Review of the International Scientific and Practical Conference "Third Baskin Readings. Law and State of the Information Era: New Challenges and Prospects" (St. Petersburg, April 28, 2021)

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ABSTRACT
In the review of the conference "The Third Baskin Readings. Law and State of the Information Era: New Challenges and Prospects" presents a summary of the main theses of the speakers on the problems of digitalization, the concept and protection of human rights and freedoms in a digital society, the role of artificial intelligence, transformation of law as such and other issues. The speakers generally concluded that there was no special change in the legal system for the needs of digitalization, concluded that law as a social phenomenon has a high degree of adaptability to changing conditions, and the use of new technologies should not affect the content of legal regulation as a whole. However, during the discussion, it is proposed to consider new signs of law, for example, "seriousness of law" in relation to the theory of the game. The participants come to the conclusion that the world is multipolar and at the same time there can be various structures of law and state, characteristic of different stages of socio-economic development of societies.
Keywords: digital law, seriousness of law, digital society, subjective rights, state and law

In April 2021, the North-Western Institute of Management of RANEPA and the Law School of the NWIM, facilitated by the journal Theoretical and Applied Jurisprudence, A.F. Koni Foundation for Support and Development of Historical Heritage, held another Baskin's Conference. It was timed to coincide with several anniversaries of the events relevant for the Institute. They are the centenary anniversary of Professor of the North-Western Academy of Public Administration and prominent lawyer Yuri Yakovlevich Baskin, in whose honor the conference was named, the twenty-fifth anniversary of the Law School of the NWIM and the thirty-year anniversary of the North-Western Academy of Public Administration, whose successor and heritor the Institute is.

The third Baskin Conference was devoted to issues of legal and state development in the post-modern (information) era. The institute has been focused on and engaged in these issues for many years, so there is no need to prove research and practical relevance of the conference topic. Digitalization driven by a range of global crises, among which is the ongoing pandemic, has profoundly affected every area of public life. This, in turn, dramatically affected the law, as the main social regulator that cannot stand aside from the main trends of social development, including global ones.

Therefore, the emergence of "digital economy" served as a trigger for transformation of civil law. New challenges facing the federal and municipal authorities facilitate the broadest introduction of digital technologies that optimized decision-making processes and opened the door to new institutions of constitutional, municipal and administrative law. Obviously, this large-scale transformation of branches of law in the digital era demanded conceptual reflection; that is why digitalization of the law and state attracted attention of both practical specialists in legal sciences and legal theorists. However, while opening new ways for development of the system of justice, digitalization poses challenges and threats to its stability. We witness emergence of new types of illegal behavior, such as cyber fraud, cyber terrorism, cyber espionage and more. The mechanism for counteracting these crimes is only being developed; it is still imperfect and, therefore, needs research and support.

No wonder that this conference has become an important event in scientific life and attracted attention of researchers from almost all legal sciences, as well as judiciary and legal practitioners. As part of the event, four panel discussions were organized, to cover all multi-profile issues of the conference: "Digital Transformation of the Law and State" (moderators:

Andrey Vasilyevich Polyakov[1] and **Nikolay Viktorovich Razuvaev**[2]); "Constitutional System and Mechanisms of Electronic Democracy" (moderator: **Sergei Lvovich Sergevnin**[3]); "Digitalization of Subjective Rights: Civilistic Dimension" (moderator: **Popondopulo Vladimir Fedorovich**[4]) and "Cybercrime: Issues of Counteraction at the Present Stage" (moderators: **Safonov Vladimir Nikolayevich**[5] and **Mordvinov Konstantin Vladimirovich**[6]).

This year, the Baskin Conference received the status of an international event, since it was attended both by scientists from various cities of Russia (St. Petersburg, Moscow, Voronezh, Saratov, etc.), and foreign colleagues from universities in Germany, Hungary, Ukraine and Belarus. It is also worth noting that by agreement between the Board of the NWIM and organizers of the St. Petersburg International Legal Forum, the video recording of the conference was posted on the Forum's website.

The vent was opened by **Vladimir Aleksandrovich Shamakhov**, Director of North-Western Institute of Management of the RANEPA, who welcomed its participants, emphasized relevance of the Baskin Conference as a platform for free discussions on topical issues, which raise the interest of both academic scientists and legal practitioners. In his turn, Deputy Director of NWIM for Research Affairs **Dmitry Evgenievich Mereshkin** remarked that presentations at the conference are filled with ideological agenda and wished the participants fruitful communication. The honorary guest of the event, **Tatyana Vasilievna Baskina**, shared her memories of the life and work of Yuri Yakovlevich Baskina, showing unique photographs and other documents from the personal archive.

Konstantin Viktorovich Aranovsky[7] made a report at the plenary part with a detailed overview of the main challenges facing the system of justice in the digital era. According to K. V. Aranovsky, it is difficult to define that what law and state is at the information era and what this era is like. The issue is very broad. The law doesn't really need to be transformed externally. It exists as an inherent institution in the social organism and has adapted to the changes to the extent that leaves no doubts that it is viable. Similarly, coerced transformation will not be needed if the law remains as such and if man does not renounce the law, which might be the most fatal and drastic thing to do.

A few years ago, at the St. Petersburg International Legal Forum, famous figures discussed how the law could cope with transformation of technology, took evidence for cases of liability for drone operations[8]. But the law has already had the solution to such cases. There is little room to the law to transform in this area, and transformation is rather a combination of events, being an adaptation of the reality to the rules that must still prevail if we insist of the principles of the rule of law. And any rule is a bilateral relationship with two parties participating. If someone rules or dominates, there is another one who obeys.

In this context, transformation of law cannot be treated as a scenario when men will dominate over the law. Of course, social and political philosophy, science, and even everyday consciousness has been actively operating another trend, which prevails in some cases — since the Enlightenment, people have been thinking that man can dominate over the reality and over himself thanks to the power of the mind. That is, mind is a dominant factor that can fix and restore everything. But this is a rather risky trend. Its origin rests on religious principles, however, religion poses certain limits on freedom of human will, and at a certain social period these limits perish.

This particular mistaken belief made a background of the French Revolution of 1789, the Jacobin movement, the guillotine; it is a well-known fact that development public law began with the fact that revolutionary courts were deprived of the right to control over other branches of power. The leaders of the French Revolution believed that the people, using the power of reason and common will, could make any decisions, while the courts, with their decrepit, senseless, viscous law, only hindered the triumph of enlightened intellect. Later Jacobinism was replaced by socialism, communism and other doctrines that remain in line with this trend. Looking back at the history of the last centuries, we must understand that digitalization is an objective factor of in the society, but as long as man exists in it, the law will also exist.

Another example, at the aforesaid forum[9] someone expresses concern about how we will cope with artificial intelligence, because to a large extent it exists as a self-reliant element, so what if we have to recognize its legal capacity, involve it in legal

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8 It refers to the well-known "free rider problem", which states that in production and provision of public goods to consumers, it is impossible to exclude who will use these public benefits for free, i.e. "free riders". Thus, benefits of public order and security, which is protected by the state at the expense of taxes, shall apply to the whole community, including those who evade paying taxes (for more details, see Ostrom V. The Meaning of American Federalism. What is a Self-Governing Society. Moscow: Arena, 1993. P. 189 et seq.) — editor's note.

9 St. Petersburg International Legal Forum — editor's note.

relations with rights and obligations, how we can control it. But in various systems of justice there are quite bizarre subjects, and in general, views on the subject of law, a participant in legal relations has been dramatically changing. Nevertheless, the changes neither abolish *res judicata* nor invalidate the principle of *pacta sunt servanda*; and basic principles of the rule of law are still in effect.

For instance, we attribute psychic abilities to a subject, especially if it is a private person. But if we refer to the phrase *habeas corpus*, which means "to have a body", we will see that in English law material abilities of a subject prevail in many cases. Therefore, in this sense corporate law survives and develops there easily. So, these hues, hints, transitions and flows between objects, things, subjects, participants and passive elements of the legal order are quite conditional. I don"t think that digital transformation can threaten the law. I believe that the law will easily cope with such phenomena, for instance blockchain. Maybe some elements will become irrelevant when the blockchain system can provide proof of transactions. Another thing is that we exist as social beings, and we know that along with the rule of law, seen as an impersonal beneficial ruling force that demands obedience, there is a power of reason, which is also beneficial, — the power of a dream.

Man cannot help having dreams and prospects of t the future, but the main thing here is that living through these states, we should not put too much emphasis of the dreams and prospects when the rules will cease being imperative, it is a very risky situation.

And these risks do not relate digitalization — the challenging issue of the era, they rather relate to everyday life, being entwined into it. For example, we are now debunking principles of limited liability, making liability omnipresent. Sometimes, supporting the ECHR, we agree that various procedural errors can be made, if the proceeding results in overall fair decision.

This supposition relies on the insightful judgment that is, it is based on a keen judge who, having no evidence or defected evidence, is so sharp that makes correct assesses and understands the essence of the case, perhaps even skipping the legal procedural requirements that the law requires. There are many risks of that sort now, in most cases they occur because man has been living well-to-do life for a long time, since he managed to relieve the burden of everyday obligations to meet his vital needs, since he got the blessings of civilization, so the temptation to feel omnipotent and omniscient has been growing. Some abilities, including caution and loyalty to the rules, also get crippled.

Of course, we should not exaggerate these risks should. On the contrary, in many respects, civilization has made man more loyal, more law-abiding, bondable. But anyway, we must understand that if we have unlimited authorities, we can destroy a lot. A person who has the benefits of law should protect them in any era, even if it is digital and full of mechanisms of electronic democracy.

At the panel discussion "Digital Transformation of Law and State", reports were presented by **Lukovskaya Dzhenevra Igorevna[10], Roman Anatolyevich Romashov[11], Vladislav Vladimirovich Arkhipov[12], Alexey Vyacheslavovich Stovba[13], Natalia Vladimirovna Varlamova[14], Vladislav Valeryevich Denisenko[15], Iya Ilyinichna Osvetimskaya[16] and Natalia Frantsevna Kovkel[17]**

D.I. Lukovskaya I will tackle two issues, modern postclassical theories of natural law and how these theories fit into the general tradition of the centuries-old theory of natural law. First of all, it concerns fairness. In Russia, we have historically used the category of truth, which blurs the boundaries between legal and moral principles; so natural law borrows legally significant principles from truth and justice, i.e. principles of reasonableness, proportionality, justice. In the early XX century due to criticism of the classical theory of natural law (ideas of dualism of natural and positive law, ideas of absoluteness, immutability of natural law imperatives), people began to consider if it is worth sticking to this term, or it is better to replace the term "natural law" with the term "politics of law".

Starting with R. Stammler, the theory of natural law with changing content was being replaced with the concept of propriety of law, which in the English language is called as the theory of justice[18]. In the second half of the XX century the issue of natural law was terminologically replaced by the issue of justice. At the same time, V.S. Nersesyants tried to reconstruct the general concept of natural law, outlined its universal principle and came to the conclusion that the universal principle of

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[18] See: StammlerR. The Theory of Justice. New York: The Macmillan Company, 1925.

natural law is the dualism of natural and positive law as parallel and opposing principles; in the theory of natural law positive law is just an emanation of natural law, and the theory receives its legal meaning only from natural law. This dualism of natural law as a qualifying criterion for all theories of natural law is recognized and approved by most modern researchers.

It should be pointed out that unlike many modern authors, Nersesyants relied on the fact that theories of natural law can be modernized. He believed that in the theories of the revived natural law the dualism of natural and positive law is partly overcome, while ideal criteria remain unchanged.

Duaalism used to be inherent in jus-naturalism. But let's stick to the opinion of J. Finnis, who criticized such dualism-based interpretation by G. Kelsen and G. L. A. Hart of the whole tradition of jus-naturalism, noting that dualism-based tradition is far from alleged denial of legality of unjust norms that do not correspond to natural law, except for revolutionary-anarchist theories of the XVII-XVIII centuries[19].

In the postclassical theories of natural law, where theories of dualism and imperatives are greatly criticized, qualifying factors of jus-naturalism are refuted in general. The balance of natural and positive law is presented as unity, ambiguity, dichotomy, two-component nature of law, its ontological structure, thereby overcoming the pure positivity of law; natural law is not beyond positive law, rather they are in mutual dependence (by A. Kaufman) or in balance (by R. Alexi). Obviously, natural law, being immanent to positive law, is no longer a normative legal system operating together with it, much less opposed to it, that is, such dualism is not typical of modern jus-naturalism.

But has this dualism been overcome? This question may arise, since one may ask whether dichotomy is another name for dualism, since postclassical theories of natural law still stick to the idea of the value priority of natural law over positive law. Let us consider discursive theories of natural law (for example, R. Alexi, J. Habermas): human rights — a new natural law — are treated as moral requirements addressed to a positive legal order, and serve as a criterion for evaluation of positive law. So can we say that dualism is not refuted in the newest version of jus-naturalism? In my opinion, such a conclusion is hasty.

First, it is supposed to integrate human rights into a legal system that meets criteria of justice, quoting Alexi — claims to have legal propriety. Secondly, and most importantly, in the context of this issue, human rights can exist only due to their relevance. If they are not justified in rational discourse, they do not exist. So the rights are still not introduced from the outside, they rather have a human communicative-procedural origin. So, the very dualism of classical theories of natural law has been overcome. However, the rational discourse assumes normative relevance of classical natural law principles (freedom, equality of participants in the discourse) as a basis for equality of human rights.

After all, normative arguments that establish, according to the formula of G. Radbruch[20], the threshold of extreme injustice, flagrant violation of human rights, allow us to state (beyond the formula assertion) that extreme injustice should not be and is not law. The idea of absoluteness, immutability of natural law imperatives is does not fall in line with the human dimension of natural law principles. Dynamism, processuality, historicity of the law have become the hallmark of all postclassical ideas about law, including those of natural law.

Yes, arguing with positivism, representatives of non-positivism, essentially natural law, based on the idea of justice, treat themselves as representatives of natural law theories, and, there is a good reason for that. There is no denying normativity of any tradition. In postclassical theories of natural law, tradition of classical jus-naturalism is still felt, because contractualists (J. Rawls, R. Dworkin) in one way or another adhere to moral universalism of the 18th century. The universal character of the idea of human dignity, equal dignity, is also evident in works of J. Habermas.

The idea of the rule of law as its critical dimension remains as a relevant idea of justice and legal propriety in the modernized natural law models. The test of justice offered by Kelsen to jus-naturalists confirms that natural law even in such version has critical potential inherent in the multi-variant tradition of jus-naturalism. This innovative succession has yet to be thoroughly considered, even if a positivist does not recognize relations between law and morality, like H.L.A. Hart.

A critical rethinking of natural and positive law as parallel existing, opposite systems still does not mean a fundamental break with tradition of jus-naturalism, after all, the tradition did not cease after Kant, who overcame naturalism of previous idea on natural law. So, in their postclassical version theories of jus-naturalism still remain theories of natural law. There are new reference points, but the tradition itself has not been interrupted.

R.A. Romashov Considering law as something inherent in man, as conscience, freedom, justice, we can come to a conclusion that indeed, law exists beyond time, but, I believe, that in this context it is not law. Law arises when legal technology replaces religious traditions and the state appears in its modern representation. I fully agree with K. V. Aranovsky that the state as a subject emerges sufficiently late, that is why the law considered as such also emerges late.

State and law are social-cultural phenomena that develop at a certain stage of human history and undergo transformations in their development, i.e. dramatic changes in form and content. But the essence of the state and law remains unchanged. Digitalization is as objective as growing and aging processes in a person. And the fact that a person does not want to grow old does not affect the picture. If we refer to abstract concepts of state and law, at a certain stage they turn into universal concepts. For instance, a polis is not a state. ***State*** is not a state. ***Kingdom*** is a state, being a hierarchical system relied

[19] See Finnis J. Natural law and natural rights. Moscow: IRISEN, Thought, 2012. P. 37, 46-53.
[20] See: G. Radbruch. Gesetzliches Unrecht und Qbergesetzliches Recht, Suddeutsche Juristenzeitung. 1946.

upon the ruler. There is no difference how this ruler will be called — prince, tsar, Central Committee of the CPSU, president, emperor, the key point here is that there is a hierarchy in which a certain person heads a certain system and serves as a direct actor.

So a state is an integrated form of social organization and, at the same time, a mechanism of public political power. When we talk about a state, we mean a specific mechanism for organizing society and power. Such a mechanism does not always exist. The state and law inherent in state did not always exist. In this relation, we talk about the unvaried essence, but variable forms of the state and law.

In terms of transformation of the state and law, there are two ways: fist is a linear transformation of the state and law, and we can compare their changes with transformation of as a person. Similar to a person who goes through certain stages during the life, but remains the same person, linear transformation means that the state and law, once having arisen, change in form, but remain in essence. For example, if we consider the Russian state, as recorded in the Constitution, as a state with a thousand-year history, this is a vivid example of a linear transformation. Such an approach is possible.

But if we talk about cyclical history, we mean that the state goes through certain cyclical stages in its development. Each cycle is finite. In terms of transformations, it is more logical to treat transformation of the state and law not as a linear history, as we still think, but as cycles. I support Alvin Toffler's wave concept[21], which speaks about three stages of transformation of the state.

The first wave is the agricultural culture, a traditional society with an agricultural or raw material system. The state, initially patriarchal and then bureaucratic, is similar to the family. Thus, the law in the family is a traditional law — the law of the fathers (the elder generation teaches the younger one, and the father can make any decision, regardless of whether it is traditional or not).

The second wave is the industrial culture, when traditional society is replaced by an industrial society and a national legal state. In terms of state of law, the state means order, technology, and in this case the state is equal to the nation. So, the state may be presented as a conveyor belt. A person invents a conveyor, but does not become its owner, rather a part of the conveyor. Here, law is a technological construction that is equally effective both in relation to the director of a conveyer company and an employee.

The third wave is the development of information culture, which means that the information society is somewhat changing the economic focus — commodity production is replaced by virtual property production. When we talk about intellectual property, it does not apply to a real object, and a traditional triad of possession/use/disposal does not work. In terms of state of law, we treat it as a national order based on the national language, national legal tradition in national law.

The state of law is replaced by a digital state, that is, an order based on digital technology, the national language is replaced by a digital code, and monistic dualism, with its idea that my state is right and other states are wrong, is replaced by a pluralistic view, when there is a large number of "right ways", each subject has its own "right way", which does not match "right way" of another subject, but still remains "right". The digital world is objective, but it does not displace the first or the second wave, which can coexist with each other.

V.V. Arkhipov The topic of my presentation is like "Claims of the Law to seriousness: a stale truth or an unobvious principle." I'd like to say a few words about law in terms of medial turn. The name of my report already states that there might be a new principle or sign of law, originating from the concept of seriousness, significance, play. The words "stale truth" correlates to a quote from the Dutch culturologist Johan Huizinga, who wrote in the fourth chapter of his "Homo Ludens": "At first sight, few things would seem to be further apart than the domain of law, justice and jurisprudence, and play. High seriousness, deadly earnest and the vital interests of the individual and society reign supreme in everything that pertains to the law"[22] Further on, the author draws an analogy between law and play, but concludes is that play can be a serious business.

How does that relate to the current state of our society? I think the most successful concept is the medial turn, which is being discussed in media philosophy. It suggests that nowadays, after various changes, including in language, we as a society become aware that our social reality does not only depend on language, but also on the media that transmits information, and on other actions with information — all that affects how we perceive reality. It turns out that we live in a reality, which we perceive only indirectly through different information products and technologies. Hence, it turns out that, being in this mode of information society, we are transferring direct communication and social reality in general into the information dimension, for which various kinds of simulacra are typical; and it explains, for instance, development of legislation on ***fake news*** not only in Russia, but also in Europe and other countries.

In fact, in our media reality we can see quite a lot of curious phenomena that, both at first glance and after a detailed analysis, make us think about what is absurdity in terms of making, interpretation and application of law. There are plenty of examples, they are not systemic and do not represent a system, but are of serious methodological interest — we need to understand what they can result in. For instance, application of rules aimed at countering terrorist activities to totally fictional situation of a computer game; although in that case the game had nothing to do with a recipe for making explosives, the

[21] See: TofflerE. Third Wave. Moscow: AST, 2004.

[22] Huizinga J. Homo Ludens. Attempts of Determining the Game Element of Culture. Articles on the history of culture. Moscow: Progress — Tradition, 1997. P. 85.

situation resulted in legal actions which did no limit access of children to this information, but rather involved classical, real-life anti-terrorist legislation.

Apart from that, we can find interesting examples in rules on blocking information on the Internet, which have already greatly increased in number and variety. It actually raises the issue — when these rules can apply to works of art, that is, fiction, and when they do not apply. Some twenty years ago, the sphere of the artistic and imaginary was isolated from the sphere of the serious, the real, and it did not present an issue of theoretical and philosophical reasoning. However, now that most of our communication is mediated by digital media, distinguishing between the serious and the fictional a serious problem for theory and practice, the main task of which is to avoid absurdity of interpretation and application of the law. Absurdity can occur in two ways: application of norms to the phenomena that are not serious, or application of the wrong norms to legal relations, the subject of which is serious in one sense, but fictional in another. So we can formulate a hypothesis that a classically formulated list of principles of internal morality of law by L. Fuller[23] can be supplemented by a claim to seriousness, which can be treated as a principle methodologically similar to R. Alexi's claims to correctness. In this context, we can say that a philosophical cultural concept of the game is usually opposed to seriousness, but this is a controversial statement, and here seriousness rather is opposed to absurdity. The message of the hypothesis is that seriousness in law is not a truism at all, but one of the fundamental principles.

A. V. Stovba It is undeniable that the digital era does not change much in legal regulation, since behind all digital transformations there is a human being, free, responsible, who can bears legal liability, has legal capacity, and no digital transformation will change that. So, what is changing? It seems to me that it is legal identity that is changing or getting blurred. First, if we talk about the superficial component, in the era of accounts, logins, pages, etc., it is difficult to distinguish a person from a digital image created for a certain purpose — for self-esteem in a social network profile as a way of social affirmation, or for becoming a member of a community. I would like to draw attention to another aspect, namely, to the fact that in the digital age with increasing number of not material or physical, but virtual social interactions, a new ethics of natural law arises.

Considering classical legal relationship, the rule of law exists as a symbolic textual image embodied in a co-present person. Let's consider, for instance, a situation when a person is on a desert island — all positive legal provisions do not annihilate, but lose their sense if a person does not interact with another person, which gives sense to all institutions of positive law. That is, a limiter of my actions is, first of all, the Other in his physical presence.

However, in the digital age, things are changing. And the question is whether the Other in the virtual presence can be such a limiter. We know that social media users are actively criticized for being rude, rude, violation of the rules of ethics, behavior, it is enough to read the comments under some topical news. The question arises, where law goes or what it becomes when we interact in the virtual, digital dimension? Especially that in terms of the pandemic, the rate of virtual communication is only increasing. And here we come to some ultimate principles of law. We know, for instance, that in ancient times, in a primitive communal system the main sanction was expulsion, when the violator of the customs accepted in society was simply expelled. It seems to me that in the digital age we have come to the same point — after all, now the most effective sanction is the so-called "ban", removal, exclusion from a virtual community. Such a sanction may be blocking of the page or deactivation of the account.

In this regard, the question arises whether we should introduce a parallel legal regulation, which, on the one hand, will be related to real physical interaction, and on the other — to virtual interaction. Of course, there can be a gray zone, such as digital fraud, where quite tangible resources are a result of digital interaction. And here the most interesting thing, is how much identity can be retained, how much the norm can be retained in the gray zone, whether it requires a separate legal regulation, its modification or a radical new regulation, since there is no physical presence that serves as a limited. All these questions require answers.

N. V. Varlamova I would like to support the position of Judge Aranovsky, who states that despite development of digital and other innovative technologies that significantly affect all aspects of social life, including development of law, law has its own special nature and regulatory purpose. And it remains despite all changes in the social life. In terms of human rights in the era of digital technologies, researchers have been actively discussing development of a new type of rights or, as they say, a new generation of digital rights. Most often, this group of rights includes the rights to access the Internet, to protection of personal data and the right to be forgotten or deleted.

But if we consider the aspects where these rights are recognized, protected and ensured in modern conditions, we can see that each of these rights is just a projection of traditional, long-known human rights on modern digitalized relations. The right to access the Internet, as it is formulated in documents of the UN and the Council of Europe, is primarily a modern way of exercising the right to freedom of expression, the right to access information, the right to freely disseminate information. The issue of protecting personal data, on the one hand, has become relevant in the digital age, since in order to use technologies, this data must be provided to literally everyone, but on the other hand, it is a long-standing problem of the right to respect for private life.

[23] See, for instance: Fuller L.L. The Moral of Law. Irisen. 2007.

And various attempts of doctrinal papers to separate the right to protection of personal data from the right to respect for private life results in a situation when the right to protection of personal data is regarded as a purely technical right and out of touch with its essential purpose. The right to be forgotten, to be deleted is a right that has also become relevant in the digital age, which means that individuals have a right under certain circumstances to force search engines to remove links to information that is correct, but to some extent defamatory or undesirable for a person, or, for example, lost its relevance.

On the one hand, this right has been updated due to development of the Internet, on the other hand, with development of information technology, as experts say, this right will again lose its relevance, since technical methods of blocking quick access to information are unlikely to remain effective. Also, we see that in the new generation, the very understanding of the right to privacy is blurred, losing its meaning. On the Internet, there are many things posted that for my generation seem at least strange. From my point of view, we should not try to justify emergence of new human rights due to development of information technologies, rather we should look at how human rights are enforced in the conditions of new digital environment, consider threats that this environment generates, technical opportunities it provides for enforcement of rights, restrictions it imposes on legal regulation of these rights.

The approach used, in particular, by foreign researchers dealing with digitalization of human rights and digitalization of measures to enforce and protect human rights, seems more fruitful to me, since we still remain within the framework of the old human rights that only require special protection, enforcement and attention to special aspects of their manifestation.

V.V. Denisenko I am convicted that law in terms of its ideology, is inevitably subject to transformation. Let us recall moments in history when a certain legal ideology or doctrine lagged behind social needs, which caused great upheavals. For instance, in the 19th century, when the doctrine of classical liberalism refused to change, it led to emergence of the most radical political movements, for example, anarchism, claiming that the state should vanish altogether. It happened because statesmen and lawyers could not leave aside the doctrine of none- regulation of private relations, although society had changed and the state intervention, the social state, had become imminent

The same applies to modern situation. Undoubtedly, the information age is the challenge that calls to transform the law. And law in different eras comes to a certain historical milestone, when it is necessary to change the legal policy, like nowadays. What exactly is changing? Circumstances are; there emerge problems of identity, seriousness, problems of action, effectiveness of law, its delegitimization. The modern state with social policy really regulates the majority of relations. In the last century, there has been an expansion of law, which entails over-regulation and juridification of society.

Society is fully regulated by legal norms. If we take the Russian legal system, it is very difficult to find relations that are not regulated by law. And at the same time, in the information society, there is a phenomenon of visualization of law, when most people treat law as a simulacrum. No wonder the classics of Soviet legalism now call law a simulacrum in their works. Of course, if we do not want to see the loss of legitimacy, we must implement the idea that in the information society modern legal policy cannot be based only on coercion and ideological influence, and legal systems must be associated with certain communicative procedures.

Accordingly, a positivism doctrine changes to a communicative paradigm. In practice, this means that in order to ensure the legitimation of law people participate in the so-called deliberative aleatory procedures, taking into account principle of formal equality. An example of the aleatory procedures can be amendment of the Irish constitution in 2018, when commissions were created for discussion, due to which all disputes were settled and there were no protests. The information society is a certain factor, a challenge, which nevertheless speaks of the need for changes in legal policy in the current period.

I. I. Ozvetimskaya The previous presenter states that we need new tools, aleatory mechanisms. But they already exist, we just do not use them. For example, there is a mechanism for discussing draft bills on the gov.ru website, but very few people use it. The question arises why we do not use these tools despite their availability. This is probably due to the loss of trust in the authorities, since in recent years the model of legal communication between the state and society has no longer been trusted. I would like to talk about this deformation in legal communication.

Considering that legal communication is the background of law, like human communication if the background of social life, effectiveness of law will depends on effectiveness and success of communication, so it is necessary to investigate deformations that occur in everyday life. Such deformations are usually associated with abuses of power. As T. van Dyck[24] claims, if management related to those in control and is directed against the interests of those controlled, we can talk about abuse of power. This is an illegitimate use of power, a violation of fundamental rights and values for the benefit of those in control, against the interests of other people, and, accordingly, it entails a violation of people's rights.

Therefore, in conditions of modernization, digitalization of public administration and interaction between the state and society, it is important to keep in mind that effective innovative management cannot work by relying only on bureaucratic mobilization and technocratic rationality. Without social potential in these processes, without development of communication,

[24] See, for example: Thön van Dyck. Language. Cognition. Communication. URSS. 2015.

creative competition, all these messages will be downgraded by various economic filters and social barriers. Therefore, modernization should focus on expanding the scope of principles of democracy, improving quality of social participation in managerial decision-making.

Legal communication can be replaced by pseudo- and quasi-communication. Pseudo-communication is defined as an unsuccessful attempt of a dialogue, that is, it did not end with adequate interpretations of communicative intentions. The message sent from one party was decoded in a distorted way by the other party, so communication did not achieve its goal. Quasi-communication is a kind of ritual action that replaces communication and does not involves any dialogue and or making a managerial decision. Quasi-communication is characterized by lack of information exchange and even desire for this exchange. It's quasi communication.

These types of communications make illusion of communication. The reason might be unwillingness to treat the other party as an equal subject. The state treats people rather as an object (one-way communication) or an unequal subject (asymmetric communication). But only when parties recognize each other as equal partners, it will be possible to build a genuine legal communication between the state and society, which will lead to a positive result, mutual understanding and other outcomes that deliberative democracy strives for.

N.F. Kovkel My presentation is called "Legal Communication in the Digital Age, When the Other Does Not Enter the Scene" with a clear reference to Umberto Eco"s famous essay "When the Other Enters the Stage"[25], written as a response to Cardinal Martini, in an attempt to reason the idea of universal nature of human ethics and law. Originally, the essay was called "What do disbelievers believe in" In this essay, U. Eco tried to find out semantic universals, which are the background of our ethics and law, and formulated them as follows: our body, its location in space and the presence of the Other. I think that digital communication is communication where the Other can disappear. In a digital world, we can communicate with bots, rather than with human beings, and this illusion of the Other, from my point of view, will significantly transform communication in the field of law.

Although someone cherishes optimistic hopes that nothing is changing, I am sure it is wrong. First, we may encounter usual problems of defaulted obligations in the field of law, inability to prosecute a person who we cannot find, or a person who we did not expect to be the other party. As far as human rights are concerned, there is a very disturbing and painful situation. In terms of semantics, we see a change in communication models. If we start from a traditional model proposed by R. Jacobson[26], this model loses the sender and the context of the message. The center of such communication is only the recipient, only the decoding person, and the accents are totally displaced. Moreover, no Other party in communication is offset by transparency of the only one actor in legal communication. Unfortunately, the information field makes us extremely transparent.

So, this is where the problem of exercising our right to privacy arises, and I would like to focus on it. Many discussions analyzed a concept of high-tech facilities to track each subject in order to prevent certain man-made disasters. We can say that in the digital world these facilities have already been created — each of us can be monitored during most of the day, we do not part with gadgets, and we are surrounded by technologies offered to us — from the smart city technologies, where we are under absolute control in urban space, to e-health technology with a electronic medical record which can be easily hacked.

What arise most concern is the way how the international community is responding to this situation. At a national level, we know that personal data protection laws and other legal acts are adopted, but in authoritarian and neo-totalitarian states these measures are not effective. The international community is also responding ineffectively to the situation, which can be evidenced by the UN Resolution No.A/RES/68/167 of December 18, 2013 "The Right to Privacy in the Digital Age"[27]. This resolution shows that the international community, stating sufficient nature of Article 12 of the Universal Declaration of Human Rights and Article 17 of the International Covenant on Political and Civil Rights, does not consider it necessary to develop norms of international law, even norms of soft law, in order to enforce this right.

On December 19, 2014, the Human Rights Council adopted a summary. They expressed some concern, but took no effective measures. In the modern world, we are witnessing an extremely inefficient system of human rights protection both at the universal, regional and national level. It especially relates to secrets of personal life, when many subjects do not even realize that their life is absolutely controlled. However, the measures taken by the Human Rights Council and other international bodies for protection of human rights are not effective. In the digital world, it is necessary to create a new system for protection of human rights and develop a doctrine of state sovereignty limited by human rights. Until we pursue this goal, we will not be able to ensure protection of human rights in the digital world.

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25 See: Eco U. When the Other Enters the Scene. Five Essays on Ethics. St. Petersburg: Symposium, 2000. P. 9-25.

26 We are talking about the six-factor model of sign communication by R. Jacobson, which includes the sender of the message (addresser), its recipient (addressee), the message itself, the communication channel, a set of means for encoding / decoding information and the context of the message (see: Jakobson R. Linguistics and Poetics, Structuralism: "for" and "against", Moscow: Progress, 1975, p. 198), — ed. note.

27 See: [Electronic resource] URL: https://undocs.Org/ru/A/RES/68/167 (date of access: 09/15/2021).

Among members of the panel discussion "The Constitutional System and Mechanisms of Electronic Democracy" were Istvan Hoffman[28], Revekka Mikhailovna Vulfovich[29], Aleksey Sergeevich Kartsov[30], Dmitry Aleksandrovich Lisovitsky[31], Nikita Sergeevich Malyutin [32], Lyudmila Borisovna Eskina[33], Anna Konstantinovna Soloviev[34].

I. Hoffman I would like to discuss the issue of transparency and control in the system of e-democracy and problems of trust in terms of decision-making procedures at the municipal level in Hungary. It is obvious that the main goal of the system is to make effective decisions. However, trust is a key element of efficiency. During the pandemic we could see that this postulate is true, because administrative measures were more effective in the countries where public confidence in the authorities is high. Ensuring trust is an important element of public administration and activities of government bodies, including for improved efficiency.

First of all, I would like describe municipal autonomies, because in Hungary municipalities are an independent level of the management and decision-making system. Independence and autonomy of municipalities is legally recognized in Hungary and enshrined in the Constitution, the Law on Municipalities and other normative acts. The Law on Municipalities specifies issues of local importance, subject of local legislation and decision-making powers of local authorities. In decision-making processes, Hungarian legislation pursues a traditional approach of publicity and openness. People are involved in decision-making by participation in municipal committees, including as external experts at public hearings, district meetings, local assemblies, etc.

The digital age provides new opportunities to involve people in decision making. First of all, it should be noted that Hungary has an extremely scattered municipal system. Most of municipalities in Hungary have a population of less than 1 thousand people, and only about 5% of municipalities with a population of more than 5 thousand people can be considered large municipalities. It poses certain restrains on application of new management tools, because the tools require resources. Small municipalities prefer using traditional ways of involving people in governance. The main new tool is social media, in Hungary most popular is Facebook, seconded by Instagram. Use of social media in public administration is developing not only in Hungary. For example, in Western Europe we can see cases when Twitter or TikTok is used. Even smallest municipalities have their own Facebook accounts.

It should be pointed out that municipalities have full autonomy and independence in decision-making, central authorities put no pressure on them. The only thing that the central authorities insist on is the increase in publicity of decision-making at municipalities. Recently, in order to improve decision-making the municipalities have ensures a digitalization reform with application of the so-called e-government (electronic decision-making system). Even the debates were organized electronically. Each citizen gets access to a certain system, where they can participate in decision-making, discuss and make proposals.

There are other forms how to attract people into governance by using digitalization tools. I would like to give an example of the system of Budapest — the largest municipality in Hungary (about 7 million inhabitants). Budapest introduced new forms of citizen involvement in governance, such as an electronic system of civil initiatives, where open discussions are held and personal data is protected. Discussions held in this system provide municipal governments with certain guidelines in terms of whether citizens support some decisions or not.

Another form of discussion introduced at the municipal level is electronic dialogues. It is a relatively new instrument of municipal government, even within Europe. The main characteristics of this new tools for citizen involvement in governance at a municipal level is an electronic form, direct participation of all citizens, not only stakeholders, interaction with stakeholders, bringing initiatives and discussing them. During the pandemic, most powers passed to the mayors' level, but despite receiving a wide range of powers, they tried to involve people in decision-making using these tools.

R.M. Vulfovich As our Hungarian colleague remarked, new electronic tools in a broad sense make economic, financial, social issues dramatically change their nature in the cities. I would like to give evidence from Germany, a regulated country, that is, with established, stable, effective legal system; even though it experiences certain difficulties and faces new challenges, it is more established than the young developing legal system of the modern Russia. I am going to discuss the concept of a smart city, i.e. a city that should be managed and function better, effectively involve

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citizens in solving all problems by using digital technologies, it is a digital city where reality is supposed to be more ordered and, accordingly, legal regulation will be enforced better, so the system of law will be improved.

Naturally, even a possibility of solving problems in this way needs regulatory support. And this is where we start to face the problems. Because both Hungarian and Russian legal systems are young, they are still being transformed. On the other hand, they can easier incorporate new norms, including digital processes and procedures, than in a stable German system.

Berlin, the capital of Germany, is not only a land by the legislation, but also a municipality, since it is allowed to combine federal and municipal powers in one system of authorities. The city is surrounded by the so-called metropolitan region. Currently, cities in any country are large agglomerations that include many municipalities, and it takes powerful tools to coordinate all actors with powers in accordance with constitutional documents and legislation. In this area functional problems are not uncommon. For instance, the whole territory has a single transport system, that is, all mobility issues must be uniformly resolved within this territory, and legal regulation must be appropriate, otherwise integrity of the system will be impaired, mobility will not be effective.

Thus, in Berlin digital tools are in more demand than in small municipalities, where people can meet in person, get together, discuss the problems and come to some solution. In the metropolitan region, it is simply impossible to do so. Therefore, digital democracy creates a whole range of new opportunities. The most important issues of Berlin, according to its residents, are: migrants, housing, education, transport, crime. All elements city are closely interconnected. There emerges a digital citizen, whose behavior, values, needs and expectations change, for example, ideas of convenience begin to include participation in digital formats, including through social media and other options. So, the urban environment is assessed more rationally, because, on a special portal they can report a problem in real time. Of course, it requires digital literacy, which creates problems of digital inequality. It will take some efforts, both individual and public to overcome this problem.

Most cities have their own smart city development strategies, and all of them focus on citizens and their participation in the life and management of the city. A digital city is very diverse. Unfortunately, quality of life cannot be always improved though digital means, because mobility can improve if it is digitally supported, but if there are not enough vehicles, or they are expensive, or the traffic in of poor quality, a digital support can do little to improve the situation. The very concept of a smart city is a concept of modern urban development, and theoretically it should be based on a comprehensive digital structure, rather than on separated elements. The responsibility of municipalities is to create this infrastructure.

There are four German cities that lead the process. They are all municipalities. They are (Hamburg, Cologne, Munich, Darmstadt) the largest cities in Germany, Berlin is not among them, since Berlin after the merger of West and East Berlin, found itself in a difficult financial situation, which still cannot be overcome. And this is where the problem arises — digital formats require resources prior to improvement of legislation. For instance, in order to launch the Multifunctional Centers in St. Petersburg (a previous stage in improving public services) we had to amend twenty-three laws of St. Petersburg.

Naturally, new formats create both opportunities and risks. I would like give evidence from Singapore, which has reached great success in pursuing the smart city policy, but its system is not democratic. And no matter how strange it may seem, in an authoritarian Singapore version it is much easier to introduce digital environment, everything being introduced from above. Meanwhile protection of personal data remains one of the main issues and threats of the digital city. We must bear it in mind. Also, a digital infrastructure must be comprehensive in order to be operable, since a few “smart” bus stops, etc. will not create a “smart” city.

A.S. Kartsov In my opinion, e-democracy makes a certain ever-increasing impact on the constitutional system. We need to figure out what this impact is and how the constitutional system and the mechanism of e-democracy relate to each other. There are obvious pros and cons here. As for advantages, they include: increased accountability, comfortable environment, increasing creativity of the public management influenced by fresh ideas penetrating through membranes of e-democracy. If we talk about the constitutional and legal level, the prospect is optimism in terms of constitutional identity, because intensive electronic surveys of electronic democracy can be treated as verification of whether values, attitudes are an integral part of national and constitutional identity, and results could be taken into account by the Constitutional Court when it identifies enforceability of a decision made by an interstate body in terms of constitutional requirements and identity.

So, further on, it might be possible to expand the evidence base for the constitutional normative control thanks to electronic surveys. We interpret constitutional identity similarly to the Constitutional Court of Germany in its decision on the Lisbon Treaty of 2009, by emphasizing the external aspect — there are basic principles, primarily in terms of guaranteeing human rights, which are above all, even above international obligations, therefore international law must recede if there is a conflict between integration law, supranational obligations and fundamental principles of the legal system, related to protection of human rights.

However, in European legal thought, constitutional identity is also interpreted in an internal aspect, namely as supra-constitutionality, that is, not only limitation of supranational subjects that try to affect law enforcement or national regulation, but also limitation of a legislator and its powers, based not only on the text of constitutions, but also on constitutional identity, which sets a firm limit of rule-making activity. In this regard, e-democracy can consolidate efforts,

since it is possible to create a software environment allowing constant comparing and monitoring every public-power action of elected officials and their election programs or public promises.

Apart from that, it is possible to track compliance with all procedural requirements when making public decisions and actions. Perhaps, it will be possible to create a bot for each voter, authentic to their political preferences, with personal data of the voter protected under the token algorithm, the bot will notify the voter about actions of all officials or those whom he voted for, with an option to respond to these actions in case of discrepancy between what was promised and what was performed through the so-called negative vote (social rating system assessing activities of rulemakers, sometimes called electoral credit).

Even now, by going to the website of the State Duma, you can get comprehensive information about how a certain deputy voted. If this deputy is a single-mandate member, they are given a certain number of points depending on the number of conditional votes that can be withdrawn. To a certain extent in can be compared with withdrawal of a general power of attorney in private law. When reaching minimal trust points, the deputy loses his mandate. Of course, the principle of a consolidated mandate and secrecy of voting is breached, but it does not seem critical, since they are only means to prevent pressure on voters and a deputy. While collective influence of voters on a deputy cannot be considered pressure, since mechanisms of direct democracy are primary against the mechanisms of representative democracy.

Representative democracy has a subsidiary nature against direct democracy, that is, inferior in cases when direct democracy can be implemented. We must bear in mind that the Russian Federation has a republican form of government, not elective monarchy; therefore expansion of direct democracy cannot be limited by references to prerogatives of a representative body, status of deputies and separation of powers. But there are a large number of e-democracy risks, namely whether the tools of e-democracy will add to the inventory of imitative democracy, whether another pole of e-life will — repression and incessant invasion of privacy — will emerge, and much more.

D.A. Lisovitsky For several years I worked as a full-time legal analyst in the Statutory Court of St. Petersburg. It is a body that resolved cases under of the Charter of our city, but at the same time it was presumed that the Charter has aspecial legal immediate relation to the Constitution of the Russian Federation.

Therefore, before resolving the case, we must identify the relation between the Charter and the Constitution, in fact, how constitutional meanings are reflected and developed in the Charter. To do so, the legal analysts used legal technologies (legal databases with search algorithms). First, they determined a similar legal situation, as close as possible, then the principle(s) that the Constitutional Court uses in this case, and then established conditions for operation of these principles. As a result, a concept was formulated.

So, application of technology by an algorithm, they, in general, formed a model of a court decision. It should be pointed out that the Statutory Court did not have a lot of cases and specialists could spend lots of time on such analytical work. If there were time pressure, of course, these manipulations should have been performed much faster, using algorithms and processing relevant data as much as possible. So, automation must be upgraded. In general, most of the statutory, constitutional courts in the Russian Federation, legal researchers who prepare scientific developments and practicing lawyers work on the same principle.

To upgrade automation, first of all, we need databases and principles of their construction to speed up and complicate processes of information processing. We also need processing technology. For instance, the National Strategy for Development of Artificial Intelligence (AI) for the period up to 2030 formulates the concept of AI as a set of technological solutions that makes it possible to imitate human cognitive functions, including self-learning and search for solutions without a predetermined algorithm, and to obtain, when performing specific tasks, results at least comparable to results of human intellectual activity. Neural networks are one of types of machine learning, which are designed, among other things, for self-learning, identifying patterns, generalizing, etc. We already have software products, for example, Interpreter (forecaster of court decisions), Case Strategy Technology (forecast that even takes into account the personality of the judge), Watson, analytical programs Lexis, Sutyazhnik, Legal Bot, and utility programs that provide communication between the court and participants in the process, storage of information, case management, etc., which use, among other things, cloud resource mechanisms.

Thus, we are already using certain resources. So, there remains one issue: possibility of algorithmization. Algorithm is based on compliance of the search mechanism with logic of the researched material. What is algorithmization based on, if we talk about creation of such algorithms both by man and program? First, it is a methodological significance of decisions of the Constitutional Court as the background for application of an approach formulated by the Constitutional Court in the court decisions. Further, it is a normative-doctrinal nature of decisions as sources of law, that is, the doctrine is not only a result of practice analysis, but also a background for practice development. And, finally it is judicial doctrines, creation of which is being discussed, that is, "principles, concepts derived from interpretation of constitutional and legislative norms, formed as a result of several cases similar in nature. Judicial doctrine is both a legal principle and a court cases solving principle (method), that is, a typical approach"[35].

[35] See: TariboE. B. Judicial Doctrines and Practice of the Constitutional Court of the Russian Federation. Law and Politics. 2005. No. 2. P. 118-122.

If at theoretic level we can easily ollect all segments: a large database, technologies and a system or better say mechanism of algorithmization, in practice we face some difficulties. For example, if we consider the principle of maintaining confidence in the law and actions of the state — the Constitutional Court gives different conditions for its operation, depending on the situation. In one case, we are talking about introduction of compensatory mechanism, in the other case, introduction of a time period that allows adapting to new conditions, in the third case, on the contrary, the goals of legal regulation are analyzed, as a result of which it is concluded that the principle has not been violated. So what level of automation is acceptable and necessary in constitutional litigation? The question is still unanswered.

N. S. Malyutin My presentation is called: "Digitalization and False Challenges to the Science of Constitutional Law". I have a good reason to speak about it at the conference. Indeed, when we talk about jurisprudence, we must understand that, like any human science, being detached from natural laws, it is often prone to scientific populism. And we see such populism in our national scientific discourse, especially when it comes to new trends, such as innovation, digitalization. We see that as soon as the word "innovation" appeared, everything became totally innovative. The same situation is with "digitalization".

Undoubtedly, development of technologies raises certain challenges, including issues for legal science, since there are new forms of provision, implementation, and use of any legal instruments. But is it right to say that we see development of new contents of traditional universal constitutional and legal institutions that have already been developed in the doctrine? I doubt it. I want to emphasize three key problems of false challenges of digitalization. They are: digital constitutionalism, digital constitutional rights and digital or e-democracy.

For example, some studies now, including national ones, claim that we are entering the era of digital constitutionalism. But what is it? If we stick to the traditional Western European concept of constitutionalism, we can say that it is a regime where power is limited by real operation of the constitution. In fact, the idea of digital constitutionalism means transformation of the core values of constitutionalism, i.e. disclosure of the content of these values.

In general, discussion about digital human rights looks somewhat marginal, because practically it seems strange to treat digital constitutional rights as an independent block. Is it correct to say that freedom of expression on the Internet, in terms of its dogma, is different from freedom of expression in a newspaper or at a public event? It is the form of presentation or expression of this opinion that has changed. What are the main threats here? First, science considers a false subject as distinguishing digital rights as an independent category; it poses threat since it mediates an increased activity of A legislator in the field of regulating these pseudoscientific ideas. A legislator actively regulates the area of digital relations, thereby invading the fundamental rights, arguing that this is a new category of rights that requires new regulation. And this excessive regulation area creates a dramatic threat to the content of universal rights, which are enshrined in constitutions.

The second problem, which is derived from the first, is that by creating false scientific content for the category of digital rights, we blur the essence of existing universal rights, and this entails a third problem — impossibility of using ordinary guarantee mechanisms that the constitution enshrines, in particular, for these new rights. Because the state can say that these are not personal rights, but special digital ones, and guarantee mechanisms of the constitution are applied to them in a different manner.

In terms of digital e-democracy, digital environment is actively and efficiently implemented only in an authoritarian society. It happens so because the very problem of a constitutionalization of digital democracy indicates that we talk about instrumental restriction of fundamental human rights, first of all, we see in practice, when digital forms and methods of exercising rights do not become an additional guarantee, but rather replace traditional ways of exercising rights. It poses serious questions, since in this case it is only the state that influences exercise of rights, which, in general, does not correlate very well with the ideas of traditional democracy and traditional law as a limiter of freedom of the state in relation to human rights.

L. B. Eskina We have heard a lot about the digital world, but let us not forget that there is a non-digital world where a rather large part of people remains. The people are the main subject of power under the constitution, so, the digital world is only a part of the society. A significant part of people is outside the digital world. In this regard, I would like to draw attention not only to a positive effect of digitalization, but also to negative aspects that cannot be ignored. Of course, the digital society is a certain state where use of technology is increasing in all spheres, but technologies are just means to improve, simplify, and make social processes more economical, while the goal is the society itself and conditions for its existence.

Therefore, we should not exaggerate importance of these technologies; they are only an applied part of social processes, that is, development of economy, law, etc. Undoubtedly, they simplify and speed up processes, for example, a dialogue between the man and the state, legal proceedings and other processes, which include legal relations. But there emerges an issue of atomization of society. Society is differentiated into people who have and do not have access to technologies, not arbitrary, but objectively, due to education, lack of technical means in certain places and material problems.

Involving people in the digital world requires money, and financial differentiation in our society is very strong, not everyone can afford to buy facilities and spend money on their maintenance. Therefore, when the state promotes the process, it must support the process and take into account that it cannot be administratively pressed. For example, when shifting

to distance education or remote work, you must provide people with appropriate instruments. Many people are excluded from technologies due to age, education, wealth, health, etc. The second problem is that use of technologies can threaten individual freedom. A person is the main value, so the use of technologies should not lead to derogation of rights or their limitation, which we now witness.

Nowadays, society is ready to recognize that the right to personal communication integrity, privacy, personal, family secrets has an illusory nature. In this regard, it must be understood that digital technologies should not take power over a person or limit their freedom. The state must ensure clear understandable terminology. For example, people have different ideas of what e-democracy is. In fact, it is not an independent phenomenon, but a very broad correlation to a whole complex of phenomena. The basic terminology should be reflected in the legislation.

Moreover, when I was looking for the laws existing in this sphere, I found many of them for various sectors, they partially regulation the relations in question, but there is no basic legislative approach. Meanwhile, we need not only special norms, but also constitutionally significant principles, which will also be enshrined in the fundamental law. For example, suffrage is a technology, and there is a basic law with basic principles relating to suffrage. This law must define what principles the state should be guided by when using technologies to ensure the rights of citizens. The most important thing is not to forget about the person, the constitution, fundamental rights and freedoms in the race for digitalization. The law remains unchanged. Digitization does not change its essence.

A. K. Solovieva I would like to consider several problems related to the pandemic, namely powers of the constituent entities of the Russian Federation to establish restrictions in order to counter the spread of a new coronavirus infection. The issue of digitalization has collided with the issue of human rights, and the pandemic has exacerbated this problem by several hundred thousand times more. All countries have felt it, and each country got its own, sometimes sad experience. Russia has its own way of counteracting the spread of infection, which, in particular, includes decentralized decision-making on the issue. Each region can take into account its own problem, specifics and introduce its own measures. But, unfortunately, the regions acted according to a pattern, and in March we witnessed a wave of legal acts that approved restrictive measures related to coronavirus. The response of the citizens was administrative claims to the court. And almost all courts of the constituent entities faced administrative claims challenging legality of restrictive measures introduced.

Of course, citizens did not approve of wearing masks, social distancing, or restricted movements. In December the Constitutional Court tackled this issue in relation to the decision of the governor of Moscow region. The courts of general jurisdiction confirmed that orders of executive authorities are constitutional and legal. Citizens challenged these orders, referring to Article 55 of the Constitution of the Russian Federation and to the fact that the orders were introduced by the executive power[36]. Indeed, arguments that the courts of general jurisdiction relied upon are judgment-based. It took complex logical conclusions to conclude that the right to adopt such acts is associated with federal laws on emergency situations, on sanitary and epidemiological welfare of people and other laws. This right of governors was not directly enshrined anywhere. The Constitutional Court also had to apply various criteria of proportionality, extraordinary nature of the situation, need for a quick response to the situation. In such a situation, we should not have a set of judgment-based arguments, but rather a clear list of measures that governors could apply in specific situations to avoid diversity and discretion of measures in different constituent entities.

I would like to highlight the second problem generated by use of digital tools. To control the restrictions, a lot of digital measures were used. Of course, Moscow became a pioneer: digital passes, social monitoring, determining of geolocation. Other constituent entities followed closely. In April, twenty-one constituent entities of the Russian Federation applied digital passes based on the Stopcoronavirus.Governmental Services federal platform. Thus, digital means have become a serious limitation of the rights of citizens. The citizens experienced new digital burdens. Although Moscow compensated for these burdens — and handed over a device if a person did not have it, still, people had to learn how to use this device, adapt to it, etc. In this regard, a question arises how to limit the use of digital control means by the constituent entities of the Russian Federation.

The third problem is administrative liability for failure to comply with all digital burdens. They began to apply administrative liability in an automated manner. Automated decisions were taken, issued by robots that fixed geolocation in case of violation of the self-isolation regime. The question arose, whey an automated decision about civil liability was adopted without human participation. And a huge number of erroneous decisions were made. So, an automated act is already a means of bringing digitally to justice. I believe that the government should develop firm principles to limit use of digital technologies and reserve the right for a person to refuse to use technologies, because it is our right to use or refuse these technologies.

[36] The conflict arises here because in accordance with paragraph 3 Article 55 of the Constitution of the Russian Federation, rights and freedoms of a person and a citizen may be limited by federal law only to the extent necessary to protect foundations of the constitutional order, morality, health, rights and legitimate interests of others, ensure defense of the country and security of the state, and according to the applicants, mandatory masks wearing in public places prescribed by laws of the constituent entities of the Russian Federation contradicts this paragraph. See more: [Electronic resource] URL: https://m.dp.ru/a/2020/05/19/Hot_odin_umnij_nashjolsja (date of access: 15.09.2021), — ed. note.

Among speakers at the panel discussion "Digitalization of Subjective Rights: Civilistic Dimension" were Oleg Yuryevich Skvortsov[37], Georgy Viktorovich Tsepov[38], Vladimir Leonovich Volfson[39], Elena Nikolaevna Dobrokhotova[40], Andrey Yuryevich Bushev[41], Natalya Yuryevna Rasskazova[42], Elena Nikolaevna Abramova[43], Alexander Evgenievich Molotnikov[44].

O.Yu. Skvortsov In my presentation, I would like to touch upon legal and ideological issues of online arbitration. A virtual sphere now dominates and has already penetrated into dispute resolution and protection of subjective rights. It has been twenty-five years since the American Arbitration Association held its first trial and made a decision in online arbitration. What issues emerge here? I can formulate two groups of issues of theoretical and legal nature, which influence or require clarification in the ideological nature. Now that online arbitration has taken root in our lives without any regulation, all arbitration institutions functioning now use technology, online litigation, data protection, all procedures, but there is an uncontrolled development of delocalization of arbitration.

The idea behind delocalization of arbitration is that arbitration is treated as a mechanism not controlled by national legal orders. And here we come to ideological issues, the problem of finding regulation of this phenomenon. In recent years, there has been a wide discussion about relationship between international and national legal orders, which has primacy. In Russia, this discussion overcame all approaches based on unification and harmonization of legal systems. The past year shows that we are making a choice in favor of national legal orders. In the foreseeable future, world countries will not merge into a single nation, state, etc. it is evidenced by the amendments introduced into the Constitution of the Russian Federation in 2020[45].

Online arbitration conveniently matches delocalization of arbitration, affording to abandon regulation of national legal orders. New problems emerge, such as place of arbitration, (despite its seeming insignificance, place of arbitration plays a great role, as it ensures possibility of challenging or enforcement of decisions), and some other points related to execution of the arbitration decision. So far, neither doctrine nor national legal orders explains how to treat arbitration in terms of place of proceedings. This allows ignoring the New York Convention of 1958, allows avoiding national legal orders, manipulating international, conventional law. Any state will eventually be forced to regulate online arbitration, which so far remains outside regulation.

The second group of problems is related to the fact that online arbitration corrupts internal arbitration for the same reasons, allowing manipulation over jurisdiction, tools of arbitral awards, and we need regulation in this sphere, too. I doubt that in the context of ideological confrontation between countries and regions of the world, it will be possible to find conventional solutions to this issue. What will it mean in practice? Perhaps, at the first stage, online arbitration will develop uncontrollably, then there will be a stage of searching for prohibitions, and only then there will be a stage of searching for regulation and international legal mechanisms.

G.V. Tsepov I would like to remark that recently federal laws have been adopted that regulate digital rights and relevant relations. We are talking about the Civil Code of the Russian Federation, in 2019, digital rights were included in civil rights[46], the Federal Law on Crowd Funding[47] and the Federal Law on Digital Financial Assets[48]. Digital rights were considered as objects of civil rights, together with non-cash funds and paperless securities and classified as property rights.

Indeed, digital rights have developed the idea of non-certificated security, and these objects of rights are very similar generically. In accordance with Article 128 of the Civil Code, digital rights are obligations and other rights, which content and conditions for exercise are determined by the rules of the information system that meets the legal criteria. Digital rights have the following characteristics:

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45 It refers to amendments into the Constitution of the Russian Federation approved by the popular vote on 25.06.2020 — 01.07.2020, primarily Article 79 of the Constitution of the Russian Federation, which states that Decisions of interstate bodies adopted under international treaties of the Russian Federation in the interpretation opposing the Constitution of the Russian Federation, shall not by subject to execution in the Russian Federation. — ed. Note.

46 See: Article 128 and Article 141.1 of the Civil Code of the Russian Federation (as amended by Federal Law No. 33-FZ of March 9, 2021). Law Code of RF. 1994. No. 32. Article 3301; 2021. No. 11. Article 1698.

47 On Attracting Investments Using Investment Platforms and on Amending Certain Legislative Acts of the Russian Federation: Federal Law No. 259-FZ dated August 2, 2019. Law Code of RF. 2019. No. 31. Article 4418; 2020. No. 31. Part 1. Article 5018.

48 On Digital Financial Assets, Digital Currency and on Amendments To Certain Legislative Acts of the Russian Federation: Federal Law No. 259-FZ dated July 31, 2020. Law Code of RF. 2020. No. 31. Part 1. Article 5018.

1) need to define obligations and other rights as digital by law;

2) content and conditions of digital rights are determined by the rules of the information system;

3) exercise, disposal, encumbrance of a digital right is possible only in the information system without a third party;

4) unless otherwise prescribed by law, the holder of a digital right is a person who, in accordance with the rules of the information system, can dispose of this right;

5) assignment of a digital right under a transaction does not require consent of the person bound by this digital right.

Special laws introduced special digital rights. The first is a group of digital financial assets, which include rights, including monetary claims, rights under equity securities, rights to participate in the capital of a non-public joint-stock company, right to demand assignment of equity securities, these rights are supported by a decision to issue digital financial assets. Another category is digital utility rights, right to the transfer of items, right to demand transfer of exclusive rights to results of intellectual activity and (or) rights to use them, right to demand performance of works and (or) services. Utilitarian digital rights do not include right to demand property, the title to and (or) transactions with which is subject to state registration or notarization.

Comparing legislative acts, we can find contradictions; for instance, in Article 128 and Article 141.1 of the Civil Code of the Russian Federation. Article 128 classifies digital rights as objects of civil rights, while Article 141.1 states that obligations and other rights are recognized as digital rights. Thus, the question arises whether property rights, rights of obligations can be objects of civil rights. And here we have same problems that the civilists face in relation to the nature of non-certificated securities.

Another issue emerges: what is meant by digital law: is it the obligation right or another right considered by the information system. The wording of legislative acts has significant contradictions. For example, according to the law on digital financial assets, digital financial assets are digital rights, including monetary claims, possibility of exercising rights under equity securities, right to participate in the capital of a non-public joint-stock company, etc. However, the same law in other norms states that rights, certified by digital financial assets pass to their first right holder as soon as they are entered into the information system, etc. That is, in fact, digital rights are understood as rights that certify something.

One more issue to be discussed: can a digital right exist in an information system. If we consider the law on attracting investments by using information platforms, paragraph 7 Article 8 of the law has the following wording: emergence of a utilitarian digital right, its implementation, disposal, etc. is only possible in the investment platform. But subjective civil law is a measure of possible behavior of an authorized person enforced by law. Subjective civil law is an element of the legal system, and it can only be fixed by the informational legal system, but by no means emerge.

The next issue to understand is what is meant by exercise of digital law. Mind you, in accordance with Article 141.1 of the Civil Code implementation of digital law is only possible in the information system without a third party. In this context, taking into account general concept of exercise of civil rights, exercise of a digital right should be treated as actions of an authorized person, which means that an obligation can be fulfilled by the debtor outside the information system. It is important, because, among other things, utilitarian digital rights involve transfer of items, etc., which, in principle, cannot be done within in an information system. There are other problems with exercise of digital rights, for example, how exercise corporate rights to participate in the general meeting of shareholders of a non-public joint stock company and vote at it. Theoretically, we can imagine that the general meeting will be held through an information system, and voting — by filling in certain electronic forms, but is it really what the legislator had in mind?

Finally, there is the issue of who the third party is, and whether the information system operator is a third party. What will happen in case of death of a bound person, or a reorganization / liquidation of a bound legal entity, can assignment of debt be allowed, what will happen fter damage or destruction of the information system. And finally, a few more questions. If there is a digital right, then can there be digital obligations and a digital legal relationship? If there is a digital law, then can there be a “letter” law, how appropriate is the term “digital” in this case and what is meant by it? A digit is a system of signs, like letters, a digit is an ideal object. What is the essence of digital law? Probably, we can conclude that the idea behind the so-called digital law is fixation of subjective civil law in an information system that allows automatic data processing (however, this definition is not enough, since any scanned contract could be considered a set of digital rights and obligations); therefore, fixation should be made by cryptographic methods.

I think that it is also necessary to distinguish between digital rights and assets, a digital asset is an intangible asset, its existence ensured by cryptographic methods, for example, digital currency, and a digital right is a subjective right that exists not in the information system, but in public legal consciousness, and this is a subjective civil right, a fixation method provided by cryptographic methods.

V.L. Volfson: Indeed, some problems do not have solutions in legislative novels or doctrinal proposals that accompany these novels. In terms of implementation of civil rights, I rely upon the fact that if subjective rights arise from positive legislation, they arise as a result of the so-called imputed interest. This imputed interest is kind of a counterpart of real interest of participants in legal relations. This raises the issue of abuse of civil law.

As far as contractual legal relationship is concerned, the origin of subjective law is different. It arises due to balance reached by the parties to contractual interaction for their own interests. The main thing, as always in civil law, is a private interest that needs to be expressed and protected. Let’s consider how the category of interest is implemented in laws

or doctrines that accompany the discourse of digital rights. Let's start with fixation or verification of digital rights. It is well known that in the blockchain system they are fixed by efforts of miners, using the time stamp technology, and then there is a sequence of entries in which each new entry has a unique cryptographic identifier "hash".

So, it is considered that verification has taken place, i.e. a record that, from the point of view of supporters of digital rights, is not only a perfect identifier, but also brings out irreversibility, since nothing can be changed, any interference compromises the entry. Apart from that, there is a kind of mathematical notation which helps to solve a specific problem. So, we see that digital rights in this context have properties of a specific verification using mathematical notation, their value is a mathematical formula itself, and the most important property is that they are irreversible and cannot be changed.

We can compare it with the classical theory of interest, since interest is a dynamic and human category, and it is the same in contract law. The principle of *Pacta sunt servanda* is relative, and there are ways to overcome contractual terms both by using the doctrine of changed circumstances, beyond the will of the parties, and by more private methods, like by refusing or suspending counter performance. These are dynamic categories that are difficult to take into account, because they are based on dynamics of the changing interests of the parties.

Another issue that arises and is directly related to verification of a changing interest, is a linguistic problem. We understand that a contract is a fully agreed, identical will of the parties, the will of the party expressed in the contract based their personal understanding of that interest is in contractual terms. This ability to recognize and express interest makes a linguistic problem in terms of comprehending these means of expression. According to supporters of digital rights, Article 431 of the Civil Code is not applicable in this case, since digital rights can have a mathematical expression and, therefore, philological methods of interpretation are irrelevant here.

I cannot agree with it, since linguistic analysis of the text is important, together with the contextual aspect of interpretation. For example, imagine an agreement where the parties used the word "dial" when describing a method of exchanging information, we, as native speakers, understand that this is vernacular, however, we understand the meaning of the word. But this word may not be verified by a program, which in this case is likely to fail.

One may also recall the famous British case of Garner v. Burr[49], in this case the courts analyzed the meaning of the word "vehicle", according to the law, a vehicle should not appear on highways if it had wheels not covered with tires. A tractor drove onto the road with a chicken coop trailer, which had wheels not covered with tires. The Court of Appeal recognized the police had acted correctly, and in the context of this rule, the chicken coop is a vehicle. These linguistic problems have no solution in the concept of digital rights.

E.N. Dobrokhotova Now we witness digitalization of not only economy, but of all spheres of public life, and the question arises — what about professions or systems where there used to be professional person-person communication, and now a program, a technical tool has appeared, and we meet a person only indirectly. Under these conditions, I would like to raise an important topic of the need for a serious change in approaches to the status of a teacher influenced by digitalization in education. We have different names for those who perform educational activities, now they perform it against digitalization of all spheres of life through information technologies based on digital environment, platforms; now even artificial intelligence is included here.

In education, we have teachers, educators, lecturers, tutors, there is a nomenclature of educationalists, which is still centrally approved, despite the market economy, which declares economic freedom and independence in self-identification and in choosing areas of employment, -legal forms and tools for self-identification. The pandemic provoked dramatic changes in employment. For example, at the end of the Soviet period, 70% of all people were employed in the sphere of hired labor, now out of 147 million of the population of the Russian Federation, only 71 million are employed at all, of these, about 30 million people are beyond the sphere of labor legislation[50] in the Russian Federation, according to the report of professor Khnykin at the Pashkov Conference. This data needs to be checked, because, according to Rosstat, there is combined employment, when people are both employees and work under a civil law contract.

In general, digitalization led to a massive outflow of people from the wage labor sphere to the self-employment sphere. There is no need to overdramatize the situation, because it is only an initial stage of the outflow. I do not think that the sphere of labor legislation and social security legislation will affect less on selection of forms of employment, types of professional self-identification, of a professional teacher, master, expert. Now in the nomenclature there is no position of a master, rather it is called now a workload operator, routine nature in and raising doubts about importance and necessity for unambiguous interpretation in terms of content of class activities of a teacher.

I would like to emphasize that even in higher education there is the term — scientific and pedagogical fellows. This generic category is not divided into scientific and pedagogical subcategories, but rather into researchers and faculty, in the latter there are, first of all, assistants who have very little independent work and low level of skill, independence and expert nature, as discussed above. It all applies only to professors, true experts, who even have independence in scientific research.

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[49] Garner v. Burr [1951] 1KB 31.

[50] See: Khnykin G. V. Social and Labor Rights: Position of the Legislator and Practice of Implementation. From Social Rights to Social Law (VII Pashkov Conference). Ed. A. V. Kuzmenko. St. Petersburg: Center for Social and Legal Technologies LLC, 2017. P. 169–170.

In their turn, associate professors, being actively involved in educational process, participate in research. And, at the same time, there are scientists who can participate in training sessions, which is a pedagogical activity.

In terms legislation on education, the status of a teacher should be rebranded, because Article 48.3 of the Federal Law on Education, states that the law traditionally speaks about teachers in a classical way, howevee, in fact this articles proves that there are various forms of attracting teachers. Can it happen that in an educational institution people working under contracts of a different nature (labor, civil law, service contract), have different responsibilities against students? I guess not. Their mastery and mentorship rely on usurpation of academic rights and freedoms, formally assigned to the teaching staff, but in fact usurped by an educational institution, which greatly limits possibilities and freedom of choice of distance learning tools and software, which could have been installed and offered to teachers, despite the legal nature of their contracts.

A. Yu. Bushev In its attempt to regulate a sphere of relations, a legislator first of all must select terminology. This is where any discussion should start. Currently the legislation is in discord. Such concepts as digital and electronic rights are not separated, sometimes the law uses the phrases the term "owner of the right", and in some cases it is "holder of the right", which is closer to terminology of proprietary law. Previous present remarked that discussions around digital law are very similar to those that about non-certificated security.

I agree that in most cases digital rights are a new or special form of a right, right of claim, first of all. This is how the Civil Code defines the concept of digital law, and in special laws, digital assets are defined through various types of rights. Another group of digital rights is utilitarian digital rights and other rights. As for digital assets and utilitarian digital rights, I believe that to a large extent it is a special form of fixing the right, certifying the right, as happened with non-certificated securities.

I am sure that digital rights are not limited only to fixation. For example, digital currency, in my opinion, is a special, new object of civil law. It is not money, the law directly says this, it can be used as a means of payment, although other objects can be used as a means of payment, too; that is, there is nothing new in this respect, but how these rights arise and are implemented? If we analyze their characteristics, we can talk about a new phenomenon. Digital rights arise in an information system, on a certain platform, a distributed register system, when participants may not know who is who. And, perhaps, the most interesting thing is that Article 1 of the Federal Law on Digital Financial Assets, which defines digital currency, says that, apart from being an aggregate of electronic data, it is an aggregate which has no person liable against each owner of electronic data, except for the operator and (or) operating system nodes.

So, we have a phenomenon when there is no bound person, but digital currency, which is not a monetary asset, does not have a debtor (a government agency, another person in civil law relations). And I think we can talk about a new element that allows us to identify a digital currency as a specific object of civil law, a type of digital asset. I would like to point out that the list of types of digital assets is not exhaustive, legislation continues to develop, and it uses the wording "and other rights". Therefore, there may appear other similar phenomena, which can, at least conditionally, be considered as objects of civil law.

Hence, digital rights are a way of fixing an existing right in a new distributed register system, but at the same time, it is also a new object of civil rights in relation to certain of digital assets.

N.Yu. Rasskazova What is digitalization of rights? How to find the answer? Digitization cannot be confused with automation. Examples show that digitalization on the Internet, in common meaning is treated as automation, new technologies. We used to count on the fingers, then on abacus, calculators, computers, now new technologies have come. And what is changing for civil law? It seems to me that if we are talking about digitalization as the need to accept new technologies, we must agree that reaction of civil science to any new technologies is standard.

Firstly, regulation is supplemented in terms of obligations, for example, the law determines the place of obligations with virtual currencies. Secondly, new technologies have new risks of violating emergence and implementation of rights. In all these cases, the legislator must decide how to prevent these new risks. Such methods may include contractual terms, administrative prohibitions, guarantees of consumer rights, etc. Guarantees can also include distribution of losses that arise due to new technologies, liability issues, method of assigning risk to a specific person, insurance, collective funds. And the last thing is creation of new requirements for standards of bona fide behavior.

We all understand that what we now call digitalization is a new kind of automation that entails depersonalization of relations, and this objectively reduces trust, while bona fide is behavior that restores trust. As usual conditions change to reduce trust, or, perhaps, on the contrary, increase trust in some area, we must create a new standard of bona fide behavior. I don't think that the legislator faced fundamentally new challenges, as they say. It is a completely natural process of following a general progress. I cannot deny that at some point, quantitative changes are so significant that we must speak of emergence of a new quality. A good example here is digital law, new law of obligations, with its characteristic of no debtor.

The issue here is whether it resembles right to things, because strictly speaking, in relation to things, there is no one who owes us. Do not prevent me from using the thing, and I will exercise my right, here it is the same. But how to avoid risks of violation of rights that have been evolving for centuries in relation to things? We need to think about it. And if the legislator does not overload the normative material with far-fetched novels, and exaggerate the problem of emergence of new objects, nothing terrible will happen, civil law will continue to develop, guaranteeing rights of citizens, protecting bona fide participants in the turnover and protecting stability.

E.N. Abramova On January 1, 2021, the Federal Law on Digital Financial Assets came into force, we expected that the legal regime described therein would be formed and defined. But as a result, analysis of the norms in this law does not provide an unambiguous conclusion either about the legal nature of digital currency or about the legal regime applicable, since the legislator described the digital currency very obscurely. Norms allow us to interpret digital currency both as information and as property at the same time, although these two things fall under totally different legal regimes. The legislator in its legal positive sticks to an informational approach, since the legal definition of digital currency tells treats it as a set of electronic data: a digital code or designation. This definition coincides with definition of information in the federal law on information — data in electronic form.

Definitions of the subject are also very similar both in the Federal Law on Information — information owner and in the Federal Law on Digital Financial Assets — electronic data owner. Thus, we can conclude that digital currency is information, according to the legislator. However, despite these directly stated terminological arguments, reading the rest of the law, we see that the legislator used a trick: although officially defining digital currency as information, it is considered more as property than information.

First, the definition emphasizes that there is no bound person in relation to digital currency. Should it be information, such issue would not arise, because with regard to information, we would not even think about any bound person. We know an object in civil law, which implies a bound person — it is a property right, which, in accordance with Article 128 refers to property. That is, the legislator understands that digital currency is property (it is not clear, however, what kind, of property; there are disputes about it, and digital currency reminds an object of property rights, although there is no physical object, but still there is something quasi-property). Secondly, the definition uses various turnovers not applicable to information, but perfectly suitable for property, for example, a stable combination as transfer of digital currency from one owner to another.

Information can be distributed, we can allow or restrict access to it, etc., but it is real and other rights to some objects that pass from one subject to another, and not information. It can be remarked that the legislator applied a transformational approach when stating that digital currency, not being property in general, in some cases turns into property for the regulation purposes, for example, for bankruptcy law, enforcement proceedings, etc. Such situation is impossible for civil law, an object cannot transfer from one class to another, and it is extremely incorrect and unreasonable to apply two different legal regimes to the same object depending on the situation. It seems that the legislation on digital currency still needs to be developed and modernized, since at this stage it is not sufficient.

A.E. Molotnikov I would like to ponder upon state regulation of certain areas of the digital economy. We can see that at every new round of scientific and economic development people talk about trigger words that stir up the minds and interests of students, teachers and entrepreneurs. Now we are talking about innovative economy, venture entrepreneurship, previously about scientific and technological revolution, etc. Recently the ecosystem has become such a trigger word. Economists and practitioners began to use it, Sberbank even made a proposal on the need for state regulation of ecosystems developing in Russia.

What is meant by ecosystems and what areas of regulation can be applied to it? It is a vivid example of transition of business from transnational to global. There are no companies that work between two nations, continents, now companies operate everywhere. It contributes to development of technology, digitalization. And in this regard, we see how various companies that started their business in a small niche, one way or another come to creation of an ecosystem that would cover not only their original direction in a certain segment of the economy, but rather maximum of elements related, among other things, to credit institutions.

For example, Facebook started as a social network, now it owns other platforms, and is trying to introduce its own currency together with the largest banks. Amazon, a site where you can order books, has become a serious competitor for retail chains, and it is trying to introduce its own infrastructure in terms of monetary operations. Sberbank enters the delivery and taxi market. Yandex enters the banking services market. We see how global corporations arise, which begin to control all spheres of life of people, other businesses and, in some areas, even the state. And in this regard, we see that public legal entities, states around the world are beginning to respond to ongoing phenomena. I think that this respond is a natural process of business development, as previously the state did not put any obstacles or provided necessary regulation to restrain this impulse aimed at expanding into various markets.

Now we can see two key approaches to regulation of these systems: Chinese and American. From the Chinese point of view, we can take the Alibaba Group as evidence, the Group was banned from issuing at the end of last year, and China decided that no matter what the system is called, if it is within a structure related to financial transactions, all operations should be regulated on the basis of principles and rules that apply to financial institutions. In this regard, China is now penalizing key companies associated with ecosystems, and is trying to regulate them.

The second approach is American. Here we see take evidence from the largest companies (Google, Apple, Facebook, Amazon), so far no measures have been taken against them yet, but we see how the Americans are trying to find appropriate directions for regulation through filing lawsuits (the Trump administration has filed a lawsuit against Facebook related to acquisition of WhatsApp, and the Joe Biden administration is not going to withdraw this lawsuit yet) and in relation to government regulation, attempts are being made to separate these companies using antitrust laws.

Now, some lawyers who represent Columbia University support the practice popular at the beginning of the 20th century, when huge railroad conglomerates were divided based on theoretical reasons; the same way new US lawyers are trying to regulate financial ecosystems through antitrust law. Law must be applied in order to regulate these large global ecosystems.

Among participants of the discussion panel "Cybercrime: Issues of Counteraction at the Present Stage" were **Vladimir Nikolaevich Safonov, Tatyana Alexandrovna Badzgaradze[51], Dmitry Nikolaevich Zhidkov[52], Anton Sergeevich Gorshkov [53], Oleg Georgievich Kuznetsov[54], Vitaly Vladimirovich Tkachenko[55], Sergey Sergeevich Malitsyn[56], Alexander Alexandrovich Popov[57], Alexey Viktorovich Korotkov[58], Tatyana Nikolaevna Dronova[59], Oksana Ivanovna Lepeshkina[60]**.

The speakers discussed various scientific and practical issues in terms of digitalization of law and order. In their presentations the speakers focused on: dynamics and countering cybercrime; issues of investigation of crimes committed with the use of information and telecommunication networks; characteristics of legal regulation in information protection and prevention of crimes in computer information; interrelation of computer and ordinary crimes; characteristics and features of detecting crimes committed electronically against minors; identification of dubious financial transactions related to commission of crimes in information and telecommunication technologies; interaction of telecom operators and competent state bodies in detection and investigation of crimes committed by using communication and information technology; property crimes using IT technologies; issues of qualification of theft with the use of information and telecommunication technologies; fraud using electronic means of payment.

During the discussions, the conference participants unanimously came to two conclusions. Firstly, digitalization of the legal order, along with progressive trends, can pose serious threats to stability of society, and law is an effective tool to prevent these threats. That is why, in the changing social reality, special efforts must be taken to improve and develop law (primarily subjective rights). Secondly, despite all dramatic changes, the essence of law remains unchanged, since man remains a holder of personal and social freedom, which must be provided and protected by law at the new stage of historical development.

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