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Digital Transformation of the Modern Russian State: Current Issues of Statutory Regulation

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Abstract

Introduction: the paper reveals essence of digital transformation of the state and its impact on Russian citizens. Taking into account modern trends in the development of information policy that meet security interests and social needs, the authors assess a new direction in the development of state information policy – digital transformation. The researchers substantiate the need to improve the legal mechanism in modern information and technological relations in terms of theoretical and legal understanding. *Task:* to conduct a comprehensive analysis of legal regulation of the institute of digital transformation of key spheres of life of Russian society. *Methods:* the article uses modern general scientific and special methods of cognition, such as analysis, synthesis, structural-functional, normative-logical, complex and legal norm interpretation methods. *Results:* an e-state reflects key functions of a modern state. A balanced state information policy can transform the state mechanism in the information space. Digital transformation is the crucial development vector of modern Russian information policy. These processes should be focused on population, in term of providing high-quality services based on information technology. The COVID-19 pandemic accelerated the pace of society digitalization, contributed to creation of a unified state system of user identification and predetermined a qualitatively new

technological development of various spheres of life. *Conclusions:* to promote an information society, it is necessary to set up an effective information protection system for individuals and legal entities. Due to insufficient development of the regulatory framework in the field of digital transformation, the Russian state and society will experience certain difficulties in the future due to the risk of information security maladaptation.

Keywords: digital transformation; information policy; digital maturity; information society; artificial intelligence; information risks; state; population; economy; penal enforcement system.

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Introduction

A modern pace of the accelerated information technology process directly affects a current state mechanism and the modern state itself. It is no coincidence that in this regard, the term "e-state" has already been firmly established and the legal basis for its functioning is being formed.

In relation to a classical idea of the state, an e-state is seen as the makeup of the first, reflecting new modern trends and opportunities of state activity. In our view, it is impossible to categorically distinguish these categories from the standpoint of the theory of state and law due to confused ideas about these institutions. Theoretical understanding of a state is wider [19, pp. 24–28] than that of an e-state. Thus, any state is forced to take measures due to optimization of its activities, within the framework of the existing information technology dependence, which we consider as a certain maladaptation risk.

The state faces a challenge to build a balanced, competent information policy that meets interests of security and needs of citizens and society. This will make it possible to implement a set of measures for gradual restructuring of the state mechanism in the information technology space.

According to M.M. Abazalieva and M.G. Pavlova, today an information component of the modern era transforms not only forms, mechanisms, impact technologies, society as a whole, but also the world of political relations, thereby determining new aspects of the study of political reality, closely related to information [1, p. 166].

Modernized state information policy should be focused on population's interests, as it is the main consumer of available information and technological resources. Priority areas of information and technological transformation of the state are the following: consideration of Russians' information needs, availability of information resources, swiftness of obtaining the information required, and free information use. At the same time, the state, as the main provider of public services, should also focus on the informative direction of this sphere development. Every citizen should know information technology capabilities provided by the state and be able to use available services. With this in mind, the state should be able to adapt to current growth of information technology processes and defend state interests in terms of its information policy.

Meanwhile, electronic governance for sustainable development (EGOV4SD) is a relatively new field that focuses on how governance can help society become more sustainable with the help of ICT. However, despite growing interest in EGOV4SD and capacities of the research field, interdisciplinary research programs (EGOV and SD) remain poorly worked out and studied, and

are still being elaborated within the framework of separate programs [29, p. 94–95].

In modern conditions, the socio-cultural network imperative for social development sets parameters for transforming the entire system of social relations and forms a new socio-cultural code for human civilization development. The trend formed at the end of the 20th century considers modern society as a network. Networks become increasingly important, they allow any business entity using information technology and located anywhere in the economic system to interact freely and at minimal cost with each other. In accordance with the network principle, economic entities build both their internal and external relations, and such processes occur in various cultural and national contexts [31, p. 65].

In our opinion, digital transformation is an important determining vector of a modern Russian information policy.

It should be noted that cutting-edge digital technologies applied in a wide variety of fields of human activity created a technological basis for the formation of a fundamentally new environment of civil law regulation [24, p. 96]. Impressive growth of the digital economy prompted a revision of classical provisions of the theory of tax law [27, p. 139]. It is also necessary to state that in modern globalizing conditions, new areas of social reality are emerging, causing expansion and deepening of legal regulation of social processes. There are new branches and institutions of law, such as, information, space, medical, etc. [4, p. 57].

Digitalization affected the social sphere as well. Digital transformation of a modern Russian society influenced domestic practices of corporate charity. It significantly expanded digital space of charity, including corporate online donation platforms, pro bono platforms, websites of commercial organizations [5, p. 93].

Regulatory and legal characteristics of digital transformation

In the Russian Federation, legal frameworks are developed to ensure digital transformation in the country. We will consider legal regulation of this area of state activity.

Digital transformation implies provision of a large number of public services. Thus, the Government Decree No. 1228 of July 20, 2021 approved [16]. At the same time, digital transformation of state and municipal services should be based on the principle of an integrated approach to solving vital problems of the population through super services.

Paragraph “m” of Article 71 of the RF Constitution stipulates that Russia shall ensure security of both society and the state as a whole, and of an individual in particular in the use of various kinds of digital technologies and digital data turnover.

To ensure exclusive jurisdiction of the state, provisions of Article 75.1 of the RF Constitution contain an important guarantee laying the basis for relationship of the state, society and a citizen. The Russian Government is implementing a set of measures to boost economic growth, social welfare, and trust between society and the state. It is important to protect dignity of society’s members, encourage respect for workers, balance between duties and rights of citizens, and promote social solidarity, including political [6].

The President of Russia in his Message points out that the Russian Constitution provides wide capacities and such foundations of the constitutional system as human rights and freedoms should remain the main value [22]. The provisions of the RF Constitution fix information society principles and constructive foundations to implement the state information policy.

The tasks to boost information development of the Russian society are determined by the RF Government Decree No. 313 of April 15, 2014 “On approval of the state program of the Russian Federation “Information Society”” [13]. Within the framework of this program, Subprogram 4 “Information state” is being implemented throughout the country. In addition, the Decree of the President of Russia No. 203 of May 9, 2017 “On the Strategy for information society development in the Russian Federation for 2017–2030”, determines conceptual foundations for further strategic development of this important activity area [10]. This Decree postulates exis-

tence of an information society in the country. It also indicates that the electronic mass media, information systems, social networks, which can be accessed via the Internet, have certainly become commonplace for Russians. It should be noted that the Russian reality is characterized by a large number of cell phones and other gadgets, as well as digital technologies.

The Federal Law No. 258-FZ of July 31, 2020 establishes the so-called "digital sandbox" mode to test various types of innovations [18]. Technologies are to be tested in certain territories or for individual organizations for further safe distribution throughout the country. This long-awaited law helps forecast possible risks in advance. Now information technologies can develop faster and more productively. So, Kaspersky Lab created a sandbox on a commercial basis to track dangerous computer programs and create antivirus databases in the future. Creation of such experimental sandboxes on a state or commercial basis will have a positive impact on the operation of the revised Russian legal system with regard to the practice of information technology breakthroughs.

According to the data provided by WeAreSocial and the largest SMM platform Hootsuite, the number of Internet users in 2021 reached 4.66 billion people, which is 7.3% (316 million people) more compared to the same period of the previous year. In 2021 4.2 billion people surfed social networking sites (by 13% more compared to the previous year), 5.22 billion people used mobile phones (66.6% of the world's population). Since January 2020, the number of unique mobile users has grown by 1.8% (93 million people). At the same time, it should be understood that the total number of mobile users had increased by 72 million people (0.9%) and reached 8.02 billion by January 2021 [3].

Thanks to the Internet, the country's economy received an income of 6.7 trillion rubles in 2020. Advertising and marketing rose to almost 350 billion rubles (by 11%) compared to the previous year, e-commerce – to more than 6 trillion (by 22%). infrastructure – to 152 billion rubles (by 20%). Most importantly, the digital content indicators went up by 44% and amounted to 123.4 billion rubles. In general, digital technologies raised domestic economy indicators by 22%.

According to Mediascope, more than 97 million people use the Internet in the country; this is almost 80% of the population who have reached the age of 12. As for intensity of digital technology use, 92% of the above persons use it daily. It should also be noted that 90% of the citizens under the age of 44 are active Internet users. Speaking about Russians aged 12–24, the figures here are off the scale and exceed 95%. According to the same analytical agency, almost 60% of the world's population (about 4.66 billion people) surf the web [2].

In order to efficiently regulate digital relations in the state, the Government of the Russian Federation elaborated and approved Decree No. 1646, which fixes a provision on departmental digital transformation programs and defines digital transformation [7].

According to this regulatory legal act, authorities will focus on changing management of state services and performance of functions through the use of information technology. It is the state who initiates transformation. All this is necessary to achieve goals, such as improving quality of the services rendered to citizens, reducing costs for entrepreneurs, decreasing pressure on public administration, facilitating tax collection procedures, decreasing dependence on foreign IT infrastructure, ensuring reliability of digital infrastructure, and most importantly, reducing excessive administrative pressure on business.

Skilled public administration of digital platform formation consists in finding a right balance between combining functionality of an industry and that of commercial players to merge them into a final platform model. This state balancing can be called orchestration [28, p. 3–4]. This public administration should be implemented to eliminate possible challenges associated with the need for organizational changes in terms of strengthening mechanisms of interstate, interdepartmental, as well as intersectoral cooperation, which can be realized simultaneously [30, p. 270–272].

Information technology processes have also affected activities of law enforcement

agencies. For example, taking into account realities of state digital transformation, a rapid pace of technological progress, spread of various threats in the field of information security, re-profiling of correctional institutions, re-equipment of production facilities, and modernization of the educational process of training highly qualified employees of the Russian penal system predetermined further development vectors of the Federal Penitentiary Service.

Section 14 "Digital transformation and scientific and technological development of the penal system" of the Concept for the development of the penal enforcement system of the Russian Federation for the period up to 2030 (approved by the RF Government Decree No. 1138-r of April 29, 2021) defines a set of strategic directions for further innovative development of the Federal Penitentiary Service of Russia. They are the following:

– updating and testing the system, end-to-end automation of work processes;

– using artificial intelligence technologies to ensure security of penal institutions;

– creating and protecting the information space of the Federal Penitentiary Service of Russia, as well as encouraging electronic interdepartmental interaction;

– working out a new methodological and technological basis for the formation of professional competencies of penitentiary system employees in the context of digital transformation;

– developing scientific potential that contributes to obtaining advanced results adapted to practical activities of institutions;

– conducting scientific research in the effectiveness of execution of certain types of criminal penalties and application of norms and institutions of penal enforcement law;

– developing video conferencing technologies during procedural actions in court sessions, as well as their use during video visits of convicts and persons in custody with relatives, organization of meetings with human rights commissioners and members of public monitoring commissions;

– introducing electronic databases into activities of penal institutions of constantly updated normative legal acts regulating rights and obligations of the persons detained in penitentiary institutions, as well as those necessary for them to protect their interests in courts;

– use of an electronic queue system by lawyers to visit their clients [14].

The Order of the Federal Penitentiary Service of Russia No. 984 of December 30, 2020 "On approval of the departmental program of digital transformation of the Federal Penitentiary Service for 2021 and for the planning period of 2022– 2023" was developed to ensure coordinated implementation of the specified directions [12].

The Presidential Decree No. 474 of July 21, 2020 defines strategic goals of digital transformation, such as introducing digital technologies in the social sphere, raising a number of social services that can be provided online to 95%, providing up to 97% of households with high-quality Internet access, and increasing funding for promotion of digital technologies by 4 times compared to 2019 [8].

It should be noted that the COVID-19 virus pandemic accelerated the society digitalization process; it contributed to formation of a uniform user identification structure, created "digital rails" for ongoing business processes, and introduced artificial intelligence in daily lives of citizens.

Russian legislation defines digital maturity as the most significant result of digital transformation, that is, transition to management decisions through digital analytics. At the same time, the President of Russia formulated conceptually important instructions for elaborating digital transformation strategies.

What is more, the Russian Government launched a long-term strategy for digital transformation of 10 domestic economy spheres and management to achieve digital maturity, implying the use of high-quality Russian software created with the help of artificial intelligence. Authorities of Russian regions were instructed to develop regional digital transformation strategies [21].

The Government of the Russian Federation prepared a draft Unified plan to implement state tasks related to development of the Russian Federation up to 2024 and planning of consequent measures up to 2030. The RF

Government was to approve these goals up to October 1, 2021, ensuring inclusion of strategic socio-economic initiatives [20].

The draft plan duplicates national development goals of the state enshrined in Presidential Decree No. 474 of July 21, 2020, namely, creating opportunities for encouraging people's accomplishments and self-realization, implementing digital transformation, promoting entrepreneurship and a safe environment for life, as well as taking care of people's health. It addresses current challenges, in particular, technological ones. There is a direct dependence of the Russian economy development and management on the speed of information technology introduction. It is new technologies that should trigger positive changes in quality of life of the population and become a breakthrough in various spheres of life and governance. The plan contains markers and statistical indicators of measures to achieve all the goals set in the Decree stated above [23].

Regulatory and legal support of the learning process and requirements for digital transformation managers at different levels.

For successful implementation of digital transformation, it is critical to establish a new position or state body, such as a head of digital transformation of authorities at federal and regional levels.

The Ministry of Digital Development, Communications and Mass Media of the Russian Federation issued a regulation stipulating requirements for candidates for the position responsible for digital transformation, as well as testing for managerial knowledge. This position implies skills, such as purposefulness, high intelligence, communication skills, competence, as well as knowledge of IT infrastructure and digital technologies. They are tested by highly qualified experts in the 3-stage procedure.

Stage 1. Assessment of managerial capacities, in particular, analysis skills, leadership abilities (i.e. to motivate people to follow his/her lead, charismatic qualities, intelligence, sense of duty), willingness to develop (openness to innovations, readiness for criticism), communicative abilities (persuasiveness, the way he/she speaks), as well as emotional stability, high efficiency.

Stage 2. Identification of knowledge and experience specifically in the digital sphere, with competencies being assessed in an interview from 0 to 3, where 0 is not a manifested level, 1 – a basic level, 2 – a qualified level, and 3 – an expert level.

Stage 3. Organization of a meeting with the Minister of the Ministry of Digital Development, Communications and Mass Media of the Russian Federations. At this stage, it is necessary to formulate criteria for the effectiveness of activities that are required to be achieved in this position with regard to 3-year goal setting.

In 2019, the Training Center for Managers and Teams of Digital Transformation (hereinafter referred to as the Center) was established at the premises of the Russian Academy of National Economy and Public Administration under the President of the Russian Federation to train personnel managers in promotion of digital transformation. The main task of the organization is to train both state and municipal employees who are responsible for digital transformation and improvement of Russian authorities. The Center also conducts expert and analytical activities and promotes digital transformation.

In 2019–2020, more than 20 thousand civil servants underwent courses at the Center, in particular, ministers, deputy governors and deputy heads of services, as well as state and municipal civil servants.

In 2021 there were 4 training programs. The retraining program "Head of digital transformation" was completed by 50 civil servants, such as deputy ministers, heads of services and their deputies. It should be noted that about 1,000 people were engaged in the advanced training program "Implementation of digital transformation projects", more than 6,500 municipal and state employees in the program "Digital transformation and digital economy: technologies and competencies", and about 5,000 state employees (deputy heads of the department and those with a higher position) – the program "Fundamentals of digital transformation" [26].

Digital transformation and digital maturity.

To determine a level of digital maturity at federal and regional levels, the Ministry of

Digital Development, Communications and Mass Media of the Russian Federation elaborated a methodology for different spheres of life. It distinguishes indicators of achieving digital maturity at regional and federal levels [15]. At the federal level, the following areas of state development of indicators of digital maturity are taken into account: social sphere, environmental sphere and environmental management, energy, finance, production, agriculture, construction, public administration, education and science, transport, healthcare, urban planning, etc. At the regional level, they are public administration, education and science, transport, urban planning, and healthcare.

In order to better implement digital transformation projects at the regional level, it was possible to adopt regional long-term planning documents, for instance: the Strategy for digital transformation of socio-economic activity of the Novosibirsk province for the period up to 2024, Concept for digital economy development in the Perm Oblast in 2018–2024, Strategy for information society development in Tuva up to 2030 "Digital Tuva"; Concept for digital development of the economy in the Udmurt Republic within the framework of the national program "Digital economy of the Russian Federation" for 2019–2024.

The RF subjects worked out and approved regional strategies for digital transformation of key sectors of the economy, social sphere and public administration (4,663 projects). They include digital transformation areas, such as communication routes, urban planning, public administration, education, social sphere, and healthcare.

The above strategies were coordinated with the responsible federal executive authorities. On average, they included 10 industries and 50 projects. Among RF subjects, the Perm Oblast included the greatest number of different industries (18), followed by the Republic of Chuvashia (17) and Zabaykalsky Krai (16). As for projects, the Chuvash Republic holds the palm of leadership here (128 projects), followed by the Republic of Tatarstan (102) and the Murmansk Oblast (96) [25].

It should be noted that the Presidential Instructions of December 31, 2020 approve strategic directions in the field of digital transformation of public administration. To implement them, it is necessary to adapt introduction of artificial intelligence technologies and actively use radio-electronic products [17].

Successful digital transformation requires solving a number of urgent problems. To begin with, a lack of statutory regulation can hinder automatic collection of socio-economic indicators, as nowadays legal entities are not obliged to provide such information to the authorities. Besides, there is a shortage of necessary domestically produced equipment for processing remotely collected information. Employees have a low level of competence and skills in the digital sphere. What is more, dependence on the supply of foreign equipment and related risks in the field of digital security is obvious.

Formation of a digital society is based on ensuring protection of every citizen and all legal entities; leakage of protected information is unacceptable. For instance, the decision of the Constitutional Court of Russia No. 1158-O dated May 26, 2016 [11] established that Article 7 of the Federal Law No. 152-FZ of July 27, 2006 [9] stipulating the obligation of operators or other persons not to give information to third parties without consent of the subject of personal data does not contradict Part 4 of Article 29 of the RF Constitution. In this regard, it is illegitimate to give out information to third parties concerning citizens' private life, which is not subject to state control.

Conclusion.

Modern development of an information society, of course, involves protecting every citizen and legal entity. In view of insufficiency of the regulatory framework for regulating digital transformation, we find it difficult to create conditions that ensure information security of all participants and all spheres of life of society and the state.

Systematic and adaptive support of information and digital technologies in the state mechanism requires consolidated participation, experience exchange and responsibility of all subjects of information relations. These criteria should be determinative for creating an optimally functioning electronic Russian

state. An e-state model will depend on the specifics of digital transformation, availability of its qualitative and quantitative characteristics, sufficient level of regulatory support, risks and threats emerging in social life and its interaction with the state.

Digital transformation requires trust of the entire population. For the system to be effective, we need a high-quality information environment that is able to anticipate the onset of various information technology risks in advance, localize them, reduce negative consequences and manifestations [32, pp. 101–102]. Mutual trust, common understanding and new opportunities for joint production of public goods are formed in the environment enriched with new digital technologies. Law in these difficult conditions should act as a trigger for comprehensively developed support of a digital transformation institute. Time will show whether this process is successful and affordable. It will change the content, and the content will determine the quality.

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