

The establishment of digital law as the regulator of access to governmental information aiding the regional development

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Abstract — Digitalization covers all of social spheres and provides the evolution of legal regulation, particularly in sphere of the free access to governmental information. The providing of citizen right to access to information on activities of authorities is the one of most important state priorities. The purpose of this research is to analyze the influence of digitalization of the access to governmental information, authoritative orders, regional development and the assessment of influence to the development of digital environment. The result of research is the arguing of author's position about the necessity of state regulation of the sphere of the providing of access to governmental information. The conclusions of the study: analysis of tendencies of modernization of public administration in the use of information technology contributes to the development of the information society, to improve the quality of life of the population through full implementation of information technologies in the implementation of access to governmental information while simultaneously creating conditions for the full protection of the rights of all actors involved in public and municipal administration, what is the reason for effects, improving the living standards, labor productivity and competitiveness of produced goods and services, what is the one of factors of regional development and, in fact, the important instrument for the forming of sustainable competitive advantages of Russia in conditions of digital environment.

Keywords — *public administration, digital economy, legal regulation, information technologies.*

I. INTRODUCTION

The digitalization of national economy allows to increase the efficiency of public administration in further directions:

Firstly, there is economy of financial sources by means of the changing of paper form with digital ones (for example, in 2011 USA has wasted more than 1 \$ billion per year for the publication of documents on paper, while these documents were also accessible online) [1];

Secondly, there is economy of time because of the speed

increase of getting governmental information by means of digital technologies;

Thirdly, the population has opportunity to participate in administration process directly (for example, in the work of the Open Government, which is initiated by D.A. Medvedev);

Fourthly, there is the progress of quality of services by the state authorities;

Fifthly, there is the increasment of the level of population awareness about state activity.

At the same time, the review of digital governments by the Unated Nations Organization allows to see the dynamic of the Index of the development of digital government (The UN E-Government development Index (EDGI). All of countries, studied within the framework of this research, are ranking on the base of weighted index in three basic components: the level of coverage and quality of Internet-services, the development level of ICT-infrastructure, human capital. According to the review dated on 2016, the list of leaders are represented by such countries, as: Great Britain (first place for the development level of digital government), Australia (2nd) and South Korea (3^d, after the leadership in last years). USA took the 12th place of the global ranking, Russia – 35th, China – 63^d, Uzbekistan and Kyrgyzstan - at 80th and 97th positions relatively. By using of system approach during the formation of digital government from 2008 to 2016 the Kazakhstan climbed up from 81st to 33^d place [2].

The implementation of such technologies to social life basically depends on two factors: presence of technological infrastructure and enough legal regulation.

In the Russian Federation the legal regulation of state digitalization are determined by such strategical documents, as the Strategy of the Development of Information Society in the Russian Federation in 2017-2030, State Program of the Russian Federation "Information Society (2011-2020)", Strategy of Innovative Development of the Russian Federation in period to 2020, the Program "Digital Economy of the

Russian Federation” and others.

Safeguarding of the citizen right to information on activities of authorities and provision of qualitative services to the population are impossible without effective information and communication development, which is focusing on the top-quality and accessible state and municipal services. The reaching of information openness of power is the imperative of information and communication development of the Russia [3].

The Russia relinquishes both to developed and to developing countries on the level of accessibility of the Internet. It may be explained with significant information inequality between different regions, economic sectors, education institutions and citizens. However, it is not only reason of the problem. The opinion, that the information and communication technologies infusion itself increases the quality of public administration and cooperation with population, is not proved enough, because the most important thing in this process is not the way of access to information, but the existence of information sources, accessible for public.

An accessible information on activity of state and municipal authorities serves as the guarantee of democratic basis of society, because it provides the personal interests of citizens and allows to realize other rights and freedom and also the participation of population in social and governmental affairs. Additionally, this is the way for social control of the state regulation in the sphere of economy and other socially important spheres.

II. DATA AND METHODOLOGY

During the research we have collected the full information about state regulatory forms of the access to governmental information.

The information search has conducted among scientific literature and lead to emphasize 19 sources. These sources provided the information about development and functioning of the state regulation of the access to governmental information in Russia and abroad.

Besides scientific literature, in aid of more deep research of formulated problem authors have analyzed legislative and regulatory acts, which are standarting the state regulation of access to governmental information and the order of digitalization of public administration and official web-sites of the Government of the Russian Federation, the President of the Russian Federation, web-sites, containing statistical data, the web-site of the Federal Portal of Projects of Legal Acts of the Russian Federation. Authors have used further methods of scientific research:

- formally legal – during the indication of attributes and analysis of definitions "access to governmental information", "digitalization of public administration", "digital law";
- comparative method – during the comparison of the legal regulation of the access to governmental information;
- structural analysis – during the study of an object of phenomenon its specific features are analyzed as a structural element, included into the more general term. By means of the using of this method authors have developed organizational measures, oriented to the elimination of barriers to citizen awareness about activity of state agencies;

- information approach – during the study of any object, process or phenomenon in nature or society, the first purpose is to highlight and to analyze the most specific information aspects, which significantly determine their current state and development.

We also studied research works, conducted in 2012 by the Institute of the Development of the Freedom of Information, which have take pool of almost 1500 Russian citizens. On the base of conclusions this survey, authors emphasized series of problem fields in state regulation of the access to governmental information on the territory of the Russian Federation, and also suggested measures for its elimination.

III. RESULTS OF THE RESEARCH

As the result of the implementation of digital technologies, the state regulation of the access to government information could provide the significant growth of regional development, by means of the release of financial, timing sources, the increasing of the efficiency of state influence to political and economic processes inside the country.

State and municipal information services in significant extent unavailable for village citizens. Moreover, on the base of this indicator we could conclude, that the underdevelopment of Internet in distant regions of Russia is not developed enough, what, in that turn, thwarts processes of the implementation of information technologies and restricts the accessibility of the digital government.

The issue of telephonization and internetization in village is very significant and requires the immediate decision. The example of successful decision of this problem is the experience of neighbor country with alike economic, social and technical situation – Kazakhstan, which allocates sources for the compensation of possible damages to communication providers, providing the telephonization and internetization in villages.

The global trend is the digitalization of all of social processes, particularly, the law. Result of this process is the genesis of principally new subjects and objects of law: virtual entity, virtual property, crypto currency, blockchain, cybersecurity and many others. In that turn, it increases opportunities for the legal transformation of new branches of law, among of them we could emphasize Information Law, Digital Law. At the same time, digital law, in fact, is the continuation of Information Law and can develop as the sub-branch of Information Law.

IV. PROBLEMS OF CONTEMPORARY STATE REGULATION OF THE ACCESS TO GOVERNMENTAL INFORMATION

The objective human need for information determines the origin and existence his or her right to information. Because the information is the necessary element of people’s communication and it’s quality provides the reaching of favorable conditions for the development of society.

The free search and distribution of the governmental information on activity of state and municipal authorities by means of any legal ways are always covered by the federal legislation.

Legal reference systems play also important role in provision of the access to governmental information [4].

Current legislation of the Russian Federation also provides the possibility for citizens to appeal personally or collectively to state and municipal authorities with claims, complaints, applications. With that, the Federal law dated on 27 July 2016 № 149-FL “On the Information, Information Technologies and Protection of Information” includes the legal definition of the right to the access to information [5]. The understanding of this definition in the Article 8 has contradiction with the Item 6 of the Article 2.

With that, V.N. Lopatin underlines that the right to access to information could be the part of the right to information, particularly, there is certain contradictions between Articles 2 and 8 of the mentioned above Law. While the Article 2 defines the access to information by means of terms of collecting and using of data, the Article 8 defines it by means of terms of searching and gaining. At the same time, Articles 6 and 7 are defining the term of using of information, but include only gaining of information [6].

According to the opinion by N.N. Fedoseeva, more correct position on the current stage, is to consider the right to access to information as the individual category [7].

V.N. Monahov is arguing position that the information rights could be separated to two types: the right to gain and use information and the right to its safety [8].

According to the results of the All-Russia population survey by the Institute of the Development of the Freedom of Information, the Russian citizens estimate the accessibility of the information about public authorities as miniscule (see Figure 1).

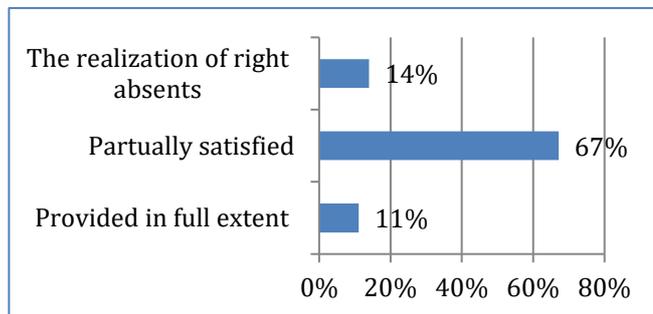


Fig. 1. Assessment of the realization of the right to access to information about state agencies by the population of the Russian Federation (% of the population)

According to the diagram from Figure 1, just 11,1 % of surveyed think that this right is fully provided; 61,7 % talk about the partial satisfaction of such right; 14 % of respondents indicate the absence of its realization. With that, we have to take into account that certainly informedness shows the ability of people to estimate the level of the realization of their rights.

With that, only 55 % of respondents think that the law provides the right to information (1500 of people took part in survey. Among them 44,8 % - men; 55,2 % - women; 17,3 % - 18 to 24 years old; 29,3 % - 25 to 39 years old; 21,8 % - 40 to 54 years old; 55 years old and older – 31,7 %). Such a situation almost excludes the citizen's possibility to realize their rights to the full extent.

Individual statutory acts for the right to information exist in approximately hundred of countries. For example, the Sweden has adopted the Law, which is regulating the freedom of

publications as far back as 1776, and later (in 1949) this Law was modified to the Law for Freedom of Press. Today this law included to the Constitution of Sweden and provides citizen's right to obtain free information about authority agencies. In 1966 USA have also established the possibility for citizens to obtain for free the information, which is collecting by state agencies in Law “On the Protection of Information”, excluding the secret information. The Japan has adopted the Law on the Access to Information in 2001 and now an information exists under jurisdiction of administrative structures. While the Law established unlimited number of persons, who have access to this information, it also established the series of state agencies, which do not have such access, particularly, this is the legislative, judicial powers and other state authorities. The Great Britain established citizen's rights to obtaining of documents, excluding such documents, which are linked to government's policy, in the Law “On the Freedom of Information” in 2000.

The Russia has adopted the mentioned above Federal Law dated on 9 February 2009 №8-FL “ On the Provision of the Access to Information On Activity of State Authorities and Local Authorities’.

Some exceptions in publication process for data, which is including a personal data [9,10,11], could be found in the Federal Law dated from 27 July 2006 № 152-FL “On the Personal Data”.

The Federal law dated on 2 May 2006 № 59-FL “On the Order of Consideration of Inquires of Citizens of the Russian Federation” establishes the procedure of the realization of citizen's rights to the petition to state or municipal authorities, what is the another guarantee for realization of the right to access to the information on activity of state authorities.

Moreover, the obtaining by the subjects of governmental regulation of data about their activity is regulated under the federal legislation, establishing the competence of these authorities and detailed in treaties about information cooperation.

Consequently, the treaties for the access to information on activity of state and municipal authorities are regulated under not only one law, but also the complex of legal acts [12].

According to the criterion of transparency of public administration the Russia places the 40th place among 48 countries. International experts testify, that the efficiency of state regulation and the quality of state and municipal services (particularly, the work with personal data and the contacts with citizens) the Russian Federation is significantly lower, than in developed countries. The control for the corruption state has always low assessment and this indicator linked to the abuses during the contacts with citizens and legal entities.

As the result of the absence of necessary and timely information about Chernobyl NPP accident in 1986 the millions of people were terribly harmed. This is why the Article 42 of the Constitution of the Russian Federation establishes the right to the true information about state of environment.

The provision of the public with qualitative information promotes the understanding and direct participation in the decision of social, economic, political and other problems.

V. MEASURES FOR THE DEVELOPMENT OF STATE REGULATION OF THE ACCESS TO GOVERNMENTAL INFORMATION

One of the most serious problems of state regulation of the access to governmental information is the wide range of persons, who have no access to the Internet or who cannot use it. Within this context we can talk about the new form of social inequality, which originates from the absence of the access to information technologies among the population. In that turn, such a situation supposes active actions for decision of this problem from the power.

“Digital Inequality” is the separation of regions, organizations and citizens, based on the development of information and communication technologies and depending on the accessibility of contemporary means of information processing and communication for them, including the providing with telephonic communication and the access to the Internet.

While the “digital” stratification of the Russian population could be explained because of the poorness of its significant part, the global experience shows the more complex character of this problem. Attempts of the solving by means of the intensive computerization have no prospects, because richness or poorness of certain people, regions or even countries is not so important, as the absence of need for using of digital technologies, which is originating from the lifestyle and character of activity of certain stratos of social groups, technological level of the economy development, social sphere, etc.

Generally, a lot of things have made within the framework of the developing of main technological decisions both on the federal and on the regional levels: the creation of Internet-portals of authority agencies, providing the Internet-cooperation of the government and the population [13]. During this work it is important not to compulse the population for the communication with the power only through a computer, but, for example, to develop the existing telephonic communication systems and to transfer them on the new technological base, which will provides the moving of sound files within networks like e-mail, in other words – to create the digital environment of cooperation, which will be comfortable for citizens. With that, the burden of the developing and familiarization of technological innovations have to be transmitting from the main part of the population to the government and information and technological community. For the decision of this task it is necessary to provide the possibility for the Russian population to use the Internet both from the financial point of view, and from the point of view of digital competence.

For example, the Federal target program “Information Society (2011-2020)” is oriented to the improvement of the efficiency of state and municipal governing, the quality and operativeness of state and municipal services, to lower the price of the organization of state and municipal governing [14].

Some of the results of the using of information technologies are the effects, improving the life quality of the population, the productivity of labor and competitiveness of produced goods and services. Particularly, this are:

the one-step filling of a form on the web-site for the getting of state service. Then, after specific time, the necessary documents will be formalized and sended by mail or required changes about person will be fixed in a relevant database;

the expression of a personal opinion about state or municipal governing or the formation of like-minded groups for the realization of an initiative could be possible just by means of the visit of a relevant web-site;

textbooks and relevant learning material for pupils could be copied from the regional educational portal to a personal digital book;

tax reports could be sended through the Internet without visit of a tax agency;

certain types of professional activity could be making from home, by mean of the joining of corporate network;

conclusion of a contract with partners from other regions could be with no business trip, and the authentication of documents by mean of digital signature;

a ticket for a train could be choosed and payed through the relevant web-site, a time-keeper will have information about it and a passenger just will has to show the passport for identification of personality, during the boarding.

There is a complex of issues of legal, organizational and technical nature, which make the organization of interactive provision of state and municipal services for village citizens difficult. Each subject of the Russian Federation has its personal programs for the development of village.

The frequently used indicator of the accessibility of information services for the population is the amount of telephones among 100 people (the level of telephonic density). Denmark, Norway, Switzerland, USA, Germany provide for their citizens the number from 60 to 70. The CIS countries have the level of telephonic density around the number of 21,4. The Saratov Region looks better – the middle telephonic density is 37,42; meanwhile, such a village settlements, as the Marxovsky (27,7), Ozinsky (17,7) have a very low level of telephonic density. With that, the one hundred percent telephonization of a village in Saratov Region was planned in 2007, but it is still not realized.

The internetization of village oriented to the improvement of the life quality of village population, development of a new intellectual needs among village citizens on the base of the origination of new information services, what provides the adaptation of villagers to contemporary conditions of life.

The Chuvashia decides this issue on the base of the providing with computers and connection with Internet of village libraries. The result of this process is the origination of so called model libraries. These technologies allow to provide any law information, including documents of municipal agencies, on the base of automatized information processing. New generation cultural institutions teach to work in Internet, to search information in digital encyclopedias and guides, to use e-mail, to scan necessary documents [15,16].

Another option of the accelerating of informatization processes in village could be the founding of informatization and consulting points on the base of educational institutions, because in result of the realization of priority national project “Education” at the present time all of schools in Russia have the connection with Internet.

With that, the existing programs of the development of village consider these issues one-sided, not taking into account different aspects. For example, the founding of information

consulting points of the base of village libraries and schools suppose not only the providing of learning during the refresher courses for librarians and school teachers, but also financial provision of additional work. Only in this case such centers will be able to improve the computer competence in village.

The full providing of participation of villagers in state governing is possible on the base of special Federal target program, relevant programs of subjects of the Russian Federation, which will be oriented to digitalization of lives of village citizens. With that, these programs will not only provide technical possibilities for the provision of state and municipal digital services, but also will realize organizational measures, educational actions and will provide the decision of other relevant problems. Technologies of public-private partnership will allow to organize the financing of these programs more efficient.

VI. CONCLUSIONS

It follows thence, that the government has to guarantee the providing for the individuals and entities the free access to the governmental information. The Constitution of the Russian Federation and other legislation guarantees the freedom of access to information for citizens. Unfortunately, the undevelopment of information infrastructure and frequently high price for the using of information networks in remote, village districts, insufficient computer competence of the population make serious limits of the realization of this right.

It is absolutely clear, that the digital base for the development of our country could play a significant role only in conditions of perfect digital infrastructure. For its creation, implementation and for the obtaining the role of efficient task implementor for our state and society, we firstly have to develop the law in the direction of the forming of new branches. Many scientists at the contemporary stage start to talk about the possibility of the development of digital law: "In contemporary conditions the existing legal regulation of different spheres of social life requires the significant modernization. Like traffic rules, oriented to the horse riding, were changed to traffic rules for automobiles, to air transport rules and space travels, there is the genesis of the new law – "the law of the second modern", which is regulating the economic, political and social relations in the context of digits, Big data, robots, digital intelligence [17].

At the same time, we can testify, that the quite formulated Information Law, because of its complexity, now has the function of "mediator" between public and private law. By taking of this connective role, the Information Law catalyzes the evolution of legislative system in whole. Being the catalyzator of the processes of publicization and privatization, it also provides the balance of public and private law [18,19].

On the base of global trend, the digitalization of all of social processes, particularly, the law, its result is the genesis of principally new subjects and objects of law: virtual entity, virtual property, crypto currency, blockchain, cybersecurity and many others. In that turn, it increases opportunities for the legal transformation of new branches of law, among of them we could emphasize Information Law, Digital Law. At the same time, digital law, in fact, is the continuation of Information Law and can develop as the sub-branch of Information Law.

Therefore, the state regulation of the access to

governmental information includes the formation of organizational, legal, technological base for the informing of the population. There is the firstly need of the provision of quality standards of the providing of governmental information, and to develop the measures for liquidation of digital inequality, what have to be oriented to effects, improving the living standards, labor productivity and competitiveness of produced goods and services, what is the one of factors of the regional development.

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