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CIVIL SOCIETY AND LAW AND ORDER: VALUES AND VECTORS OF INTERACTION AT THE MODERN STAGE OF DEVELOPMENT OF UKRAINE AS A LEGAL STATE

Abstract. Purpose. The article studies the main issues of interaction between civil society with law and order in the context of building a legal state in Ukraine. **Results.** The impact of digital technologies and the values of law on this process is outlined. It is noted that Ukrainian society is currently undergoing changes related to the increasing role of digital technologies in all social processes. Almost every sphere of society's life acquires its 'digital' analogue, namely, it is reflected in the virtual digital space. Therefore, the achievements of technological progress have an ambiguous impact on the state of human rights protection, in particular, law enforcement. It is emphasised that in the process of digital transformation, the legal sector undergoes adjustment. Modern scientific research is largely focused on the understanding that the formation, functioning and development of a civilised civil society with traditional democratic institutions is not possible without the influence of the values of law, without the regime of legality and effective law and order being the main basis. The processes of forming civil society and the legal state in Ukraine are impossible without an appropriate level of legal consciousness, development of the legal culture of society and citizens of Ukraine, and a high level of legal values. In view of this, the vital activity of civil society and its members is inevitably linked to the value-based legal potential, an integral part of which is an effective law and order that allows people to exercise their rights and freedoms. The value-based legal system and the current legal order in Ukraine form the legal space within which civil society institutions and the legal state interact. The unity of the established legal framework and the current legal order ensures the full functioning of both civil society institutions and public authorities, which are called upon to ensure this order. That is why the legal order operating in a democracy and based on the values of law differs from the legal order formally based on positive law and the established system of legislation that reflects the interests of the state itself. **Conclusions.** It is concluded that civil society and the legal state purposefully initiate lawful conduct of participants in social relations. The requirement of lawful conduct is a fundamental principle, a vital necessity, since only on this basis the potential of the values of law is embodied in the vital interests and intentions of each person. On the basis of conscious and predictable lawful behaviour of members of society as parties to legal relations, the successful functioning of civil society and the legal state is achieved, and the legal order is established and strengthened.

Key words: law and order, legality, legal state, civil society, legislation, legal culture, legal consciousness, legal values, lawful conduct, digital technologies.

1. Introduction

In the current context of building a legal state in Ukraine, it is impossible to avoid the fact that the technological factor influences social relations, as digital technologies radically change traditional state and public institutions. However, in order for society to benefit from technological progress, it is important to create legal and regulatory frameworks that define the ethical principles of the development, implementation and operation of digital technologies. As the digital sector transcends national borders in the current digitalisation

environment, the issue of legal regulation of digital technologies requires supranational efforts to harmonise a unified digital legal order to protect the public interest. Due to the effective digital law and order, civil society will become fair and socially resilient to the technological challenges faced in the world (Danylian, Dzoban, Zhdanenko, 2020).

The relevance of this issue is also due to circumstances of both application and theoretical nature. Ukrainian society is currently undergoing changes related to the increasing role of digital technologies in all social processes.

Almost every sphere of society's life acquires its 'digital' analogue, namely, it is reflected in the virtual digital space. Of course, it should be acknowledged that law and order is vulnerable in the context of digital technologies, as modern technologies lead to the emergence of new elements that change human life and social order. On the other hand, such new technologies determine the emergence of new ways of their penetration into the activities of the state.

Being in constant contact with the structures of civil society and expressing its main goals and interests, the legal state directs its potential for the benefit of this society and its members. Such legal framework enables the proper realisation of valuable human vital interests and effective law and order. Moreover, the achievements of technological progress have an ambiguous impact on the state of human rights protection, in particular, law enforcement. Therefore, under the current conditions of building a legal state in Ukraine, it is necessary to theoretically develop and practically implement appropriate legal measures to ensure law and order.

The theoretical and methodological basis of the study is the ideas and concepts expressed in the works of philosophers of different times, in particular, Aristotle, I. Kant, and Hegel. Nowadays, the issues of digitalisation of law and the impact of information technology on law enforcement are the subject of research by many national legal scholars, including O. Barabash, D. Bielov, Yu. Bysaha, R. Zvarych, O. Kotukha, N. Levytska, and N. Onishchenko. The scholars who have studied the concepts of the legal order, legal state, civil society and their main characteristics in the context of the digital space should be highlighted apart. These are S. Bobrovnyk, T. Podorozhna, N. Parkhomenko, R. Lutskyi, T. Tarakhonich, Yu. Shemshuchenko and others. However, the issues of interaction between civil society, legal state and law and order remain poorly researched, which makes this article relevant.

The article studies the main issues of interaction between civil society with law and order in the context of building a legal state in Ukraine.

2. The development of civil society in Ukraine

Recently, scientific and technological progress in Ukraine and the world has been characterised by an outstripping dynamic, with a significant increase in the number of innovations in the state's activities. The volume of big data is increasing, and digital technologies are being introduced into all sectors of life, which is undoubtedly leading to the transformation of Ukrainian society and the formation of a digital economy based on big data. Over the past

few years, a number of approaches to the study of the digital economy have emerged, including the definitions of the concepts of "digital economy," "digital transformation," "digitalisation" (although these concepts are confused, replacing one with another), assessing the level of digital development, measuring the impact on economic growth, and solving other important tasks. However, no single, commonly accepted approach and definition of these concepts has yet been established.

In the modern world, digitalisation has become a key factor that has a significant impact on various aspects of social and legal life in Ukraine. For example, it should be noted that the rapid development of digital technologies has made current legislation lag behind the legal reality, which is largely created in a virtual, digital environment. Until recently, digital investment platforms, distributed ledgers (e.g. blockchain), e-commerce and other rapidly developing technologies and related technological phenomena had no regulatory framework, and were regulated in a chaotic and unsystematic manner. Therefore, *in the process of digital transformation, the legal sector undergoes adjustment.*

However, modern scientific research is largely focused on the understanding that the formation, functioning and development of a civilised civil society with traditional democratic institutions is not possible without the influence of the values of law, without the regime of legality and effective law and order being the main basis. According to scientists, processes of forming civil society and the legal state in Ukraine are impossible without an appropriate level of legal consciousness, development of the legal culture of society and citizens of Ukraine, and a high level of legal values (Chukaieva, 2019). In view of this, the vital activity of civil society and its members is inevitably linked to the value-based legal potential, an integral part of which is an effective law and order that allows people to exercise their rights and freedoms.

It should be underlined that the value-based legal system and the current legal order in Ukraine form the legal space within which civil society institutions and the legal state interact. The unity of the established legal framework and the current legal order ensures the full functioning of both civil society institutions and public authorities, which are called upon to ensure this order. That is why the legal order operating in a democracy and based on the values of law differs from the legal order formally based on positive law and the established system of legislation that reflects the interests of the state itself (Mamenko, Parkhomen-

ko-Kutsevil, 2021). In a democratic social order, priority is given to the individual, his or her rights and freedoms, which are recognised as the highest social value.

In his time, the prominent thinker Hegel argued that the leading role in civil society should be played by the principle of equality of its members, their social and legal freedom, private property, a clearly functioning system of contracts, mechanisms for the protection and defence of law, perfect legislation, and a court with authority (Lisovska, Lisovskyi, Podoliaka, 2018). The researcher understood civil society as “a bourgeois society formed only in the modern world...” (Lisovska, Lisovskyi, Podoliaka, 2018), that is, in the world in which people live and create. The above also describes modern civil society, which is based on the legal order, which implements all the necessary values of law in the functioning of this society.

The principle of legal equality is the main pillar of the legal basis of civil society and the current legal order. Thanks to this principle, a person freely expresses his or her will in all important aspects of life and thereby forms himself or herself as a creative, proactive actor who realises his or her interests and needs in accordance with constitutional values and the rule of law (Barabash, 2023). Legal equality describes the legal order as a scope of equal opportunities provided to every party to legal relations seeking to exercise their rights and freedoms and based on an effective legal order.

The legal order is based on the values of civil society and its members, and is enforced by the relevant state authorities. Therefore, the regulatory and protective basis of the legal order, as well as the legal basis of civil society in general, are formed and function under the influence of the tasks and goals that are identified in the process of interaction between civil society and governmental structures. It is in the process of correlation of public and state interests that those vital problems are identified, the solution of which is associated with innovative development of law based on the current legal order. Civil society as a system of various social relations is an autonomous, independent, self-governing phenomenon based on democracy, legal framework and legal order (Pohribnyi, 2019). When regulating certain social relations, civil society institutions establish certain links with the relevant state authorities and thereby ensure the legal order, which determines the proper functioning of both civil society and legal state in Ukraine.

In such conditions, legal interests are realised at both the public and state levels. The values of law that define the content of the proper

legal order contribute to the ordering of social relations, thanks to which the effectiveness of the exercise of inalienable rights and freedoms of all members of civil society increases significantly. Civil society can only fully function and develop in the context of democracy and a functioning legal state. Therefore, the processes of formation and functioning of civil society and the legal state are naturally interconnected, determine each other, and are focused on the interests and needs of the individual as the highest social value.

However, the priority of civil society is the individual, not the state. This circumstance is the reason for the ‘primacy’ of civil society and the ‘secondary’ nature of the legal state. In the current conditions of democracy in Ukraine, the processes of formation of civil society and the legal state coincide to some extent, as they are equally based on the same values of law, in particular, human centredness, the rule of law, equality of human rights, etc. This is the nature of civil society due to the value and legal parameters of the legal state.

3. Civil society and law and order in Ukraine at the current stage of development

Civil society is focused not only on proclaiming but also on actually ensuring the rights and freedoms of every person, and therefore ensuring law and order is the main area of activities of the legal state (Barabash, 2018). Reliance on a legal order based on legal values enables members of civil society to ensure their personal freedom and rights. In this regard, I. Kant noted that “No one may force anyone to be happy according to his manner of imagining the well-being of other men; instead, everyone may seek his happiness in the way that seems good to him as long as he does not infringe on the freedom of others to pursue a similar purpose, when such freedom may coexist with the freedom of every other man according to a possible and general law” (Kasyniuk, Melnyk, 2019).

It should be emphasised that freedom is the ability and capacity of civil society members to take necessary actions in accordance with their goals, interests, and needs (Karas, 2003). In addition, it is a certain behavioural choice in accordance with one's will in accordance with the current legislation. Possessing relative freedom, a person in a true democracy retains the ability to make the maximum choice of those life requirements that do not contradict the requirements of the law. However, it is important that current laws and legal provisions comply with the natural and inalienable rights and freedoms of man and citizen (Malyshch, 2008). This is exactly *positive law*, which accumulates the values of natural law.

As a fundamental good of civil society and its members, freedom enables individuals to perform various acts that are within the scope of the law in force and contribute to law and order (Rudych, 2006). The values of law, recognised by civil society and the legal state, embodied in the proper legal order, allow defending the interests, needs, rights and freedoms of every person and citizen in Ukraine. Moreover, according to scholars, the values of civil society and the legal state are reflected primarily in the basic principles of the constitutional order. The Constitution of Ukraine of 1996 not only enshrines the structure of the supreme bodies of state power and proclaims the fundamental rights and freedoms of man and citizen, but also defines the principles (mechanisms) of interaction between the state and civil society. It prioritises the interests of the individual as a member of society and a party to legal relations.

Since public authorities, provisions and requirements of law reveal their purpose and potential within the framework of civil society, they are aimed at organising the joint life of people, their interaction in order to ensure their rights and freedoms. This establishes the necessary constitutional and legal regime of legality and ensures proper legal order (Podorozhna, 2016). The Constitution of Ukraine is the basis for the stability and successful functioning of civil society, which protects the interests and needs of all its members. On a democratic constitutional basis, the state and public structures operate, society improves its vital functions, and rights and freedoms are exercised as an embodiment of the true values of law and a manifestation of the essential potential of the regime of law and order (Chukaieva, 2019).

The Constitution of Ukraine, based on the principles of freedom, equality, respect for human and civil rights and freedoms, is a state and social value that enables each individual to achieve the parameters of his or her decent existence and to achieve the exercise of his or her rights and freedoms through active lawful conduct. The Constitution of Ukraine acts as a leading guarantor of the functioning of civil society, enabling it to reach public agreement on the most complex issues and consolidate the efforts of political and social structures aimed at realising the common interests of the individual, society and the state.

However, it should be emphasised that the implementation of the values of law in the life of civil society, ensuring the proper legal order is a rather controversial, ambiguous, but natural and logical process. After all, in the regulatory system of social relations, the leading role is assigned to the individual who claims to achieve various benefits in life.

Therefore, the individual as a party to legal relations is required to act lawfully. Civil society institutions (political parties and movements, public associations and organisations, unions, associations, etc. (Mernyk, 2011)), which, if necessary, interact with public authorities, through the system of law, legislation, and sectoral norms of law, contribute to the realisation of vital interests of civil society members.

Civil society reflects the ideas and requirements of law as a social value that is designed to exclude arbitrariness and guarantee an equal degree of freedom for each individual. After all, the ideas and principles of natural law, legal provisions primarily correspond to the principles of freedom, equality, humanism, justice and other value-based principles of civil society. Of course, the functioning of civil society is not conditioned by law alone, since this society has the potential for social conduct. Social relations, where the most important vital interests of the members of this society are integrated, require regulatory framework as the most effective and efficient means of regulatory influence. Therefore, the value potential of law is redistributed in a certain way between the value foundations of civil society and the activities of state bodies, which ensures the effectiveness of the legal order and introduces elements of orderliness into the legal activities of society members.

A specific feature of civil society is that its institutions delegate their powers to the state through law, if it does not contradict the interests of a person and a citizen (Pavliuk, 2013). Conversely, the state may transfer certain social relations to the functioning of civil society in order to regulate them with the norms of social conduct (moral norms, traditions, customs, etc.). On this basis, clear boundaries of regulatory frameworks between civil society institutions and public authorities are established. However, a self-regulating civil society can function normally and fully only in the context of a proper legal order, which is constitutionally defined. That is why the value and legal components of civil society determine the choice of proper legal conduct.

4. Conclusions

Civil society is the space where the provisions of law find their practical implementation, meeting the interests and needs of the majority of its members. The effectiveness of the values of law is manifested in the successful functioning of civil society institutions and the exercise of human rights and freedoms. The system of law and the legal order provide civil society with a system of guarantees (based on the values of law), namely, the possibility of functioning and development in the interests

of its members. Such opportunities are related to the fact that, if necessary, civil society institutions have the right to establish cooperation with the relevant state authorities. Civil society has the opportunity to rely on legal mechanisms, if necessary, but at the same time to resist arbitrariness. That is why it is important to clearly distinguish between the boundaries of the social and legal order, the regulatory potential of legal provisions and the norms of social conduct. Therefore, civil society and the legal state purposefully initiate lawful conduct of participants in social relations. The requirement of lawful conduct is a fundamental principle, a vital necessity, since only on this basis the potential of the values of law is embodied in the vital interests and intentions of each person. On the basis of conscious and predictable lawful behaviour of members of society as parties to legal relations, the successful functioning of civil society and the legal state is achieved, and the legal order is established and strengthened.

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ГРОМАДЯНСЬКЕ СУСПІЛЬСТВО ТА ПРАВОПОРЯДОК: ЦІННІСНІ ЗАСАДИ ТА ВЕКТОРИ ВЗАЄМОДІЇ НА СУЧАСНОМУ ЕТАПІ РОЗВИТКУ УКРАЇНИ ЯК ПРАВОВОЇ ДЕРЖАВИ

Анотація. Мета. У статті досліджено основні проблеми взаємодії громадянського суспільства та правопорядку в умовах побудови правової держави в Україні. **Результати.** Окреслено вплив цифрових технологій та цінностей права на такий процес. Зазначено, що нині в українському суспільстві відбуваються зміни, пов'язані з посиленням ролі цифрових технологій у всіх соціальних процесах. Практично кожна сфера життєдіяльності суспільства набуває свого «цифрового» аналога, а саме відображається у віртуальному цифровому просторі. Відтак досягнення технічного прогресу неоднозначно впливають на стан захисту прав людини, зокрема сфери забезпечення правопорядку. Наголошено, що у процесі цифрової трансформації відбувається коригування правової сфери. Сучасний науковий пошук значною мірою зосереджений на розумінні того, що становлення, функціонування та розвиток цивілізованого громадянського суспільства з традиційними інститутами демократії не можливий поза впливом цінностей права, без основного підґрунтя яким є режим законності та ефективний правовий порядок. Процеси формування громадянського суспільства і правової держави в Україні неможливі без відповідного рівня правосвідомості, розвитку правової культури суспільства і громадян України, високого рівня правових цінностей. З огляду на це, життєдіяльність громадянського суспільства та його членів неодмінно пов'язана з ціннісним правовим потенціалом, складовою частиною якого є ефективний правовий порядок, що дозволяє реалізувати людині свої права і свободи. Ціннісно-правова система та чинний правовий порядок в Україні утворюють той правовий простір, у межах якого здійснюється необхідна взаємодія інститутів громадянського суспільства та правової держави. Єдність сформованої правової основи та чинного правового порядку забезпечує повноцінне функціонування як інститутів громадянського суспільства, так і органів державної влади, покликаних забезпечувати цей порядок. Саме тому, правовий порядок, який діє в умовах демократії та заснований на цінностях права, відрізняється від правопорядку, формально заснованого на позитивному праві і сформованій системі законодавства. **Висновки.** Зроблено висновок, що громадянське суспільство і правова держава цілеспрямовано ініціюють правомірну поведінку учасників суспільних відносин. Вимога правомірної поведінки є основоположним принципом, життєвою необхідністю, оскільки тільки на такій основі потенціал цінностей права втілюється в життєві інтереси і наміри кожної людини. На основі усвідомленої та передбачуваної правомірної поведінки членів суспільства як суб'єктів права досягається успішне функціонування громадянського суспільства і правової держави, утверджуються і зміцнюються правовий порядок.

Ключові слова: правопорядок, законність, правова держава, громадянське суспільство, законодавство, правова культура, правова свідомість, правові цінності, правомірна поведінка, цифрові технології.