

Digital law and activities of Russian and foreign public organizations

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Abstract — Modern society is inextricably linked with the digital reality, in which technological aspects often become decisive in the field of politics and rulemaking. Digital law, in a broad sense, is not legislatively secured in Russia, but digital human rights, as fundamental rights in a digital society, certainly exist and are subject of protection from public organizations. Based on theoretical research and international legal acts, digital rights are understood by the authors as specification of universal human rights in the digital age. The Article describes the activities of Russian and foreign public organizations that aim to protect digital rights. The research made it possible to offer a classification of such organizations on three characteristics and to draw conclusions about the degree of development of Russian public associations in this area.

Keywords — digital law, digital rights, universal human rights, digital rights protection, public organizations, classification.

I. INTRODUCTION

Despite the absence in Russian legislation of the normative securing of the concept of "digital law", it is impossible to comprehend modern society without a digital right.

Russian legislative initiatives to secure digital rights failed so far, which, on the one hand, is due to the narrowness of the proposed statements, and on the other, the blurriness of definitions that do not allow to interpret the proposed innovations unequivocally. Thus, the draft of Federal Law No. 424632-7 "On Amendments to Parts One, Two and Four of the Civil Code of the Russian Federation" [1] was first presented in early 2018 and successfully passed the first reading, that is, was supported at a conceptual level, however "Digital law" in the terminology of the project was related to electronic means, i.e. what is known as a token. In fact, it was a question of non-documentary securities, allowing to consider them as an object of civil law. By the third reading, which took place on March 12, 2019 [2], the bill has undergone significant changes. Thus, the law, which was encouraged by the Federation Council on March 13, 2019, provides for the securing of the basic definition of "digital law" in the Civil Code. Digital rights are rights, the terms of which are determined by the rules of the information system, which allows to protect citizens and legal entities that carry out transactions with digital rights, besides, the range of transactions related to simple written form of transactions expands - remote transactions are added to them, conditions for the use of smart contracts are determined. In the near

future, it is also planned to consider bills regulating other legal norms related to the digital economy [3].

However, in our opinion, the concept of "digital law" should not be limited to electronic means of payments and electronic transactions, the meaning of this concept can be much broader, defining the ideological and methodological approach to legal research.

II. RESEARCH METHODOLOGY

The importance of compliance with digital rights, as a set of specified basic rights of a person and citizen in the conditions of the development of digital technologies is secured in a number of international legal acts.

The Okinawa Charter of the Global Information Society, adopted by the G8 heads of state and government on July 22, 2000, noted that all people should be able to enjoy the benefits of the global information society and freely share information and knowledge [4].

On December 18, 2013, the General Assembly of the United Nations adopted resolution A/RES/68/167 "The right to privacy in the digital age", which states that in the context of the global and open Internet and the rapid development of information and communication technologies, including the right to inviolability must be protected both off-line and online [5]. Under this resolution, all states are called upon to respect and protect human rights in the context of digital communication and to take measures to prevent violations of these rights.

T.Ya. Khabrieva and N.N. Chernogor notes that the following relations require regulation in the new conditions:

- the relations of "digital persons" and their correlation with real persons;
- relations associated with legally significant identification of a person in a virtual space;
- arising in the implementation of digital rights;
- associated with the use of robotics;
- relations of virtual things (including cryptocurrency);
- associated with the use of information databases;
- actions in the virtual space, automated actions [6].

Digital law, thus, can be interpreted as a branch of law, combining the standards, regulating the above types of relations.

There are certain contradictions between the broad interpretation of "digital law" and the national program "Digital Economy of the Russian Federation". In the Program, a big role is played by the normative regulation, but it is

implied as a tool for securing the digital economy. Indeed, the bulk of majority of the activities of the Program cannot be carried out without an appropriate normative basis, and there is no provision for “digitization” of the law in the sense of updating it in accordance with the digital reality. That is, this issue is not considered to be of paramount importance from the part of the superior state bodies. In part, this may be due to insufficiently extensive theoretical toolset developed by domestic legal scientists, in contrast, for example, to the degree of elaboration of the subject of the digital economy [7], which, at first glance, is of a more applied nature.

Digital rights included in general digital law, in turn, constitute a specification of universal human rights in the information society, which are guaranteed by international legal acts and the Constitution.

Thus, an attempt can be attempted to mental “digitalization” of certain rights that are guaranteed by the Constitution. So, the right to privacy (Article 23) can be interpreted as the right to privacy of correspondence, negotiations on the Internet, using web services. The same applies to Art. 24 on the collection, storage, use and dissemination of information about the private life of a person. Freedom of thought and speech, guaranteed by Art. 29 should also apply to the search, receipt, transmission, production and dissemination of information on the Internet. These and many other rights, secured in the Constitution of the Russian Federation, can and should be the basis of human and civil rights in the digital age.

Thus, by digital rights we will mean “digitalized” universal human rights. On the basis of this understanding, cases of digital rights protection by public associations in Russia and abroad will be further considered and comprehended.

III. RESULTS OF THE RESEARCH

The need for “digitalization” of law is dictated by modern social relations. Digital rights are subject to protection by public organizations, which states a specific task for the legislator, which is to define and normatively secure these rights and, accordingly, to limit their specificity.

In our opinion, a public association (organization) is a voluntary, self-governing, non-profit organization within the structure of civil society, created on the initiative of citizens or their associations, united on the basis of community to achieve socially beneficial goals, mainly in the spiritual, cultural and political sphere of society [8].

Historically, the process of protecting rights that are not yet legislatively secured is quite natural. So, it is enough to give an example of the struggle of women's public associations for the suffrage in Russia. After the Manifesto of 1905, when women did not get equal rights with men, public organizations were created, the most famous of which is the Russian League for Women's Equality, which fought for equality regardless of gender and, of course, the right to vote. Activists noted that various women's issues are discussed in legislative institutions, but women do not have the right to participate in these discussions. In addition to the League, there were other women's public associations that collected signatures in support of equal rights, carried out educational work. During the February Revolution of 1917, the League of Women's Equality passed a resolution demanding political

rights for women to the Provisional Government, then a demonstration was organized, in which about 40 thousand people took part [9].

The activity of women's social movements resulted in several documents that secured universal suffrage — the Provision on elections to the Constituent Assembly and the Decree on the production of elections of public city councils and on local city administrations, adopted by the Provisional Government in 1917.

For example, in May 1917, for the first time, women took part in the election to district dumas of Petrograd on equal terms with men, and 5% of women were elected at the election to the central council of Petrograd [10].

Returning to the protection of digital rights, it should be noted the very active work of public associations in this area. As an example of the activities of public associations, consider the recent events and organizations, that took part in it.

On March 10, 2019, in Moscow, the Libertarian Party of Russia and the Internet Protection Society organized a meeting against the isolation of the Russian Internet [11]. Officially, the goals of the meeting were a demonstration of citizens' disagreement with the socio-political course of the government, in particular, with the bill on the “sovereign Internet” [12] and the growing censorship on the Internet. That is, in fact, it was about guaranteeing the right to freedom of thought and speech on the Internet, which was opposed to the desire of legislators to create protective measures to preserve an independent Internet space. It is worth noting that the protection of digital rights of citizens is prescribed to States by the resolution of the UN General Assembly “The right to privacy in the digital age”, which was mentioned above.

The libertarian party of Russia was established on April 15, 2008. The political platform of the party is based on the philosophy of libertarianism, which supposes that a person belongs only to himself and the freedom to dispose of himself and his property, if the methods of disposing do not harm other people and their property, while no one has the right to hinder a person in this activity [13]. The libertarians' program, supporters of the minimal state, organically fit the ideas of protection from, in their opinion, excessive state control over the Internet. The libertarian party is a traditional political party that has a much broader program, not limited to protecting digital rights.

The non-profit organization “Society for the Protection of the Internet” (OZI), the sponsor of the meeting on March 10 perform against the “censorship, over-regulation, administrative arbitrariness” Among the projects of the society are the Internet repression map, the Internet Freedom Index, the connectedness index, which measures the connectivity of the Russian Internet segment with the outside world, in fact, its isolation [14]. Thus, OZI specializes in measuring the degree of freedom of the Internet and, through it, on the degree of observance of the digital rights of Russian citizens.

Information support for the meeting was provided by the public organization Roskomsvoboda, created on November 1, 2012, whose activities “are aimed at countering Internet censorship, as well as promoting the ideas of freedom of information and self-regulation of the Internet industry” [15]. Roskomsvoboda monitors legislation in the field of Internet regulation, protection of the rights of users and owners of

blocked sites. Among the projects of the organization are many educational ones - the Digital Rights Center, the VPN services site, conferences, information security methodological materials, the organization's campaigns are aimed at protecting individual citizens and protecting individual rights, for example, copyright in the digital age, and web services, for example, Telegram, blocking which, according to representatives of the organization, violates a number of constitutional rights of users of the Russian Internet.

Another information partner of the meeting is the Pirate Party of Russia, which is not an official registered political party but has a regional representation and an impressive number of members. The pirate party stands both for digital rights: freedom of distribution and access of citizens to information, incl. on open data from the state, the right to communicate with the state using modern technologies, privacy in the digital space, the right to participate in governing the country in the form of direct e-democracy, freedom of speech, free use of cryptocurrency, and for "traditional" rights: the right to unconditional basic income as a social guarantee, patent law reform, copyright reform. Thus, the Pirate Party also does not concentrate only on digital rights and is part of the world movement — Pirate International, i.e. international association of pirate parties that advocate respect for privacy rights, incl. on the Internet, the reform of copyright and patent law, which would allow the free non-commercial exchange of information [16].

However, pirate parties in Europe are at a qualitatively different level of development and, with varying degrees of success, participate in elections at all levels, from the municipal to the elections to the European Parliament.

Among public associations that work in the field of digital rights protection in Europe and the USA, we can highlight the Internet Society, whose headquarters are in Washington and Geneva, and regional offices are located in Africa, Latin America, the Pacific, Europe, the Middle East. The organization was founded in 1992, the main task is the availability of the Internet for all, which means not only creating and maintaining technical conditions for the functioning of the Internet but also promoting the Internet as a means useful for people around the world and the Internet as a self-regulating system. In 2018, financing was provided to 74 countries, more than 1,700 people were trained in technical skills, a program for representatives of the executive authorities of 29 countries was held, an annual Internet Governance Forum was held, which addressed human rights challenges in the digital environment, security and privacy, and infrastructure development [17].

Thus, the activity of this organization is aimed at expanding the access to the Internet for all people as a benefit of digital civilization. The main topic of the Internet Society's educational work is Internet governance, which, according to the organization's representatives, cannot be regulated from top to bottom, but should be managed on the basis of involvement and consensus of all interested parties: users, business and state.

Another organization performing activity in the United States and Europe is the Center for Democracy & Technology. The center works to preserve the Internet under the control of

users, second laws and technological tools that protect the privacy of users and advocates greater regulation of government interference in control over the Internet. Among the campaigns of the Center are a campaign for changes in US personal data and privacy laws, a campaign for the security of elections from cyber threats, an educational campaign about Internet technology. Representatives of the center participate in conferences, debates and hold an annual Tech Prom dinner, where topics relevant to the digital space are discussed [18]. Thus, the work of the Center for Democracy & Technology is more focused on the expansion and securing of digital rights in a single country. However, the organization also works with the UN in the field of digital rights education [19].

Another well-known public organization established in the United States, but performing activities around the world — Freedom House. It was established in 1941 and is mainly engaged in analytical work on the challenges of freedom, the protection of political rights and civil liberties, and promotes democratic change. One of the annual research conducted by the organization is called Freedom of the Net. The research report contains the ranking of countries according to the degree of online freedom and information on the state of Internet freedom in 65 countries [20]. It is assumed that the report will be used for decision-making at the state level, informing citizens through the media and will help activists to protect digital rights. Thus, the protection of digital rights is carried out by the organization using educational tools and is only one of the activities.

IV. DISCUSSION OF RESULTS

The considered examples of public organizations and their activities in Russia and abroad in the field of protection of digital rights suggest the possibility of classifying these organizations.

The first criterion of classification may be the scale of activity. So, it is possible to distinguish regional (state), which include all considered Russian organizations, pirate parties and the Center for Democracy & Technology and global — Freedom House, Internet Society.

The second criterion of classification is the organization's specialization. Specialized organizations conduct all their activities exclusively in the field of protection of digital rights, in the broadest sense. These organizations include the Internet Protection Society, Roskomsvobud, Internet Society, Center for Democracy & Technology. Non-specialized organizations, respectively, pay attention to a wider range of issues, and the subject of digital rights for them is a priority. Among such organizations: Libertarian Party of Russia, Pirate Party of Russia, Freedom House.

The third criterion of classification is the goal of the organization. The considered examples allow to conditionally single out two main goals — political and educational. A certain part of convention for this classification criterion is related to the fact that all organizations, by their activity, seek to influence the political agenda. However, organizations that seek to obtain political power, we will consider predominantly political. We include the Libertarian Party of Russia, the pirate parties, and, conventionally, the Center for Democracy & Technology, since this organization is directly involved in the discussion of bills and political debates in the United States.

Educational organizations, therefore, include Roskomsvoboda, the Internet Protection Society, Freedom House, and the Internet Society.

Despite the fact that the activities of the considered organizations are aimed at different goals and provide for various methods for their implementation, they can be classified, while Russian organizations belong to different groups, except for the first classification criterion — the scale of activities. In our opinion, this is due to the degree of development of Russian legislation and sources of funding for public organizations. Russian organizations mainly exist with donations and membership dues, while the considered foreign organizations attract state and international funding, which allows them to expand the scale of their activities.

V. CONCLUSIONS

The modern digital era implies the transformation of legislation - its gradual “digitalization”, both at the state level and at the international angle. At the moment, the Russian legislator pays more attention to the normative regulation of the digital economy, which is certainly important at the current stage of development of the state and technology. However, the fundamental concept of “digital law” (in a broad sense) should also be given due attention, especially taking into account the fact that international legal acts quite clearly define the vector of normative securing of this branch of law.

Digital rights of a person and a citizen as universal human rights in the digital age, although they did not become the object of normative regulation, in particular, in the Russian Federation, however, became the object of protection of public associations. This Article considered some public associations of Russia (Libertarian Party of Russia, Pirate Party of Russia, Roskomsvoboda, Society for the Protection of the Internet) and some, operating in Europe and the United States (Freedom House, Internet Society, Center for Democracy & Technology). The activity of these associations was proposed to be classified according to three criteria: scale (country and international), specializations (specialized in digital rights and nonspecialized) and goals (political and educational).

In general, it is worth noting, that Russian organizations, despite the fact that they were created much later than the considered foreign organizations, operate in a global trend, i.e. they are engaged in educational and political activities; they can be specialized and non-specialized, however, the scale of their activities is limited only to Russia. Nevertheless, the activity of public associations for the protection of digital rights in Russia is active, and digital rights themselves are gradually becoming an important point on the legislative agenda.

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