DEVELOPMENT OF INFORMATION LAW IN MODERN CONDITIONS

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Annotation: In this article is given a complex analyses of essence and legal nature of information as the object of legal relations in the system of objects of intellectual property and also elaborated decisions to improve acting legislation regulating present sphere.

Key words: collisional issues, intellectual activity, information, confidential information, legal regime, types of information, methods of protection of information, modern criteria.

In recent years, our country has adopted a huge number of normative-legal acts that enshrine the legal status of various types of publicly available and confidential information. For example, the laws of the Republic of Uzbekistan "On Protection of State Secrets", "On Principles and Guarantees of Freedom of Information", "On Informatization", "On Copyright and Related Rights", "On Competition", "On Trade Secrets", etc., have been adopted. However, there is a huge number of problems in this area. On this basis, the creation of legal norms that enshrine the rights and obligations of citizens, collectives and the state to information, as well as the effective protection of various types of information become the most important aspect of the information policy of the state. Protection of information, especially in civil turnover, is a very specific and important type of activity.

Recently, the concept of "information" has gained extraordinary popularity. In scientific literature we often encounter such concepts as "information", "information resources". So what is information?

According to Article 3 of the Law of the Republic of Uzbekistan "On Principles and Guarantees of Freedom of Information", **information** is information about persons, subjects, facts, events, phenomena and processes regardless of the sources and form of their presentation [1].

According to Article 3 of the Law of the Republic of Uzbekistan "On Informatization", an **information resource** is information, data bank, database in electronic form as part of an information system [2].

As O.Okyulov rightly notes, "information is in the sphere of regulation of both public and civil law. Information as an object occupies a significant place in the sphere of civil law. At the same time, the area of participation of

"information" as an object of civil law is much narrower, since the subject of civil law, according to the general definition, are mutually evaluated social relations in the form of property-value and personal non-property relations. For civil law information is important in those cases when it concerns the issues of registration and realization of relations of participants of civil turnover in the exercise of ownership rights, exclusive rights to the results of intellectual activity (intellectual property), contractual obligations, as well as other property and related non-property relations based on equality, autonomy of will and property independence of their participants" [12, 116].

As is known, each object of civil rights should be given its own unique legal regime. So, if such objects of civil legal relations as movable and immovable things, securities, objects of intellectual activity today are quite thoroughly studied by civil scientists and are involved in civil turnover within the framework of various legal mechanisms and schemes, then information, including confidential information, unfortunately, is a relatively young institution of civil law. In this regard, due to the lack of due attention to information on the part of civilists, there are certain gaps in the definition of the meaning of information as an object of legal regulation.

On the one hand, this is explained by the fact that the inclusion of information in the sphere of legal regulation as an object of civil legal relations has occurred relatively recently, in the era of the emergence of communication systems, computer facilities, new information technologies. On the other hand, the concept of "information" is characterized by complexity and ambiguity: it is the object of various branches of knowledge (law, cybernetics, philosophy, sociology, psychology, etc.), which distinguish certain aspects and features of it based on the peculiarities of the subject area of these sciences.

As a result of the increasing role and importance of information exchange in social life and activity, the category of "information" attracted special attention already in the early XX century. But, unfortunately, it has not yet been possible to develop an accurate interpretation of the concept of "information", which would contain all the diversity of its aspects, its unified classification.

In this connection, one cannot but agree with the well-known expert in the field of cybernetics K.Steinbuch, who states that "we cannot give an exhaustive and sufficient definition of such concepts as "matter", "energy", "information" [17, 320].

Consideration of the issue of regulation of information relations by the norms of civil legislation, first of all, is connected with the problem of attributing

information to the objects of civil rights, which is an indisputable novelty of civil legislation that has no analogues in any of the legislative acts of either pre-revolutionary or Soviet periods. At the same time, the clarification of this issue is closely related to the solution of another problem, repeatedly raised in the legal literature – the possibility of attributing information to the objects of proprietary rights [16, 184].

Most civilists dispute the possibility of extending to information and information resources as intangible objects the institute of proprietary property rights [6, 94].

As noted by I.R.Rustambekov, the objects of property rights are a narrower concept than the objects of civil law and include only things, i.e. objects of the material world, which also have the form of goods. There is also an even narrower approach to the objects of ownership rights, according to which the latter can be "only individually defined property ... Things defined by generic characteristics, as well as various intangible goods are not objects of property rights". Thus, information that is not a thing cannot be subject to the ownership rights regime [14, 56].

I.M.Gostev categorically rejects the possibility of extending ownership rights to information. Drawing an analogy with a security, I.M.Gostev states that "information, even fixed on a material medium, may exist separately from it and have a completely different material valuation" [5, 20].

The same position is supported by A.P.Sergeyev, in particular, in relation to various types of confidential information. A.P.Sergeyev refers commercial and official secrets to "non-traditional objects" of intellectual property, which also cannot be objects of property rights [15, 459]. A.P.Sergeyev's point of view is based on the fact that the objects here are the results of creative activity having an intangible nature, part of which cannot be physically possessed at all, even when acquiring ownership of a materially expressed result.

A similar point of view is expressed by E.Kirdyashova, according to which "information is a full-fledged object of intellectual property" [8, 82].

The intermediate position was proposed in their scientific studies by S.V.Vikhorev [4, 132] and I.L.Bachilo [3, 95], according to which information is characterized by a dual nature – it is ideal and material at the same time. Therefore, it would be erroneous to apply only proprietary law or only intellectual property law to information. And, if I.L.Bachilo shares the position of complex application of the institutes of proprietary law and intellectual property

to the considered object, then S.V.Vikhorev proposes to create by analogy with the norms of material or intellectual law a specific area of law – information law.

Considering the concept of a thing, it is possible to distinguish the following features of it as an object of civil law:

1. A thing is an object of the material world;

2. A thing is intended to satisfy various kinds of needs, i.e. it must have a certain value;

3. A thing must be in the possession of a person.

Accordingly, in the philosophical understanding, a thing is anything that has a valid or independent (physical or metaphysical existence). And this philosophical definition of a thing quite allows us to consider information as one of the components of the concept "thing". The absence of such attributes of a thing as bodily possession and target purpose makes it possible to consider information as a thing under different worldview positions.

Thus, as S.I.Suslova rightly notes, "information can exist by itself, without an expressed material substrate, but before its transformation it can hardly be considered as an object of law. From the point of view of law, the result expressed outwardly with the help of established signals and symbols is interesting. From such positions, information (in the broad sense of the word) becomes a complex concept that includes both information that does not fall within the scope of civil law regulation (for example, publicly available information) and some types of objects of civil rights (for example, results of intellectual activity)" [16, 184].

Moreover, the complexity lies in the fact that not the information itself falls under legal regulation, but only a copy of it, which can be created and used dozens and thousands of times. As correctly notes V.O.Kalyatin, "information is capable of multiple use, we can note its practical indestructibility" [7, 217-218].

Information has replicability. It can be replicated and distributed in an unlimited number of copies without changing its content. It follows that, as a result of dissemination, the same information may belong simultaneously to an unlimited number of persons.

M.M.Rassolov names the following signs characterizing information as a legal category:

– known independence of information;

– possibility of multiple use;

– preservation of the transmitted information by the transmitting subject;

– ability to be processed, integrated and compressed;

– possibility of mathematical analysis;

– systematic and communicative [13, 104].

V.A.Kopylov offers another attribute such as copies, under which he understands the possibility of dissemination of information not by itself, but on a material medium [9, 49].

However, in our opinion, the allocation of this feature is unreasonable, because, firstly, this property of information follows from the feature of separability, as the copy is nothing but one of the ways of objectification of information; secondly, we believe that it is necessary to distinguish between the circulation of information as an intangible good and the circulation of its material carrier. These are two independent objects of civil legal relations, although, as noted earlier, closely related to each other.

Some authors, in addition to the above, for example, I.I.Nasriyev, point out the following features of information as an independent object of civil legal relations. First of all, they believe that information has a subjective nature [11, 52]. It is difficult to disagree with this. Information, as a rule, arises as a result of human activity, is perceived and processed by his consciousness. That is why there is always a potential possibility of information distortion by the transmitting or perceiving subject. People perceive the same event in different ways. The risk of changing information due to subjective circumstances is unusually high. Besides, information after its perception by the subject is processed, becomes a part of his consciousness.

Thus, the connection of information with the subject and its subjective nature is obvious.

Based on the above, we can conclude that information is a good that possesses equally both the properties characteristic of all objects of civil legal relations and the features that allow us to talk about the need to form its own unique legal regime for it.

It should be noted that today national law regulates a variety of social relations, including relations in the field of information security, arising in the creation, processing, transmission, dissemination and use of various types of information.

The peculiarities of information and relations between its users lead to the fact that information law uses not only already available legal means, but also specific concepts, notions and terms, for example, such as information owner, access to information, legal regime of information, etc. Naturally, the presence of all these problems is natural and caused by the accelerated development of

information society and information technologies in the modern world. Besides, accumulation, transfer and enrichment of knowledge is the core of social progress, the basis of economy of post-industrial society, where information resources along with natural, financial, labor and other resources constitute the most important potential of the state and society. This is evidenced by the fact that in December 2023 it became known that the global expenditures of companies on information security amounted to $89.13 billion, which exceeded the expenditures of 2022 by $7 billion. According to analysts, this amount will reach $96.3 billion by 2025 [10].

Due to the fact that relations arising in the field of information security relate both to the information sphere and to the sphere of ensuring national security, we can safely state that **the law in the field of ensuring information security is a sub-branch of information law, which is a set of legal norms that regulate public relations to protect national interests in the information sphere from various types of threats.**

The object here is information security, and the subject is public relations related to its provision. In our opinion, it is necessary to distinguish the following three groups of objects of protection in the field of information security:

1) protection of information and rights to it (including the right of access to information, rights to secrecy, rights to intellectual property objects);

2) protection of a person and society from the impact of harmful information;

3) protection of information systems and rights to them (including the rights and interests of the state to preserve a unified information space in the country).

So far it can only be assumed that when the legislation in the information sphere is formed into an independent branch, the legislation in the field of ensuring information security will be a sub-branch of information law, and in case of its codification, when the Information Code of the Republic of Uzbekistan is adopted, it may become a part of it.

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