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Modern information policy of Ukraine and civil rights

Modern information policy in the developed countries is a complex of directions and means of the competent state bodies control, regulation and planning in the sphere of obtaining, storage, processing, usage and circulation of the information. Thus, the European Union (EU) is nowadays actively working on the single EU information policy making.

However, the state information policy of Ukraine at the present stage should actualize the question of Ukrainian national traditions and respect for the nation. The consciousness of the population of state built on the ethnic grounds implies the awareness of national unity within the specified territory (not the class or the whole world), identification of its members with the specific language, culture, traditions. Prevalence of the TV programs of foreign production or of foreign sample provided conditions for the spread of values and lifestyle unusual for the Ukrainian culture as well as cult of violence and cruelty, disrespect for human and national dignity, unwillingness for self-identification.

Article 5 of the Law of Ukraine “On Information” (as in force in 1992) states that the state information policy is a complex of major directions and means of the state activity in the sphere of obtaining, usage, processing and storage of the information.

State policy directions should be based on the national interests of Ukraine and consider the existing threats in the information sphere, though nowadays all the conceptual documents concerning information security policy are still in the process of development. Thus, according to the decision of the National Security and Defense Council (NSDC) of Ukraine from April 28, 2014 On measures on the improvement of the formation and realization of state information security policy put in force by the presidential decree No 449/2014 from May 1, 2014 the Information Security Doctrine of Ukraine No 514/2009 from July 8, 2009 was canceled and a number of legal acts were supposed to be elaborated. Among them: the Strategy for the Development of the Information Space of Ukraine, Strategy for the Cyber Security of Ukraine, draft Law of Ukraine “On The Cyber Security of Ukraine”. However, so far only the Strategy for the Cyber Security of Ukraine has been adopted.

In Ukraine various aspects of the state information policy formation are in the competence of a number of state bodies and authorities among them – National Council of Television and Radio Broadcasting of Ukraine, Ministry of Foreign Affairs of Ukraine, Ministry of Culture of Ukraine, Ministry of Justice of Ukraine, State Security Service of Ukraine, Foreign Intelligence Service of Ukraine, Ministry of Internal Affairs of Ukraine and so on, whose activities are often duplicated and are not coordinated. The above mentioned problem has not been solved even after the creation of the Ministry of Information Policy of Ukraine. The analysis of its tasks shows that the functions it performs narrow the notion of “state information policy of Ukraine” and do not cover all the directions of the information policy, defined in the national legislation.

At the NSDC also operates the Interdepartmental Commission on Information Policy and Information Security. Its primary tasks, in particular, include the analysis of the state and potential threats to the national security of Ukraine in the information sphere and assimilation of the best world practice in the sphere of information policy formation and realization\(^2\). It could be quite useful under the condition of information aggression against Ukraine to enlarge the powers of the above mentioned state authority and to include coordination of the operation activity of other state bodies, civil society institutions.

At the present time in the legal science as well as in the legislation of Ukraine two approaches to the interpretation of the right to information were formed. Within the narrow approach the right to information is defined only as the right to receive (access to) information, that is a relative right. Broadsie approach assigns all kinds of legal rights focused on the information or performing some actions with it\(^3\).

Thus what is meant here is the public right to information. In author’s foregoing scientific researches it was grounded that the right to information means state-guaranteed capability of citizens to satisfy their need for obtaining, usage, circulation, protection and security of the volume of information that is necessary for daily living\(^4\).

The right to information which includes the right to freely collect, store, use and disseminate the information orally, in a written form or in any other way of your choice, is defined as the basis of the public right to information. The key part of the right to information is a public right to access to (obtain) information, and freedom of convictions and opinion, freedom of information exchange\(^5\) are included into the notion of right to information.

Revolution of dignity has brought the opportunity for Ukraine to build a new system of relations between citizens, society and state on the basis of freedom and democracy. However, due to the Russian occupation of the Ukrainian territories – Autonomous Republic of Crimea – and military aggression in the East of Ukraine, the country was faced with additional tasks, in particular those connected with the issues of maintaining information security: countermeasures to information operations against Ukraine, public mind control and circulation of corrupted information, creation and development of the institutes responsible for the information and psychological security\(^6\).

Under the specified conditions the legal regulation of the public right to information is closely connected with the consolidation of public right to information security, specifically in terms of protection of citizens from incomplete, untimely and unreliable information and from negative information impact. That is why the question of state “reaction” to the circulation of unreliable information for maintaining public and state information security is of primary importance. Thus, the Constitution of Ukraine states that maintaining information security is one of the key functions of state, concern of every Ukrainian citizen\(^7\), and information security is classically defined as

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(... state of security for vital interests of a human, society and state which ensures prevention of possible harm caused through incomplete, untimely and unreliable circulation of information, violation of integrity and availability of information.

In this direction, the state changes legal regulation of public relations in the sphere of direct execution of defense functions by the Ukrainian citizens. For example, storage and usage procedures for personal photo cameras, tape recorders, radio receivers, cellular phones and other means of mobile communications and data transfer, computer and other domestic radioelectronic equipment for the military personnel on duty is regulated by the unit commanding officer. While formally abridging the information right of the military personnel, this provision of law is aimed at maintaining their security during the military operations to preserve the territorial integrity of Ukraine.

Of practical importance becomes also the question of professional activity of the journalists from TV and radio companies, printed and internet media in Ukraine. They are formally not engaged in the realization of the state information policy.

Nevertheless, numerous facts of discrediting the state authorities of Ukraine, violation of classified or “sensitive” information, (according to NATO categories), public information concerning location, composition, plans and equipment of the Ukrainian Armed Forces and so on actualize the problem of regulation of mass media activity during the special period and under martial law.

Nowadays there is in fact the special period for Ukraine that consists in functioning of national economy, state authorities, other state bodies, local government bodies, Military Forces of Ukraine, other military units, civil defense forces, enterprises, institutions and organizations and performing the constitutional duty to defend homeland, independence and territorial integrity of Ukraine by its citizens that started when the decision on mobilization was announced.

The working legislation of Ukraine about the special period and martial law allows state authorities to influence the mass media. Thus, in Ukraine mobilization preparation consists in preparation of the editorial staff of printed media and TV and radio companies to the special period and martial law operation mode.

Military command together with military administrations (in case of their creation) can: regulate the work of publishing companies, TV and radio companies, TV and radio centers mass media.

It is necessary to lay foundations for the public discussions of making amendments to the legislation in the sphere of printed mass media (press) in Ukraine and TV and radio broadcasting concerning the introduction of provisions on the review of reports and materials that appear in mass media and are “sensitive” for the national security during the special period and martial law.
It is obvious that we are not talking about the creation of state censor body similar to totalitarian Golovlit (Main Administration for Safeguarding State Secrets in the Press). The best solution would be to join efforts of state, society and mass media to establish the working mechanism of the countermeasures against the information aggression, in particular: information operations against Ukraine, manipulation of public consciousness and circulation of unreliable information, development of the institutions responsible for information and psychological security of citizens.

The EU countries already have such experience of the information policy development by means of introducing strategic communications. Besides there is also the experience of teaching journalists the principles of state information policy and the indicators of negative information impacts against the state. Ukraine is acquiring its own experience in this sphere, taking into account the best practices of the foreign countries. That is why we consider the proceeding of the discussion on the realization of state information policy at the period of military operation on its territory to be useful for Ukraine and for other countries as well.