Impact of Digitization on the Legal Status of Participants in Civil Circulation

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Abstract: The article on the basis of comparative analysis of legal acts and doctrinal literature reviewed the positions regarding the legal status of the legal entity. Features of blocks of information legislation, sources of legal regulation of information relations are considered. The analysis of legal status of special subjects is presented. The review places a lot of emphasis on energy law safety oversight by authors. The article considers modern tendencies of digitalization - for example, mass use of personal computers and wide distribution of computer technology. In conclusion, the author formulates conclusions that the specificity of the legal status of civil trafficking participants in the context of digitalization is reduced to increasing the requirements, exclusivity of their activities and digitalization of information about these subjects.

1 INTRODUCTION

The concept of «digitalization» as a process derived from «digital economy». The term «digital economy» (digital economy) (electronic, Internet economy) was first used in 1995 by American scientists from the University of Massachusetts Nicholas Negroponte when explaining the advantages of the new economy due to the intensive development of information communication technologies.

In the Development Strategy of the Information Society in the Russian Federation for 2017-2030, by the Decree of the President of the Russian Federation of May 9, 2017, 203, the digital economy is defined as the economic activity in which the key factor of production is digital data, processing of large volumes and the use of the results of analysis which, in comparison with traditional forms of economic management, allow to significantly increase the efficiency of various types of production, technologies, equipment, storage, sales, delivery of goods and services».

The author perceives digitization as a means of storing, searching and transmitting information, i.e. information technology (Tarakanov V., Inshakova A. and Dolinskaya V., 2019).

2 METHODS

The work uses both traditional and modern methods of scientific knowledge (in particular, abstraction, analysis, synthesis, induction, deduction, comparison, analogy, etc.), as well as a number of special methods, (modelling, typologies and classifications, expert estimates, analogue forecasting, growth curve method, as well as quantitative, index, logical, comparative, analytical methods).

3 RESULTS

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On the basis of comparative analysis of legal acts and doctrinal literature (Alekseev S., 1999, Vitruk N.,

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1979, Voevodin L., 1997, Matuzov N., 2002, Mickiewicz A., 1962, Tikhomirov Y., 2001) we have proposed, revealing the legal status of the subject, to consider:

1) the legal basis of its activities;

2) the conditions under which a person becomes a subject (first of all, it must be a question of establishing the subject);

3) the legal personality of the person;

4) conditions for the termination of its activities (Arbuzova S., Ayusheeva I., Belova D., Dolinskaya V., Kravets V., Muratova S., Tyagai E., Shishmareva T., 2017; Dolinskaya V., 2006).

In other words, in the study of the legal status of any entity, it is necessary and sufficient to highlight such aspects as:

1) Structural and organizational:

a) procedures for the creation or recognition of the entity, i.e. the acquisition of a certain status, and

b) the conditions for termination of such status (activity, existence of an entity or functioning in a certain capacity);

2) Substantive (legal personality of the individual, subjective rights, legal obligations and liability).

External to them, but necessary for a legal characterization, are the legal bases of the entity's activities. In a number of cases we refer to the situational-purpose characteristic (appointment, conditions of realization of the status).

4 DISCUSSION

In modern conditions, the legal basis of the subject's activity has been replenished by a block of information legislation, sources of legal regulation of information relations.

As an example of the norms of international law and international treaties of the Russian Federation, let's name the Okinawa Charter of the Global Information Society, adopted at the meeting of the «countries of the eight» 22 July 2000, the parties to which reaffirmed their commitment to the principle of people's participation in the world information process (bridging the international information and knowledge gap (digital divide): all people everywhere, without exception should be able to benefit from the global information society. The sustainability of this process is based on democratic values that encourage human development, such as the free exchange of information and knowledge, mutual tolerance and respect for the characteristics of others.

In the Constitution of the Russian Federation we shall highlight in particular the information rights and freedoms and their use.

The main source of national legislation of the Russian Federation is the Federal Law of July 27, 2006 №149 «On information, information technologies and on information protection». Norms on informatization and digitalization included in laws and other legal acts on almost all activities (for ex., Federal Act 152).

With regard to the procedures for obtaining the status of a legal entity, let us highlight the changes in the rules relating to the establishment of that entity and its recognition as such for the performance of certain activities. The latter, in our view, refer more to the characterization of legal personality.

In addition to the translation of the State Civil Registration Books (Act Books) into electronic form (Resolution of the Government of the Russian Federation 254, 2017) - in relation to individuals - and incentives, incl. tax (eg.32 para.3 of Article 333.35 of Tax Code) electronic registration - in respect of legal entities and individual entrepreneurs - as well as the transition from January 1, 2021 to the «register model» in the field of licensing of certain activities (electronic workflow and digital license registry (Federal Law 478, 2019)), especially note:

- the creation of a unified system for recording information on the population of the Russian Federation, ensuring its relevance and reliability (Federal Law 168, 2020), and

- securing the legal status of special subjects of the digital economy.

The system of «one window» in relation to information relations, interaction of participants of civil turnover with the state and municipal authorities in different variations speak from the middle of 90-Since the 20th century, however, in practice we do not find significant results in any field of activity (the most striking failures of this policy in taxation, pensions, housing and communal services). Federal Law on the Register again declares the use of information on the population from the system of their registration primarily for the purpose of «improving the provision of state and municipal services and performance of state and municipal functions», as well as «protection of rights and legal interests... of citizens» (sub-paragraphs 1.1 and 2 para.2 of art.4), but when analyzing it we draw attention to such shortcomings as:

- duplication of information and information functions of various bodies of state power of the Russian Federation and bodies of management of

state extrabudgetary funds (art.2) (Dolinskaya V., 2017);

Insufficient, in our view, information on article 7, paragraph 2.2 (for example, the registration in the compulsory pension insurance system is formal, with no information on the grounds and characteristics of social security of a group 1 disabled worker since childhood; see also art. 10, para. 9);

- incomplete coverage (article 7, paragraph 1.1, speaks about information «first formed» as a permanent component, without mentioning any previously collected information in various information resources).

On the positive side, we note, for example, the inclusion of information on the family, as defined in sub-paragraph) of sub-paragraph 1.2 of article 7 of the Register, as close as possible to the needs of inheritance law (first-degree heirs), social security rights (for example, dependency).

Analysis of the legal status of special subjects - for example, the owner of software and hardware access to information resources, information and telecommunication networks, to which access is limited, the operator of the exchange of digital financial assets Resolution of the Government of the Russian Federation (2018), Resolution of the Government of the Russian Federation (Resolution of the Government of the Russian Federation 656)- allows to highlight a number of additional requirements to them by the State in relation to:

- means of individualization (for example, the location of the subject, the location of the servers on which the personal data of citizens of the Russian Federation are stored in the territory of the Russian Federation),

- property base of the activity (e.g., origin of capital),

- tools of their activities (for example, origin, capacity, hardware certification, origin of software and provision of encryption keys to law enforcement).

The changing socio-economic environment combined with the classification of information relations proposed by Art. 1, 2 FZ about the information allows in the first rough approximation to distinguish:

A) Direct participants and

B) Digital Relations Regulators,

and in more detailed study of the functions in civil circulation to propose the division of subjects into:

- professional participants of digital economy, market of digital goods, works and services,

- consumers,

Persons responsible for the operation of digital infrastructure

- regulatory and supervisory authorities.

The characteristic of legal personality is the increasing requirement for the presence of a website and the increasing requirement for disclosure of information in the information and telecommunications network «Internet» (for example, Article 44, paragraph 13, of the Federal Law of 29 December 2015 «On arbitration (arbitration proceedings) in the Russian Federation»). Of course, this entails an increase in the costs and costs of goods and services.

Comparing the problems of socio-economic development, regulation of information relations (Dolinskaya V., 2010) and digitalization leads us to distinguish as universal (for all subjects):

- lack of digital literacy,

- insufficient provision of communications technology and access to information and telecommunications services,

- information security,

- finding a balance between the legitimate interests of individuals and society as a whole.

According to sociological research, in 2019, 45% of the population of Russia were recognized as having a high level of digital literacy. This figure is 25%.

According to the International Networked Readiness Index (Networked Readiness Index), a complex indicator that characterizes the level of development of information and communication technologies and the network economy in the world, the Russian Federation ranks 48th (index 54.23) lagging far behind the leading countries.

In the era of the post-industrial information society (Alekseeva I., 1999, Bell D., 1973), one of the features of which is the mass use of personal computers and the wide spread of computer technology, when, as of 2019, about two-thirds of the world's population own mobile phones and more than 55% of the world's population is connected to the Internet, the price of elementary gadgets in Russia in some cases is comparable and more monthly income and subsistence minimum per capita. A number of bodies and organizations still lack the means to recognize electronic digital signatures.

5 CONCLUSIONS

Information security is linked to contradictions:

- rights of access to information and protection of certain categories of persons (usually citizens) from certain information,

- information regimes (incl. privacy, privacy: personal data, medical confidentiality, confidentiality of adoption, etc. (Resolution of the Government of the Russian Federation 1119, 2012) and access to information for state, public and collective purposes.

In fact, all modern instruments in this field, among others, seek to strike a balance between the safeguarding and protection of the constitutional rights and freedoms of the individual and of the citizen with regard to the receipt and use of information, privacy in the use of information technologies, on the one hand, and ensuring the sustainable and uninterrupted operation of the information infrastructure, on the other (Dolinskaya V., 2019) (para.8 Doctrine of information security of Decree of the President of the Russian Federation dated December 5, 2016 g. 646).

Even a brief review of the law leads to the conclusion that the specificity of the legal status of participants in civil turnover in the context of digitalization is reduced to an increase in requirements (for example, a higher amount of authorized capital) the exclusivity of their activities and the digitalization of information about these entities. General and ad hoc problems of the information society remain.

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