Modern Challenges in the Field of Legal Regulation of the Digital Economy

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ABSTRACT
The paper is devoted to the study of the development of the digital economy, its essence and changes that occur in society in connection with digitalization. The influence of the digitalization process on the legal sphere is investigated; some issues of the interaction of law and the digital economy are highlighted. It is noted that the digital economy predetermines the transformation of the whole legal system. The paper describes the models of statutory legal regulation of relations in the digital economy in the developed countries of the world. The study analyzes the stages of the legal provision of the digital economy in Ukraine. It is noted that digitalization began to be discussed in a qualitatively new way at the state level in 2019 after the election of a new President of Ukraine and the renewal of the composition of the parliament based on the election results. The digital economy requires proper legal regulation, which should be ensured by the adoption of appropriate unified law and, based on it, a set of flexible regulatory acts aimed at regulating certain legal relations associated with the use of artificial intelligence, responsibility for offenses in the information field, the use of robots in labor and issues of responsibility for harm caused by them, etc.

Keywords: right, legal regulation, digital economy, digitalization, digital reality, digital technologies

1. INTRODUCTION
Today, society is at the stage of fundamental changes associated with the introduction of digital technologies in all spheres of public life. The developed countries of the world have felt the consequences of the digital economy and virtual space for a long time age. For Ukraine, this is a relatively new challenge. For a very long time, our state lagged behind in technological development. However, today, the digital world has penetrated in Ukraine and it is rapidly developing in all spheres of public life. New concepts and relations that arose in connection with digitalization and gradually developed in other countries “broke into” the life of Ukrainian citizens and changed it dramatically. We can no longer confine ourselves to the fact of the development of digital technologies in our country. Relations, which were unknown until recently, require proper legal consolidation and regulation.

2. METHODS
In the course of the study, general scientific and special legal methods were used, particularly, analysis, induction, deduction, synthesis, analogy, generalization, historical-legal, comparative-legal, normative-dogmatic, etc.

3. RESULTS
The study revealed the global impact of digitalization and the digital economy on the legal sector. The rapid development of digital technology has led to the emergence of new public relations that require legal regulation. The stages of introducing the legal support of the digital economy in Ukraine are analyzed; the main problems and their solutions in this field are identified.

4. DISCUSSION
Modern conditions do not leave the grounds to imagine planning the development of economics, politics, culture, education, science in isolation from inevitable digitalization. Since the digital economy has become a full-fledged reality, in which completely new social relations that require legal regulation emerged, the question of the emergence of a new concept of right, which can be called digital, arose. Indeed, without the use of digital processes and technologies, the economic development of Ukraine is doomed to a permanent lag. The concept of the “digital economy” is a relatively new phenomenon. There are many definitions of the concept of the “digital economy” in the world literature. Various concepts reflect the time and modern trends, especially in the field of technology. As a result of scientific research, it was determined that the digital economy is a system of
economic, social, and cultural relations based on the use of
digital technologies [1]. The peculiarity of the digital
economy is that real processes of distribution of material
goods and relations arising from their regulation are going
to be superseded by a virtual, digital world, which has an
artificial, intangible nature, where digital data, information
systems, and information itself are of the greatest value.

As P.P. Baranov reasonably noted, the domestic legislator for
a long time rather passively responded to these changes, which might lead to unexpected consequences and destabilization of entire sectors of the economy [2].

Digitalization primarily affects the sector of legal
regulation. In this area, new social relations, which
previously either did not exist or did not need legal
regulation, or could not be objectively regulated by law,
extemerge. Thus, the emergence of the following relations is observed in the field of legal regulation:

first, the subjects of which are virtual or digital persons;

second, related to legally significant personal identification
in the virtual space;

third, arising in connection with the implementation of
human rights in the virtual space (the right to access the
Internet, the right to oblivion, the right to “digital death,”
and others); and

fourth, focused on the use of robotics. According to
analysts, in ten years, almost all jobs in global financial
centers will be occupied by robots. According to EY, in
the next twenty years, 47% of occupations in different
countries will highly likely be automated [3]. According to
analysts, in the field of labor relations of the International
Bar Association (IBA), which was presented in the report
“Artificial Intelligence, Robotics and Their Impact on the
Workspace,” in the near future, 1/3 of the jobs occupied by
graduates of universities can be replaced by machines and
software; moreover, the advantages of countries with
cheap labor will be eliminated due to the fact that robots
are cheaper than human workers [4];

fifth, evolving with respect to atypical objects,
information, digital technologies created through the use
of new digital entities (cryptocurrencies), and objects of
the material world, as well as those associated with the use
and circulation of both;

sixth, associated with the use of digitized information
arrays, information databases; digitization of actions and
operations, due to which state functions are implemented,
state and municipal services are rendered, electronic
participation of citizens in the management of society and
the state is ensured; performance of actions in the virtual
space aimed at the creation, amendment, and termination
of legal relations, the exercise of rights and the fulfillment
of obligations that form their legal content; the use of
automated actions (the Internet of Things), information
security assurance, and others [5].

Mankind has entered the era of "Electronic Digit," which,
in the figurative expression of one of the founders of
Microsoft, Bill Gates, "is able to generate thoughts and
actions." The development of information and
communication technologies gave a new impetus to scientific and technological progress and led to the

transition of a society to the information, post-industrial
(based on the generation of knowledge) stage of socio-
economic development, forming a new reality [6]. This
reality is changing the impact and the essence of many
social institutions and regulators, including those of law.

The law takes on a new meaning, it becomes not only a
means, a tool ensuring the penetration of digital
technologies and their use in various spheres of public life
but also an object of the impact of digitalization. The
content, the form, and the driving mechanism of law are
changing.

Many countries of the world search for a model of
statutory legal regulation of public relations in connection
with the transition to digital technologies, regulations in
the field of the digital economy are being adopted in
accordance with this process. Particularly, the UK has the
UK Digital Economy Act, which contains the Regulation
on Electronic Communications of Infrastructure and
Services, which restricts access to Internet pornography;
Regulation on the Protection of Intellectual Property in
Connection with the Use of Electronic Communications;
Data Exchange Provisions, etc. The USA has a Digital
Millennium Copyright Act. France has the existing Law on
Confidence in the Digital Economy, which contains
definitions of the concepts of electronic trade and
commerce and others [7]. For Ukraine, the experience of
Belarus in the field of the digital economy, where Decree
“On the Development of the Digital Economy” was
adopted on December 21, 2017, is important. The main
points of the decree refer to the creation, training of neural
networks and other algorithms in specialized sections of
artificial intelligence, the implementation of the results of
this activity; activities of cryptocurrency exchanges;
development, maintenance, operation, and implementation
of unmanned vehicle control systems; development and
application of medical technologies, biotechnologies;
educational activities in the field of information and
communication technologies, particularly, through the
Internet; the procedure for making payments using
electronic money, conducting currency transactions related
to the achievement of capital within the established
manner, etc. is simplified. Belarus has become the first
country in the world to legalize smart contracts [8]. Thus,
a variety of legislative reactions of states to digitalization
can be traced. It is obvious that all they are united by a
clear understanding of the need for legal influence on
existing processes but the application of clear strategies
has not yet been traced. Unfortunately, the transformation
of law and legislation of almost all countries does not
correspond to the pace of changes taking place in the
digital world.

Ukraine has also taken the path of the legal provision of
the digital economy. Thus, in 2013, the Cabinet of
Ministers of Ukraine adopted the Strategy for the
Development of the Information Society in Ukraine, which
defined the objectives, basic principles, strategic goals for
the development of the information society, as well as
tasks aimed at achieving them and main fields, stages, and
mechanisms for implementing this Strategy in perspective
digitalization, e-government, and e-democracy, the system of central executive bodies, which ensures the transformation [16]. The Mintsyfra is the main body in Ukraine approved the regulation on the Ministry of Digital Governance of Ukraine. On September 18, Alexey Goncharuk, it is envisaged to develop a plan for results. According to the ex-Prime Minister of Ukraine composition of the parliament based on the election new President of Ukraine and the renewal of the new way at the state level in 2019 after the election of a digitalization began to be discussed in a qualitatively unsolved.

spheres of public life. However, many issues remained unsolved. Thus, it can be stated that Ukraine made the first steps to develop the digital economy and the legal base for ensuring the penetration of digital technologies in various spheres of public life. However, many issues remained unsolved. The digitalization began to be discussed in a qualitatively new way at the state level in 2019 after the election of a new President of Ukraine and the renewal of the composition of the parliament based on the election results. According to the ex-Prime Minister of Ukraine Alexey Goncharuk, it is envisaged to develop a plan for the total digitalization of the country. In September 2019, the Ministry of Digital Transformation, or Mintsyfra, was created in Ukraine by transforming the State Agency for Electronic Governance of Ukraine. On September 18, 2019, the Resolution of the Cabinet of Ministers of Ukraine approved the regulation on the Ministry of Digital Transformation [16]. The Mintsyfra is the main body in the system of central executive bodies, which ensures the formation and implementation of state policy in the areas of digitalization, digital development, digital economy, digital innovation, e-government, and e-democracy, the development of the information society, informatization; in the area of development of digital skills and digital rights of citizens; in the areas of open data, the development of national electronic information resources and interoperability, the development of the infrastructure of broadband Internet access and telecommunications, electronic commerce and business; in the area of provision of electronic and administrative services; in the areas of electronic trust services and electronic identification; in the area of development of the IT industry. According to this provision, the main tasks of Mintsyfra are the formation and implementation of state policy in the areas of digitalization, digital development, digital economy, digital innovation, e-government, and e-democracy, the development of the information society, informatization; in the area of development of digital skills and digital rights of citizens; in the areas of open data, the development of national electronic information resources and interoperability, the development of the infrastructure of broadband Internet access and telecommunications, electronic commerce, and business; in the area of provision of electronic and administrative services; in the areas of electronic trust services and electronic identification; in the area of development of the IT industry. The goals that are planned to be achieved by 2024 may be found on the website of Mintsyfra, particularly: 1) 100% of public services are available to citizens and businesses online; 2) 95% of the transport infrastructure, settlements and their social facilities are provided with access to high-speed Internet; 3) 6 million Ukrainians are involved in a digital skills development program; 4) 10% share in the country’s GDP is the IT sector. The Ministry of Digital Transformation of Ukraine together with other government bodies and international partners contribute to the introduction of electronic services in many areas of the economy, construction, land services, environment, business registration, social benefits, state assistance, and so on. To implement the tasks, Mintsyfra has started a very proactive run. The Digital State project, within the framework of which the Action online service combining a mobile application and a portal for providing public services was created, was launched. Since February 6, 2020, the Action mobile application was launched, where today there is a digital driver’s license, a digital certificate of registration of a vehicle, and a BankID. In March, the Action application should include a digital auto insurance policy, a digital student ID, a digital passport and a digital foreign passport; in April, car fines, a digital tax number, data from the register of legal entities, individual entrepreneurs, and public organizations, the registry of rights to real estate, and the register of encumbrances of movable property and land cadastral. Thus, we see that digitalization will affect everyone. The dictionary of the modern Ukrainian language and the slang "Mislovo" chose the word "диджитализация" as the word of 2019. The term topped the list of the most searched words in the dictionary with a great margin and the number of its views increased by 1.535% compared to the...
last year [17]. The main criteria for choosing the word of the year in this Internet resource is its popularity and social significance. In this regard, it makes no sense to conduct a further discussion about whether digitalization is necessary for society and, particularly, for our state. It is more expedient and relevant to find out the main pros and cons that the digitalization of the economy will bring us in order to be ready for new challenges and prepare the appropriate legal framework.

We agree with the opinion of O. Vinnyk that the formation of the digital economy and its social orientation requires adequate legal regulation, an important part of which is not only the definition of the concepts that characterize it (subjects, objects, means, links, etc.) but also timely adoption of relevant legal standards. Although, there are a significant number of legislative acts in Ukraine that regulate relations in this area and consolidate the corresponding concepts, which were analyzed in the study, however, the problem of uniformation of terms inherent in the digital economy needs to be addressed, as well as they should be consolidated in a codified act, which may be embodied in the Law on Digital Economy." This will improve the legislation in this area in terms of content, form, system, and adaptation to the best world standards, taking into account our own achievements, and will possibly create more perfect legal regulation of electronic economy relations compared to that already existing abroad [18]. In addition to the traditional codified legislation, flexible acts should be developed on its basis that will regulate individual relations arising with the development of the digital economy, such as the use of artificial intelligence, responsibility for offenses in the information sphere, the use of robots in the labor sphere and issues of responsibility for harm that they have caused, and so on.

5. CONCLUSION

Summing up the above, it is possible to conclude that the digital economy determines the emergence of new social relations, the special properties of which should be taken into account in legal regulation. The Ukrainian digitalization process has its own features. For a very long time, our state lagged behind in technological development. New concepts and relations that arose in connection with digitalization and gradually developed in other countries “broke into” the life of Ukrainian citizens and changed it dramatically. The domestic legislator’s response to these changes was extremely passive. The first steps to develop the digital economy and its legal provision were made as late as in 2013. Since 2019, this process has significantly intensified, a number of reforms and innovations in the field of digitalization have been implemented. The critical importance of the digital economy for economic growth and overcoming the crisis has been recognized. Despite this, many issues remain unsolved. There are a significant number of legislative acts in Ukraine that regulate relations in the area of digitalization and consolidate the corresponding concepts, which were analyzed in the study, however, the problem of uniformation of terms inherent in the digital economy needs to be addressed, as well as they should be consolidated in a codified act, which may be embodied in the Law on Digital Economy." In addition to the traditional codified legislation, flexible acts should be developed on its basis that will regulate individual relations arising with the development of the digital economy.

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