

The problem of ensuring the social direction of the legislation of Ukraine on the digital economy

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The article is devoted to the topic relevant in the context of the development of civil society institutions and digitalization. The social focus of the digital economy (DE) involves taking into account the interests not only of business representatives but, above all, of the most numerous and least protected participants in such an economy – citizens-consumers and small entrepreneurs/businesses. Such direction should be provided by the state, as envisaged by the Constitution of Ukraine, and the key tool is the legislation, which should enshrine the appropriate legal mechanisms. At the same time, the analysis of current regulations on the regulation of relations in the field of DE, and the practice of their application, shows their insufficient effectiveness due to the defects (the presence of collisions, gaps, obsolete norms, lack of unified terminology; a large number regulatory acts of different legal force, which is becoming more difficult to navigate, etc.). General trends in the regulation of relations in the field of DE, and particularities regarding certain processes (self-regulation and adaptation of Ukrainian legislation to EU law), in certain areas (electronic financial services for insurance) and in relation to certain resources (electronic tax registers) are revealed. Ways to improve the Ukrainian legislation are proposed to enhance the effectiveness of the legislation governing relations in the field of DE, its transparency in terms of social orientation and, first of all, to take into account the interests and protection of the rights of the most vulnerable participants in such relations, strengthening the fight against corruption. Emphasis is placed on the expediency of codifying such legislation in order to establish common rules and to take account of the specifics in certain areas of DE by adopting special acts.

Keywords: social direction, digital economy legislation, EU experience, self-regulation, insurance, public registers.

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INTRODUCTION

The characteristic features of modern social life are the digitalisation of its main spheres, including the economic, which is becoming a digital economy, and the development of civil society institutions. At first glance, these phenomena are quite different. Digitalisation by most researchers is defined as the digital transformation of society and the economy, which means the transition from an industrial era characterised by analog technologies to an era of knowledge and creativity, which is characterised by digital technology and digital business innovation (What is digitalization 2020). Instead, civil society (CS) is estimated by most analysts to be the sum (aggregate) of institutions, organisations, and individuals operating in the family, state, and market in which people voluntarily unite to pursue common interests; it is a sphere located between the state and the market – a buffer zone, strong enough to contain and control both the state and the market, thus preventing each of them from becoming excessively strong and dominant. In other words, civil society is a self-organisation of society beyond the more rigid spheres of state power and market interests (Anheier 2020).

A modern digital-based information system plays an essential role in the functioning of such a society, providing its subjects with the necessary information to interact. Thus, digitalisation contributes to the development of civil society institutions if it is focused on balancing public and private interests, taking into account and protecting the interests of the least protected and, at the same time, the largest sections of the population (in the digital economy, these are primarily consumers and small businesses). In this article, the authors will use, like the Ukrainian legislator (Concept of development... 2018), the concept of “digital economy”, in contrast to what is proposed by some researchers (in particular, Bukht, R. and Heeks R. (2017)) related – digital economy, without going into the discussion to distinguish between these concepts and the social phenomena that are relevant to them.

Ukraine as a sovereign and independent, democratic, social, rule of law (Article 1 of the Constitution of Ukraine) committed itself to ensuring the social orientation of its economy (Article 13 of the Constitution of Ukraine). As relations in this sphere are regulated by the relevant acts of legislation, the latter should be socially oriented. At the same time, the formation of such legislation and its status are quite specific. First, it is far behind the rapid development of digital technologies, which has led to the emergence of such a phenomenon as the digital economy (hereinafter referred to as DE). In turn, loopholes create barriers for participants in relevant markets (telecommunications services, e-trust services, e-commerce, in particular) to engage in civil cases and are used by unscrupulous participants in those relationships seeking to profit from abuse and, in particular, the use of digital illiteracy of most consumers.

Social direction of the legislation of Ukraine on the digital economy

The backlog of current legal regulation of DE relations from their actual status is partially compensated by self-regulation by participants in the relevant DE markets and their self-regulatory organisations. However, the latter focuses mainly on the needs of its members and, secondarily, consumers and those entrepreneurs who have not joined such organisations. Consumer protection remains to a state that has the necessary levers and direct interest: citizens-consumers are the largest category of participants in a digital economy that delivers business profitability, but is least protected in view of the modest digital capabilities (digital knowledge required, electronic resources and funds for their acquisition/maintenance). However, the current regulatory framework in Ukraine does not adequately protect the weakly protected parties to this DE relationship and their ability to do it on their own using inexpensive and convenient online dispute resolution procedures.

The problem raised here has not yet found comprehensive legal coverage, although numerous researchers have paid attention to certain aspects of the social orientation of legal regulation of DE relations, namely: contractual relations using electronic resources and, first of all, the Internet, in the perspective of the functions of IT law, on e-business, responsibility and consumer protection in the field of e-commerce, the role of self-regulation in the sphere of DE, virtual enterprises and electronic resources, an electronic public register, telecommunication services, electronic insurance and others.

Therefore, the problem of social direction of legal regulation of relations in the sphere of DE of Ukraine is urgent not only from the point of view of insufficient effectiveness of legal regulation, which is lagging behind the needs of society and the actual state of these relations, but also in view of the necessity to solve it at the theoretical level. This article aims to cover the issue in a comprehensive manner, revealing the general trends of the process (principles, key issues, ways of improvement) and specifics of individual components (self-regulation; electronic financial services for insurance and electronic public registers, taking into account the EU experience).

LEGAL REGULATION AND SELF-REGULATION OF RELATIONSHIPS IN THE DIGITAL ECONOMY

The analysis of the current legal regulation of DE relations in Ukraine is characterised by a large number of legal acts of different legal force that have been adopted over the last 20 years (key laws: “On Telecommunications” – 2003, “On E-Commerce” – 2015, “On electronic trust services” – 2017), insufficient consideration of relevant EU acts, despite Ukraine's course to adapt its legislation to EU law, the absence of a codified DE act that would regulate relations in this area in a comprehensive manner. The consequence of this is the dispersion of the norms about this, the presence of collisions, gaps, the lack of unified terminology. This gives rise to

problems with the application in practice of the rules contained in these acts, since many of them are ineffective.

The emergence of new resources (e-shops, trading online platforms, etc.), qualitatively new entities (virtual enterprises in particular), until recently fantastic artificial intelligence, as well as the associated risks and mechanisms to prevent the abuse of digital phenomena has not been adequately reflected in the Ukrainian legislation. This enhances the defencelessness of a large number of participants in this relationship and, above all, consumers and small business representatives whose digital capabilities (relevant digital skills, resources needed to protect their knowledge interests), giving rise to the phenomenon of digital inequality. Overcoming this phenomenon has not yet become a priority for the Ukrainian state, in contrast to the experience of, for example, the EU and the UK, which have acts on e-commerce, online consumer disputes (Directive 2000/31/EC... 2000, Regulation (EU) No. 524/2013... 2013, Directive 2013/11/EU... 2009) and the digital economy (Digital Economy Act 2017), contain provisions on the obligation of the State to take appropriate measures to improve the digital literacy of participants in these relations.

The state of the legislation of Ukraine governing the relations in the sphere of DE is characterised by: the presence of a large number of legal acts of different legal force. Such an array of acts does not ensure the optimality, efficiency and transparency of regulatory regulation. And the presence of numerous defects (gaps, obsolete and conflict-of-law norms) further complicates its practical application. Thus, the uncertainty of the legal regime of online shops, other business sites and the legal position of virtual enterprises complicates the establishment of persons responsible for violations of consumer rights in the field of e-commerce. The lack of legal capacity and order for resolving consumer conflicts/disputes online, as well as effective mechanisms for overcoming digital inequalities, are an obstacle to effective protection of consumer rights in e-commerce. This does not contribute to the effective solution of the problem raised here in Ukraine. In authors' opinion, the social direction of the legislation on this should include:

- the adequacy of the legal regulation of the DE relations to their actual state;
- balanced consideration of interests of all participants in the DE relations with emphasis on additional protection of the rights of the least protected of them – consumers and small entrepreneurs;
- combination of state regulation with self-regulation with determination of the basic principles and limits of such combination;
- taking into account international experience (first of all, the EU) in view of the transnational nature of digital technologies and, accordingly, e-commerce and the course of Ukraine to adapt its own legislation with EU law;

Social direction of the legislation of Ukraine on the digital economy

- overcoming the digital inequality of participants in the DE relations, which should be provided by the state and business structures regarding the offered electronic services and/or the use of electronic resources;
- legal mechanisms for preventing and combating corruption.

A comprehensive solution to this problem is seen in the codification of the legislation governing relations in the field of DE by adopting a Law or Code of the DE or including in the current Economic Code of Ukraine a new section on Digital Economy. Such an act or section of the Economic Code should enshrine the principles of DE, the basic principles of state regulation and self-regulation in this field, the legal status of participants in the relations of DE, the legal regime of electronic resources, the specifics of concluding and executing electronic contracts, the peculiarities of antitrust and competition regulation, liability for offences in this field, basic principles of consumer conflicts/disputes management on-line, as well as identify key pieces of legislation governing e-business relations and the provision of electronic services in certain areas/markets (including financial services), in relation to certain electronic resources and facilities (in particular, electronic public registers), etc. In view of the complexity of the economic sphere, the problem raised here is also the individual (1) processes in the field of DE (self-regulation), (2) markets (electronic financial services for insurance), (3) facilities (electronic public registers, in particular), and also (4) in the light of EU experience.

Self-regulation in the field of DE largely provides for its social direction, eliminating gaps in legal regulation and taking into account the needs of participants in the relevant markets and their consumers. The problem of self-regulation is seen through the prism of synergy as the theory of complex systems capable of self-development and self-regulation. Synergetics is the basis of the digital economy. In the aspect of this article, synergetics means the theory of complex systems that are capable of self-development and self-regulation. This, as a complex system and a multidimensional phenomenon, has self-regulating properties.

It is the synergetics that makes it possible to trace in the dynamics of modern life the influence of information technologies on economic activity, the emergence of new types of products, goods, services, means of implementation and technical processes, methods of protection, etc. Synergetics helps to understand that the benefits of this are convenience, efficiency, effectiveness, speed. These components have significantly changed the paradigm of economic activity. B.J. Mifsud (2008), B. Roy (2017), J.K. Wynn (2010) explored self-regulation issues in the digital economy. Thus, J.K. Wynn emphasises that the global integration of markets has both eroded the sovereignty of national governments in regulating their domestic economies and also given rise to distinctive new forms of regulation whose authority may be largely independent of any national government.

An important characteristic of DE as a complex self-organising system is its high level of innovation. The innovativeness of e-business changes the social, spiritual, normative content of human life, not just the technological one, thereby facilitating it and creating more comfortable conditions, changing productivity, etc. E-business as a facilitation of being an entrepreneur is an element of feeling philosophically happy and frees up more time. DE is an innovative result, and innovation is not possible without self-regulation, creativity, the development of science, the creation of a product that would differ from others and meet the demand for “special goods and services”.

In addition to the benefits, DE has some drawbacks and complications with data protection in the digital world. At the same time, due to the highest degree of self-regulation in the e-economy, solutions are being offered. Thus, thanks to the blockchain technology, which is decentralised, it is impossible to prevent certain abuses, which were characteristic in the conditions of direct appeal to the intermediary. DE has affected the entire business building system, so the social requirements for its building should be taken into account. With the use of innovative digital technologies, for example, certain product segments of the market are declining, while new, more popular ones are emerging. However, the speed of change, transformation is critically accelerated, which cannot but be reflected in the standard of living of people and the order of conducting economic activity. Such changes have a negative impact on the labour market, which could threaten unemployment, the decline of entire regions.

Already today, internet commerce has changed the daily life and has brought, along with the positive effects (cheaper goods and services), the negative ones (business closures). The accessibility and globalisation of online commerce often harm the social paradigm of state development. Such trade leads to the removal from the market of the national commodity producer and as a consequence of job cuts. DE can use self-regulatory tools that are used by business entities in general. Self-regulation means of DE include: economic agreement, corporate acts; customs of business (trade); standard rules for the implementation of certain activities, codes of ethics; good practice, voluntary conformity assessment procedure, etc. In addition, self-regulatory organisations in the field of DE are being created. At the same time, such self-regulation tools are transforming form depending on the information and communication technologies used. The features of such tools are related to the technical characteristics and are embodied in regulations, technical standards, methods of transmission of information, data and more.

In particular, means of DE emerged thanks to self-regulating include smart contracts, blockchain, cryptocurrency, electronic dispute resolution, electronic arbitration, electronic identification, electronic documents, electronic signatures, electronic delivery services, e-commerce, and more.

Social direction of the legislation of Ukraine on the digital economy

So, today there is a tendency that the rate of change, which is attributed to self-regulatory processes, will only increase and state regulation will lag behind. States will therefore be forced to deepen e-business co-regulation processes and, at the same time, offer business entities various forms of self-regulation, including self-control and good practices, while realising the social orientation of the state and making it compulsory for businesses to comply.

Accordingly, the prospects for the development of legal support for DE are the development of a system of standards for integrated forms of activity, strengthening consumer protection and responsibility for non-compliance with sanctioned standards, which will be withdrawn from self-regulation. Good faith and fairness are the cornerstone of transnational public order, which must be upheld in e-business self-regulation. At present, trust is a key concept of DE, so this principle will be developed and further differentiated.

In the global arena, the global e-commerce debate is ongoing in the context of the global business dialogue, which must fulfil the tasks of authenticity of identification, interoperability and usability. Approaches to understanding the sovereignty of the state and its economic components are changing, so the role of the state is transformed. Information technology is exacerbating the effects of change in the state, providing alternatives to a common understanding of state regulation. However, it should be noted that the impact of electronic systems on efficiency, provided appropriate technological support is a disadvantage of e-business. At the same time, e-commerce is based on clearly defined standards for the implementation of certain technological schemes that are developed by most self-regulatory institutions, by the entities themselves. Of course, the state's task is to create the right field of activity for such entities, taking into account the social orientation of the legislation.

The process of formation and development of self-regulation in the field of DE in Ukraine is taking place within the framework of the nationwide process of ensuring sustainable development and implementation of the system of self-regulation in economic activity. Thus, the Concept of Reform of the Institute of Self-Regulation in Ukraine was adopted, approved by the decree of the Cabinet of Ministers of Ukraine (Concept of Reform... 2018) and the Decree of the President of Ukraine "On Sustainable Development Goals of Ukraine for the Period until 2030" of September 30, 2019, No. 722/2019 (2019). According to the Decree, the Sustainable Development Goals are the guidelines for the development of draft forecast and program documents, draft normative acts to ensure the balance of the economic, social and environmental dimensions of sustainable development of Ukraine (Decree of the President of Ukraine September 30, 2019). Sustainable development goals should be taken into account when developing sectoral

legislation in the digital economy and its self-regulation, and should concern itself with the use of self-regulatory tools.

Therefore, DE is a consequence of self-organisation and self-regulation of economic activity using information technology as a complex system. Therefore, the task of the modern state is not only the development of self-regulation of DE, but also the search for the necessary tools (means) to ensure the social direction of DE, taking into account its self-regulatory properties.

THE MARKET OF ELECTRONIC INSURANCE SERVICES

The problems of ensuring the social direction of the legislation governing relations in the sphere of DE can be considered from the point of view of protecting the rights of consumers of financial services markets, in particular, as regards the introduction of e-governance by the National Commission that conduct state regulation in the financial services markets (hereinafter referred to as NatFinSerCommission), which is aimed to protect the rights of these persons. European experience argues that the rule of law of different systems, in order to protect consumer rights, is based on the concept of protection of a weak side. The essence of the concept is to recognise a consumer as the most vulnerable (economically and/or informationally) party in the legal relationship with the entities that produce goods, perform works, provide services.

The current legislation of Ukraine on consumer protection at the general level, in fact, supports the above concept, its norms prove that an individual consumer in relations with economic entities is a weak side and establishes certain tools aimed at its protection. Given the dynamics of development, the rapidity of change (both actual and legislative), the complexity and differentiation of financial services markets, the multiplicity and specificity of the entities providing them, objective reality requires due regard to the central figure of such relationships – a consumer, above all, in the realm of prompt protection of their rights. The current paradigm for the protection of consumers of financial services in Ukraine, which is embodied in the latest regulations, does not meet the current challenges that arise in such “complex” markets, does not adequately protect the interests of consumers, and does not meet current global trends protection of the rights of these persons, in particular by digitising the activities of state bodies and electronic interaction with all participants of the said legal relations.

The European integration course chosen by Ukraine envisages the introduction of standards and procedures adopted in the EU member states for e-governance. That is why the analysis of introduction of modern means and schemes of electronic communication (interaction) between public authorities and economic entities, requires a detailed study of some aspects of the current state and trends existing in certain sectors of the economy of Ukraine, in terms of the transition to the system of electronic governance.

Social direction of the legislation of Ukraine on the digital economy

An example of such an analysis could be the practice of the NatFinSerCommission, which gradually moves to the basics of electronic interaction with the subjects of the insurance market and consumers. Thereby supporting the provisions of the legislation on creation of favourable conditions for the development of such a society, socio-economic, political and cultural development of a country with a market economy, guided by European political and economic values, improving the quality of life of citizens, creating ample opportunity and meeting the needs and free development of an individual, increasing the competitiveness of Ukraine, improving the public administration (regulation, control, supervision) through information and communication technologies in order to stimulate the development and activation of the insurance market and integrate the latter into the European and world insurance space on the basis of e-economy.

Therefore, the modern economy is transformed and is at the stage of development, when the latest technologies penetrate into all spheres of life, the market of insurance services and state supervision is no exception. The active development of non-banking financial services markets requires NatFinSerCommission to modernise the processes of interaction with participants in such markets. First of all, it is about the active introduction of e-government as a way of organising state power through systems of local information networks and segments of the global information network, which ensures the functioning of the authorities in real time and makes communication with them as simple and accessible as possible.

The introduction of e-governance is one of the most important components of public administration reform in Ukraine. It is e-government that can take the interaction of public authorities and the population to the next level and minimise corruption. Transparency, accessibility, minimal contact of business entities with public authorities are the main advantages of electronic services. The Ukrainian Government pursues a systematic policy in the areas of e-government, informatisation, development of the information society, formation and use of national electronic information resources, digitisation of public authorities. The State Agency for Electronic Governance of Ukraine was responsible for the implementation of the Government's policy in this sphere, and from September 18, 2019, according to the Cabinet of Ministers Resolution No. 856, its functions were transferred to the newly created Ministry of Digital Transformation of Ukraine, which should ensure the formation and implementation of state policy in digitalisation, digital economy, digital innovation, e-governance and e-democracy, digital skills development and digital citizenship, etc. (Regulation on the Ministry... 2019).

The mission of NatFinSerCommission is to create conditions for efficient and transparent functioning of non-banking financial services markets, strengthen systemic stability and strengthen financial inclusion in

these markets, ensure the protection of consumer rights of non-banking financial services, and integrate into the global financial space without compromise Ukrainian national interests and economic security. It actively participates in the processes of digitisation and introduction of digital technologies in communication with the subjects of non-banking markets s financial services and consumers. In this direction, the National Financial Services Commission has, since 2016, adopted a number of legal acts that ensure these processes and simplify regulatory procedures and communication with consumers, in order to protect their rights, which in particular provides for the possibility and use of electronic resources/electronic form of documents in registration, licensing and reporting of financial institutions, as well as the mandatory availability of their own websites for the provision of relevant (first and foremost, mandatory disclosure) information.

These digitisation processes allow any consumer to freely collect, copy, distribute, process and in any way use public information obtained electronically, including for the purpose of protecting their rights and legitimate interests. It should be noted that NatFinSerCommission has opened the electronic Service Center for financial market participants in order to: simplify the procedure for obtaining administrative services by applicants and improve the quality of their provision; ensure that applicants are informed of the requirements and procedure for providing administrative services; organise reception of consumers of financial services on protection of their rights and interests; provide consumers of financial services with advice and clarification on matters within the scope of the powers of the National Financial Services Commission; accumulate public opinion on the activities of the National Financial Services Commission, the quality of performance of its tasks and functions, including administrative services.

As a conclusion, it should be noted that in order to further reform and develop Ukraine's financial sector in accordance with leading international practices, its focus should be on protecting the rights of consumers of financial services by digitising these processes, in accordance with the requirements of Regulation (EU) No 910/2014 of the European Parliament and The Council of 23 July 2014 on electronic identification and trust services for electronic transactions within the internal market (Regulation (EU) No 910/2014... 2014), Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals regarding the processing of personal data and on the free movement of such data (Regulation (EU) 2016/679... 2016) and Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market (Directive (EU) 2015/2366... 2010). This proves that digitisation in the financial sector is driving the development of the digital society in Ukraine.

Social direction of the legislation of Ukraine on the digital economy

To summarise, it should be added that the state of electronic financial services, including insurance, is unsatisfactory and does not meet the requirements of the above EU acts. Analysis of the practice of providing such services allows to identify the following shortcomings in the legal regulation of these procedures: the limited legal framework for the provision of electronic financial services and their non-compliance with the best world standards; delaying Ukraine with the implementation of the provisions of the EU Regulations and Directives governing these procedures, taking into account the specifics of the national market; lack of directing consumer legislation to protect the rights of individuals purchasing financial services via the Internet; lack of proper technical regulations that define the requirements for the technical equipment of entities providing and consuming financial services and the like.

The authors believe that in order to remedy the above shortcomings in the legal regulation of the provision of financial (insurance) services, it is necessary to: develop, approve and implement a roadmap from the “Basic Principles of Insurance” of the International Association of Insurance Supervisors (IAIS); develop and implement early reaction mechanisms for insurance companies risks; ensure legal regulation of reinsurance and insurance intermediaries.

ANTICORRUPTION COMPONENT OF LEGAL SUPPORT OF DIGITAL ECONOMY

An important area of social direction of the DE is to counteract and prevent corruption in the economic sphere that is ensured by a number of measures, among which are the maintenance of public registers using information and communication technologies. Under the influence of such technologies there are changes in the directions of economic policy of the state. As a result of these changes, a detailed conceptualisation and measurement of the direction of multi-vector legislation governing relations in the DE becomes appropriate.

The social direction of the rules on digitisation of the economy enhances the effectiveness of already known instruments and contributes to the creation of new legal problems in the field of reform of public registers. The development of a system of electronic public registers in Ukraine is taking into account the experience of international organisations that are already successful in the implementation of numerous projects on combating and preventing corruption. According to the recommendations of the International Development Law Organisation (IDLO), the Eastern Europe Fund, the United States Agency for International Development (USAID) and others, the Fiscal Service of Ukraine, the Ministry of Justice of Ukraine, the National Bank of Ukraine, the State Agency for Electronic Governance of Ukraine and others measures and proposals have been developed that

contributed to the intensification of the issue of legislative normalisation of public relations to control the quality of the source information from the available services and its proper circulation. The scientific sources did not cover the results of the analysis of the communication experience of the subjects of control over the quality of the source information from public registers and its proper circulation.

An important vector for achieving the social focus of public registry legislation is to recognise its focus on achieving socially significant impacts in the global space. Namely, the prevention of corruption in the economic sphere. Ukraine's accession to the Transparency International initiative on promoting transparency and preventing corruption requires the availability of information in the public domain about real business owners. The Global Beneficial Ownership Register (Who controls, influences... 2020) brings together countries that undertake to provide to the said Register the information on beneficial owners of companies whose information is contained in their state registers of legal persons, natural persons-entrepreneurs and the like. The registry was created as a result of the Anti-corruption Summit in London. It was held on May 12, 2016 in London and is gaining popularity.

The innovative orientation of the register of beneficial owners of companies allows to counteract the manipulation of the concealment of the objects of property of such effective fuse of corruption as the availability of information about the real owners of the companies. But – only if the innovation orientation is devoid of social traps. For example, a social trap is a difficult access to the registry information of systemic nature of citizens and business representatives. In some countries their access is not provided at all. It should also be justified to complain about the low effectiveness of verifying the verification of business owners. In particular, the entire ownership structure of the company. The nature of the owner's influence (direct or indirect control) and the size of the share capital or the percentage of voting rights of the beneficiaries, etc., need to be detailed. Information on the availability of operating activities of companies whose information is being filled by the Global Register should be specified.

In Ukraine, these social traps are eliminated with international partners by ensuring that the data contained in the Ukrainian registers of the Beneficial Ownership Data Standard (BODS) are complied with. The requirements of the Standard are compliance with the key criteria of quality, transparency and ability to machine reading. For example, the pilot program “OpenOwnership” provided technical support for the preparation of a number of conceptual documents and the development of the necessary legislative framework for the subsequent direct regular transmission of qualitatively verified data on the real owners of companies in the CDU to the Global Register of beneficial owners.

Social direction of the legislation of Ukraine on the digital economy

The unity of the methodology for creating, maintaining, administering, registering and interacting the registries of countries that have joined the Global Registry requires more detailed individual regulation by each country of controls on public registers. Thus, the recognition of countries as truly civilised subjects of the global information space is possible only if there is an institutionally justified and adequately formed resource to control relations in the system of public registers. In particular, it is the function of monitoring the compliance with the single requirements for the creation, exchange, storage, correction and fulfilment of the format of information of the respective basic registers of each country, which joins the Global Register of beneficial owners.

In the bill on public registers in Ukraine, control of the order of keeping, administration of the register, creation, use of the register information is carried out by the holders of the respective register. The basic instrument of control is the action to harmonise the facilities of the relevant registers of countries that have joined the Global Registry in order to achieve their technical and semantic interoperability. Therefore, these actions should be determined in accordance with the requirements of world standards.

Therefore, in order to ensure the transparency of the conduct of authorities and entities in the exercise of public electronic registry responsibilities, it is an important task to introduce uniform requirements for risk-oriented control over their creation and maintenance. The new Law of Ukraine “On prevention and counteraction to the legalisation (laundering) of proceeds of crime, terrorist financing and financing of the proliferation of weapons of mass destruction” dated 06.12 (2019) stipulates data requirements that allow to establish the ultimate beneficiary. This is the surname, first name and (if any) of the patronymic, country of nationality and permanent residence, date of birth, character and extent (level, degree, proportion) of beneficial ownership (benefit, interest, influence) (On prevention and counteraction... 2019, Art. 1).

ADAPTATION OF UKRAINIAN LEGISLATION TO EU LAW IN THE CONTEXT OF CONSUMER PROTECTION IN THE DIGITAL ECONOMY

Ukraine's focus on EU law, enshrined in the relevant Law (On the State Program... 2004), explains addressing EU law on the issues raised here. Legislative consolidation of the EU's core foundations of DE began in 2010, when the European Commission approved the first of the seven Europe 2020 initiatives – the Digital Agenda for Europe. In May 2015, “A Digital Single Market Strategy for Europe” (2016) was approved for the implementation of this initiative (A digital single market strategy... 2015). The DE model of legal regulation in the EU is aimed at creating an enabling environment for e-business activities, facilitating consumer access to goods and services via the

Internet throughout the EU; creating favourable conditions for the development of digital infrastructure and maximising the potential of the European DE.

The social orientation of the legal regulation of DE in the EU is: access to e-business of players of different levels; equal access to enhancing digital culture and digital skills; ensuring the principle of legal certainty regarding the procedures for concluding online transactions, the procedure for dealing with complaints; awareness of the parties and participants of the relations of their rights, including the existence of the right to refuse with a certain procedure for its implementation; the proper level of consumer protection for electronic goods and services. Despite the undeniable benefits, e-commerce poses significant risks for consumers due to the technological features of the digital environment. This is evidenced by the results of the European Commission and national bodies of pan-European consumer protection assessment, conducted on February 22, 2019: about 60% of websites do not provide sufficient information about the product, prices and special offers (Onlineshopping... 2019). In this regard, a number of EU acts establish legal mechanisms for preventing the misuse of electronic resources in the field of e-commerce. These include:

- Directive 2011/83/EU on Consumer Rights (2019) aims at generalising and harmonising information requirements. In accordance with this Directive, the consumer must obtain, by the time of the conclusion of the contract, pre-contractual information in a sufficient amount, namely: the basic characteristics of the goods or services; the trade name, registration address, telephone number and other seller's identifying information; the cost of goods (including taxes and other costs (rates for the delivery of goods) to be paid; the methods of payment; the duration of the contract; the procedure for consideration of complaints, the right to refuse and the procedure for its implementation.

- Directive 2000/31/EU on E-commerce (2000), according to which (Articles 10 and 11) the information provided at the time of the conclusion of the contract and thereafter should include information on whether the contract will be retained by the service provider and whether it will be beyond the scope of technical means of identifying and correcting errors prior to placing an order; the terms of the contract and the general terms and conditions presented to the recipient must be accessible to such an extent that he can store and reproduce them. This Directive also provides for the establishment and use of quick and reliable procedures for the elimination of illegal information and the closure of access to it using contracts between all interested parties and the support of EU Member States;

- The Unfair Terms in Consumer Contracts Directive 93/13/EEC (1993) addresses the issue of the unequal position of the parties to certain consumer-related agreements, which are actually concluded without prior

Social direction of the legislation of Ukraine on the digital economy

negotiations. In this regard, the national laws of the EU Member States should establish rules on unfair terms of the contract (the criterion for recognising the terms of the contract unfair may be the absence of the consumer's ability to influence the content of the contract, because it is prepared in advance).

Consumer protection issues in e-commerce are the focus of the Organization for Economic Co-operation and Development (OECD), which completed its review of the e-Commerce Consumer Protection Recommendations in March 2016 (OECD 2016). The revision has been driven by the significant growth in e-commerce in recent years and the growing importance of consumer confidence in the digital economy. These Guidelines set key standards with regard to the peculiarities of payment for goods and services when making purchases through the exchange of personal data, purchases of products containing digital content, use of mobile technologies, security and privacy risks, payment protection and security of products provided.

The principles reflected in the Recommendations define the task of protecting consumer rights in e-commerce. With regard to the goods (taking into account the particularities of the type of goods), the consumer must be provided with information on the basic functionality and compatibility functions; basic technical or contractual requirements, restrictions or conditions that may affect the consumer's ability to buy, access or use the product or service; about health and safety risks and any age restrictions. E-commerce companies should provide information on terms, conditions and costs associated with a transaction that is sufficient to allow consumers to make an informed decision about the transaction, as well as the ability to analyse summary information about the product or service, as well as terms of delivery or pricing before consumers request an agreement. In turn, consumers should be able to easily access this information at any stage of the transaction.

OECD standards are not only to governments but also directly to electronic trading venues, which are now becoming an independent subject of regulation. Information intermediaries become individual participants in the digital economy, which not only provide access to search for counterpart, but also have the ability to directly determine the rules of the game. Electronic platforms such as eBay, Amazon, Aliexpress reduce transaction costs, provide a range of tools that facilitate sales and thus facilitate the entry of small players (Bauer 2018).

This is why an important tool for building trust in e-commerce is to develop the self-regulatory activities of online platforms that provide services to consumers. For example, in the EU, the Ecommerce Europe Association was created, which bringing together companies that sell goods and/or services online to consumers in Europe. The Association provides credibility to e-commerce for European consumers, and establishes a dialogue with EU

regulators and Member States. In September 2019, the Ecommerce Europe Association signed a joint industry letter on the implementation of European Strong Customer Authentication (SCA). This will help the payment industry to fully implement the SCA PSD2 mode (Ecommerce Europeco-signs... 2019).

When determining the level of adaptation of Ukrainian legislation to EU law in the field of DE, it should be emphasised that in recent years there has been a significant progress, but nevertheless, Ukraine is not keeping pace with the pace of EU legislation updating. Such situation is in many areas of integration into the EU's single digital market. However, the gap in the DE of Ukraine and the EU is also covered by the lack of awareness, lack of knowledge and digital skills to use information and communication technologies, both among consumers and suppliers.

Back in 2006, the Council of Europe identified digital literacy as a key competence that every European citizen should possess. The development of digital competences is achieved through the acquisition of European Computer Rights (ECDL/ICDL) and the Joint Research Centre of the European Commission has created the Digital Competence Framework for Citizens (DigComp) (European Digital Competence Framework... 2017). In Ukraine only in 2019, the new EU4Digital Program: supporting the digital economy and society in the eastern partnership was announced to extend the benefits of the EU Single Digital Market for Ukraine and develop digital skills that meet the needs of emerging industries (EU launches new EU4Digital program... 2019). By 2020, there are even greater hopes for improving the digital knowledge and skills of Ukrainian citizens.

CONCLUSIONS

In today's conditions of development of civil society institutions and digitisation, there is the formation of DE, which requires social orientation in order not only to develop the economy, but also to ensure peace and harmony in society. The key role in solving this problem is played by legislation, which should establish appropriate legal mechanisms. At the same time, the legal regulation of relations in the sphere of DE of Ukraine lags behind the needs of civil society and the actual state of these relations, which are developing rapidly due to digital technologies. Accordingly, there is a problem of its improvement with the obligatory solution of a set of related tasks, including:

- the adequacy of the legal regulation of the DE relations to their actual state;
- balanced consideration of interests of all participants in the DE relations with emphasis on additional protection of the rights of the least protected of them – consumers and small entrepreneurs;
- combination of state regulation with self-regulation with determination of the basic principles and limits of such combination;

Social direction of the legislation of Ukraine on the digital economy

– defining the basic principles and boundaries of the combination of state regulation with self-regulation; taking into account international experience (especially the EU).

The optimisation of the normative regulation of relations in the sphere of DE through its codification plays not the last role in solving the problem raised. It is proposed to use the current Economic Code of Ukraine, supplementing it with a new section “Digital Economy” or to adopt the Digital Economy Code, and to define the specifics of relations in certain DE markets regarding certain processes in specific acts of legislation that regulate/should regulate the relevant type of DE relations.

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