Risks in the Processes of Digitalization of Law and Supply Chain Strategy in Economic Relations

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Abstract— One of the main trends in the law development is its digitalization under the supply chain strategies, which is manifested both in the digitalization of legal regulation, legal technologies, legal processes and law enforcement. In the emergence of regulations affecting the issues of the digital economy, electronic state, information security. In this article, the authors assess some risks of digitalization of law through the prism of features of logical operations in legal thinking, analyze the interaction of a number of legal institutions and modern supply chain management systems that undergo radical changes in connection with digitalization.

Keywords— *legal thinking, risks in law, digital paradigm of law, supply chain strategy, digital economy, electronic economy, digital ecosystem, digital law, digital imperative, law paradigm.*

1. Introduction

The digital supply chain, as we envision it, consists of eight key elements: integrated planning and execution, logistics visibility, Procurement 4.0, smart warehousing, efficient spare parts management, autonomous and B2C logistics, prescriptive supply chain analytics, and digital supply chain enablers. Companies that can put together these pieces into a coherent and fully transparent whole will gain huge advantages in customer service, flexibility, efficiency, and cost reduction; those that delay will be left further and further behind. The digitization of society and the state becomes, if it has not already become, the main trend in the development of modern law of the world leading countries. Digital economy is a full-fledged reality, in which there are both: changed and completely new, previously unknown social relations that require legal regulation in the new legal paradigm, which can be safely called the digital law paradigm. There is a reason that legal literature is increasingly talking about digital law, the digital model of law, the digital imperative of development. Meanwhile, the digitalization process, as an inevitable stage in the evolution of social, economic, political, and social systems, is accompanied by ambiguous processes that bring not only the optimization of social relations to the modern life of humanity, but sometimes their degradation. The emerging social relations that do not meet civilized legal standards, often go through self-regulation processes that qualitatively reverse, allowing for injustice and unreasonableness of the established rules of the digital form of social behavior of subjects of public relations. Enforcement itself is not less threatened, state administration being clothed in digital forms of artificial intelligence is under the threat of loss of value sense. That is why, with all the advantages of digitalization, it is necessary to remember the risks arising from this process. In this regard, in scientific literature, not to mention journalism, there are more and more reflections on these topics [1-12]. It is obvious that these contradictions determine the relevance of this research topic, and the need for a comprehensive risk assessment arising in the conditions of digitalization of law, law enforcement, and public administration.

2. Review of Literature

In Russian legal science, the issues of legal regulation of the digital economy are increasingly being studied from different perspectives. From the point of view of legal support of the development of robotic systems and complexes, the problems of digitalization are considered in their articles by P.P. Baranov [1]. For the analysis of technocratic

tendencies in the development of legal thinking, a historical and sociocultural analysis of law is needed, as carried out in the work of G.J. Berman [2]. The development of technocratic tendencies in legal doctrine, legal regulation, state and legal development of various countries was carried out by V.G. Grafsky. V.D. Zorkin [13] carried out much attention to the digitalization of modern law, the development of individual branches of law under the influence of new technologies.

To analyze the possibilities of the logical formalization of law-enforcement thinking, it is necessary to resort to the study of the logic of norms and assessments, which was done in the works of A.A. Ivin [4,5].

Kartskhia A.A. [6] analyzed the issues of the mutual influence of values and the process of understanding the norm, as well as its translation into digital parameters, considering the problems of the digital imperative in modern law.

3. Methods

Lack of transparency means that none of the links in the supply chain really understand what any other link is doing, or needs. No, what is changing is the supply chain itself. With the advent of the digital supply chain, silos will dissolve and every link will have full visibility into the needs and challenges of the others. The theoretical and methodological basis of the research article is based on universal, general scientific, special and particular scientific methods. Among the universal methods used in the study for the analysis of state-legal reality, we can distinguish: a systematic approach, the dialectical materialist method, the phenomenological, axiological and hermeneutical method. In addition, the work used comparative legal, historical legal, concrete sociological, as well as methods of political and legal modeling necessary for risk assessment in the processes of digitalization of law and law enforcement.

4. Results and Discussion

Even today, the great potential of using digital intelligence in jurisprudence and law enforcement is becoming obvious. This trend contributes to the further transformation of legal thinking towards legal positivism. What did legal positivism lead before the digital revolution?

Let us briefly review these results in view of the new perspectives of digitalization. Firstly, it is the mechanism in the public view that gave rise to the atomistic approach to the latter, understood as an artificial, composed of atoms-persons, a whole. Man as a digital, mathematical unit is considered "in isolation" from the "roots": from the nation, culture, language. Relations and relationships between people are considered from a universalistic point of view, and the most complex and multidimensional social life is modeled by analogy with the natural sciences. A person is “stuck” with supposedly unchanging constants of being, becoming natural laws (“eternal” and “immutable principles of self-preservation”, “search for one’s own benefit”, “striving for property”, etc.). Secondly, evolutionism in the concept of the development of law (all legal systems are viewed through the prism of laws inherent in any society, as moving in one “final” direction). Now there is a new landmark and criterion of modernity: digital reality. Thirdly, Eurocentrism in the understanding of law. The authors of legal theories, not noticing their intuitive contribution to the construction of a scientific structure, inevitably reduced the essence of law to those of its variants and characteristics that dominated the developed countries of the West. And now they say more and more about the backwardness of Russia. Fourth, reductionism in the construction of legal theories: the life of law is reduced to one, obvious beginning. Finally, fifth, it is technocracism, expressed in the fact that law has come to be understood as “social engineering”, “a highly specialized form of social control in a developed politically organized society” (R. Pound), the lot of a narrow circle of specialists (professional lawyers) employed in the field of social organization and “technology” management [3]. Now social engineers due to total digitalization have new “horizons of opportunities”. The newest philosophy of transhumanism will only contribute to this.

The digitization of law increases the risks of a technocratic attitude towards a person, his rights and freedoms, dignity and security. According to G.J. Berman: “Today, people perceive the law primarily as a mass of legislative, administrative and judicial rules, procedures and techniques that operate in a given country” [2]. Digitalization runs the risk of becoming one more step on the path to the technicalization of law. Especially with the following trend - robotization, algorithmization of law enforcement.

First of all, the optimism that a number of scientists express regarding the prospects for using artificial intelligence in law enforcement requires expressing attention. This optimism is associated with the conviction of the universality of formal logic, which is used in digital intelligence. “Truth” and “falsity” are two pivotal points of digital thinking, meanwhile, enforcement does not occur between these poles, but between values, where logic is powerless, where thinking is carried out in the form of understanding. It is with respect to understanding, mastering, interpreting, creating and making sense, which is required in a situation of reading the text of law, the symbolic universe of human actions, statements, actions, artificial intelligence is powerless. After all, empathy is a

necessary condition for understanding - the most important element of the legal thinking of a law enforcer. There can be no empathy for artificial intelligence.

Full digitalization of the application of the norm to a specific case is also impossible due to the logical nature of the law enforcement. The fact is that any statement about this or that object can be either describing this object or prescribing certain actions to this object: "the statement and its object can be in two opposite relationships: truth and value" [6]. In the first case, the starting point of comparison is the object, the statement acts as its description and is characterized in terms of truth concepts. "The concept of truth characterizes the other side of the subject's relation to the object, the theoretical attitude. It qualifies the correspondence of knowledge about an object to the properties of the object itself..." [9]. This is knowledge describing (descriptive). It may be true or false in the description of the object. Artificial intelligence can carry out logical operations in relation to the formal side of law, for example, to help search queries in the system of storage and retrieval of legal information, drawing up the simplest contracts.

It is another matter when in the second case, an evaluative one, the source is an assertion that functions as an assessment, a kind of imperative. Compliance with the object stores evaluative terms, the truth or falsity of which in relation to a particular fact cannot be determined correctly. The basis of the assessment is the value - the object is significant for a particular person. Value knowledge, evaluative concepts and categories represent knowledge not descriptive, but prescriptive. Knowledge prescriptive (prescriptive) cannot be true or false, it does not describe anything, and its application to information describing without contradiction cannot be.

In the case of prescriptive knowledge, the subject must "empathize" with values. In the case of descriptive knowledge, the subject must eliminate everything subjective that interferes with the objective thinking process. In the first case, this is knowledge not about the object, but about oneself, more precisely, about the attitude to any phenomena on one's own part. Therefore, not only "attributing the value of truth criteria is highly incorrect" [9]. As rightly asserts V.I. Kurbatov, but it is also incorrect to draw an analogy between law enforcement and deductive syllogism. Recognition of this impropriety is promoted by the long-known philosopher Hume's razor.

It is necessary to recognize the correct position of those scholars who consider moral and legal assessments and norms to be feelings and moods, recognizing them as illogical, devoid of exclusively rational sense, rather irrational, intuitive, at least in their original foundations and premises. Digitalization with the help of the logic of the process of implementation of law, law enforcement is impossible, since the logic of assessments and the logic of norms are impossible [10, 11]. Moreover, even if it were possible, raising to a rank a formal-logical judgment of a value judgment, attributing truth or falsity to it means that under any conditions, in any situation this norm, law, value, built into universality, must be observed from the traits of a particular situation, from its features.

Digitization and algorithmization of law enforcement will entail not only the disappearance of justice and justice in law, but also an abundance of absurd law enforcement decisions. Attempts to completely reduce legal assessments and norms to digital forms of thought (concepts, judgments, conclusions), to a digital logical intelligence devoid of emotional and sensual sources of thought, to a purely formal-logical proof will lead to the denial of the "right as an art of good and justice" (Celsus). Moreover, "in civil law, any definition is dangerous, for there are many cases when it can be refuted" (Yavolen).

To algorithmize law enforcement, it is necessary to completely eliminate the differences between people, to "close their eyes" to their inner world, which is unique and original for everyone, and generated by every person - the "microcosm" - is an absolutely unpredictable set of options for combining diverse facts. The logical model of social reality will work only in virtual reality, in which it will be necessary to introduce the law of natural causality and abolish human freedom of choice.

As noted by V.I. Kurbatov: "The correctness of norms and assessments is due to the analysis of a variety of situations to which the principles of an evaluation or regulatory code are applicable" [9]. This set of situations is called the set of axiologically or deontically possible worlds that cannot be typified.

It is well known that the specificity of the concepts of law lies in the fact that they have, firstly, an artificial origin, and secondly, a special procedure for recognizing the correlation of a phenomenon to a common set. Legal concepts are both evaluative and conventional. And the fact that the criterion of correlation is purely subjective, intuitive (for example, due to the "insignificance of the act"), rather than an objective, naturally-necessary, does not allow, once again, to talk about the consistent use of logic in the normative systems, in reasoning with elements of responsibility. Therefore, artificial intelligence is impossible in situations of evaluative concepts and categories, and each standard is already an assessment.

The logic of legal norms in this regard is subject to the same laws as the logic of any social norms, for example, moral ones. As A.A. Ivin: "The same formal system can be used to characterize the logical behavior of the norms of any particular

content" [5]. That is, the logic of the rules does not apply to the content. Otherwise, if we assumed the existence of a special legal logic, we would have to recognize the existence of an objective legal truth that would serve as a criterion of the truth of normative judgments. In addition, it would be necessary to strictly rank all interests (values) and give each of them any weight. That is, to model the entire social life, the infinity of the diversity of which, about which we have already spoken above, makes this idea absurd.

The process of law enforcement, identical in form to the deductive syllogism, is It is the stumbling block of many jurists precisely because of the vagueness of how judgments about "due" and "being" are interconnected. In law, it is impossible to refuse the introduction of such concepts into legal circulation as "conscientiousness", "justice", "inner conviction" and others not subject to artificial intelligence. Otherwise, it is necessary to recall the Roman proverb "the strictest right is the greatest injustice".

Another important area of risk should be recognized as the threat of tectonic civilizational shifts associated with the absolute breaking of the foundations of the lives of billions of people who have become unnecessary in the conditions of the new digital order. It is a question of new tasks of law - the preservation of the value of Man for humanity, the protection of his rights and freedoms in the face of the threat of dehumanization of man and in the face of no demand for society. It is impossible for one state to solve the problem of preserving human employment: it is about the need to revise the principles of modern capitalism [14-16].

The human right to a decent existence is also affected by the development of robotics and artificial intelligence. All companies seek to select candidates for jobs on a variety of qualification criteria. It is obvious today that in a whole range of specialties robots will perform various tasks much more qualitatively than humans. Robotics will not have as much cost as is necessary for training and monitoring human activities. In our opinion, separate legislative guarantees are required for the employment of a person, which implies government intervention in the sphere of private interests of entrepreneurs. Depending on how robots acquire the inherent human skills of creative problem solving, as well as how clients, for example, banks, use information systems, the list of tasks solved with the help of a robot without a person increases. However, a number of professions should be forcibly reserved by law for people. Otherwise, mass unemployment will result in not only the idleness of the crowd with far-reaching consequences: drug addiction, alcoholism, gambling and other things. The massive need can lead to the ideas of eliminating and sterilizing a population that does not fit into the new digital world. Either it will force a person, especially residents of third world countries, to rotate their organs and body parts in order to compete with robotic devices [17-23].

Already today, many states are experiencing difficulties associated with the so-called technological unemployment. In many countries, lawyers are busy developing new legislation related to solving problems arising in the process of introducing artificial intelligence into the world of work. Various legislative solutions are proposed: this is the legislative establishment of a list of professions in which it is permissible to replace a person with robotics (for example, a kindergarten teacher, designer, lawyer, doctor, etc.); development of legal standards for relationships in the processes of joint work of a robot and a person in one workplace; quotas on enterprises number of jobs for a person. Particularly difficult to solve is the ethical standard of human behavior in relations with human-like devices — robots: "hotheads" offer to even level them with people. For example, recently the EU committee voted against the draft law on granting the rights of an "electronic person" to robots, equating them to "human rights". The status includes a detailed list of rights, obligations, rules of the "electronic person" [8].

Digitization of law and the state should not be artificial, coercive. "The digital imperative as a basis for transformation implies not only revolutionary technological changes and innovations, which in the future lead to tectonic shifts in the form of a transition to a digital economy (transforming the chain of creating new commodity value), digital adaptation of social processes (including), but also the formation of new public relations and the structure of government based on digital technologies" - believed et A.A. Kartskhia [7].

Meanwhile, the category "imperative" implies an absolute obligation, the impossibility of not fulfilling a duty, which, as applied to digital technologies, cannot be recognized as the only right step. Indeed, in the conditions of global digitalization, Russia is forced to keep abreast of the times and voluntarily-compulsorily digitize state administration, risking to remain ineffective and not competitive in the newest geopolitical conditions, when even Asian countries have "gone" far ahead in the development of digital technologies. However, in these processes it is important to avoid the emergence of new threats and challenges to the security of the individual and the state.

It is necessary to take into account in the process of total digitalization of law that Russia's technological backwardness can lead to "transparency" and "openness" of the state system and public administration. It was not by chance that

immediately after the World Bank seminar in Moscow “Concept, international trends and vision of the digital economy - on the way to a long-term strategy”, it was decided on December 20, 2016 to include Russia “in the global digital transformation process”, and on July 7, 2017 at the G- 20 the development of a digital economy on a global scale was given special attention. Already on February 20, 2018, in the State Duma, under the chairmanship of Vyacheslav Volodin, large parliamentary hearings were held on the theme: “Creating the legal conditions for financing and developing the digital economy,” at which First Deputy Prime Minister Igor Shuvalov said: “Human life is becoming transparent, but we have no other way”. Meanwhile, IT experts warn: “We are talking about the digital economy, and everyone is talking about its advantages. I want to talk about risks ... New digital technologies are connected with remote control. The data about our citizens, on the basis of which geopolitical conclusions can be drawn, represent very serious risks. Introducing the technologies that come to us from the West, we descend into a state of digital colonization”. This was stated by Natalia Kasperskaya the president of the group of companies “InfoWatch” [16]

For justice, it should be pointed out that this process is far from always going "from above". The importance of departmental dissemination of the experience of digitization of law. This experience implies new legal terms. Among these new terms there are many with uncertain contents. For example, the concept of a digital ecosystem that is actively used in a number of documents (for example, in the Order of the Government of the Russian Federation dated July 28, 2017 No. 1632-p “On Approval of the “Digital Economy of the Russian Federation Program”) will hardly ever be defined [15].

At the same time, departmental documents also contain a completely new terminology for legal reality: digital transformation of the prosecution authorities; prosecutors digital ecosystem; digital environment of prosecutors, etc. As an example, the Order of the Prosecutor General of Russia of September 14, 2017 No. 627 “On Approval of the Concept of Digital Transformation of Prosecution Authorities and Organizations until 2025” can be given [14].

5. Conclusions

In conclusion, we note that the digitalization of law must take place under the influence of moral norms and modern supply chain system. It is difficult to predict which new directions in the development of the legal system will appear, but today it is quite obvious that these directions will arise in all branches of the legal system, will cover all the most important legal topics: starting from the problem of law understanding, ending with the digitization of the law-enforcement process. In fact, it is hardly possible to imagine the planning of the development of the economy, politics, culture “in isolation” from the inevitable digitalization. It is necessary to take into account these processes in the sphere of law.

It should be noted that in digitalization of law and the state, it is necessary to act with extreme caution, without haste and hasty decisions, since digitalization can lead to such consequences as apocalyptic predictions have long been heard: digital totalitarianism can be the end of civilization, not its next step. By the way, total digital control in a number of countries has become a reality.

The development of electronic control technologies implemented with the help of digital technologies and Big Date in the near future will fundamentally change the idea of the state and law. Creating a bank of credit histories, collecting information about the life of every citizen, starting with success in school, ending with telephone conversations and queries in search services, carried out for everyone’s transparency in terms of credit reliability, transferring a number of government functions to law enforcement agencies, including law enforcement agencies. lead to the construction of a total e-banking concentration camp in which the ideas of a democratic state and a just society will acquire such an interpretation u, which was not imagined by the Enlightenment thinkers who developed them. However, the development in this direction of modern states and their legal systems also depends on lawyers, their positions on the issue of the protection of human rights. In some European countries, there are already legislative bans on the use of any systems and means of automatic identification, automatic data collection and processing for a person, based on the need to protect the right to a name, the principles of the inadmissibility of limiting the legal capacity of a person, privacy, the inadmissibility of collecting, storing, using and disseminate information about the private life of a person without his consent, personal inviolability, freedom of belief, the primacy of personal dignity ty in terms of introduction of information technologies in public relations. Domestic lawyers should also not stay aside from the issues of legal protection of a person in the conditions of digitalization of the state and law.

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