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LEGISLATIVE REGULATION OF DIGITAL RIGHTS IN THE EUROPEAN UNION: A SCHOLARLY OVERVIEW

ЗАКОНОДАВЧЕ ВРЕГУЛЮВАННЯ ЦИФРОВИХ ПРАВ У ЄВРОПЕЙСЬКОМУ СОЮЗІ: НАУКОВИЙ ОГЛЯД

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In the context of the profound digital transformation of society, a new dimension of human rights is emerging – digital rights, encompassing guarantees for the exercise of fundamental freedoms within the virtual environment. These include, first and foremost, the right to privacy, the protection of personal data, freedom of expression online, access to information, and the assurance of fair conditions for participation in digital markets.

Within the European Union, these rights are embedded in a comprehensive system of standards grounded in the principles of the rule of law and respect for human dignity. The EU's regulatory architecture in the field of digital policy establishes an integrated legal framework for the Digital Single Market, in which individual legislative acts operate as interrelated components of a coherent normative system.

The General Data Protection Regulation (GDPR) [1] has become a cornerstone instrument in ensuring digital rights. It enshrines a complex set of individual rights in relation to data processing, including the right to be informed, the right to rectification, the right to erasure, the right to restriction of processing, and other mechanisms enabling individuals to exercise control over their personal information.

At the same time, the Regulation establishes binding principles for data controllers and processors, such as lawfulness, transparency, data minimization, purpose limitation, and related safeguards. A defining feature of the GDPR is its extraterritorial scope: its requirements apply to entities outside

the EU where they process the personal data of individuals located within the Union.

For states engaged in aligning their domestic legislation with EU law, including Ukraine, the GDPR serves as a benchmark for harmonizing national approaches to personal data protection.

In 2024, the European Union adopted the Artificial Intelligence Act [2] – the first comprehensive regulatory instrument dedicated to the governance of artificial intelligence systems. Its conceptual foundation lies in a risk-based approach, assessing the level of risk that AI technologies may pose to fundamental rights and society at large.

The AI Act differentiates AI systems according to risk categories, ranging from prohibited practices to high-, limited-, and minimal-risk systems. This model enables the reconciliation of technological innovation with robust safeguards aimed at preventing infringements of fundamental rights. The Regulation functions as part of a broader EU "digital package", interacting with other legislative acts and shaping a regulatory environment in which technological advancement is aligned with legal and ethical standards.

The Digital Services Act (DSA) [3] seeks to modernize the regulatory framework governing digital intermediaries, particularly large online platforms. It introduces obligations designed to address illegal content, disinformation, and systemic risks associated with large-scale platform activities. The DSA establishes requirements for algorithmic transparency, facilitates access to relevant platform data for researchers, and strengthens accountability mechanisms. In conjunction with the GDPR's data protection regime, it creates a regulatory framework ensuring that digital services comply with standards of legality and freedom of expression.

The Digital Markets Act (DMA) [4] focuses on regulating large digital platforms designated as "gatekeepers". Its primary objective is to prevent abuses of dominant market positions and to guarantee fair access to digital ecosystems for other market participants. By fostering fair competition, reducing entry barriers, and promoting innovation, the DMA contributes to the development of a balanced digital marketplace. Academic discourse increasingly considers the potential extension of the DMA's regulatory reach to generative AI models that may acquire significant market power.

EU digital law is characterized not by fragmentation but by systemic integration. The GDPR, AI Act, DSA, and DMA collectively form a complementary regulatory framework that exerts a comprehensive impact on both the digital economy and the protection of fundamental rights.

Their combined effect enables the pursuit of several strategic objectives simultaneously: safeguarding fundamental rights in the digital environment,

supporting innovation-driven development, fostering competitive markets, and enhancing trust in digital technologies.

At the same time, scholarly analyses emphasize the complexity of implementing such a multi-layered regulatory model in practice. Among the key challenges are maintaining an appropriate balance between regulatory oversight and innovation freedom, as well as ensuring meaningful access for researchers and civil society to algorithmic systems in order to secure transparency and accountability.

The European approach to digital rights is thus distinguished by its comprehensive and preventive character. It encompasses personal data protection (GDPR), AI governance (AI Act), the modernization of platform liability (DSA), and the safeguarding of fair competition in digital markets (DMA).

The synergy of these instruments establishes a model of digital governance in which technological development is aligned with the primacy of human rights. This model extends beyond the internal legal order of the European Union and serves as a reference framework for states adapting their legislation to EU standards, including within the context of Ukraine's European integration process.

Literature:

1. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). *Official Journal of the European Union*. 2016. L 119. P. 1–88.

2. Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts. *Official Journal of the European Union*. 2024. L 1689.

3. Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act). *Official Journal of the European Union*. 2022. L 277. P. 1–102.

4. Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act). *Official Journal of the European Union*. 2022. L 265. P. 1–66.