EMJ MS
EUROPEAN MULTIDISCIPLINARY JOURNAL OF MODERN SCIENCE
ISSN 2750-6274 https://emjms.academicjournal.io Volume: 25 | Dec-2023

Digital Law and Law-Making: Foreign Experience and National Practice

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Abstract: This article discusses digitalization and the interdependence of law, the attitude of the state and society to these issues. And also, the article analyzes the scientific views of scientists on digital law.

Keywords: law, digital law, law, state, norm, technology.

The 2018 UN Technology Strategy states that digital technologies are becoming an integral part of all areas of social, cultural and political life, and that the use of new technologies should be based on the principles of “equity”, “fairness”, which are considered core values, along with generally recognized international documents[1].

It should be noted that the trend of modern technological development, along with new opportunities, creates specific problems. That is, while creating convenience for each area, it also creates problems.

And also, digitalization of a certain system, increasing the ability of citizens to effectively use information, ensures the openness of the activities of government bodies, as well as an open dialogue with the population.

Against the background of the rapid development of the digital industry, along with the consolidation of the state system and the legal sphere, bureaucratic obstacles for citizens in some areas are being eliminated. It should be noted that the digitalization of public life helps to eliminate bureaucracy, censorship and other administrative obstacles, and radically reduce outdated and incompatible procedures.

The connection between digitalization and modern trends in the development of law is reflected in the reaction of the state and society to these problems. These relations create a practical need for the complete digitalization of the state system and the legal sphere through modern judicial reforms, among other things.

As defined by Conrad Becker's Tactical Reality Dictionary, “Digital human rights are the extension and application of universal human rights to the needs of an information-based society. Basic digital human rights include the right to access the electronic network, the right to freely communicate and express opinions online, and the right to privacy.” In 1997, at the Kassel art festival Documenta, a group of Amsterdam activists from the De Waag media center presented the People's Communication Charter for the first time. It formulated requirements regarding the preservation of public public space as a public domain and its protection from attacks by commercial and police interests. Since 1997, the set of human communication rights has been seriously improved, and work to protect them is consistently carried out by the public initiative CRIS, in collaboration with UNESCO, various NGOs and

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other structures of international importance [2].

In our opinion, the concept of **"Digital Law"** *can be defined as "a modern area of law that regulates issues related to information technology . "*

Today, digital law enters the field of jurisprudence mainly as a modern institution in the areas of public administration, civil and criminal law. In particular, "digital transactions", "digital assets", "smart contract", "digital trade", authentication and identification rules, which are part of our society as modern civil relations, have modernized the sphere of civil legal relations and have become an important indicator of the development of modern trends rights.

Also, "cybersecurity", "cybercrime" and crimes committed with the help of other modern technologies, which have become a trend accompanying the development of law in recent years, show the need for digitalization and criminal legislation as well. And in public administration law, digital law mainly connects citizens with government services through information systems and develops "electronic government" and "electronic state" systems.

In legal theory, "digital law" is studied primarily in connection with information technology. In particular, the implementation and disposal of digital rights, restriction of the disposal of digital rights in other ways is carried out only through the information system. In this case, a person who, on the basis of relevant documents, is granted the right to exercise these rights in accordance with information technology, is considered the owner of a "digital right", that is, the owner of digital property, which is one of the current trends in the development of trends in modern law.

Legal scholars and researchers studying digital law as a modern subjective law, use the concept of "digital law" as one of the universal human rights, adapted to the requirements of the digital society and modern trends in the development of law.

Scientists in the field of digital law have put forward the following **scientific approaches,** both similar and unique:

Thus, T. S. Yatsenko presented "a brief but rather specific overview of the main points of view, both foreign and domestic. Foreign points of view interpret digital rights (digital assets) extremely broadly, while domestic interpretations of digital rights come down to a narrower interpretation of them as electronic data certifying rights to objects of civil rights. In his work, T. S. Yatsenko points out the debatability of understanding digital rights either as an electronic way of registering subjective rights, or as an unstable legal fiction, or as an object identical to the certified object of rights[3].

From the above provisions we can conclude that digital law as a type of subjective property rights is not a fundamentally new object. It only indicates a special, digital (binary) form of existence of traditional property rights - real, obligatory, corporate and others. This shows their clear connection with uncertificated securities and non-cash funds. The special form of existence of these rights is also associated with the owner of the digital right, that is, a person who has the opportunity to dispose of the existing right only in the information system indicated above. Since the law does not make any clarifications, and from the definition of digital rights it follows that these are, in essence, traditional property rights, it seems that the subject composition in the future construction of the legal relationship will be the same as in the corresponding traditional legal relationship. It is only important to note that legal relations regarding digital rights are formed through the mediation of an "information system", which, however, is not the subject of the legal relationship and does not affect the essence of the latter [4].

We can analyze the position regarding digital law of several authors, for example V.D. Zorkin believes that "the digitalization of social life has led to the emergence of previously

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unknown so-called digital rights. Digital rights refer to the rights of people to access, use, create and publish digital works, to access and use computers and other electronic devices, as well as communication networks, in particular the Internet [5].

According to A. A. Kartskhia, the process of "digitalization of law" is actively underway, or, according to the intellectual science of law - that is, the use of mathematical methods and new digital technologies in order to optimize processes and legal relations, as well as procedures for creating a new digital reality, which also requires legal regulation or the presence of a state-authorized regulatory body [6].

On the other hand, digitalization and new information technologies encourage us to transform the nature of the activities of legal entities, change the scope of their legal relations, and expand the horizon of future activities. Law is an excellent ally of the latest technical developments, digitalization and informatization in society [7].

Against the backdrop of digitalization of the system of government bodies, the widespread introduction of modern technologies into their rule-making activities is of priority importance, which is manifested in the following positive aspects:

1. As a result of digitalization of the procedure for developing regulatory legal acts, **the established deadlines (** development, approval, examination and adoption of regulatory documents) are sharply reduced, and the effectiveness of rule-making activities increases.
2. Thanks to the widespread introduction of modern technologies in the development of regulations, **"paperwork", "bureaucracy" and corruption are prevented,** i.e. Following the principle of " **movement of documents** ," activities for the development, coordination, and examination of regulatory documents are carried out without the "human factor" and only with the use of information technology.
3. Through the appropriate information systems, the rule-making activities of government bodies **are monitored, and the principle of "legality" in this area is ensured.** That is, full control is ensured over the issues (processes) of development, receipt and adoption of regulatory documents by subjects of rule-making in accordance with the law, which becomes an integral feature of legal development trends.
4. When creating legislation, the principles of **"openness" and "transparency" are ensured,** and a system is created to inform the population about the legislation being adopted.

In addition, the digitalization of rule-making activities creates a number of modern trends in law. In particular, *"digital law", "artificial intelligence in legislation", "digital expertise", "legislative technology programs"* indicate that the activity of developing normative legal acts is becoming more and more modern.

For example, " **artificial intelligence** ," which is one of the modern technologies leading to a reduction in human activity, is rapidly entering all spheres of society. At the same time, today's increasing workload necessitates the use of "artificial intelligence" in the development of legislative acts by rule-making subjects.

Before proceeding to a scientific analysis of this topic, let us dwell in more detail on the concept of "artificial intelligence" and its definition.

Artificial intelligence is a system that is capable of sensing its environment and taking action to maximize the chances of successfully achieving its goals, and interpreting and analyzing data in such a way that it learns and adapts as it evolves. For AI to be useful, it must be applicable. Its true value can only be realized when it provides actionable information. If we think of AI in terms of the human brain, then AI technologies are like hands, eyes and body movements - everything that allows us to bring the ideas of the brain to life. Listed below are

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some of the most widely used and fastest growing AI technologies [8].

The main question is at what stage of rulemaking is “artificial intelligence” used.

In our opinion, it is impossible to use “artificial intelligence” at the stages of development and examination of draft regulatory legal acts, which are considered important stages of legislation. That is, since legal norms are instruments that regulate social relations and create legal consequences, such important documents cannot be trusted to technology.

“Artificial intelligence” can be used to simplify the process of preparing draft regulations. For example, it is advisable to use “artificial intelligence” to determine and monitor compliance with deadlines for working with legislation (development and approval of regulatory legal acts), searching for spelling and technical errors in regulatory documents, identifying inconsistencies between translated project texts, bringing texts into compliance projects to the requirements of legislative technology.

Artificial intelligence technologies will make it possible, in particular, to automatically check a draft legal act for compliance with acts of greater legal force, determine the need to make changes to acts of lesser legal force, and evaluate compliance with the rules of legal technology and the accuracy of references to other laws and regulations [9].

The unilateral use of artificial intelligence systems by various parties will certainly play a role in changing the nature of diplomacy and international negotiations in the coming decades. For example, in 2018, the Ministry of Foreign Affairs of the People's Republic of China began using an artificial intelligence system as a strategic decision support system, providing its diplomats with a range of options and assistance in assessing risks. But if such “legal automation” is possible even in domestic legal systems, can it ever make the leap into the realm of public international law? [10].

It should be noted that any technology should serve the benefit of man and his interests. For example, participation with the help of information systems of people in the process of developing regulations and expressing their opinions is one of the means of effectively ensuring the rights and legitimate interests of citizens, as well as a manifestation of the principle of “human dignity” in the field of legislation, as an important direction of modern trends in the development of law .

As a conclusion, it should be noted that the introduction of digital rule-making, free from “paperwork” and “bureaucracy”, will create a solid and effective basis for the legislative framework.

Bibliography :

1. https://www.un.org/en/newtechnologies/images/pdf/SGs-Strategy-on-New-Technologies-RU.pdf
2. https://ru.wikipedia.org/wiki/Digital_rights
3. Yatsenko T. S. Inheritance of digital rights // Inheritance law. 2019. No. 2. pp. 11–14.
4. Istomin M.A. On the issue of the essence of digital rights // Ural Journal of Legal Research, 2019, No. 5. – P.622.
5. Martyusheva K. Yu. Digital rights: main problems of legislation // Man, economy, society:
6. current scientific research: collection of scientific papers based on the materials of the International Scientific and Practical Conference November 25, 2020. (APNI), 2020. pp. 27-29.

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7. Kartskhia A. A. Digital transformation of law // Monitoring of law enforcement No. 1 (30) – 2019, DOI: 10.21681/2226-0692-2019-1. –P.27.
8. Tikhomirov Yu.A., Kichigin N.V., Tsomartova F.V., Balkhaeva S.B. Law and digital transformation // Law. Journal of the Higher School of Economics. 2021. No. 2. – P.11.
9. https://www.sap.com/central-asia-caucasus
10. https://www.pnp.ru/social/rukavishnikova-iskusstvennyy-intellekt-povysit-skorost-normotvorchestva.html
11. See: Tikhomirov Yu.A., Kichigin N.V., Tsomartova F.V., Balkhaeva S.B. Law and digital transformation // Law. Journal of the Higher School of Economics. 2021. No. 2. – P.11.
12. Mamadaliyevna N. R. INSONIYAT O’ZINI O’ZI ZAHARLAMOQDA //" GERMANY" MODERN SCIENTIFIC RESEARCH: ACHIEVEMENTS, INNOVATIONS AND DEVELOPMENT PROSPECTS. – 2023. – T. 9. – №. 1.

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