

Application of Digital Telecommunication Environment to Solve Legal Issues

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Abstract — At the given stage of development of mankind, the algorithm for acquisition and termination of the constitutional-legal status of an individual in different countries of the world is in a stage of active development in the digital telecommunications environment. This is facilitated by the relatively rapid changes that regularly occur in the internal legislation of different countries, the differences between them, and sometimes the contradictions in the regulatory acts in different countries. In some cases, this leads to the fact that at a certain point the algorithm for acquisition and termination of the constitutional-legal status of an individual in the digital telecommunications environment is already beginning to acquire the quality of stability, but new changes in the legislation again encourage us to start bringing different legal norms into line with each other, which is a complex process. Therefore, the guarantor of the balance of stability in the field of establishing the algorithm for acquiring and terminating the constitutional-legal status of an individual in the digital telecommunications environment may be precisely the idea of the authors of modern legislative initiatives about when it is most reasonable to stop the constant changes in numerous legislative acts so that their end user can still apply them in practice. Otherwise, the domestic legislative system may irretrievably lose authority among the vast majority of citizens of the respective country, and the number of appeals to domestic and foreign courts to resolve numerous controversial issues will constantly increase more and more. As a result, the level of legal nihilism, which the relevant state bodies are rightly trying to fight at the moment, will also increase much faster than such problems will be solved. Moreover, the number of illegal actions will also increase not only in the virtual environment, but also in real life, as the rule for algorithmizing the actions performed by citizens of the respective country will come into force, both in the virtual environment and simultaneously in real space, which is a very complex process.

Keywords— authorities, constitutional and legal status, digital telecommunications, domestic legislation.

I. INTRODUCTION

The relevance of the topic stems from the current social situation in many countries of the world, from all continents, where the digital transformation of the constitutional and legal status of an individual and its documentary support is taking place at a fairly high pace. But the pace of change in the regulatory framework and social networks is different in different countries, and there are no uniform criteria by which a global assessment of the situation can be made. The current realities of social development concern, among other things, the issues of deactivation of Instagram and Facebook, in which millions of citizens of the Russian Federation, Turkey, Syria, Ukraine and other countries, as well as legal entities registered in the relevant countries, opened their accounts and used them for several years. From this moment on, every citizen of the relevant countries or organizations will have to make cardinal decisions on how to replenish the lost results of their many years of work in these networks. In addition, it is necessary to understand what other network tools can be used instead of Instagram and Facebook to solve commercial, scientific, educational problems, as well as for the activities of public organizations. In many countries, this has been solved by using local social media channels, but this is typical of large countries, China, the USA, Russia, and others.

II. MATERIALS AND METHODS

Works and scientific articles of authors from all continents were used, using the specific solutions to the problem in different countries around the world. However, due to the differences in the countries, both in geographical location and in economic development and social status of citizens, the most general results were taken, and to reflect the specifics of each individual country, a more in-depth and detailed study is necessary. The knowledge of members of the Mariinsky Academy from more than 100 countries around the world was used.

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The methods used in the study can be reduced to analysis of scientific literature, synthesis, comparison, juxtaposition, generalization, bibliographic method.

III. RESULTS AND DISCUSSION

In the foreseeable future, this property may extend to the entire space of the digital telecommunications environment and be realized in it in the form of communication, implying the functioning of this environment as a social system that can acquire a global character. In principle, the property of autopoiesis is realized both in the form of life and in the form of consciousness, inherent in this case to proactive and responsible users of this branched digital telecommunications environment [1], [2].

In this case, law becomes to some extent an “external environment” in relation to the digital telecommunications environment, which the digital environment as a self-organizing system gradually begins to ignore. The regulation of this problem on a global scale is still in the realm of wishes, but the time will not be far off when people will feel the need for such regulation. This happens precisely because the digital telecommunications environment forms its own regulatory rules, which are largely determined by the original mechanisms of this self-reproducing system and are uniform for all users. The issue of realizing the constitutional and legal status of the individual in the digital telecommunications environment acquires a fundamentally new significance due to the special influence of the properties of information multiplication, the reliability of the information presented and its use. It should be noted that it seems impossible to stop the process of information multiplication in the digital telecommunications environment and its regulation, otherwise the destruction of this information system itself will occur. The influence of the principle of network neutrality, actively postulated within the digital telecommunications environment, is also undeniable, which implies that any information, regardless of its legal value, is considered equally important. This is becoming increasingly difficult to achieve, and after the leak of information about censorship by large social networks, the importance of this process is once again emphasized. One cannot fail to mention the significant influence of the technological characteristics of the digital telecommunications environment, in particular the so-called “digital trace” left in it by each user. But this also has a positive effect, because in this way the malicious actions of different people from different regions of the world who have an unregulated impact on social networks are revealed. For the virtual space, the technological characteristics of the digital telecommunications environment represent natural conditions, due to which they lead to the formulation of the question of the implementation of natural human rights in the digital environment. At the same time, lawyers from all countries of the world are faced with the following dilemma: should the already formed regulatory norms within the framework

of the digital telecommunications environment, which has the properties of an autopoietic system, be legalized? Under this condition, additional guarantees should be provided to all participants in the digital telecommunications environment without exception, otherwise the rules should be introduced in the traditional way, which can lead to a double risk. First, this is the risk of violating the digital telecommunications environment itself, and secondly, which is no less, if not more important, is the risk of an inevitable reduction in the authority of the law due to an attempt to violate intra-system rights. Let us assume that the fact of the existence of the digital telecommunications environment as a system built on a contractual basis has been taken into account, as a result of which domain names have been allocated and the corresponding connection to the Internet telecommunications network has been established [3].

In this case, at the same time, it is necessary to assume the existence of strong private law mechanisms within the digital telecommunications environment, the activities of which are aimed at regulating social processes. However, in the conditions of Russia and many foreign countries, it is precisely administrative and legal means that have a serious impact on the digital environment. In addition, one cannot lose sight of the dependence of subjects of natural law on the terms of user and similar agreements that are not, in essence, accession agreements, since they cannot be subject to any adjustment in accordance with the interests of any parties joining this agreement [4], [5].

In the course of this study, its goal was achieved: a study of the digital transformation of the constitutional and legal status of an individual took place.

In the course of this study, its goal was achieved: a study of the digital transformation of the constitutional and legal status of the individual in different countries was conducted, and an analysis of the results in several countries was also made.

To achieve the above goal, the following tasks of the work were set and successfully solved:

1. The theoretical foundations of the constitutional and legal status of the individual in the digital telecommunications environment were examined [6].

2. Based on the results obtained, the most acceptable doctrinal and legislative approaches to determining the constitutional and legal status of the individual in the digital telecommunications environment were determined.

3. The trends in the formation of a conceptual and categorical apparatus in ensuring the constitutional and legal status of the individual in the digital telecommunications environment were studied.

4. The key elements of the constitutional and legal status of the individual in the digital telecommunications environment in several characteristic countries were examined. The exact need for digital transformation of the

constitutional and legal status of the individual has been determined and a model has been developed that can serve to continue the research on a larger scale [7], [8].

5. The legitimate interests and legal risks of the individual in the digital telecommunications environment have been examined, and the obligations and responsibilities of the individual in the digital telecommunications environment have been determined.

The dynamics of the constitutional and legal status of the individual in the digital telecommunications environment have been studied.

6. The conditions, methods and consequences of the acquisition and termination of the constitutional and legal status of an individual in the digital telecommunications environment have been determined. The factors, forms and criteria for transforming the constitutional and legal status of an individual in the digital telecommunications environment have been determined, and in a subsequent study the scope of the countries considered may be expanded [6], [9], [10].

7. The constitutional and legal status of a natural person in law enforcement practice has been specified on the basis of the current regulatory documents in the relevant countries.

The object of the work was the digital transformation of the constitutional and legal status of a natural person. In turn, the subject of the work was directly defined as the study of the digital transformation of the constitutional and legal status of a natural person.

Legitimate interests in the digital telecommunications environment have been the subject of prolonged and intensive discussions for a considerable period of time. Therefore, there are still no unambiguous answers to this issue under consideration, because it has been relatively recent and there is not enough legal practice. This discussion directly affects numerous interests of the authors of modern legislative initiatives from various political parties and unions, law enforcement agencies, and at the same time, physical and legal users of the digital telecommunications environment [11], [12].

There is an abundance of extremely diverse opinions of scientists from different countries about what timely and most acceptable expression legitimate interests in the digital telecommunications environment should acquire. Here the differences are quite significant, because the economic development of the respective country, its geographical location, the political system in the country, its involvement in international alliances and the education of the users have an impact. In the process of multilateral self-realization of the individual in the digital telecommunications environment, there are also certain legal risks arising from the uncertainty and insufficient stability of the conceptual apparatus in this area. It is necessary to remember that over time the number of such

legal risks will increase continuously if the legitimate interests of users of the digital telecommunications environment do not become the subject of careful attention by the authors of modern legislative initiatives in the respective country [12], [13]. The obligations of every citizen of the Russian Federation, for example, are a consequence of the rights that he or she possesses. Or the presence of a right in one subject of law turns into the presence of an obligation in another citizen of the Russian Federation. In any case, the relationship between the rights and obligations of each Russian Federation remains quite close. The situation is different in Turkey, for example, where many social networks are significantly limited and there are even restrictive measures on their use. In China, they use their own social networks, and it is very difficult for a foreign citizen to use classic social networks such as Facebook, Instagram, and others. Just as without executors of obligations, holders of any rights cannot arise, so without holders of these rights, executors of obligations directly or indirectly arising from this circle of rights cannot arise. At the same time, it should be noted that for the most part, the rights and obligations of citizens of most countries of the world are in a state of relatively clear correlation. Therefore, failure to fulfill direct obligations by any citizen can lead to the fact that the rights of any citizen of the Russian Federation, Turkey, China, India, and others cannot be realized in a timely manner and in full. In addition, it is necessary to remember that in an era when the digital telecommunications environment begins to prevail over what is happening in the real world, the legal foundations of the real world must be refracted in a special way in relation to users of virtual space. Currently, in the digital telecommunications environment, the algorithm for acquiring and terminating the constitutional and legal status of an individual is in a stage of active formation. This is facilitated by the relatively rapid changes that regularly occur in domestic legislation, but still tailored to the specifics of the particular country [12], [14], [15].

In some cases, this leads to the fact that at a certain point the algorithm for acquiring and terminating the constitutional-legal status of an individual in the digital telecommunications environment is already beginning to acquire the quality of stability, but new changes in legislation once again encourage us to begin to bring various legal norms into line with each other. Therefore, a guarantor of the balance of stability in the field of establishing the algorithm for acquiring and terminating the constitutional-legal status of an individual in the digital telecommunications environment may be precisely the idea of the authors of modern legislative initiatives about when it is most reasonable to stop the constant changes in numerous legislative acts so that their end user can still apply them in practice. This is a very complex problem to solve in view of the fact that there is still not enough legal practice in the field of the digital telecommunications environment in different countries of our planet.

Otherwise, the domestic legislative system may irretrievably lose authority among the vast majority of citizens of the respective country, and the number of appeals to local and foreign courts to resolve numerous controversial issues will constantly increase more and more. As a result, the level of legal nihilism, which state authorities are currently quite rightly trying to combat, will also increase much faster than such issues will be resolved. In addition, the number of illegal actions will increase not only in the virtual environment, but also in real life, since the rule of algorithmizing of actions performed by citizens of the respective countries will come into force, both in the virtual environment and simultaneously in real space. This process is also very complicated in terms of which legislation should be used, because these processes are international and very often the servers are located in third countries, and sometimes in several countries at once [12], [16].

The factors that in one way or another contribute to the transformation of the constitutional and legal status of the individual in the digital telecommunications environment are quite multifaceted and widespread. The leading one is the current state of the domestic legislative system of the relevant country, which is not always able to take into account all the forms and criteria of the processes of such transformation, generally accepted in everyday practice, to an equally high degree. The insufficient readiness of the legal instrument to take for granted the realities that are already quite firmly established in broad everyday practice, unfortunately, does not allow modern domestic and international legislation in this area to develop properly. As a result, reality in its unformed relations in a number of cases significantly outstrips the existing Russian, Turkish, Chinese, European or other legislation, which will still need a lot of time and other resources for the timely implementation of significant and multilateral transformations. It seems of fundamental importance to specify the constitutional and legal status of the individual in law enforcement practice and for these formulations to acquire international status, in order to unify the current legislation. As a result of considering the problem posed in this study, it seems appropriate to assume that specifying the constitutional and legal status of the individual in modern law enforcement practice can play a decisive role in the fate of the further formation of relations between subjects who increasingly exercise their rights and obligations in the digital telecommunications environment. With each passing day, it seems more and more certain that the insufficiently clear expression or even the complete lack of specification of the constitutional and legal status of the individual in law enforcement practice will not become a reason for users of the digital telecommunications environment to refuse to use new information and communication technologies to solve their everyday problems [4], [7], [17].

In practice, in many countries around the world, it is recognized that, even in the case of a complete lack of legal

certainty within the digital telecommunications environment, many of its users will be more inclined to be content with accepting agreements for the use of a particular information system “as is”, at their own risk, rather than replacing it with more legislatively supported tools that do not have a similar degree of organizational and technological perfection. It is a very common practice for users of digital information to agree to the terms of use, even without familiarizing themselves with these terms. Therefore, the authors of modern legislative initiatives should not aimlessly expect that users of the digital telecommunications environment will stop performing any actions that interest them in it before they have acquired the appropriate level of their consolidation in specific legislative acts. Very often, users agree to terms that they have not even read and do not know the legal consequences of their actions, as is noticeable with users from all over the world, who cannot be categorized by any criterion. The demand for quick execution of a specific order or task leads to neglect of basic legal norms and sometimes to thoughtless actions on the part of the user. In their effort to postulate the ideals of a legal society, the authors of modern legislative initiatives must prevent the emergence of any uncertainties in the digital telecommunications environment with its constant development. The rights and freedoms that can arise and be realized in the digital telecommunications environment still have a long way to go and the legal norms are still being built. The persistence of traditions for the implementation of rights and freedoms under modern domestic and international legislation significantly helps, but sometimes also hinders the successful implementation of the process of forming the digital telecommunications environment as a clearly expressed legal space of clearly law-abiding actions of all subjects participating in its development. The unambiguous assistance of the modern legal system for the formation of the legal space of the digital telecommunications environment is due to the fact that rights in the real and virtual worlds must have the property of continuity. At the same time, the obstacle from the modern legal system for the formation of the legal space of the digital telecommunications environment is mainly that not all rights and freedoms implemented in the real world sufficiently take into account the peculiarities of the virtual world and the relations of subjects in it. Legitimate interests in the digital telecommunications environment are the subject of a long and intensive discussion. There are an abundance of extremely diverse opinions of domestic and foreign scholars about what timely and most acceptable expression legitimate interests in the digital telecommunications environment should acquire. This process will require more time and effort from all parties to the process. In the process of self-realization of the individual in the digital telecommunications environment, there are also certain legal risks arising from the uncertainty and insufficient stability of the conceptual apparatus in this area [4], [12], [18], [19]. The main difficulty in this case is the relative

“youth” of the digital telecommunications environment as such and at the same time - the resulting unpreparedness of traditional jurisprudence for dialogue with new realities. At the same time, the formation of completely independent social foundations within the digital telecommunications environment is occurring at a fairly rapid pace, and the unwillingness or unpreparedness of the existing legal system for dialogue with these relations may prove detrimental to its own condition. As a result of the progressive improvement of the digital telecommunications environment and the formation of consumer habits among millions of its civically active and proactive users, this may lead to the latter's reluctance to support the existence of the traditional legal system operating in the respective country in one way or another.

IV. CONCLUSIONS

Based on the research conducted and summarizing the experience of colleagues from a number of countries from all continents, the following conclusions can be drawn:

1. Doctrinal approaches to determining the constitutional and legal status of an individual or legal entity in the digital telecommunications environment currently require significant legal improvement from the point of view of the existence of a modern subject of activity in the digital telecommunications environment. The state of legal uncertainty in which the digital telecommunications environment continues to function largely contributes to the affirmation of natural rights characteristic of this environment, in accordance with agreements that are not changed by any of the users joining them. To improve the legal situation, joint participation in the process of all interested parties from the entire planet is necessary.

2. The progressive development of the digital telecommunications environment throughout the world encourages a responsible approach to the issue of establishing legal certainty in this virtual space. Moreover, given that in the near future in many respects the digital telecommunications environment will be able to prevail over many forms of relations developing in the real world, this is even more necessary and efforts should be made to achieve it. In addition, it should be known that if the digital telecommunications environment is not placed in a timely manner within certain legal frameworks, over time it will independently begin to dictate its own conditions to the real world and will not obey legal norms set at a later stage.

3. The trends in the formation of the conceptual-categorical apparatus in ensuring the constitutional-legal status of an individual in the digital telecommunications environment are mainly that the rapid development of technologies significantly outstrips the capabilities of the traditionally existing legal system of the country and the world, which in every way demonstrates its complete unpreparedness to establish the most adequate legal regulation of the virtual world. For this, it is necessary to

unite the efforts of lawyers from all over the world and to prepare a valid international legal framework in a timely manner.

4. It is in the digital telecommunications environment that an increasing number of forms of activity of legal entities are currently being carried out, which increasingly often remain unregulated by the modern legal system, which carries a risk of violating the subjective rights of Internet users without the possibility of using the state mechanism for their protection. In fact, in this case, it is necessary to maintain a balance between the personal interests of each citizen of the respective country and the direct interests of the rule of law in such a way that the implementation of the former does not violate the latter and vice versa. If a user of the digital telecommunications environment signs agreements on the rules for using a certain site on his own initiative, which are not within the legal framework, then in this case there is a risk of committing more and more illegal actions on his part. And, on the contrary, if a certain citizen has experienced for some reason a feeling of dissatisfaction as a result of his work on a certain site, has requested legal support from the state, it is still not known how he will receive it and in what volume. The mechanism of this support is not so well developed to satisfy all the claims of this user of the digital telecommunications environment, who is dissatisfied with any services.

The legal regulations of the users of the digital information system and the system itself are still not sufficiently regulated, and this study can help the relevant specialists to chart the path for the development of legal regulation in the individual country and internationally. Each country has its own specifics, and when developing the rules, local specialists must adapt them to the specific conditions.

The authors of the study and members of the Mariinsky Academy express their readiness to provide additional information on the topic in order to achieve good legal regulation of these specific relations.

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