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## THE ESSENCE OF INFORMATION SOVEREIGNTY FROM AN ADMINISTRATIVE LAW PERSPECTIVE

**Abstract. Purpose.** The purpose of the article is to form the modern essence of information sovereignty from the perspective of administrative law in Ukraine, relying on the systematic analysis of the positions of scientists, reference materials, and provisions of current legislation. **Results.** It is noted that the State has some duties only where it has a certain interest: only what works to strengthen the State, to protect it from external aggression and internal strife, can be the subject matter of its systemic protection, support and all kinds of care. Conversely, what constitutes a threat to the interests of the State, it is not obliged to support; moreover, it is interested and engaged in limiting and minimising influence and development. The humanitarian policy of the State should be aimed at strengthening its sovereignty and, accordingly, may more or less coincide with the humanitarian policies of the individual cultural groups composed of the citizens of that State. It is established that the Concept of State Sovereignty needs to be modernised by integrating the classical and new information powers of the State, which are characteristic of the globalised information world. Information sovereignty is not an independent category of constitutional law: this term describes the specificity of the sovereign powers of the State in the global information space regarding the independent formation of national information policy and national security. **Conclusions.** It is concluded that information sovereignty as an information part of State sovereignty is a particularly valuable object of the administrative and legal protection in the context of the development of information society and conditionally is under full protection of the information security of the State. Information sovereignty is the independent information and spatial boundary of the use of information space, information resources and information technologies of each State, which by integrated processes is integrated into the global information space and at the same time represents the national interests of the State, specificities of its State information policy and the concept of protection for the expression of the State information identity and the subjective participation in the information exchange at the global level.

**Key words:** administrative protection, administrative means, administrative and legal framework, State information policy, information security, information, cyberspace, sovereignty.

### 1. Introduction

In the context of strategic security for the internal sources of State sovereignty, it is not only possible but also advisable to resort to its external sources. Only if in a State, as well as its leaders, the National Idea, which has the function of integrating all the country's cultural groups, is the subject matter of protection of the sovereignty of the State: the State as such does not deserve sovereignty, but only the State as the embodiment of a national idea. Therefore, it is not only possible but also advisable to resort to external sources of State sovereignty, provided that the internal sources of State sovereignty are strategically safeguarded (Boichenko, 2020, pp. 158–173).

The State has certain duties only where it has a certain interest: only what works to strengthen the State, to protect it from external aggression and internal strife, can be the subject matter of its systemic protection, support and all kinds of care. Conversely, what constitutes a threat to the interests of the State, it is not obliged to support, moreover, it is interested and engaged in limiting and minimising influence and development. The humanitarian policy of the State should be aimed at strengthening its sovereignty and, accordingly, may more or less coincide with the humanitarian policies of the individual cultural groups composed of the citizens of that State. This means that such cultural groups are bound to support

the State and consistently fulfil these obligations if they expect to promote their partisan interests. The embodiment and quintessence of this cohesion of individual cultural groups around the task of safeguarding the sovereignty of the State is their recognition of a common national idea based not on ethnic, but on political fundamentals. A common national idea legitimises the sovereignty of the State in their eyes. The State provides assistance to different cultural groups as an embodiment of a common national idea and not as an outsider. On the other hand, a State cannot a priori accept or a priori reject such assistance, but it must depend on whether or not the cultural group has fulfilled its obligations towards the State (Boichenko, 2020, pp. 158–173).

In the process of realisation of the national idea, questions arise on protection of information sovereignty as the newest category of information society.

Current issues of information sovereignty in the context of administrative law in Ukraine were studied by V. Hapotii, O. Herasymova, S. Horova, V. Horovyi, S. Demchenko, O. Dovhan, D. Dubov, H. Duhinets, V. Markov, V. Nabrusko, O. Oliynyk, A. Pysmenytskyi, V. Polevyyi, O. Radutnyi, P. Rohov, O. Skrypniuk, O. Solodka, V. Suprun, V. Torianyuk, A. Cherep, and others.

However, given the duration of the hybrid war, the intensification of cyber-attacks against State portals and other information intrusions in the public sector, the relevance of scientific research in the field of information sovereignty acquires new features and characteristics.

The purpose of the article is to form the modern essence of information sovereignty from the perspective of administrative law in Ukraine, relying on the systematic analysis of the positions of scientists, reference materials and provisions of current legislation.

## 2. Foundations of State sovereignty

The online *Stanford Encyclopedia of Philosophy* gives the following definition of sovereignty: “Sovereignty, though its meanings have varied across history, also has a core meaning, supreme authority within a territory. It is a modern notion of political authority. Historical variants can be understood along three dimensions – the holder of sovereignty, the absoluteness of sovereignty, and the internal and external dimensions of sovereignty” (Boichenko, 2020, pp. 158–173; Philpott, 2020).

State sovereignty is defined in the Declaration of State Sovereignty of Ukraine as the supremacy, autonomy, completeness and indivisibility of the authority of the Ukrainian State within its territory, which is an independent and equal actor of international rela-

tions (Declaration of State Sovereignty of Ukraine, 1990). Therefore, the main spatial limit of the exercise of sovereign rights by a State is its territory. However, the very concept of “territory” in the process of historical development has undergone serious changes. At first, the territory was considered to be the continental part of the Earth, later on States began to protect their interests in bordering territories, defined today as the continental shelf and the exclusive (maritime) economic zone. In the nineteenth century, it became urgent to define the territorial boundaries of the sovereign rights of the State in the information space due to the rapid development of the latest technologies and the transition of mankind to a qualitatively new paradigm of social development – the information society. It is believed that the nature of cyberspace has not met traditional geographic concepts for a long time (Corn, Taylor, 2017, p. 207). Accordingly, today there is an urgent need to determine the sovereignty of the State in a new dimension – information and determination of the boundaries of the exercise of information sovereignty of the State (Solodka, 2020, p. 40; Ternavska, 2021, pp. 80–89).

A. Skrypniuk believes that the concept of “State sovereignty” develops in relation and depending on popular and national sovereignties. State sovereignty is a political and legal characteristic of the modern State, which is expressed in the supremacy of its power within the country and its external independence. It is directly linked to sovereign State authority, characterised by the autonomy to resolve issues in the political and legal sphere and the supremacy of State authority in relations with other types of social power; is characterised by indivisibility and unity and cannot be divided among other actors in political and legal relations; means the independence and equality of the State in external relations. The sovereign State is the one with external and internal sovereignty. In the context of real construction of a democratic, legal and social State, sovereignty acquires new characteristics, such as: efficiency of State power, reality of constitutional system, stability and sustainable development of all spheres of activity of the State and society. State sovereignty depends on the legitimacy, legality and effectiveness of the organisation and exercise of State authority, which is directly linked to the form of public administration. One of the important areas of ensuring State sovereignty in Ukraine is the approval and stabilisation of the parliamentary-presidential form of government with the strengthening of “parliamentary elements” (Skrypniuk, 2021, pp. 11–19).

The Concept of State Sovereignty needs to be modernised by integrating the classical and new information powers of the State, which are characteristic of the globalised information world. Information sovereignty is not an independent category of constitutional law, this term describes the specificity of sovereign powers of the State in the global information space regarding the independent formation of national information policy and national security (Ternavska, 2021, pp. 80–89).

Accordingly, State sovereignty should be considered not only from the political and economic perspective, but also from the information one, since the full power and effectiveness of a political or economic decision is directly dependent on information, on the basis of which it has been adopted, as well as on communication with the makers of this decision. That is, it is about the information component of State sovereignty (Polevyi, 2018, pp. 139–144).

As a variant of the definition of the category of "information sovereignty", V. Suprun suggests the following: this is certain data resources resulting from the exercise of freedom by the State, at the expense of the State or the entities of the State, as a result of the realisation of the right to information, which ensures its equality in the international information space, which indicate its copyright to the State, authorities, local self-government and other public authorities. This is provided for by international standards enshrined in the international and European Conventions to which Ukraine has acceded, as well as by international and inter-State treaties concluded by the authorities of Ukraine. The provision of information sovereignty by the State includes the following factors: – The right to information should belong to the State or its authorities; – The exercise by the State of information sovereignty includes ensuring its information security; – The realisation of information sovereignty should be based on information freedom and equality (Suprun, 2008, 39).

### **3. Specificities of information sovereignty of the State**

O. Radutnyi argues that the definition of the content of the concepts of "national security", "information security", "State sovereignty", "information sovereignty" ("State sovereignty in the information sector") within the domestic legal field and at the level of regulatory framework for human rights and freedoms, should be the existence of individualistic principle of distribution of values (national interests are conditioned by natural, individual human rights and freedoms, State institutions are subject to the realisation of individual values and interests, and all other interests,

including public, social, national, etc. derived from individual) but in the practical application of existing legislation – Statism (a certain absolutisation of the importance of the State), which forms a certain dissonance (Radutnyi, 2016, pp. 98–91).

O. Solodka argues that information sovereignty of the State is a legal feature, consisting in the supremacy, independence, completeness and indivisibility of its authority in the information space of Ukraine, equality and independence in relations with other States in the global information space. The legal category of sovereignty is the characteristic that enables the relevant authorities of the State to implement specific measures to ensure information security. In fact, information security, as regulated by law, must reflect the state of art in the exercise of information sovereignty by the State. Information sovereignty is a fundamental principle of information security (Solodka, 2020, pp. 232–239).

The informational component of State sovereignty means the right and the actual possibility, in accordance with the legislation and taking into account the balance of interests of the individual, the State and society to define and implement internal information policy, guarantee information security and act as an equal actor of external (international) information exchange. Therefore, public administration in the information sector should aim at: – filling the domestic and world information space with reliable and positive information about Ukraine and the events taking place in it; – promoting the creation of quality content; – promoting the development of information technologies; – ensuring information security (Polevyi, 2018, pp. 139–144).

According to Solodka, the issue of determining the components of information sovereignty of Ukraine and their legal nature can be considered from two main approaches: the identification of functional sectors (aspects) of information sovereignty or the identification of its system elements. In the most general form, information sovereignty of Ukraine, as a complex category of information law, the elements thereof reflect various forms of information and areas of its expression in modern society, includes the following functional aspects: information-humanitarian, and information technology (Solodka, 2020, pp. 23–29). The information-humanitarian component of information sovereignty includes three aspects: national (popular), State and individual. These aspects can be detailed through cultural, ideological, spiritual components, etc. (Solodka, 2020, pp. 23–29). The information technology component is implemented in general through the concept of digital sovereignty and is asso-

ciated with cyberspace, that is an environment resulting from the interaction of people, software and services on the Internet with the help of technological devices and networks connected to them, which does not exist in any physical form (Solodka, 2020, pp. 23–29).

Information sovereignty of the State is reflected in its ability, in accordance with the provisions of national and international law, to determine independently national interests in the field of information and to implement them through State internal and external information policy. This includes the ability to provide information security, to manage national information resources, to create a national information infrastructure for national information space, create conditions for its integration into the world information space (Solodka, 2020, pp. 232–239).

In general, the relationship between information sovereignty and information security is reflected in the following: – Information sovereignty is an absolute feature of the modern State and a legal basis for ensuring its information security; – The object of ensuring both information sovereignty of the State and the information security of the State is the national interests of Ukraine in the information sphere; – Information sovereignty is exercised through the sovereign right of the State to ensure information security and is the basis

for its exercise; – Virtually all measures aimed at maintaining information sovereignty are simultaneously measures, aimed at ensuring information security, therefore, information sovereignty of the State is a condition for its information security; – Information sovereignty of the State determines its independence in the global information space, and ensures the independent participation of the State in the international information security system (Solodka, 2020, pp. 232–239).

#### 4. Conclusions

To sum up, information sovereignty as an information part of State sovereignty is a particularly valuable object of the administrative and legal protection in the context of the development of information society and conditionally is under full protection of the information security of the State.

Information sovereignty is the independent information and spatial boundary of the use of information space, information resources and information technologies of each State, which by integrated processes is integrated into the global information space and at the same time represents the national interests of the State, specificities of its State information policy and the concept of protection for the expression of the State information identity and the subjective participation in the information exchange at the global level.

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## СУТНІСТЬ ІНФОРМАЦІЙНОГО СУВЕРЕНІТЕТУ З ПОЗИЦІЇ АДМІНІСТРАТИВНОГО ПРАВА

**Анотація. Мета.** Мета статті полягає в тому, щоб на основі системного аналізу позицій учених, довідникових матеріалів та норм чинного законодавства сформувати сучасну сутність інформаційного суверенітету з позиції адміністративного права в Україні. **Результати.** Наголошено, що держава має певні зобов'язання лише там, де вона має певний інтерес: лише те, що працює на зміцнення держави, на її захист від зовнішньої агресії і внутрішнього розбрату, може бути предметом її системного захисту, підтримки і всілякого піклування. І навпаки, те, що становить загрозу інтересам держави, вона не лише не зобов'язана підтримувати, але, навпаки, має інтерес і завдання обмежувати і мінімізувати у впливі та розвитку. Гуманітарна політика держави має бути спрямована на зміцнення її суверенітету, а відповідно, може більшою або меншою мірою збігатися з гуманітарними політиками окремих культурних груп, які утворюють громадяни цієї держави. З'ясовано, що Концепція державного суверенітету потребує своєї модернізації шляхом інтеграції класичних та нових інформаційних правомочностей держави, характерних для глобалізованого інформаційного світу. Інформаційний суверенітет не є самостійною категорією конституційного права, цей термін характеризує специфіку суверенних правомочностей держави у глобальному інформаційному просторі щодо самостійного формування національної інформаційної політики та забезпечення національної Концепції державного суверенітету, потребує своєї модернізації шляхом інтеграції класичних та нових інформаційних правомочностей держави, характерних для глобалізованого інформаційного світу. **Висновки.** Зроблено висновок, що інформаційний суверенітет як інформаційна частина державного суверенітету є особливо ціннісним об'єктом адміністративно-правового захисту в умовах розвитку інформаційного суспільства та умовно перебуває під повною протекцією інформаційної безпеки держави. Інформаційний суверенітет – це самостійна інформаційно-просторова межа використання інформаційного простору, інформаційних ресурсів та інформаційних технологій кожної держави, що комплексними процесами інтегрується в глобальний інформаційний простір та одночасно виражає національні інтереси держави, особливості її державної інформаційної політики та концепції захисту, для вираження загальнодержавної інформаційної ідентичності та суб'єктної участі в інформаційному обміні на глобальному рівні.

**Ключові слова:** адміністративний захист, адміністративні засоби, адміністративно-правові засади, державна інформаційна політика, інформаційна безпека, інформація, кіберпростір, суверенітет.

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