

REGULATORY AND LEGAL ASPECTS OF ENSURING THE SECURITY OF TRANSPORTATION OF ELECTRONIC DOCUMENTS IN UKRAINE

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The system of electronic document circulation in Ukraine is undergoing a long stage of formation and development. Modernization processes in state and municipal administration, activated in Ukraine in response to internal and external challenges, in the 90s of the 20th century – at the beginning of the 21st century, led to the adoption of the Law of Ukraine “On Electronic Documents and Electronic Document Management” dated May 22, 2003 No. 851-IV and the Law of Ukraine “On Electronic Digital Signature” dated May 22, 2003 No. 852-IV. These laws were developed and adopted also with the aim of harmonizing Ukrainian legislation with the norms of the European Union. The specified normative acts determined the organizational and legal basis of electronic document circulation, the legal status of electronic signature and defined the main terms in this field.

However, it should be noted that the adoption of these laws did not contribute to the wide implementation of the proposed intellectual information and legal products in the field of public administration. Since the laws contained general provisions on electronic document circulation, the executive authorities resorted to using their own regulatory instructions during the exchange of electronic documents. In addition, the necessary bylaws, which would generalize and systematize the procedure for applying the document circulation system between participants in legal relations, were not developed and approved by the authorized bodies of the executive power.

The imperfection of legislation in this area, mistrust of new work methods and means of communication, especially in state and local self-government bodies, as well as the lack of appropriate certified technical software solutions for their activities, is psychological and the technical unpreparedness of personnel for working with electronic documents, as well as the reluctance to implement transparency and openness in the activities of state authorities, held

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back the wide implementation of electronic document management in the field of public administration.

Further significant changes in Ukrainian society, as well as the introduction of innovative communication technologies to improve interaction between state authorities and citizens, required prompt and effective solutions to the issues identified in the study. It is important to pay attention to the orders of the Ministry of Justice of Ukraine: “On approval of the Procedure for working with electronic documents in record keeping and their preparation for transfer to archival storage” dated 11.11.2014 No. 1886/5 and “On approval of the Rules for the organization of record keeping and archival storage of documents in state bodies, local self-government bodies, enterprises, institutions and organizations” dated 18.06.2015 No. 1000/5, which regulated the procedure for applying the norms of current legislation in the field of electronic document management [8, 9].

On July 23, 2014, Regulation (EU) No. 910/2014 of the European Parliament and of the Council was adopted, which replaced Directive 1999/93/EC of December 13, 1999, concerning the Community framework for electronic digital signatures [7]. This Regulation governing electronic identification and trust services for electronic transactions within the internal market entered into force on 1 July 2016. In this regard, in order to harmonize the national legislation with the specified Regulation, on October 5, 2017, the Law of Ukraine "On electronic identification and electronic trust services" was adopted [3]. This law defines the legal and organizational foundations of electronic identification, as well as the provision of electronic trust services, the rights and obligations of participants in these areas, as well as the procedure for state control over compliance with legal requirements. In this regard, the Law of Ukraine “On Electronic Digital Signature” dated May 22, 2003 has lost its force.

An electronic document is the basis of electronic document flow, which is defined by the Law of Ukraine “On Electronic Documents and Electronic Document Flow” dated May 22, 2003 as “a document in which information is recorded in the form of electronic data, including mandatory details of the document” (Part 1, Article 5) [1].

Electronic document management is a set of processes covering the creation, processing, sending, transmission, receipt, storage, use and destruction of electronic documents. These processes are carried out in compliance with integrity checks and, if necessary, with confirmation of the fact of receipt of documents (part 1 of article 9) [1]. The system of electronic document circulation in the institution must comply with the requirements of the legislation regarding data formats, integration services and regulatory legal acts in the field of information protection. At the same time, the current

legislation defines the grounds for documenting management information exclusively in paper form, which include: documents with information with limited access, the protection of which is provided for by law; electronic documents that cannot be recognized as originals in accordance with legal requirements; as well as documents for the processing of which there is a requirement in paper form established by acts of the Cabinet of Ministers of Ukraine [12].

Issues of limiting the use of electronic documents in the process of electronic document circulation are regulated by relevant legislative acts. In particular, relations related to the documentation of information that is a state secret are regulated by the Law of Ukraine “On State Secrets” dated January 21, 1994 [11]. Problems of personal data protection of users of electronic trust services are regulated by the Law of Ukraine “On Protection of Personal Data” dated June 1, 2010. General issues of the organization of relations in the field of information protection in information, electronic communication and information and communication systems are determined by the Law of Ukraine “On the Protection of Information in Information and Communication Systems” dated July 5, 1994 [2]. The Law of Ukraine “On Mandatory Copy of Documents” dated April 9, 1999 establishes the legal basis for the functioning of the mandatory copy of documents system and information relations related to the replenishment of the national information fund of Ukraine. The legal and organizational foundations of state policy in the spheres of electronic communications and radio frequencies are also regulated by relevant legal acts.

Considering the basics of the organization of electronic document circulation and the use of electronic documents, it is important to emphasize that the implementation of state policy in this area is carried out by the Cabinet of Ministers of Ukraine and other executive authorities within the limits of their legally defined powers. State regulation of electronic document circulation aims to: implement a unified state policy in this field; protection of the rights and legitimate interests of participants in electronic document circulation; creation of a legal framework for the processing, creation, transfer, receipt, storage, use and destruction of electronic documents (Article 4 of the Law) [1].

The Ministry of Digital Transformation of Ukraine and the State Service for Special Communications and Information Protection of Ukraine stand out among the executive authorities that directly implement a unified state policy in the field of electronic document management. In accordance with the Regulation on the Ministry of Digital Transformation of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine dated September 18, 2019, the main tasks of the Ministry of Digital Affairs are the formation and implementation of state policy in the field of electronic document circulation,

electronic governance, electronic democracy and the development of the information society (item 3) [12].

According to Part 1 of Article 3 of the Law of Ukraine “On the State Service for Special Communications and Information Protection of Ukraine” dated June 23, 2006, one of the key tasks of the State Service for Special Communications and Information Protection is to participate in the formation and implementation of state policy in the field of electronic document circulation in information and communication systems where official information and state secrets are processed, in particular in terms of information protection of state bodies and local self-government bodies, as well as protection of critical information infrastructure [4]. The organization of electronic document circulation in the institution is entrusted to the office of record keeping, which ensures the performance of tasks on the basis of its own record keeping instructions, developed in accordance with the Instructions approved by the Resolution of the Cabinet of Ministers of Ukraine “Some issues of reforming the state administration of Ukraine”, taking into account other normative legal acts. Maintenance of the electronic document management system in the institution, as well as its software and hardware, is the responsibility of the relevant services. Ensuring the security of information processed in the institution's electronic document flow system is entrusted to the appropriate structural unit that deals with information protection issues, or to an employee of the institution who is entrusted with the tasks and functions of this unit [10]. Thus, the organizational foundations of electronic document circulation are regulated by current legislation.

The conducted analysis shows that the legal provision of electronic document circulation, including that related to security, needs further development, updating, balancing and harmonization with international legal norms and standards. The implementation of high-quality legal, institutional, organizational and management reforms in the field of public administration, in accordance with European integration requirements and taking into account the recognition of a person as the highest social value, is an urgent need that will contribute to the formation of Ukraine as a competitive state with a powerful economy and innovative technologies.

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