



THE IMPACT OF DIGITAL TRANSFORMATION ON THE CONSTITUTIONAL AND LEGAL FOUNDATIONS OF THE RUSSIAN FEDERATION

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The subject. The impact of digital transformation on the foundations of the constitutional system, namely the possibility of its influence on their form, content and implementation system, has been studied in this article. The authors put forward a hypothesis about the formation of the principle of the digital state, which underlies the interaction of society and the state in the conditions of building a digital economy in Russia. Active implementation of this principle was observed during the COVID-19 pandemic. Also, the factors that can give an obvious and non-obvious impetus to the transformation of the constitutional identity of the foundations of the constitutional system are identified.

The main functions of the constitutional principles are to preserve the stability of the foundations of the constitutional system and constitutional identity. We believe that modern legal science needs to comprehend the formation of new principles of interaction between society and public authorities, under the influence of digital technologies.

1. Introduction

A new round of historical development has begun in the world, which marked itself as the fourth industrial revolution. Meeting 2019, no one in the world could have imagined that by 2022 IT specialists would become the most in demand in the world. No public service (medical, educational, law enforcement, tax, notary, etc.) can be provided at a high level without the use of information and communication technologies. The pandemic of the COVID-19 coronavirus infection was the impetus for an instant, forced transition to a new principle of interaction between a person, a state body, a public authority, and society. In order to reduce the spread of viral infection, a number of state authorities, state bodies, educational and medical institutions, by Decree of the President of the Russian Federation¹ and on the basis of the Federal Law of the Russian Federation², have gone to remote mode of operation – hereinafter Remote. The spheres of private business and individual entrepreneurial activity were also not left aside. Russia has not become a pioneer in this direction, the remote will cover the whole world, as well as the pandemic. Within the framework of our research, we will name the principle underlying the implementation of electronic remote interaction of public authorities with a person and society, the principle of the digital state.

The purpose of the research in our work is to study the influence of the principle of the digital state on the constitutional and legal foundations of the Russian Federation. The object of the study was changes in the content of legal regulation of public relations under the influence of digitalization. The goal predetermined the tasks of the researcher:

¹ Decree of the President of the Russian Federation No. 595 dated 10/20/2021 "On the establishment of non-working days in the Territory of the Russian Federation in October - November 2021". Official Internet Portal of Legal Information <http://pravo.gov.ru>, 08.12.2020

² Federal Law No. 407-FZ of December 8, 2020 "On Amendments to the Labor Code of the Russian Federation regarding the Regulation of Remote (Remote) Work and Temporary Transfer of an Employee to Remote (Remote) Work on the Initiative of the Employer in Exceptional Cases"

- analyze the impact of digital transformation on the constitutional and legal foundations of the Russian Federation;

- to determine the legal nature of the principle of the digital state as the basis of the constitutional system of Russia;

Private-scientific, formal-legal, comparative-legal methods were used to conduct in-depth study, analysis and comparison of empirical, practical, theoretical and scientific materials.

2. The Impact of digital Transformation on the Constitutional and Legal foundations of the Russian Federation

The constitutional and legal foundations of the Russian Federation are the constitution in the constitution, since Chapters 1,2,9 of the Constitution of the Russian Federation are not subject to revision by the Federal Assembly of our country. This feature characterizes the strict procedure for changing the normative legal act, which has the highest legal force in the national legal system of Russia. From the point of view of objective reality, de jure digital transformation cannot change the foundations of the constitutional system of Russia, but de facto the foundations of the constitutional system are undergoing a change in the form and procedure of their implementation and, without reasonable modification, are stagnating the development of public relations, preserve the development of interaction in all spheres of society and public authorities.

According to Bleshchik A.V., Kalinina E.G., Nesmeyanova S.E., there are several types of transformation of constitutional identity, within the framework of our study, a sudden transformation is interesting - it is, as a general rule, a response of identity to some factors, obvious and non-obvious [1, pp.85-100]. The coronavirus pandemic is a direct and obvious factor. The spread of the Internet and digitalization are delayed, being non-obvious factors.

Meanwhile, information and digital technologies are changing the fundamental principles underlying the formation of a dialogue between society and the authorities. The text of the Constitution of the Russian Federation does not contain the concept of "information and digital space (cyberspace)", but every day millions of

people with stable legal ties with various states, including Russia, enter into legal relations, including constitutional ones in it. In the science of constitutional law, there is no unified point of view on the content of constitutional legal relations, the foundations of the constitutional system, and constitutional principles.

Kozlova E.I. and Kutafin O.E. suggest understanding the foundations of the constitutional system of the Russian Federation as the foundations of the state, its basic principles that ensure the character of the constitutional state for Russia [2, p.125]. Zakharov A.L. believes that principles can be both basic ideas and norms of law [3, pp. 58-62]. The position of Nevinsky V.V. seems to be the most multilateral, in his opinion, the principles can be considered in three categories:

1. The system of scientific ideas, teachings, doctrines.
2. The main goals of the development of society and the state.
3. Legal categories enshrined in the Basic Law of the State [4, p. 9-14].

Within the framework of our research, under constitutional legal relations we will define social relations regulated by the Constitution of the Russian Federation in the field of the foundations of the constitutional system, the legal status of the individual, the federal structure and organization of the system of public authorities, and under the foundations of the constitutional system, the main goals of the development of society and the state are scientifically justified. The very legal nature of constitutional legal relations, which includes private and public principles, affects the fundamental values for society and the state.

Mosin S. A. describes the triune beginning of the basic properties of constitutional principles: axiomaticity, presumption and fictitiousness through the prism of which constitutional goals are achieved and values are preserved [5, pp.126-136].

At the current stage of development of Russian society, a course has been taken to build an "information society", the main values of which are information and knowledge. The latter, in turn, are drawn if there is access:

- to the information and digital space based

on the worldwide system (network) of transmission and storage of information "Internet";

- to digital and computer technologies.

Among the new constitutional values, we will single out: access to the Internet as one of the basic human rights. France and Estonia have experience of securing such a right as the main one [6, pp. 61-63].

Thus, in order to feel like a full-fledged member of society with information and knowledge, it is necessary to spend financial resources to purchase these capacities. Automatically, the realization of human and civil rights and freedoms, such as the right to education, the right to freely seek, receive, transmit, produce and disseminate information stumbles on the availability of financial capabilities of a citizen. Separately, we will pay attention to the right to work in conditions that meet the requirements of safety and hygiene. Today's job responsibilities in the vast majority of professions and qualifications are inextricably linked with the daily minute-by-minute activity of a person at a computer, which in turn adversely affects his physical and mental health. So, the information and digital space is becoming a new sphere of human existence and an object of legal influence.

According to N.S. Bondar, the information and digital space (cyberspace) forms new principles of the relationship of public authorities with man and society [7, p. 30]. As part of our research, we will call one of them the "principle of the digital state". It has not found its direct reflection in the Constitution of the Russian Federation and the constitutions of foreign states. Nevertheless, the current development goals of Russian and foreign societies require legal regulation of this phenomenon.

The introduction of an electronic voting system has obviously led to the transformation of democracy into electronic democracy, as a result, electronic elections become the highest and most direct expression of the power of the people.

We will focus separately on the concept of state sovereignty. The sovereignty of the Russian Federation extends to its entire territory. The Constitution of the Russian Federation and Federal laws have supremacy throughout the territory of our country (Article 4). Nevertheless, the information

and digital space (cyberspace) has the property of extraterritoriality. Sovereignty in cyberspace is a topic for a separate study. The basis for the implementation of the "principle of the digital state" in this case will be the principle of extending sovereignty and unity of state integrity to the Russian segment of the Internet – Runet [6, pp.61-63].

It is worth noting that in the conditions of building a digital economy in Russia, digital transformation inevitably overwhelmed the change in the principles of unity of economic space, free movement of goods and services, freedom of competition – more precisely, expanded the scope of their legal regulation. Economic activity is now carried out, including in Runet.

3. The legal nature of the constitutional and legal foundations of the digital state

Malyugin S.V. in his research "The category of "legal nature": the concept, determinants, main characteristics and approaches to definition" [8, pp. 46-58] suggests understanding the legal nature as a set of permanent, essential characteristics of a legal object manifested in the process of its cognition, allowing to determine the semantic meaning of a legal phenomenon, as well as to establish affiliation a legal fact is a hypothesis of a rule of law or other object related to law, the corresponding legal category. This section is devoted to the study of the content of the principle of the digital state, which allows us to describe the semantic significance of this legal phenomenon for the development of society and the state in Russia. So, under the influence of foreign economic and international processes in the conditions of a pandemic all over the world, communications between citizens, public authorities, between state institutions and citizens were formed with the help of information and communication and digital technologies. Of course, many people in Russia received the provision of public services with the help of ICT even before the pandemic, without leaving home, by registering on the website "Public Services". Nevertheless, in the context of the spread of the deadly COVID-19 virus, a number of state bodies and public authorities have legally moved to the implementation of their individual powers exclusively with the help of digital

technologies³. The concepts of electronic sick leave, electronic work record, QR code - as a certificate of vaccination have firmly entered our lives. The guarantee of accessibility and free of charge of basic general and secondary vocational education in state and municipal educational institutions becomes conditional, since it is implemented only when it is possible to get remote access to paid digital interaction with a teacher.

Such changes have divided society in Russia into supporters and opponents of digitalization. Very often, antipathy to the term "digit" is caused by:

- religious beliefs of citizens;
- fear of the past about assigning numbers instead of full names to prisoners of concentration camps of nazi Germany;
- the historical memory of the totalitarian political regime with its control of all spheres of society;
- distrust of representatives of public authorities.

An integral part of the foundations of the constitutional system of the Russian Federation is a set of characteristics of the state. Article 1 of the Constitution of Russia establishes that the Russian Federation is a democratic, federal, rule-of-law state with a republican form of government. Article 7 also characterizes the State as social, and article 14 as secular. The "principle of the digital state" is based on building a dialogue between public authorities and the people in the implementation of universally recognized human and civil rights and freedoms through information and communication, digital technologies. When implementing this principle, the state guarantees the protection of personal data and free access to the Internet. Personal data of citizens become the object of law and the content of the unified federal information register . A new concept has been introduced into legal practice –

³ Resolution of the Presidium of the Supreme Court of the Russian Federation, the Presidium of the Council of Judges of the Russian Federation of 08.04.2020 N 821 (ed. of 29.04.2020) "On the suspension of personal reception of citizens in courts". On the activities since May 12, 2020, see the Letter of the Judicial Department at the Supreme Court of the Russian Federation dated 07.05.2020 N SD-AG/667

"digital profile". We agree with the opinion of E. V. Vinogradova, she writes about the lack of a targeted and qualitative nature of the formation of a set of data included by the legislator in the concept of "digital profile" [9, pp. 5-19]. In our opinion, the relationship between the digital and legal status of an individual requires understanding⁴.

Democracy in a digital state is taking on a new form - digital democracy: the formation of public authorities through electronic elections. Information in a digital state becomes the main resource, the source of power. Digital document circulation displaces paper, becomes the basis for securing, confirming, and realizing the fundamental rights and freedoms of man and citizen using an electronic digital signature (smart contract, electronic sick leave, electronic work book, etc.). The right to access the Internet becomes the basis for the exercise of the power of the people, the realization of the constitutional rights and freedoms of man and citizen. The monetary unit takes on a digital form: digital financial assets, digital currency, digital ruble⁵. The free movement of goods and services and information in cyberspace is part of a developed digital economy. New qualities and properties of political decision-making appear in an automated mode, sometimes without human participation. State bodies become the coordinators of the development of online services that meet the needs of citizens.

4. Conclusions

Under the influence of digital transformation, constitutional and legal foundations become not only a tool providing guarantees of social existence, but also an object of digitalization, as a result of which they

undergo a change in the form, content and system of their implementation. There is a simplification of formal procedures for the implementation of constitutional rights and freedoms of man and citizen, based on the right to access the Internet as a basic human right in the modern information society, ensuring the implementation of the "principle of the digital state". The main condition for overcoming stagnation in the development of the digital state and the information society is a state guarantee that ensures every citizen the realization of the right to access information on the Internet.

⁴ Federal Law No. 168-FZ of 08.06.2020 "On the Unified Federal Information Register containing information about the population of the Russian Federation". Official Internet Portal of Legal Information <http://www.pravo.gov.ru>, 08.06.2020

⁵ Federal Law No. 259-FZ of 31.07.2020 (as amended on 14.07.2022) "On Digital Financial Assets, Digital Currency and on Amendments to Certain Legislative Acts of the Russian Federation" (with amendments and additions, intro. effective from 01.12.2022). Official Internet portal of legal information <http://pravo.gov.ru>, 31.07.2020

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