (the sphere of public services, electronic suffrage, etc.). If we add to this the criminal manifestations of the new digital reality, then the indicated problem will become even more obvious. The absence in this area of systemic legal regulation and even the necessary set of basic legal terms makes the rule of law defenseless against the rapidly developing process of digitalization.

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