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FEATURES OF THE FORMATION OF LEGAL AWARENESS UNDER THE CONDITIONS OF THE LEGAL REGIME OF MARTIAL STATE

Recently, under the influence of external and internal factors, significant changes have been taking place in Ukrainian society. Global social changes also have a significant impact on the formation of public legal awareness, both negatively and positively. Today, in the conditions of a full-scale war, the legal consciousness of Ukrainians is undergoing transformation. How it will affect future generations is our task to analyze and model.

Separate issues of defining the legal nature, types and signs of legal awareness were considered by such scientists as: O. Danilyan, Yu. Kalinovskiy, B. Kistyakivskiy, G. Klimova, O. Petryshyn, S. Pogrebnyak, M. Suhodolya and others. At the same time, the problem of determining the factors affecting the formation of legal awareness of Ukrainians is only raised in scientific research, which determines its relevance.

Today, in the conditions of an almost year-long war, it is quite important to focus on the mood, preferences and expectations of Ukrainian society now and in the future. Because it was the people who became the driving force in the struggle for the inviolability of the borders of our state. Most researchers emphasize the nihilistic attitude of Ukrainian society to law. Moreover, the emphasis is on the historical prerequisites for the emergence and spread of this form of legal consciousness deformation. Thus, it is emphasized that the population has underdeveloped legal traditions, which turn into open legal nihilism, the denial of the necessity and value of law has deep historical roots. From generation to generation, disdain for the law and court, tolerance for arbitrariness is manifested in Ukraine. Right now, in the conditions of war, this situation can change radically. Or, on the contrary, nihilism can take root in the minds and hearts of Ukrainians.

The author emphasizes the negative influence of external factors on the legal awareness of Ukrainian society. Among these factors, the following main ones can be singled out: covid-19, quarantine and post-quarantine restrictions, maintenance of the martial law regime and related significant restrictions on the basic rights and freedoms of a person and a citizen. And today, the ineffective work of international institutions can also be attributed to such factors of negative influence. In order to overcome the risks of the mass spread of such a form of deformation of legal consciousness as nihilism, it is necessary that responsibility for all war crimes should arise. First of all, the international legal responsibility of the officials of the aggressor state.

Key words: society, legal consciousness, Russian-Ukrainian war, legal regime of martial law, quarantine.

Problem setting. Today, in the conditions of a full-scale, almost year-long war, it is quite important to focus on public attitudes, preferences and expectations. Because society itself, groups of people, are, as it turned out, the driving force and main value of our state. It is human potential that is the lever that can raise the state from the ruins in the post-war period. However, it can also be the other way around: lower down.

The state of transitional society, which is characteristic of Ukraine at the current stage, has a systematic negative impact on all spheres of social and legal life. This is reflected in the economic, political,

cultural sector, etc., which inhibits social development, creates despair in the future, doubts about the state's ability to effectively perform its social function. If we talk about most studies, then Ukraine is associated with the states of the Soviet camp. However, serious transformations of Ukrainian society are taking place today, public opinion is changing. A new nation is actually being built under the pressure of military aggression. With new values and priorities. Therefore, it is quite important to understand how the legal awareness of Ukrainians is changing and what factors influence it.

Analysis of recent researches and publications.

Separate issues of defining the legal nature, types and signs of legal awareness were considered by such scientists as: O. Danilyan, Yu. Kalinovskiy, B. Kistyakivskiy, G. Klimova, O. Petryshyn, S. Pogrebnyak, M. Suhodolya and others. At the same time, the problem of determining the factors affecting the formation of legal awareness of Ukrainians is only raised in scientific research, which determines its relevance.

Target of the research is to clarify the significance of the determinants of influence on the processes of ensuring the formation of legal awareness in a special period, as well as to substantiate the priority directions of the state policy in this area.

Article's main body. In the 21st century, the influence not only on the development of democracy in our country, but also on the legal awareness of our citizens is quite serious. If we talk about the negative factors affecting democracy in Ukraine, as of 2019, the following should be included: 1) conducting military operations on the territory of Ukraine; 2) instability of political life; 3) socio-economic, political, cultural crisis; 4) frequent violations of the rights, freedoms and legitimate interests of individuals in Ukrainian society; 5) corruption and lack of effective anti-corruption bodies; 6) inefficient judicial system; 7) low-quality information policy in the state, as a result of which the hybrid war continues; 8) low development of local democracy; 9) encroachment on freedom of speech, including encroachment on the life and health of journalists, human rights defenders and activists related to their professional activities; 10) imperfection of legal regulation, unfair and inhumane legal norms or their absence; 11) lack of communication and social dialogue between the state and the public; 12) violations in election processes; 13) the predominance of protection of the interests of more financially-stable sections of the population, inequality in society [1, p. 168].

If we continue to develop this topic, it is also worth paying attention to the factors of 2020, 2021 and 2022. This is a crisis caused by the quarantine, including the illogicality, inconsistency, and unprofessionalism of the government's actions. Also the inability of the authorities to keep the situation under control by legal means. Inability to determine priority areas of activity or deliberate use of a crisis situation to promote one's own interests [2, p. 107].

But the legal consciousness of the citizens of our country is undergoing the most serious tests right now, during the legal regime of martial law. Thus, in connection with the military aggression of the Russian Federation against Ukraine, the Decree of the President of Ukraine dated February 24, 2022 No. 64/2022 «On the introduction of martial law in Ukraine» [3], approved

by the Law of Ukraine dated February 24, 2022 № 2102-IX was martial law imposed on the entire territory of Ukraine. And this significantly changed the public mood. At a minimum, due to the possibility of significant restrictions on the rights and freedoms of citizens.

Thus, according to Article 3 of the Presidential Decree, the constitutional rights and freedoms of a person and a citizen, provided for in Articles 30-34, 38, 39, 41-44, 53 of the Constitution of Ukraine, may be temporarily limited during the period of martial law. Also, temporary restrictions on the rights and legal interests of legal entities may be introduced within the limits and to the extent necessary to ensure the possibility of introducing and implementing measures of the legal regime of martial law.

What restrictions can be introduced under martial law?

All restrictions can be divided into restrictions for individuals and for legal entities. The list of these restrictions is determined by the norms of the Law of Ukraine «On the Legal Regime of Martial Law» [4]. The following restrictions may apply to natural persons:

1) to introduce work obligation for certain categories of able-bodied persons who are not involved in work in the sphere of ensuring the livelihood of the population, the defense sphere and are not reserved for enterprises, institutions and organizations.

2) introduce a curfew;

3) establish a special entry and exit regime, limit the freedom of movement of citizens, foreigners and stateless persons, as well as the movement of vehicles;

4) to check documents of persons and, if necessary, conduct an inspection of things, means of transport, luggage and cargo, office premises and residences of citizens, with the exception of restrictions established by the Constitution of Ukraine.

5) establish a ban or restrictions on the choice of the place of stay or the place of residence of persons in the territory where martial law is in force;

6) prohibit trade in alcoholic beverages and substances produced on an alcohol basis, as well as weapons, powerful chemical and poisonous substances;

7) introduce, if necessary, a standardized supply of basic food and non-food products to the population;

8) to establish for physical and legal entities the military housing obligation for the accommodation of military personnel, members of the rank and file of law enforcement agencies, the personnel of the civil protection service, the evacuated population and the accommodation of military units, units and institutions;

9) evacuate the population if there is a threat to their life or health, as well as material and cultural values, if there is a threat of their damage or destruction, in accordance with the list approved by the Cabinet of Ministers of Ukraine.

The following restrictions may apply to legal entities:

1) use the capacities and labor resources of enterprises, institutions and organizations of all forms of ownership for the needs of defense, change their mode of operation, carry out other changes in production activity, as well as working conditions in accordance with labor legislation;

2) issue orders (orders) on the suspension from work of managers of enterprises, institutions and organizations without salary for improper performance of the duties specified by this Law, and orders (orders) on the appointment of acting managers of the specified enterprises, institutions and organizations during the legal regime of martial law;

3) in case of violation of the requirements or non-fulfillment of measures of the legal regime of martial law, seize electronic communication equipment, television, video and audio equipment, computers, as well as, if necessary, other technical means of communication from enterprises, institutions and organizations of all forms of ownership, individual citizens «link»;

4) forcibly expropriate property, including that which is in private or communal ownership, seize the property of state enterprises, state economic associations for the needs of the state under the conditions of the legal regime of martial law in accordance with the procedure established by law and issue relevant documents of the established model.

During the legal regime of martial law, authorized bodies have the right to prohibit the holding of peaceful meetings, rallies, marches and demonstrations, other mass events, as well as the right to regulate the work of providers of electronic communication networks and/or services, printing enterprises, publishing houses, television and radio organizations, television and radio centers and other enterprises, institutions, organizations and institutions of culture and mass media and prohibit the transmission of information through computer networks.

Constitutional rights and freedoms of a person and a citizen, which may be limited for the period of the legal regime of martial law in accordance with the Decree of the President of Ukraine of February 24, 2022 № 64/2022 [3]:

Article 30. Everyone is guaranteed the inviolability of housing.

Article 31. Confidentiality of correspondence, telephone conversations, telegraphic and other correspondence is guaranteed to everyone.

Article 32. No one can be subjected to interference in his personal and family life, except for the cases stipulated by the Constitution of Ukraine.

Article 33. Freedom of movement, free choice of place of residence, the right to freely leave the territory

of Ukraine is guaranteed to everyone who is legally present in the territory of Ukraine, with the exception of restrictions established by law.

Article 34. Everyone is guaranteed the right to freedom of thought and speech, to the free expression of their views and beliefs.

Article 38. Citizens have the right to participate in the management of state affairs, in all-Ukrainian and local referendums, to freely elect and be elected to state and local self-government bodies.

Article 39. Citizens have the right to assemble peacefully, without weapons, and to hold meetings, rallies, marches and demonstrations, the executive power bodies or local self-government bodies are notified of their holding in advance.

Article 41. Everyone has the right to own, use and dispose of his property, the results of his intellectual and creative activity.

Article 42. Everyone has the right to entrepreneurial activity that is not prohibited by law.

Article 43. Everyone has the right to work, which includes the opportunity to earn a living by work that he freely chooses or freely agrees to.

Article 53. Everyone has the right to education.

Returning to the study of the problems of the main factors affecting the formation of legal awareness at the current stage, it is worth turning to the main trends of its transformation in the present conditions. And here it is worth agreeing with M. Pampura, who defines two main trends within which the process of transformation of legal consciousness in Ukraine is taking place. On the one hand, there is a growing social need for the political and legal development of the individual, his active involvement in political and legal life, and the growth of his self-awareness. On the other hand, it should be noted the presence of an inhibiting tendency, which manifests itself in various forms of alienation of a person from the state, its institutions, from making political decisions, from participation in the political and legal life of society [5, p. 153]. This makes it difficult to determine the main characteristics of legal consciousness and legal culture of Ukrainian society.

Most legal scholars emphasize the nihilistic attitude of Ukrainian society to law. Someone sees historical prerequisites for this. Thus, it is emphasized that the population has underdeveloped legal traditions, which turn into open legal nihilism, the denial of the necessity and value of law has deep historical roots. From generation to generation, disdain for the law and court, tolerance for arbitrariness is manifested in Ukraine [6, p.234]. In the conditions of war, this situation can be significantly corrected.

Some scientists pay attention to the current crisis situation in society, including the imbalance of values in law, so «when there is a crisis of legal values in the legal

system, the legal mentality becomes an expression of nihilism» [7, p.18]. The approach seems interesting, according to which «when nihilism in any of its manifestations merges with the natural (objective) negation of the old, obsolete, it ceases to be nihilism and does not pose any danger to the sovereignty of the state». In particular, according to O. Rogach, such a transformation of social and legal consciousness, value-normative complexes is evidence of the formation of positive legal values that will form the ideological core of the legal order, will become the basis of the revival of society and its security, a key link in the relationship between the state and its citizens [8, p. 46]. However, in our opinion, literally, this statement is quite controversial. Denial and rejection of the old and obsolete does not always mean the formation of something progressive against this background. First, such objection may be artificial, exclusively ideological in nature, and may not lead to practical steps in the future. And, secondly, even in the case of practical implementation, the new elements of the state-legal system may turn out to be no better than the previous ones in the eyes of the population. Therefore, it is emphasized that qualitative shifts in the practical plane are necessary for a sustainable positive transformation of legal awareness [2, p. 113].

It is also worth emphasizing that the effectiveness of the work of international organizations in the field of international law, in particular, international humanitarian law, will play a significant role in the

formation of legal awareness now and in the post-war period. Also, the problem of punishment for war crimes in international institutions will become important. So far, as A. Matvieieva rightly observes, most international institutions need to be reformatted because they work inefficiently. A large number of responses to Ukraine's call to international institutions to take concrete measures to end military aggression in Ukraine began with the words: «This is not provided for in the UN Charter, and so on» [9, p. 18].

Conclusions. At the current stage of deep transformation of Ukrainian society, various factors affect the legal awareness of individual citizens of our country, as well as public legal awareness as a whole. It should be noted that during the last 3-4 years, external factors have a negative impact on legal awareness due to the introduction of a huge number of restrictions, and, according to certain groups of people, even significant oppression of the basic rights and freedoms of a person and a citizen. These factors are objective: covid-19, quarantine restrictions, war, introduction of the legal regime of martial law. Large awareness campaigns are needed here. As for some factors, such as the effectiveness of international law in wartime, there are very big risks involved. If Ukrainians do not see fair punishment for war crimes, first of all, at the international level, nihilism will become a companion of Ukrainian legal culture for a long time. To level these risks, active work is currently being conducted at the level of the Ukrainian diplomatic service, as well as within the state.

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ЧЕРКАС МАРИНА ЄВГЕНІВНА

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ОСОБЛИВОСТІ ФОРМУВАННЯ ПРАВОСВІДОМОСТІ В УМОВАХ ПРАВОВОГО РЕЖИМУ ВОЄННОГО СТАНУ

Постановка проблеми. Останнім часом під впливом зовнішніх і внутрішніх факторів в українському суспільстві відбуваються значні зміни. Значний вплив на формування суспільної правосвідомості мають і глобальні суспільні зміни, як негативно, так і позитивно. Сьогодні, в умовах повномасштабної війни, правова свідомість українців зазнає трансформації. Як це вплине на майбутні покоління – наше завдання аналізувати та моделювати.

Аналіз останніх досліджень і публікацій. Окремі питання визначення правової природи, видів та ознак правосвідомості розглядали такі науковці, як: О. Данильян, Ю. Калиновський, Б. Кістяківський, Г. Клімова, О. Петришин, С. Погребняк, М. Суходола та ін. Водночас проблема визначення факторів, що впливають на формування правової свідомості українців, лише порушується в наукових дослідженнях, що зумовлює її актуальність.

Мета статті – з'ясування значення детермінант впливу на процеси забезпечення формування правосвідомості в особливий період, а також обґрунтування пріоритетних напрямів державної політики у цій сфері.

Виклад основного матеріалу. Сьогодні, в умовах майже річної війни, досить важливо зосередитися на настроях, уподобаннях та очікуваннях українського суспільства зараз і в майбутньому. Бо саме народ став рушійною силою боротьби за непорушність кордонів нашої держави. Більшість дослідників наголошує на нігілістичному ставленні українського суспільства до права. Крім того, наголошується на історичних передумовах виникнення та поширення цієї форми деформації правосвідомості. Таким чином підкреслюється нерозвиненість у населення правових традицій, які переходять у відкритий правовий нігілізм, заперечення необхідності та цінності права має глибоке історичне коріння. З покоління в покоління в Україні проявляється зневага до закону і суду, терпимість до свавілля. Саме зараз, в умовах війни, ця ситуація може кардинально змінитися. Або, навпаки, нігілізм може вкоренитися в головах і серцях українців.

Висновки. Авторка наголошує на негативному впливі зовнішніх факторів на правосвідомість українського суспільства. Серед цих факторів можна виділити такі основні: covid-19, карантинні та пост-карантинні обмеження, збереження режиму воєнного стану та пов'язані з цим істотні обмеження основних прав і свобод людини і громадянина. І сьогодні до таких факторів негативного впливу можна віднести також неефективну роботу міжнародних інституцій. Для подолання ризиків масового поширення такої форми деформації правової свідомості, як нігілізм, необхідна відповідальність за всі військові злочини. Насамперед міжнародно-правова відповідальність посадових осіб держави-агресора.

Ключові слова: суспільство, правосвідомість, російсько-українська війна, правовий режим воєнного стану, карантин.

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