



# NORWEGIAN JOURNAL OF DEVELOPMENT OF THE INTERNATIONAL SCIENCE

№48/2020

**Norwegian Journal of development of the International Science**

ISSN 3453-9875

VOL.2

It was established in November 2016 with support from the Norwegian Academy of Science.

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Norwegian Journal of development of the International Science

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**Pravdiuk A.***Candidate of Law Sciences,**Associate Professor of the Department of Law,**Vinnitsia National Agrarian University, Faculty of Management and Law***Abstract**

Modern constitutional and legal bases of the information society functioning in Ukraine are considered. Constitutional and legal norms regulating information relations are analyzed. It is proved that the right to information is a constitutional right of the individual and the citizen. Basic regulations in the field of information relations are characterized. The need to improve information legislation aimed at the strict implementation of constitutional norms is emphasized. Relevant foreign experience is analyzed and conceptual approaches to making appropriate changes are identified.

**Keywords.** Information society, information, right to information, information security, constitutional and legal norms, Constitution.

Modern society is characterized by qualitatively new trends in the information sphere, primarily rapid formation of the global information space and global information confrontation, development and use of new information and communication technologies, emergence of fundamentally new social relations in various areas of information, including telecommunication networks, e-government, electronic document management, e-commerce, functioning in cyberspace of public networks of electronic communications, electronic information resources, social networks. These trends require a comprehensive study in order to develop proper legal support for the functioning of information space.

In the framework of Ukraine's European integration, the problems of studying the experience of formation of the information society in the member states of the European Union as well as implementation of EU legal acts in the information legislation of Ukraine are growing in importance.

Protection of the rights, freedoms and security of citizens in the information sphere should hold a special position among the priorities of strategic development of Ukraine. The information society in Ukraine has to develop according to the principles of the democratic state with market relations, and above all it should be based on the constitutional right of every citizen to freely seek, receive, transmit, create and disseminate information in any lawful manner.

Considering a number of current problems in the information sphere, one of the most important objectives of the information society development in Ukraine is the need to reform information legislation in order to protect and ensure constitutional rights and socio-economic interests of the individual, society and the state.

Some theoretical, methodological and legal aspects of the information society functioning have been examined by V. Bebyk, V. Havlovskiy, V. Hrytsenko, I. Zabara, M. Iharashi, I. Zhyliayev, R. Kaliuzhnyi, N. Kaminska, V. Kormych, A. Kulish, A. Marushchak, O. Kyryliuk, V. Kirian, I. Sopilko, V. Tsymbaliuk, V. Shemchuk and other scientists. At the same time, rapid development of information technologies and expansion of information activities requires a detailed study

of the problems of constitutional and legal support of the information society functioning.

The term "information society" originated in the 80<sup>th</sup> of the twentieth century and was used by the representatives of various sciences (A. Touraine, P. Cervan-Schreiber, M. Poniatovski, M. Horkheimer, J. Habermas, N. Luhmann, M. McLuhan, D. Bell, A. Toffler, D. Masuda) as an essential characteristic of a special kind of post-industrial society. They considered the development of powerful and high-tech global information networks to be the main condition for its formation. Thus, D. Bell and A. Toffler studied the state and trends of society under the influence of information and informatization, as well as the influence of the latter on the process of transition of industrial society to information one. A. McLuhan predicted the formation of a global information society in the form of a "global village", which forms global community with global public opinion, which is having more and more influence on the actions of governments and international institutions due to mediation and strengthening by the media [1, p. 40].

According to D. Dubov, O. Ozhevan and S. Hnatiuk, information society is a phase in the development of civilization, when the main products of manufacturing are not goods and energy, but information and knowledge. The leading three features that distinguish such a society from all its predecessors are the creation of global information space capable of providing a new quality of life; increase in the share of information and communication technologies, products and services in the gross domestic product of the country; emergence of qualitatively new communications and effective information interaction of people on the basis of access to national and world information resources, overcoming of information inequality (poverty), meeting of human needs for information products and services [11, p. 3].

V. Bebyk treats information society as a modern society having a high level of the information culture development (creation, processing and use of information), which is characterized by the ability to qualitatively produce all the information necessary for the life of society; a developed information infrastructure

of society; high level of supply of all members of society with necessary information; a large percentage of the working population engaged in the information sector of the economy [1, p.41].

V.V. Shemchuk defines information society as “the society in which people’s activities are based on the use of services provided by the information and communication technologies. The state has a leading role in the formation of the information society, coordination of the activities of its various actors. It promotes the integration of people into a new information technology community, development of the information industry, support of the process of democracy, respect for human and civil rights under these conditions” [22, p. 135].

In the modern information society, one of the basic human and civil rights is the right to information. Realization of the human right to information, availability of free access to information of public importance, information openness of the authorities are important conditions and criteria for the functioning of a legal, democratic state.

The special importance of this right should be emphasized: it is an element that connects the whole system of fundamental rights and freedoms. Only under the condition of compliance with them, one can talk about the actual realization of personal, political, social, economic, environmental and cultural rights and freedoms [14, p. 52].

As noted by N.I. Tkachuk, “specificity of information, the content of which is knowledge and which ensures interaction of subjects of both information and other legal relations, as well as the actual information essence of law allows us to consider information rights as an element of fundamental and derived human rights of all generations, and the product of the last (fourth or fifth) generation of the evolutionary development of human rights. Information rights and freedoms are used by man in all spheres of his life, at different stages, which emphasizes their exceptional importance... now any social relations are manifested through information, information sphere, so it can be argued that information rights and freedoms exist in any sphere of vital activity of the society” [21, p.21].

Thus, O. Dzioban and S. Zhdanenko consider the right to information to be a basic independent right, “which represents a legally guaranteed opportunity to freely seek, receive, transmit, conduct and disseminate information of a socially significant nature about any processes and phenomena of objective reality in any lawful manner” [2, p. 4].

Based on the analysis of the national legal provisions, the right of an individual and a citizen to information is the right to seek, receive, transmit, produce any information about facts, events, processes and phenomena in any lawful manner.

At the legislative level, information society is defined as a human-centered, open to everyone and development-oriented society in which everyone could create and accumulate information and knowledge, have free access to them, use and share them to enable everyone to fully realize their potential in order to promote

social and personal development and improve the quality of life [8].

The right to information has a legal content, which includes the rights and obligations of the parties, as well as other legal means. In addition, the content of legal relations is represented by legal facts, legal capacity and capacity of the parties, as well as the legal regime of the objects of legal relations.

At the present stage of its development the information society is the object of constitutional and legal regulation. After all, the subject of constitutional law includes fundamental social relations in general, which determine the content of all other relations, including information ones. At the same time, it is necessary to take into account the dual nature of the subject of constitutional law, so that it is both universal and common branch of law at the same time. As a universal branch, constitutional law acts as a common part of Ukrainian law, uniting the disparate legal material into a single whole, and within it there a possibility to set goals for the national law, consolidate original values for all branches of law. As a common branch, constitutional law functions as a traditional detailed legal regulation of social relations that constitute its subject.

Modern conditions of public life require a reassessment of approaches to understanding the essence of information relations, to determine their social significance and to develop mechanisms for their legal regulation. In this aspect, we consider the development of information law in the direction from information relations to information legal relations, because the purpose of law is to regulate social relations by determining the subjective rights and legal obligations of the parties. And further development of legal science, including information law, and the overall effective development of the state in the direction of a democratic, legal, sovereign and independent, social institution, will depend on the extent to which such legal regulation will be effective and timely.

It is quite appropriate to define information relations as the relations that are regulated by law, which arise between different entities for the creation, collection, receipt, storage, use, dissemination, protection of information and that are protected from violations by the state [18, p. 31].

The boundaries of the constitutional and legal regulation of the entire information society are determined by the basic ideas, principles of existence and vital activity of a new type of society. Legal regulation of relations in the information society beyond these limits is mostly the task of other branches of law. Due to the dual nature of the subject of constitutional law, it must not only determine the basis of existence and operation of the entire information society, but also regulate in detail the relations in the information society, which by their nature belong to the subject of constitutional law (e.g. electoral relations). Thus, in our opinion, consolidation of bases of the entire information society is possible at the level of Ukraine, and regulation of relations in the information society, which are a subject of the constitutional law, should be carried out at the level of other sources of the constitutional law, and regulation

of all other relations in the information society is a prerogative of other branches of law, including information law. Thus, consolidation of the basic principles of the information society is really the task of the Constitution of Ukraine. These principles should form a system of constitutional and legal bases for the development of the information society of Ukraine. The fact is that when regulating social relations, constitutional law uses the method of common rationing. It is based on the establishment of the general, basic principles for the whole system of social relations.

The current legal framework for the functioning and development of the information society in Ukraine is based on the norms and principles of international law, and the basic principles of the information society functioning are represented in the Constitution of Ukraine.

The international legal basis for the information society development in Ukraine is represented by the Okinawa Charter of the Global Information Society 2000, the Memorandum of Understanding between the European Commission of Directorate-General for the Information Society and the State Committee for Communications and Informatization of Ukraine on Information Society Development, Geneva Declaration "Principles for Building an Information Society" 2003, Tunisian Commitment "Second Stage of the World Summit on the Information Society" 2005, the Declaration on European Policy in the Field of New Information Technologies adopted by the Committee of Ministers of the Council of Europe in 1999, the European Parliament "Directive on the electronic signatures used within the Community" 1999, UNICITRAL Model Law "On Electronic Signatures" adopted by the UN Commission in 2001, Recommendation of the Committee of Ministers of the Council of Europe (2004) on e-government adopted in 2014, and international agreements in the field of cooperation such as the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Latvia on cooperation in the field of informatization.

Chapter II of the Constitution of Ukraine lists the fundamental rights and freedoms of the individual and citizen, but there is no clear distinction between them. In constitutional law, they are divided into personal (civil), political, socio-economic and cultural ones. Moreover, the right to information that is represented in Article 34 of the Constitution of Ukraine (i.e. the right to "collect, store, use and disseminate information") [12] is attributed to political rights by numerous representatives of constitutional law. However, the right to self-expression, which includes the right to information, is obviously not only a political right of a citizen, but also a natural personal right, such as the right to life, freedom of movement. It is inherent in the individual from birth, and not only in the context of participation in the political life of the country.

It is logical and natural to refer the human right to information to constitutional personal rights, because, as recognized by the European Court of Human Rights, anyone can exercise it. All these are the elements of the right to human self-expression.

Constitutional rights to freedom of thought and speech and information in any form, represented in Parts 1 and 2 of Article 34 of the Constitution, respectively, can be considered primarily as personal rights of every individual, but in some respects as the political rights of the citizens of Ukraine (e.g. in the case of obtaining or disseminating certain information during elections, etc.). The right to information can also be attributed to cultural rights in the context of realization of freedom of literary, artistic, scientific and technical creativity (Article 54 of the Constitution), realization of the right to education (Article 53 of the Constitution) [12]. It is obvious that realization of social and economic rights is impossible without free dissemination of information.

According to the Constitution, the right to information is protected by the universal right to liberty and security of the individual. The exchange of information carried out by means of communication has a special constitutional guarantee in the form of secrecy of correspondence, telephone conversations, telegraph and other correspondence (Article 31).

The constitutional obligation to keep the secret should be fulfilled by both state communication institutions and public organizations and private enterprises working in the field of information communication.

The Constitution of Ukraine (Article 32) also states that the collection, storage, use and dissemination of confidential information about the individual without his consent is not allowed, except as provided by law, and only in the interests of the national security, economic welfare and human rights. Every citizen has the right to get acquainted with the information about him/her, which is not a state secret or other secret protected by law, in the bodies of state power, local self-government bodies, institutions and organizations. Everyone is guaranteed judicial protection of the right to refute inaccurate information about him/her and his/her family members and the right to demand the removal of any information, and the right to get compensation for material and moral damage caused by the collection, use and dissemination of such inaccurate information [12].

Thus, the right to access information is a constitutional human right, which is provided and guaranteed by the Article of the Constitution of Ukraine, namely, the right of everyone to freedom of thought and speech, to free expression of the views and beliefs; the right to freely collect, store, use and disseminate information orally, in writing or otherwise one chooses.

The exercise of this right may be restricted by law only in the interests of the national security, territorial integrity or public order in order to prevent riots or crimes, to protect public health, to protect the reputation or rights of others, to prevent the disclosure of confidential information or to maintain the authority and impartiality of justice [16].

Provisions of the Constitution of Ukraine are developed and specified in the regulations of the information sphere. These are the Laws of Ukraine "On the Basic Principles of Information Society Development in Ukraine 2007-2015", "On Information", "On Access to Public Information", "On Personal Data Protection",

“On Information Protection in Information and Telecommunication Systems”, “On Electronic Digital Signature”, “On Television and Radio Broadcasting”, “On Printed Mass Media (Press) in Ukraine”, “On State Secrets”, “On Scientific and Technical Information”, “On Telecommunications”, “On Public Television and Radio Broadcasting of Ukraine”, “On the National Informatization Program”, “On the Basic Principles of Cyber Security of Ukraine” and other regulations governing public relations for the creation of electronic information resources, protection of intellectual property on these resources, introduction of electronic document management etc.

The first step taken by Ukraine in order to form information society was the adoption of the Law of Ukraine “On the Basic Principles of Information Society Development in Ukraine 2007-2015”. The purpose of this document is to improve the concept of the national policy on the introduction of information and communication technologies in the field of public relations and to ensure positive changes in the society and individual. The law recognizes that one of Ukraine’s priorities is to build a people-centered, open to everyone and development-oriented information society in which everyone can create and accumulate information, have free access, use and share it in order to enable everyone to realize one’s potential, promote social and personal development and improve the quality of life. Its task is also to improve public administration, relations between the state and citizens, formation of electronic forms of interaction of public authorities and local governments with individuals and legal entities.

The national policy of development of legal regulation of the information society in Ukraine is aimed at the transition to priority scientific, technical and innovative development; legislative support of the information society development through the creation of an integrated system of legislation harmonized with the norms of international law on the development of the information society; formation of favorable economic conditions for the information society development; development of public information infrastructure; support of the universal access to telecommunication services and information resources; promotion of the diversity and quantity of electronic services; creation of publicly available electronic information resources; the process of preparing a person to work in the information society; creation of a system of motivations for implementation and use; increase in the efficiency of culture and science in the information society; introduction of information and communication technologies in the field of protection and health care in order to improve the quality and efficiency of health care, improve the demographic situation, preserve and strengthen the health of the population, ensure social justice and citizens’ rights to health care; environmental protection; introduction of information security through the widespread use of information and communication technologies in the information society through the improvement of the legal framework for the protection of information resources, combating computer crime, protection of personal data, and law enforcement in the information sphere [9].

Another important document is the “Strategy for the Development of the Information Society in Ukraine”, which defines the purpose, basic principles, strategic goals of the information society in Ukraine, tasks aimed at achieving them, as well as the main directions and mechanisms of this Strategy taking into account current trends and features of Ukraine’s development. It should be noted that one of the strategic tasks for the Ukrainian legislator has been the development and adoption of the Information Code of Ukraine until 2020. However, this task has remained unfulfilled [19].

One of the main legal documents aimed at exercising the right to information is the Law of Ukraine “On Information”, which establishes that everyone has the right to freely receive, use, disseminate, store and protect the information necessary to exercise one’s rights, freedoms and legitimate interests.

This document establishes basic principles of information relations, namely, guaranteed right to information; openness, availability of information, freedom of information exchange; reliability and completeness of information; freedom of expression of views and beliefs; legality of receiving, using, disseminating, storing and protecting information; protection of the individual from interference in his/her personal and family life.

The main directions of the state information policy are as follows: support of access of everyone to information; provision of equal opportunities for creation, collection, receipt, storage, use, dissemination, protection of information; creation of conditions for the formation of information society in Ukraine; support of openness and transparency of the subjects of power; development of information systems and information networks, development of e-government; constant updating, enrichment and storage of national information resources; ensuring of information security of Ukraine; promotion of international cooperation in the field of information and Ukraine’s entry into the world information space (Article 3).

The legislator defines information as any data that can be stored on physical media or displayed electronically. According to the law, information is divided into the following types: information about an individual; reference and encyclopedic information; information on the state of the environment (ecological information); information about the product (work, service); scientific and technical information; tax information; legal information; statistical information; sociological information, etc. (Article 10).

The right to information is ensured by the development of a mechanism for realization of the right to information; provision of the opportunities for free access to statistical data, archival, library and museum funds, other information banks, databases, information resources; the duty of the subjects of power to inform the public and the media about their activities and decisions; the duty of the subjects of power to designate special units or responsible individuals to ensure access of inquirers to information; implementation of the state and public control over compliance with the information legislation; establishment of the liability for violation of information legislation (Article 6).

The right to information may be restricted by law in the interests of national security, territorial integrity or public order, in order to prevent riots or criminal offenses, to protect public health, to protect the reputation or rights of others, to prevent the disclosure of confidential information, or to maintain the authority and impartiality of justice.

The right to information is protected by law and the state guarantees equal rights and opportunities for access to information for all subjects of information relations. At the same time, the exercise of the right to information must not violate public, political, economic, social, spiritual, environmental and other rights, freedoms and legitimate interests of other citizens, the rights and interests of legal entities.

In addition, no one may restrict a person's right to choose the forms and sources of information, except as provided by law, and the subject of information relations may require the elimination of any violations of his right to information [7].

The subject of information relations (individual or legal entity; association of citizens; subject of power) may demand elimination of any violations of his right to information.

The Law "On Information" provides for liability for the information law violations (disciplinary, civil, administrative or criminal) and inadmissibility of abuse of the right to information (for example, calls for war, overthrow of the constitutional order, calls for violence, cruelty, incitement to inter-ethnic, race conflicts, religious hatred, committing terrorist acts, encroachment on human rights and freedoms).

The Law of Ukraine "On Citizens' Appeals" and "On Access to Public Information" are among the most important legislative acts that ensure the exercise of the right to information.

Thus, the Law of Ukraine "On Citizens' Appeals" stipulates that citizens of Ukraine have the right to apply to public authorities, local governments, associations of citizens, enterprises, institutions, organizations, regardless of ownership, media, officials in accordance with their functional responsibilities with comments, complaints and suggestions concerning their statutory activities, a statement or petition for the implementation of their socio-economic, political and personal rights and legitimate interests and a complaint about their violation [6].

The Law of Ukraine "On Access to Public Information" defines the procedure for exercising and ensuring the right of everyone to access information held by the subjects of power, other managers of public information defined by this Law, and information of public interest.

Public information is the information reflected and documented by any means and on any media, which has been received or created in the process of performance of their duties by the subjects of power under current legislation, or which is possessed by the subjects of power, other managers of public information.

It should be noted that the peculiarity of this legal act is that it cannot be applied to the relationships concerning the obtaining of information by the subjects of power when performing their functions, as well as the

relationships concerning citizens' appeal governed by the special law [5].

The Law of Ukraine "On Citizens' Appeals" provides for the right of a citizen to appeal through the submission of appeals. Citizens have the right, in particular, to personally present arguments to the person who examined the application or complaint and participate in the examination of the submitted complaint or application; get acquainted with inspection materials; to submit additional materials or insist on their request by the body reviewing the application or complaint; be present at the consideration of the application or complaint; receive a written response on the results of the application or complaint; express orally or in writing a request for observance of secrecy of consideration of the application or complaint; claim damages if they are the result of violations of the established procedure for consideration of appeals [6].

As for the access to public information, the requesters of public information in accordance with the Law of Ukraine "On Access to Public Information" are individuals, legal entities and associations of citizens without the status of a legal entity. A citizen has the right to address the information controller with a request, individual or collective, regardless of whether this information concerns him personally or not, without explaining the reason for the request.

The Law of Ukraine "On Access to Public Information" also establishes the right of every individual to know during the collection of information, but before it is used, what information about him/her and for what purpose it is used, transmitted or disseminated, except as provided by law; access to information about him/her that is collected and stored; demand correction of inaccurate, incomplete, outdated information about him/her, destruction of information about him/her if it is collected, used or stored with the violation of law; get acquainted with information about other people by the decision of the court, if it is necessary for the implementation and protection of rights and legitimate interests; redress a wrong in case of disclosure of information about this person with the violation of requirements [5].

Thus, the Laws of Ukraine "On Access to Public Information" and "On Citizens' Appeals" ensure compliance with the constitutional norms, the norm on accessibility and openness of information held by the subjects of power through its free obtaining (through the appeal or request for information) to meet their needs and legitimate interests.

Due to the fact that our state has faced a vital need to protect fundamental national values, namely independence, territorial integrity and sovereignty of the state, freedom, human rights and the supremacy of law, welfare, peace and security, the issue of information security has become especially urgent.

The key to successful counteraction to large-scale external aggression and sustainable development of the information society in Ukraine has become not only the enhancement of technological capabilities of information exchange, but also deep awareness of all subjects of information relations concerning the need to

implement all measures to protect information resources and information security of the state [17, p. 45-46].

Article 17 of the Constitution of Ukraine stipulates that “protection of the sovereignty and territorial integrity of Ukraine, support of its economic and information security are the most important functions of the state as well as the concern of all Ukrainians” [12], which indicates the acquisition of the category “information security”.

One of the most important legislative acts implementing these constitutional norms is the Law of Ukraine “On the Basic Principles of Cyber Security of Ukraine”. This law defines the legal and organizational basis for the protection of vital interests of the individual and citizens, society and the state, national interests of Ukraine in cyberspace, the main goals, directions and principles of the state policy in cybersecurity, powers of state bodies, enterprises, institutions, organizations, individuals and citizens in this area, basic principles of coordination of their activities on the support of cybersecurity [8].

At the same time, it should be noted that this law is aimed to regulate the relations related to information security, exclusively in cyberspace, which is a part of information space.

In general, the state of protection of the rights and legitimate interests of the individual, society and the state in the information sphere of Ukraine indicate an insufficient level of legal regulation and information security. Thus, there are many cases of violation or unjustified restriction of these rights and interests, the norms regulating information relations in the legal provision of information security have got many contradictions, gaps and conflicts, and some relations in this area have not been resolved at all. It can be argued that all this is caused primarily by weak theoretical justification of the subsector of legal support of information security and other systemic miscalculations. With regard to this sub-sector, there can also be observed a lack of coherence between the systems of law and legislation, the elimination of which requires a systematic approach to the relevant legislation. This approach should become a main methodological tool for information security, because it can help to solve the problems of correlation of the whole and part, organization and disorganization, order and disorder [4, p.87].

In general, the effectiveness of information legislation is also seriously hampered by the lack of relevant basic regulatory conditions that are common for all sources of legal regulation in all legal acts on the information security.

Thus, basic principles of information and legal relations, through which a legal mechanism for regulating the information society was created, include the following ones: freedom of expression of views and beliefs; openness of the right to information; availability of information; freedom of information exchange; reliability and completeness of information; protection of the individual from the interference in his personal and family life; legality of receiving, using, disseminating, storing and protecting information; guaranteed right to

information. These principles are not only constitutional fundamental principles, but they also embody basic ideas of legislative provision of human rights on the basis of the developed and actual international standards in the field of information relations.

Considering the constitutional norms that regulate functioning of the information society and basic legal documents, it can be argued that the level of legal regulation of the information society of Ukraine as a whole meets European standards. At the same time, an important problem is the lack of systematic legislation governing relations in the information sphere. After all, a significant number of legislative acts are adopted in order to solve certain specific tasks without consideration of strategic guidelines. Obviously, one of the ways to improve the system of information legislation of Ukraine should be the development and adoption of the Information Code of Ukraine, which will solve the problem of overcoming differences in legislation and regulations, ensure the unity of the regulatory framework. Some problems including the lack of legislative definition of regimes restricting access to information, except for the state secrets, the actual lack of legal regulation of the functioning of international information systems in Ukraine, the need for proper legal support of information infrastructure must be addressed immediately.

In Ukraine there have been formed certain legal bases for the information society development, namely, a number of regulations have been adopted, which, in particular, regulate public relations for the creation of electronic information resources, protection of intellectual property rights to these resources, introduction of electronic document management, information protection. However, the level of legal regulation of the information society in Ukraine is insufficient in comparison with the world trends.

Based on the analysis of the constitutional and legal support for the functioning of the information society, it can be argued that currently the Constitution of Ukraine remains relevant and can be a legal basis for regulating the relations in the information society. At the same time, the potential of the Constitution to ensure the functioning of the information society due to its rapid development and, as a consequence, the need to improve information legislation may be insufficient. In our opinion, the need for amendments to the Constitution of Ukraine on the regulation of information relations may be caused by the changes in the principles and foundations of the existence and functioning of the information society. These changes can provide constitutional and legal preconditions for the information society development.

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## INTERACTION OF NABU DETECTIVES WITHIN INTERNATIONAL COOPERATION IN THE INVESTIGATION OF LEGALIZATION (LAUNDERING) OF PROPERTY OBTAINED

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## ВЗАЄМОДІЯ ДЕТЕКТИВІВ НАБУ У МЕЖАХ МІЖНАРОДНОГО СПІВРОБІТНИЦТВА В РОЗСЛІДУВАННІ ЛЕГАЛІЗАЦІЇ (ВІДМИВАННЯ) МАЙНА, ОДЕРЖАНОГО ЗЛОЧИННИМ ШЛЯХОМ

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### Abstract

The article is devoted to the study of the main directions of international cooperation of NABU Detectives with European and Euro-Atlantic law enforcement agencies during the investigation of legalization (laundering) of criminally obtained property. Based on the analysis of the relevant legislation of Ukraine and the author's own experience, the main areas of international cooperation of NABU detectives were identified and disclosed along with the problems that arise during such cooperation. The author's view on the aforementioned issues.

### Анотація

Стаття присвячена дослідженню основних напрямків міжнародного співробітництва Детективів НАБУ з європейськими та євроатлантичними правоохоронними структурними органами під час розслідування легалізації (відмивання) майна, одержаного злочинним шляхом. На підставі аналізу відповідного законодавства України, власного досвіду визначено і розкрито основні напрями міжнародної взаємодії детективів НАБУ та проблеми, які виникають під час такого співробітництва. Вироблений авторський погляд на вищевказані питання.

**Keywords:** interaction, international cooperation, crimes, activity, detective.

**Ключові слова:** взаємодія, міжнародне співробітництво, злочини, діяльність, детектив.

Співпраця з вітчизняними та міжнародними колегами є ключовим фактором успішного розслідування. Тісний діалог між різними агенціями сприяє узгодженню пріоритетів, цілісного розуміння розслідування та усвідомлення кожною агенцією ролей та можливостей інших.

Діяльність детективів НАБУ в розслідуванні легалізації (відмивання) майна, одержаного злочинним шляхом неможлива без співпраці з правоохоронними органами інших держав в рамках міжнародного співробітництва.

Власний досвід свідчить про вагомий, інколи навіть неоцінений внесок співпраці та обміну інформацією з правоохоронними органами інших держав. Були випадки, коли розслідування було ініційоване спонтанними повідомленнями від інших компетентних органів, це підкреслює важливість такої практики.

Інформація, надана іншими компетентними органами, допомогла розкрити методи, які використовуються для приховування коштів, виявлення залучених осіб та виявлення бенефіціарних власників юридичних осіб із-за кордону, фінансових активів, нерухомості тощо. Крім цього, важливість здатності компетентних органів заморожувати рахунки або транзакції сприяло виграти час для

подальшого аналізу та для правоохоронних органів отримати необхідні судові рішення.

Налагодження особистих зв'язків з іноземними колегами – запорука ефективної взаємодії. Телефонний дзвінок, лист, відправлений електронною поштою, відеоконференція або особиста зустріч неабияк сприяють просуванню справи. Таке спілкування є важливим на всіх етапах: під час отримання інформації та даних, прийняття стратегічних рішень, складання запитів про надання взаємної правової допомоги або контролю виконання запитів. Таким чином, можна звести до мінімуму затримки, особливо завдяки усуненню нерозумінь, спричинених розбіжностями в термінології та правовій традиції. Особисті зв'язки також допомагають продемонструвати серйозність підходу, зацікавленість у робочому процесі, сприяють встановленню довіри між сторонами та стимулюють підвищену увагу до справи [1, с.153-154].

Під час розслідування легалізації (відмивання) майна, одержаного злочинним шляхом, важливо забезпечити співпрацю між компетентними та уповноваженими органами усіх країн, через які були перераховані кошти. З цією метою була створена Егмонтська група, яка надає платформу для забезпечення безпечного обміну інформацією щодо