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THE INFLUENCE OF SENSE OF JUSTICE ON THE EXECUTION OF TRANSACTIONS IN CONDITIONS OF THE DEVELOPMENT OF INFORMATION SOCIETY

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SUMMARY

The article analyzes the formation and influence the sense of justice on the conclusion of transactions in the conditions of the development of the information society. The positions of scientists regarding the definition of the concept of sense of justice, factors that influence its formation are studied. The conclusion is made: the relevance of the seissues in the context of the active use of IT technologies in modern life, including when making deals; the necessity to consider IT rights in the understanding of civil law, as evidenced by the existence of a large number of IT relations arising in the field of civil law regulation; the necessity to ensure the legal regulation of problems arising in the IT field; the necessity to improve the general cultural level and the level of legal culture, the citizens' sense of justice, educational work, the development of stable stereotypes of lawful behavior and so on with the aim of forming a quality information society.

Keywords: sense of justice, IT-law, IT-relations, digital environment, information society, transaction, contract.

ВЛИЯНИЕ ПРАВОСОЗНАНИЯ НА СОВЕРШЕНИЕ СДЕЛОК В УСЛОВИЯХ РАЗВИТИЯ ИНФОРМАЦИОННОГО ОБЩЕСТВА

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АННОТАЦИЯ

В статье анализируется формирование правосознания и его влияние на заключение сделок в условиях развития информационного общества. Изучены позиции ученых относительно определения понятия правосознания, факторов, которые влияют на его формирование. Делаются выводы относительно: актуальности данных вопросов в контексте активного использования IT-технологий в современной жизни, в том числе при заключении сделок; необходимости рассмотрения IT-права в понимании гражданского права, что подтверждается существованием большого количества IT-отношений, возникающих в сфере гражданско-правового регулирования; необходимости обеспечения правового регулирования проблем, возникающих в IT-сфере; необходимости повышения общекультурного уровня и уровня правовой культуры, правосознания граждан, просветительской работы, выработки устойчивых стереотипов правомерного поведения и т.п. с целью формирования качественного информационного общества.

Ключевые слова: правосознание, IT-право, IT-отношения, цифровая среда, информационное общество, сделка, договор.



REZUMAT

Articolul analizează formarea și influența simțului justiției asupra încheierii tranzacțiilor în condițiile dezvoltării societății informaționale. Sunt studiate pozițiile oamenilor de știință privind definirea conceptului de simț al justiției, factori care influențează formarea sa. Se face concluzia: relevanța seismelor în contextul utilizării active a tehnologiilor IT în viața modernă, inclusiv atunci când se realizează tranzacții; necesitatea de a considera drepturile IT în înțelegerea dreptului civil, așa cum reiese din existența unui număr mare de relații IT, care apar în domeniul reglementării dreptului civil; necesitatea de a asigura reglementarea juridică a problemelor care apar în domeniul IT; necesitatea de a îmbunătăți nivelul cultural general și nivelul culturii juridice, simțul cetățenilor de justiție, munca educațională, dezvoltarea de stereotipuri stabile de comportament legal și așa mai departe, în scopul formării unei societăți informaționale de calitate.

Cuvinte cheie: simțul dreptății, dreptul IT, relațiile IT, mediul digital, societatea informațională, tranzacția, contractul.

Formulation of the problem. The development of information technologies, their introduction into all spheres of everyday life is an indispensable feature of the present, which pre-determines the formation of an information society as one of the most important phenomena of our time, which one requires in turn the organization of appropriate social relations, the selection of directions and ways of influence on their participants, etc. An analysis of the concept and essence of the “information society” makes it possible to conclude that this is a complex phenomenon that includes both the IT sphere and relations without using the information technologies.

For a long time the purpose of the law in the jurisprudence literature was defined by its ability to regulate social relations, to be the will of the state power, that is, it was emphasized in the public character. Recently, we are witnessing a peculiar “fracture”, changing of landmarks. The main thing is not just the formation of society, just laws and social order. The sense of legal regulation is the formation of favorable conditions for the life of each individual, the formation of a person capable of organic and spiritually sublime self-realization, the disclosure of all their potential creative possibilities. As a result, the right must be dynamic, capable, approach-constantly to a particular living individual, overcome the alienation of people from the right.

In this context, it is important

to form the legal consciousness of society and personality that will directly affect the accomplishments, compliance with their conditions of reality and the peculiarities of concluding in the information society.

The purpose of the article is to analyze the peculiarities of the formation of legal awareness in the information society and the influence of legal awareness on the commission of deeds, including in the IT sphere.

Presenting of main material. As rightly N. Onischenko notes, legal awareness plays a key role in the partial or complete “ineffectiveness” of the legislative norms, which is also related to the “perception of law”. She thoroughly analyzes the concept, content, essence and interpretation of the category of “perception of law” and explains it as a combination of the emotional and volitional sphere of development and vital activity of the individual, her psychological and volitional act, completed by the communicative process which is associated with the onset of certain results and right as a category that cannot exist outside of people, outside of their life activities [14, c. 21].

The information society goes beyond the borders of one country and develops globally. In order to maintain competitiveness, keeping or strengthening international relations, Ukraine must respond to the requirements of the time, providing modernization of the society in all areas of development, such as economic, political, public, se-

curity spheres etc. The process of informatization, in particular, the implementation and interaction with each other of modern computer, tele-, radio and telephone technologies, communication services, the rapid distribution of local and global communications networks reveals information circulation and the level of influence of information on human consciousness (both an individual and society as a whole) to a qualitatively new level, thus forming social, psychological, informational, cultural orientations for the development of society as well as legal culture [5, c. 200–201].

In particular, as a result of the development of information technology actively transformed: the consciousness of individuals, institutions of society, politics and public administration. However, any technology is needed precisely to ensure the interests of the person because it is in the «center of attention».

The development of society, its globalization do not seem possible without the formation of a stable legal culture, which must exist within each developed state, and have to have common features and developmental guidelines for all countries that wish to develop and improve.

According to L. Nagorna Ukrainian mentality does not differ by the chaste attitude to the norms of conflict interaction (the compromise was traditionally considered as a defeat or a consequence of betrayal), it is contradicts the European tradition in relation to con-



flicts (which are considered as a way of maintaining equilibrium) [13, c. 4]. Today we are witnessing some changes, introducing of new conflict resolution institutes (such as mediation) that are actively used and allow society to move to a new, more «civilized», European approach to conflict resolution, to practice and gradually form the legal culture of a new society, where on the first place is the defense of human rights, the achievement of consensus, the compliance of the legal system to public morality, stimulation of the individual's interests in the development of civic culture, cultures of trust and responsibility.

Formation of a legal culture is not separated from the development of other culture types - political, moral, aesthetic, etc. They are united by the common task of creating a moral and legal climate in a society that would guarantee a person real freedom of conduct in conjunction with responsibility to society, would ensure its rights, social security, respect and dignity, and would place a person at the center of economic, political, social, cultural and information processes [14, c. 21].

Although today, representatives of science and practice are discussing the priority between the legal regulation of relations related to information technologies and «IT-ordering», the position of legal regulation is more grounded. After all, any sphere (in the same way as IT) cannot develop normally without any legal regulation, as a whole society and each individual will not be confident in the protection of their rights and interests, in resolving conflicts fairly, civilized and reasonable.

As a result of the functioning of the information legal space, the formation of an information legal environment is appears, in the center of which is the person who carries out public relations and relations within the legal field.

It can be concluded that in order to form a high-quality information society, it is necessary to increase the general cultural level and the level of legal culture, educational work, to develop sustainable stereotypes of lawful conduct, etc., which can result in the reduction of criminal acts, violations of rights and interests, in particular, in IT sphere either.

Also, the fact of increasing the accessibility of the legal array is influenced on legal awareness and an array of judicial practices through the use of information technologies. Practically all legislative and judicial authorities have their own page on the Internet which contains regulations and acts of law enforcement, and, of course, it affects citizens' awareness and the real availability of legal information. Freedom and accessibility of information lead to more active citizen participation in the discussion of bills, their political activity in general. Information technology is becoming a serious tool that can fundamentally change existing democratic institutions.

Considering that the information society includes various benefits in the form of effective detection, fixing and processing of information, technologies (personal computers, information services, etc.), production of knowledge (science, art, education, etc.), public technologies (electron democracy and government, self-government, parties and elections), information economy (informational goods and services: education, legal system, publishing sphere, mass media, computer production), information society culture (civilized rules of accepting and using information), you cannot imagine life without the use of these technologies and their benefits.

Most researchers consider the information society from the point of public view, in particular, as

administrative law, putting in the first place the public value for consumers of information resources, actions of public administration people in relation to the provision of rights, freedoms and legal interests of individuals and legal persons in the information society [16, c. 193; 15]; the peculiarities of the information society are investigated as a society with widespread using of computer information technologies, and defining its main categories of information sphere, information infrastructure, information, information processes, etc. [2; 3]; consolidating of the constitutional provisions is considered on information legal relations in the legislation; peculiarities of consolidation application in the codification of information legislation of Ukraine, etc. [11; 12]; they define the legal framework for the development of the information society in Ukraine [10] and others.

At the same time, today there is a question of changing approaches in the construction of the legislative array from the point of view of the priority of the human interests (for example, giving more freedom to the manufacturer, employee, entrepreneur), because the priority of universal values should be kept in mind when modernizing the jurisprudence. In particular, changes of justice consciousness caused by an increase in the average level of education of the population and the availability of information should be kept in mind. So, in the information society there is a goal to create: the conditions that would encourage everyone to voluntarily comply with laws, to develop the spheres of production which is necessary for the whole society; the priority of the dispositive method, that is the ability of the parties to determine the ways to achieve their goals, to establish rights and obligations with the help of a contract, an agreement instead



of a strict imperative, which does not leave the possibility of choosing the options, which collectively indicates the nomination of the Person, his needs and interests on the first place.

Given that the essence of perception of IT law as a concept is our perception, as such in terms of IT law, we mean «the actual problems of civilization in the information society» (in particular, in the digital age), which also includes a set of all norms and the rules governing the use of information technology and information law-ful activity in the Internet.

«In the center» in this case should be private individuals, subjects of private law, participants in civil relations, which should be kept in mind when formulating norms and rules of private (civil) rights which determine the relations of members of society with each other and with the state as sub private relations. In the process of this formation the individual and collective legal consciousness are decisive, or the legal mentality of the participants in such relations that is the internal component, as it serves as a prerequisite and foundation for the formation of society.

In the interest of the civilian understanding of IT law a large number of IT relationships appears that arise in the sphere of civil regulation: IT contracts for software services or development, IT contracts with an individual entrepreneur or programmers; legal support of freelancers; legal audit of IT companies; legal protection of web-pages and content; registration and protection of copyright and trademark on the Internet; registration of the contract of sale and purchase of the site, domain, brand, etc.; legal support of online shops; creation and registration of legal entities in this field; license agreements; protection of intellectual property rights, protection of information, etc. [4].

Also the private law scope of legal regulation includes: IT relations related to the creation and termination of legal persons, intellectual property relations, contractual relations involving IT subjects, inheritance relations, etc. Such relations are mostly regulative but in some cases they can also be accompanied by civil organizational relations (the creation of legal entities, etc.). As we are talking about the sphere of private law where the principle «Everything that is not prohibited by law is allowed», the existence of which ensures the provision of the contract values of the norms of civil law, it can be affirmed that it forms the main body of rules that can be classified as «IT»-law «.

Considering the importance of the role of the categories of trusts in the daily life of all individuals of civil legal relations without exception, the impossibility of the existence of a society outside this category, the influence of legal consciousness in the commission of transactions, the peculiarities of its formation in the conditions of the information society is very important.

Since the law associates with the implementation of the law of the acquisition, change or termination of civil rights and obligations, the trusts fall into the category of legal facts that result in the onset of the relevant legal consequences. In the context of this study we will proceed from the understanding of juristic facts as phenomena that, in accordance with specific norms or general principles of law, entail the emergence, change, termination, etc. of legal relationships [9, c. 148–160; 17, c. 385–390].

In accordance with Part 2 of Art. 11 of the Civil Code of Ukraine the main grounds for the rights and obligations are contracts and other trusts. Just trusts (in particular, contracts) are the basis of legal relations that medi-

ate the dynamics of the IT sphere, giving the opportunity for activities to its individuals.

Having analyzed the reasons of the appearance, change, stopping of civil rights and obligations in the IT sphere, we conclude that, having a number of common features with the general category of «juristic facts», they also have significant features, among which the most important is the provision of the advantages of such a basis of legal relations as the expression of the will of the participants in civil relations (in the form of an agreement specifically aimed at establishing legal rights and obligations or in the form of the implementation of «volitional act», which is mediated by the relationship of creativity, communications, etc.).

Taking into account the above, let's consider some of the peculiarities of the grounds for the appearance of rights and duties of the participants in IT relations, given that the main type of legal relations here is the civil regulatory legal relationships.

The list of application of innovations in the sphere of information technologies, including the Internet, distribution of the Internet of things and electronic systems of governance, etc., is at present impressive.

The subjective factor can be considered a rethinking of people (in particular, those who relate to the creation and using of information technologies) of the possibilities of «streamlining» relations with the help of information technologies and defining the role of «IT-workers» in this process [6, c. 70–73]. The mentioned process was triggered by the active introduction of information technologies in the organization of business, trying to use the Blockchain technology, it became the beginning of the legalization of cryptology, Blockchain technology, the conclusion of smart contracts, etc.



Conclusion. Attempts to resolve issues only by technical means are not always effective, as evidenced by the presence of cyber-attacks, violations of consumer rights on the Internet (copyright infringement, piracy, plagiarism, etc.), it suggests the failure of self-regulation of the IT sphere at the present stage of its development. More substantiated and balanced position is that one on the need to ensure legal regulation of the problems that arise in the IT sphere. This can be confirmed by the recent appearance of new laws and their projects related to the regulation of issues in the IT sphere. Also, in order to create a quality information society, it is necessary to increase the general cultural level and level of legal culture, citizens' legal awareness, educational work, elaboration of stable stereotypes of lawful conduct, etc., which will lead to a reduction of criminal acts, violation of rights and interests, in particular, in the IT sphere.

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