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Digital Rights Management in a Procedural Relationship

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ABSTRACT Based on the framework of the present study, the researchers addressed the realization by participants of a procedural relationship of their rights and obligations mediated by the capabilities of information technology. The researchers attempted to highlight the terms "digital procedural rights" and "digital procedural rights management". Then, the applicability of the term "digital rights management" to areas of public relations not limited to copyright protection was analyzed in the study. In the context of the given problems, the researchers also considered possible dissemination of the term "digital rights management" as a kind of the generalized category, including the feasibility of exercising rights and obligations using legal instruments arising from the use of digital technologies. It was concluded that the formation of the information society as a society based on that information and communication technologies had become part of modern management systems, which involve the identification of the terms "digital procedural rights" and "digital rights management".

INTRODUCTION

Due to the use of modern technologies, the active implementation of information and communication technologies in various sectors of public relations leads to an increase in the number of normative regulators. Legal instruments depend on technical and technological means of their implementation. Terms are introduced into legal practice involving the use of information and communication technologies to achieve a particular legal result. Therefore, the Civil Code of the Russian Federation has introduced a new article, 141.1, which established a definition of digital rights (Maggs and Maggs 2018).

Obligatory and other related rights in the law are recognized as digital rights, the contents and conditions for the implementation of which are determined in accordance with the rules of an information system that meets the criteria established by law. Deployment and disposal, including transfer, pledge, and encumbrance of digital law in other ways or limiting the disposal of digital rights are possible only within the information system without contacting the third party (Filonova et al. 2019).

Moreover, the establishment of the digital law concept in the context of material relations puts on the agenda the issue of possible risk management in connection with the active penetration of the technogenic factor into the legal plane. In foreign practice, since the moment of the active development of communication channels for information transfer, the concept of "digital rights management" has been established as a way of protecting copyrights to digital media (Zhang and Zhao 2018). Remaining, basically, in the plane of copyright, the concept of "digital rights management" in a foreign doctrine is no longer regarded simply as a way of protecting copyright, but as a broader category.

Thus, Tivadar (2011) considers "digital rights management" as a technical measure that is only one element of a complex regulatory system, the so-called "trusted system". This system also includes legal, business, political, and cultural elements. Of course, there is no doubt about the fact that computers and the Internet are important tools for cultural participation. This trusted system is a socio-technical ensemble that achieves the intended effects through the combined influence of its elements. As a result, the law does not create this regime, but rather is a means of achieving specific political, social, and business goals.

In the researchers' opinion, digital rights management should be considered as a broader category, including a system of legal regulators stipulated by the use of information and communication technologies to achieve a particular

legal result. However, the allocation of the field of legal regulators due to the need to use modern technologies is necessary first of all to ensure the safety of participants in legal relations, which should not depend on the feasibility of the technological factors when exercising their rights and obligations (Breyer et al. 2017).

Objectives

The researchers addressed the realization by participants of a procedural relationship of their rights and obligations mediated by the capabilities of information technology. They attempted to highlight the terms "digital procedural rights" and "digital procedural rights management."

METHODOLOGY

The methodological basis of the present study was made from the general provisions of the science of civil law, civil procedural law, administrative, procedural law, and procedural arbitration law (Komarov 2011). Procedural law is the rules governing the conduct of legal action, as opposed to "substantive law", which refers to the actual laws by which a crime may be charged or which governs how the facts of the case will be accepted and presented. Therefore, interdisciplinary, dialectical, and sociological methods were used in the study.

Interdisciplinary teaching is a technique, or collection of techniques, used to teach across education divisions or "to put together different disciplines across common themes, problems, or concerns." Sometimes interdisciplinary teaching combined with or a part of several other teaching strategies (Neuman 2016).

Dialectics or dialectics, also known as the dialectical method, is based on a debate between two or more individuals holding different points of view on a topic but attempting to establish the truth through reasoned arguments.

Six of the most common sociological research techniques (procedures) are a case study, questionnaire, evaluation, comparison, observational, and cross-cultural approaches, as well as dealing with already available information.

In research culture and social behavior, sociologists use many different designs and techniques (Bulmer 2017). Many sociological types of research include ethnography, or "fieldwork", designed to explain as fully as possible the features of a group.

RESULTS AND DISCUSSION

According to the analyses, it was possible to use the category "digital rights management" in a broader sense as a category denoting possible enforcement of the rights and fulfillment of obligations of participants in legal relations due to the use of information and communication technologies with the allocation of a responsibility center; that is, an operator who is obliged to ensure the security of information technology functioning necessary to achieve a certain legal result.

As demonstrated, the procedural legislation of norms establishing the achievement of a certain result was created depending on the technical capabilities and thanks to information and communication technologies, which ultimately affected the implementation of the task of legal proceedings by correct and timely consideration of a case. Besides, exercising the right to judicial protection is one of the important constitutional guarantees that provides all interested parties with the opportunity to eliminate the violation of subjective law, legitimate interests, and freedoms, or eliminate the threat of their violation. In this sense, concerning the perspective of elimination of the violation or threat of violation of rights, the introduction into the procedural legislation of norms involving interaction with technical means of communication seems very sensitive. It should be mentioned that timeliness is an important component of the realization of the right to judicial protection. "Digitalization" of procedural relations is ultimately aimed at accelerating the case consideration and ensuring the accessibility of justice (Filonova et al. 2019).

In fact, by providing greater access to justice by introducing advances in information and communication technologies into procedural relations, the legislator should establish their security through "digital rights management", and managing risks associated with the implementation of procedural rights mediated by digital technologies. This is a necessary action so that these innovations are aimed at facilitating

access to justice, and not a violation of the rights of participants in procedural legal relations.

Thus, the question may arise: Is it necessary to manage the risks arising from the digitalization of legal relations, and can it be limited to the existing arsenal of legal means? It seems that the answer to the question should be sought in the transformation of the current legal relations (Valeev et al. 2018; Khodzhiev and Nuriev 2015; Viktorovna and Fajzrahmanovich 2016; Valeev and Golubtzov 2014; Nuriev 2018).

With regard to the Strategy for the Development of the Information Society in the Russian Federation, it is confirmed that information and communication technologies have become part of modern management systems in all sectors of the economy, in the fields of public administration, national defense, state security, and law enforcement. There are enshrined in the capacity of tasks the application in government bodies of the Russian Federation of new technologies that would improve the quality of public administration, creation of management and monitoring systems based on the information and communication technologies in all spheres of public life (Section 40), and the use of e-government infrastructure for the provision of public, commercial, and non-commercial services demanded by citizens.

Thus, the Digital Economy of the Russian Federation Program was adopted in order to implement the strategy, which was aimed, among other things, to provide grounds for developing a knowledge society in the Russian Federation and improve the availability and quality of public services for citizens, and security within the country and beyond. This program is aimed at creating the necessary conditions to develop the digital economy in the Russian Federation so that digital data become a key factor in all sectors of public relations.

Notably, a qualitative leap has taken place concerning the normative consolidation of the introduction of information and telecommunication technologies in procedural relations in the last five years. In particular, it is possible to digitalize certain procedural actions aimed at ensuring access to justice by spot changes to the current legislation.

Such innovations include the possibility of sending a document to the court in an electronic form by signing it with a qualified electronic signature key or by attaching a simple electronic signature with a key. In this case, the applicants have the opportunity to exercise the right to appeal to the court in addition to digital paper. Of course, these changes simplify the possibility of going to court and providing for the quick delivery of the necessary procedural documents through secure communication channels. However, having emerged as a new opportunity, this method of going to court, according to statistics, is gaining popularity and is likely to become one of the prominent ways of going to court in the expectable future in the information society. Actually, the dependence between the technical possibilities of applying to the court and practical implementation of the constitutional right to judicial protection will increase accordingly. In particular, now, in civil proceedings, the applicant can appeal to the court having filed a statement of claim, application, complaint, and representation in electronic form; in administrative proceedings: administrative statement of claim, application, complaint, representation; in criminal proceedings: petition, statement, complaint, representation; and appeal, as to constitutional proceedings. All this gives evidence to the need for establishing control on the part of the state in terms of the uninterrupted operation of the functionality, upon which applicants will reckon within the statutory deadlines for the mandatory protection of violated rights.

The next important achievement is the possibility of remote access to the court session, which can be provided with the appropriate technical capabilities. Currently, this feature is being implemented *via* video conferencing systems with certain limitations. 1) This feature can only be implemented in courts. 2) Only if there is an appropriate technical capability. These limitations are explained by the need to take a number of actions so that they would have public significance and procedural consequences. Therefore, the court checks the appearance and identifies the persons who appeared, takes signatures from witnesses, experts, and translators to explain to them the rights and obligations by the court hearing the case and a warning of responsibility for their violation. The indicated signatures shall be sent to the court considering the

case no later than the next day after the day they were received to be included in the minutes of the court session.

Apparently, the possibilities of remote access can be expanded by analogy with the electronic filing system of documents to the court in the future. Currently, thanks to the RF Public Services Portal, applicants who have been authenticated and identified receive an account that can be viewed with a simple electronic signature key. This key provides sufficient opportunity to exercise their rights in a remote format, without being tied to visiting any public institutions. Thus, this experience can be extended to remote access in video format.

Consideration of digital data as a key factor in the development of all sectors of public relations suggests that the use of information and communication technologies has become part of modern legal proceedings. In fact, the task of a phased transition of the state bodies to the use of the information infrastructure in the Russian Federation is enshrined at the regulatory level, and this prompts us to search for a new concept in the domestic doctrine, which could reflect the symbiosis of legal regulators and technical means that could ensure achieving the desired legal result. Therefore, it is possible to use the concept "digital rights management" as such a concept, which was narrowly considered in the foreign doctrine as applied exclusively to copyright. Consequently, the introduction of an analogue of this term into the domestic doctrine will lead to identifying the rights, the implementation of which will depend on the information and communication technologies, and establish possible risks and ways to overcome them.

CONCLUSION

According to the analyses, it could be concluded that it is possible to introduce an analogue of the term "digital rights management" into the Russian legal doctrine. Indeed, this will allow identification of procedural rights, the implementation of which will depend on the information and communication technologies, and establish possible risks and ways to overcome them. In the researchers' opinion, digital rights management should be viewed as a system of legal regulators stipulated by the use of information and communication technologies in order to achieve a certain legal outcome in the field of legal proceedings. Therefore, identification of the area of legal regulators due to the need to use modern technologies is necessary primarily to ensure the participants' safety in legal relations, which should not be dependent on the possibility of technological factors in the exercise of their rights and obligations.

RECOMMENDATIONS

In the current study, based on the framework of the present study, the researchers addressed the realization by participants of a procedural relationship of their rights and obligations mediated by the capabilities of information technology. In order to have a general view, it is suggested to compare the results of this paper with other different areas around the world which have different economical, social and historical conditions.

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