

National Research University
Higher School of Economics

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**LEGAL STATUS OF THE STATE BODIES OF EXECUTIVE POWER IN THE
INFORMATION SPHERE (COMPARATIVE STUDY)**

Dissertation summary

for the purpose of obtaining academic degree

Doctor of Philosophy in Law

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Moscow - 2023

The thesis was completed at the School of Digital Law and Bio-Law of the Faculty of Law of the National Research University “Higher School of Economics”.

The text of the thesis is deposited and available on the website of the Higher School of Economics: <https://www.hse.ru/sci/diss/>

5.1.2 – public law (state and legal) sciences

Relevance of the research

The system of public administration in light of the scientific and technological progress is being developed in different spheres of social relations. The changes in public administration are being carried out in various directions, comprising the system of public services delivery, the electronic communications with courts, the electronic voting technologies.

The executive power bodies start participating in the data flow. On the one hand, the openness of executive power receives further development. The data being published play a key role in the data flow in public sector. On the other hand, the growing need for information security requires a novel model for openness, providing for control of executive power bodies over the data revealed.

The modernization of public administration is concomitant to the ever-increasing role of digital platforms in society. The state also elaborates its own digital platforms to provide for efficient public services delivery in electronic form. The shift towards platform approach allows the state to guarantee the security and reliability of other legal interactions in electronic formats.

The information sphere itself becomes the object for public administration. The states accentuate the regulation for the content of Internet communications and so the executive power bodies acquire more powers in regulating the information resources containing the illegal information. The rule-making and order-making procedures also provide the executive power bodies with additional powers in regulating the information sphere.

The competence of executive power bodies is being enlarged to provide for the novel ways of public administration in the information sphere. The system of public bodies changes as well. This tendency concerns the executive power bodies at first place. The modifications take place on the diverse levels of executive power, from president and government to ministries and other public bodies.

These tendencies concern Russian public administration as well. Russia is currently elaborating novel approaches to public administration, having carried out the reforms in the state control procedures, having orchestrated a shift towards the electronic register-based model for the public service delivery. The new measures of enforcement in the information

sphere are being developed. Hence, the growth of powers granted to the specialized ministry and agency, leading to question of the redistribution of powers within the central administration.

As the tendencies for modernization of public administration in the information sphere prevail in the foreign countries as well, the prominence of similarities becomes more evident. Which makes the analysis of such common points and the differences relevant.

The scientific elaboration and theoretical background for the research

The theoretical basis for the research consists of Russian and foreign authors on the legal aspects of the electronic government.

The works by B.M. Lazarev, M.I. Piskotin, B.P. Kurashvili, V.G. Vishnyakov, I.L. Bachilo, G.V. Atamanchuk have been used as a basis for study in the sphere of public administration. The key role in theoretical understanding of the peculiarities of legal regulation of the activities of executive power bodies has been played by the works of soviet and Russian authors – I.L. Bachilo, Y.M. Kozlov, V.M. Manokhin, M.I. Eropkin, Y.S. Ryabov, C.A. Yampolskaya, A.E. Lunev, G.I. Petrov, Y.A. Tikhomirov, D.N. Bakhrakh. There should be outlined the works in comparative law and public administration by M.A. Shtatina.

The research in American administrative law was influenced by the works of R. Pierce junior, P. Verkuil, A. Vermeule, E. Kagan, C.R. Sunstein, D. Waldo. The crucial role in understanding the French administrative law played the works of J. Rivero, J. Chevallier, J.-L. Autin, J. Waline.

The fundamental issues of legal regulation in sphere of information security were closely studied in works by T.A. Polyakova, V.N. Lopatin. Some aspects of information security were elaborated in works by A.V. Tulikov, M.S. Zhuravlev.

The general ways of modernization of public administration were studied in works by E.V. Talapina¹. The administrative aspects of information technology use by executive power

¹ Talapina E.V. Modernizaciya gosudarstvennogo upravleniya v informacionnom obshchestve: avtoref. dis. ... d.yu.n. [Modernization of public administration in the information society: thesis summary for Doctor of Legal Sciences]. Moscow, 2015.

bodies were studied by N.N. Kovaleva². The fundamental theoretical grounds for legal regime of information have been elaborated by L.K. Tereshchenko³.

The issues in electronic government regulation were closely studied by I.L. Bachilo, I.Y. Bogdanovskaya, N.N. Kovaleva, N.A. Danilov, E.G. Inshakova. Comparative analysis for the right to information on the activities of the executive power bodies has been carried out by A.S. Ageev⁴.

The theoretical grounds for comparing the transparency and secrecy and hybrid information regimes were laid down by D.I. Gunin⁵. The general theory for legal regime of secrecy received closer attention in works of M.V. Permyakov⁶. The notion of secrecy and its classification was researched by I.V. Bondar⁷. A.A. Antopolsky contributed to the research in legal regime of information of limited access⁸. Some types of secrets were also considered in other legal research works⁹.

In context of issues in electronic identification and the electronic signature use the works by S. Mason¹⁰, A.I. Savelyev, V.B. Naumov might be highlighted.

² Kovaleva N.N. Administrativno-pravovoe regulirovanie ispol'zovaniya informacionnyh tekhnologij v gosudarstvennom upravlenii: avtoref. dis. ... d.yu.n. [Administrative law regulation of the use of information technologies in public administration: thesis summary for Doctor of Legal Sciences]. Saratov, 2014.

³ Tereshchenko L.K. Pravovoj rezhim informacii: dis. ... d.yu.n. [Legal regime of information: thesis for Doctor of Legal Sciences]. Moscow, 2011.

⁴ Ageev A.S. Pravo na dostup k informacii, nahodyashchejsya v rasporyazhenii gosudarstvennyh organov (osobennosti konstitucionno-pravovogo regulirovaniya v Rossii i v Germanii): avtoref. dis. ... k.yu.n. [The right to access the information held by public bodies (constitutional law aspects in Russia and in Germany): thesis summary for Candidate of Legal Sciences]. Moscow, 2016.

⁵ Gunin D.I. Transparentnost' i tajna informacii: teoretiko-pravovoj aspekt: avtoref. dis. ... k.yu.n. [Transparency and secrecy of information: theoretical legal aspects: thesis summary for Candidate of Legal Sciences] Ekaterinburg, 2008.

⁶ Permyakov M.V. Kategoriya «tajna» v sisteme pravovogo regulirovaniya: dis. ... k.yu.n. [Category of secret in the system of legal regulation: thesis for Candidate of Legal Sciences]. Ekaterinburg, 2006.

⁷ Bondar I.V. Tajna po rossijskomu zakonodatel'stvu (Problemy teorii i praktiki): dis. ... k.yu.n. [Secret under the Russian legislation (Problems of theory and practice): thesis for Candidate of Legal Sciences]. N. Novgorod, 2004.

⁸ Antopolsky A.A. Pravovoe regulirovanie informacii ogranichenogo dostupa v sfere gosudarstvennogo upravleniya: dis. ... k.yu.n. [Legal regulation of the information of limited access in sphere of public administration: thesis for Candidate of Legal Sciences]. Moscow, 2004.

⁹ See Potapov N.A. Pravovoe regulirovanie kommercheskoj tajny v Rossijskoj Federacii: avtoref. dis. ... k.yu.n. [Legal regulation of commercial secret in Russian Federation: thesis summary for Candidate of Legal Sciences]. Moscow, 2010; Zhirnova N.A. Bankovskaya i nalogovaya tajny kak ob"ekty finansovo-pravovogo regulirovaniya: avtoref. dis. ... k.yu.n. [Banking and fiscal secrets as objects of financial law regulation: thesis summary for Candidate of Legal Sciences]. Saratov, 2013.

¹⁰ Mason S. Electronic Signatures in Practice // J. High Tech L. 2006. Issue 148. P. 149–164.

The comparative research applied the theory of legal families elaborated by R. David.

The research methodology

The research applied the general scientific methods. The systemic method has proved helpful in generalizing the research results and their presentation. Deduction was used to explain the specific cases of law enforcement based on the general theoretical background. The induction was applied to enrich the general conclusions by analyzing exact cases.

Amid the legal methods the formal dogmatic approach was applied to analyze the system of positive legal norms pertaining to the sphere of research.

The research was based on the comparative methodology. The comparison included the countries with developed legal tradition from different legal families. The USA was chosen as the principal country for comparison among the common law countries. The France was chosen to be the country for comparison from the civil law countries. The study also included some other countries for comparison where necessary for the research question.

The Russian legal science traditionally applies the systematic functional method to analyze the system of the executive power bodies¹¹, which allows to relocate the competencies of executive power bodies in the information sphere.

The study also applied the historic method to consider in depth certain legal institutes pertaining to the research question in different countries.

Empirical basis for the research consists of legal acts, either in force or invalid, in the countries compared, the projects for such acts, and the court ruling.

The scientific novelty of the research is explained by the complex comparative study of key peculiarities of public administration development to regulate the information sphere, as a result of which:

- tendencies towards the centralization and decentralization in the system of executive power bodies regulating the information sphere have been outlined;

¹¹ Atamanchuk G.V. Teoriya gosudarstvennogo upravleniya: uchebnik. [Theory of public administration: student book]. Moscow: Omega-L, 2010. P. 154–165; Bahrah D.N., Rossinskij B.V., Starilov Y.N. Administrativnoe pravo: Uchebnik dlya vuzov. 2-e izd., izm. i dop. [Administrative law: Student book for universities. 2nd edition]. Moscow: Norma, 2005. P. 38–43; Sorokin D.S. Reformirovanie sistemy i struktury federal'nyh organov ispolnitel'noj vlasti Rossijskoj Federacii: avtoreferat dis. ... k.yu.n. [Reformation of system and structure of federal bodies of executive power in Russian Federation: thesis summary for Candidate of Legal Sciences]. Moscow, 2004.

- the classification of types of coordination in regulating the information sphere has been elaborated;

- the legal nature for the administrative enforcement measures in the information sphere has been defined;

- the legal peculiarities of platform-based approach in public administration have been analyzed.

The object and the particular subject matter of the research

The object of the research is the activities of the executive power bodies regulating the information sphere or influenced by its development. The particular subject matter of the research are laws and bylaws regulating the activities of the executive power bodies in the information sphere, court ruling and administrative practice, academic and analytical materials pertaining to the executive power bodies.

The purpose of the research is to deepen the theoretical background for the legal status of the executive power bodies in the information sphere and, on the basis of the research, elaborate the scientifically proven propositions to regulate the activities of executive power bodies in the information sphere.

The research purpose is achieved by completing the following **goals**:

Analyze the peculiarities for organization of executive power system regulating the information sphere in Russia and in foreign countries;

Study the development of certain powers of executive power bodies in the information sphere in Russia and abroad;

Analyze the approaches to regulate the electronic government in diverse countries;

Deduce the general approaches to regulate the electronic data exchange by executive power bodies and the state electronic identification system;

Study the issues in legal regulation for the use of public and private digital platforms by the executive power bodies.

Key research findings and statements submitted for defense:

1. The development of regulation of the information sphere is provided by the centralization of the system of the executive power bodies in this sphere. The centralization is carried out by: the enlargement of presidential and governmental

administrations (depending on the form of government) to coordinate the electronic government implementation (Russia, France, USA, Singapore); creating the specialized ministries to regulate the information sphere (Russia, India, Singapore, China); centralized support for electronic government development in local and regional governments (Russia, France).

2. The research states that the current legal regime for openness in public sector does not allow to properly inform the citizens on the purposes and results of the use of the new technologies in public administration. Thus, it is stated that the use by the executive power bodies of the artificial intelligence in limits of their competence should be constrained to the openly revealed purposes with their obligation to publicly report on the results of the use of information technologies and the drawbacks discovered.
3. The comparison in the sphere of obligations of the executive power bodies related to the information security demonstrates that the councils uniting the officials responsible for information security inside the executive power bodies prove to be the most efficient way to organize the exchange of information by the executive power bodies. Such councils would also allow to improve standardization in sphere of information security taking into account the experience of diverse executive power bodies.
4. The analysis of the administrative measures in the information sphere in Russia and in France demonstrates that the information enforcement measures seem to be a distinguished type of administrative measures on the grounds that:
 - 1) The legal framework for such measures should be elaborated within the legislation on information, taking into account the similarity of procedures;
 - 2) There appears a tendency towards enlargement of such measures, which requires a unified legislative classification.

The common information enforcement measures in Russia and in France are: 1) limitation of access to the information resource; 2) ban on search results; 3) the obligation of the search engines to inform the users on the infringements of legislation on a particular information resource.

5. The research reveals that, depending on the legal tradition, which defines the necessity to delimitate the electronic government as a separate legal institute, some countries (USA, Italy, Germany, Austria) have adopted the special laws devoted to the electronic government in particular. Other countries (Russia, France, Sweden) only improve the broader legislation pertaining to the activities of the executive power bodies by integrating into it the legal norms regarding the electronic government, which allows for a complex development of existing legal institutes in the information sphere.
6. The use of public and private digital platforms by the executive power bodies leads to further development of network connections in public administration. Which enforces the tendency towards the integration of public law and private law methods in regulating the activities of executive power bodies. It is proposed to delegate by law to the Government of Russian Federation the rule-making powers to define the conditions of use of the accounts of the private digital platforms held by the executive power bodies. This approach might allow to determine and change the regulation more flexibly in context of evolving functionality of private digital platforms.
7. Comparative analysis states that the organization of electronic data exchange by executive power bodies (Russia, France, USA) can be carried out via the agreements on information sharing or by providing access to the information on the activities of the executive power bodies.

Agreements on information sharing might be concluded to fulfil the obligations of the executive power bodies to participate in the unified electronic data exchange infrastructure (Russia) or following the sole decision by the executive power body (Russia, France, USA).

It is proposed *de lege ferenda* to allow executive power bodies to require fees for the supplementary analytic work for producing the information and to restrict the use by the third parties of the information given to them by concluding a separate agreement. The changes to the legislation are described in the appendix to the thesis.

8. The right to digital identity is determined as a right of a person, in cases prescribed by law, to require of executive power bodies – operators of information system – the provision of use of the personal identifiers of such person for purposes of identification or authentication in the other information systems.

Theoretical value of the research consists in the development of legal theory for coordination bodies, the classification of levels of coordination to analyze the powers relocation inside the executive power system. The theoretical grounds for the development of the enforcement measures in the information sphere are also elaborated. The results of the research might be used in other public law research activities.

Practical value of the research is explained by the elaboration of legal approaches and propositions to improve the regulation of public administration by executive power bodies in the information sphere. The outcomes of the research might be used in educational courses for bachelor's and master's degrees.

Authenticity and practical evaluation of the research findings

The research was carried out at the School of Digital Law and Bio-Law, Law faculty, National Research University “Higher School of Economics” (HSE).

The main findings of the thesis research are reflected in five scientific articles published in scientific journals recommended by the Higher Attestation Commission under the Ministry of Education and Science of the Russian Federation, including three listed as recommended journals by HSE (list D).

The specific issues of electronic identification in public sphere have also been published in other sources:

- Silkin V.V. Electronic identification of public bodies and legal persons // Law in the digital epoch. The junior research section for the Vth International Conference. Moscow, 2016. P. 121 – 126.

- Silkin V.V. Electronic identity in the information law: comparative legal aspects // Law. Citizen, Society. Economics: the student articles digest. Issue 10. Moscow: Prospect, 2017. P. 352 – 358.

Some findings of the study have been presented on the conferences:

- The round table at the Moscow State University of Lomonosov devoted to the issues of digital reputation. 2023. Report: “Administrative procedure for protection of the digital reputation”;
- Lomonosov-2022. International conference. Report: “The practice of the data protection authority (Russia, France, USA)”;
- XXVIIIth International conference for students and junior researchers “Lomonosov”. 2021. Report: “Transparency in use of the automated data processing technologies by the executive power bodies”;
- VIII International summer school on cyber law. 2019. Report in English: «Public Sector Information: Openness and its Limitations».

The research outcomes and findings were used in applied scientific work of the author as a research trainee at the faculty of law. Some research materials were used in courses “Digital Law”, “Law and Information Security” for Lyceum, HSE; “Legal literacy”, “Intellectual Property Management” – for students of bachelor and master programs, HSE.

The structure of the research reflects the purpose and goals of the research, consists of introduction, three chapters and eleven paragraphs, conclusion, and the list of references. The structure is also explained by the analysis of certain aspects of legal status of the executive power bodies in the information sphere.

BRIEF SUMMARY OF THE RESEARCH

The introduction includes the relevance of the research, characterizes the theoretical and empirical basis for the research, outlines the object and particular subject matter of the research, the purpose and goals of it. The methodology applied in the research is explained. The main findings and the statements for defense, their novelty and theoretical and practical value are stated. In the end there outlined the authenticity and the practical evaluation of the research findings during the author’s work in applied research projects and education.

The first chapter “System of public power bodies regulating the information sphere” is devoted to the analysis of structural modifications in the system of public power bodies, reinforcing the role of executive power bodies in regulating the information sphere.

The paragraph 1.1. “The place of president and government in regulation of information sphere” provides the analysis for the relocation of powers of president and government concerning the information sphere. In semi-presidential republics (France, Russia) the president defines the general policy, and the government is required to implement it. There are differences in the role of the heads of state, the French President being the part of the executive power, whilst the Russian President remaining outside the three powers as a mediator and coordinator of them. In the USA as a presidential republic, president being the head of executive, the presidential administration provides the regulation of certain directions in the information sphere like cybersecurity, electronic government, artificial intelligence in public administration. The president is only allowed to appoint the senior officers but the legal status of the agencies inside the Executive Office is defined by law. Which explains the ramification of functions and officers inside the presidential administration. In parliamentary republics (Singapore, India) the regulation of the information sphere is carried out by the head of government.

The analysis testifies no specific modifications in powers of heads of state and government regarding the information sphere. The existing powers regulating the information sphere only demonstrate the already settled legal status of the presidents and governments. Nonetheless, some peculiarities might be mentioned like the growth of attention towards questions of information security, electronic government, and digital and technological sovereignty.

The paragraph 1.1.1 “The roles of apparatus of presidents and governments in regulating the information sphere” analyzes the structural entities inside the presidential and governmental administration. The role of coordinating bodies inside the administrations of president and government becomes more prominent in regulating the electronic government. The governance of public administration implies the following types of coordination: political coordination concerning the general policy for development; the operative coordination related to the execution and implementation of the policy by making more concrete decisions; technical coordination providing the functional support for the information systems shared by the executive power bodies.

In France all the coordination types are carried out by the administration of Premier minister. In Russia the President carries out the political coordination, the Government provides operative coordination to implement the policy settled, and the specialized ministry is responsible for technical coordination. In the USA the president is only providing political coordination regarding the electronic government, the agencies allowed to freely decide on their own technological needs.

The models of coordination outlined above reveal different levels of centralization in regulating the use of information technologies by the executive power bodies.

In paragraph 1.2. "Ministries and other agencies" the changes in the central executive power administration regulating the information sphere are analyzed. Some countries establish specialized ministries in the information sphere (Russia, India, China, Singapore), with the lower authorities under their control and supervision.

The USA and France, regarding their long history of public administration, have created the independent authorities responsible for information sphere regulation. The specialized ministries are not created. In some areas of the information sphere, though, - namely in questions related to the cybersecurity, the centralized approach prevails. It is stated that the establishment of independent authorities is not necessary in Russia, as the experience of the foreign countries outlines the negative sides of the independent authorities like the budgetary issues and the questions of separation of powers. Russian model is younger and can adapt the linear hierarchy approach more efficiently to regulate the information sphere.

The enlargement of powers of specialized ministry and agency regulating the information sphere in Russia demonstrate the necessity to search for new structures and novel models for relocating the functions in central public administration regulating the information sphere. Firstly, the relocation of powers among the specialized ministry and the other ministries is necessary. Secondly, it appears reasonable to create a separate executive power body regulating the personal data exclusively.

The paragraph 1.3. "Executive power bodies in subjects of federal states in the information sphere" analyzes the peculiarities of regulation of the information sphere by the public authorities on the lower levels, analyzes the relocation of powers among the federation

and its subjects in the information sphere, interaction between the executive power bodies and local governments in the information sphere.

In Russia the powers to regulate the information sphere are under the competence of the federation, yet on the level of subjects of Russian Federation there appear the questions requiring the regulation of information sphere as well, including the governance of information resources held by the subjects of federation, which necessitates the novel constitutional approach to the relocation of powers between subjects and the federation. In the USA the powers of the states are larger. Many questions like personal data and use of artificial intelligence receive attention from different states, the federal level being more reluctant to adopt any rules in this regard. Which provides the soil for the development of the different approaches to regulating the information sphere inside one country.

The subjects of federation in Russia and the states of the USA also establish the authorities in the information sphere which organize the public administration of information systems and services pertaining to the activities of the federal subjects.

The issue of relocation of powers between the federation and the subjects in the information sphere remains unsolved. It is stated that the contemporary constitutional approach in Russia should be changed, relocating the powers to regulate the information between subjects and federation together.

Considering the interaction between central administration and local governments on the issue of the information sphere in some countries (Russia, France) there might be outlined the centralized approach supporting the development of local electronic government, which allows for more efficient organization of electronic government services. In the USA, instead, the municipalities are granted the possibility to cooperate between each other on their own and share best practices and common approaches.

The second chapter “Powers of the executive power bodies in the information sphere” considers some duties and rights granted to the executive power bodies regarding the information sphere which might be the object for comparison and influence the information sphere.

In paragraph 2.1. “Rulemaking” the common features of regulating the information sphere by the executive power bodies are analyzed. In countries with semi-presidential form

of government (Russia, France) there appears a high dozen of rulemaking by the government as regards the law. Rulemaking is mostly delegated by law and provides details for certain procedures realizing more general statements in laws.

Rulemaking by specialized ministries and other agencies appears less common. But the example of personal data authorities reveals that law enforcement activities by such authorities acquire some traits of normativity and their recommendations and guidelines become more valuable than court ruling in regulating certain directions in the information sphere. Russian example demonstrates that even the court-based procedure for pronouncing the administrative poena does not lead to the minimization of role of the acts by the executive authority in regulating the information sphere. The powers of the Federal Trade Commission in the USA also testify the overriding importance of orders in regulating the sphere of personal information in the public sector. France demonstrates a more balanced approach, as the factual role of the Council of State in sphere of personal data appears more active.

In paragraph 2.2. "Public service delivery" the main features of electronic services and other state services provided in electronic format are analyzed. The novel rights of citizens towards electronic activities by public administration are outlined, including the right to choose the form of the result of the service, the right to have a standard technological level of state service delivery in electronic form. It is stated that such rights are limited but might be reasonable considering cyberthreats.

Some areas regarding the electronic public service delivery remain uncertain, though. For instance, there is no specific regulation for the collection and use of the metadata created by the user of digital government platforms.

Some modifications are also connected to the rights regarding the use of artificial intelligence by the executive power bodies. The contemporary personal data framework does not prove to be sufficient in this regard. The development of artificial intelligence technologies in public administration requires, on the one hand, the concretization of means to inform the citizens on the purposes of use of such technologies by executive power bodies. On the other hand, there appears a necessity to account the risks of application of a certain technology during the preparatory phase.

The development of new technologies related to the public service delivery impacts the realization of rights and freedoms of citizens. Hence, the questions of electronic government and public service delivery receive closer attention by the ombudsmen (Russia, Sweden, France).

The paragraph 2.3. "Information security of the executive power bodies" analyzes the obligations by executive power bodies in the sphere of cybersecurity. The following elements of the cybersecurity ecosystem are analyzed: standardization, creating the official responsible for cybersecurity in every executive power body, and the development of the information exchange systems.

The contemporary model to mitigating the cyberthreat risks by executive power bodies (Russia, France, USA) is based on the creation of information exchange systems, including sharing the best practices and notifying on the incidents of cybersecurity. Regarding the necessity to provide the cybersecurity inside the executive power bodies the new officials are nominated. Yet the development of quantum communications might affect this tendency towards centralization by lessening the risk of data leak. The further development of quantum technologies requires more improvements in positive law and more resources so far.

The paragraph 2.4. "Administrative information enforcement measures" outlines the development of novel forms of administrative measures carried out by the executive power bodies in the information sphere.

Russian legal doctrine since the soviet times has been elaborating the classification of administrative measures. The 50-60s approach in the XXth century implied the differentiation between the administrative enforcement measures and the administrative sanctions. Further development of classification of such measures has led to the differentiation between administrative prevention, administrative preclusion and administrative sanctions. Some other classifications also included the administrative restoration measures and the procedural measures. Yet the administrative information enforcement measures appear different from the types of administrative measures already described in Russian legal literature and constitute a distinguished type of administrative measures regulated under the legislation on information.

Initially only website blocking was related to the information enforcement measures, yet in France and in Russia the variety of such measures eventually grows: from requiring the

search engines to notify the users on the infringements by a certain website to restraining the advertising activities.

The third chapter “Legal models for electronic government” is devoted to the analysis of approaches to legal regulation of electronic government, the key legal issues related to the shift towards “government as a platform” approach.

The paragraph 3.1. “Legislation on electronic government” analyzes the legislation of diverse countries on the electronic government and outlines the electronic government readiness ranking of various countries. The electronic government in Russian literature as a characteristic of digitalization of activities of the executive power bodies differs from the concept of electronic government as a broader term defining the changes in all branches of power. The electronic government in such broader sense might be regarded as a new stage for development of the constitutional state, having progressed from rule of law and social state to the electronic government. The constitutions so far have not included any specific regulations considering the electronic government. Rather the new information rights in some constitutions determine the further development of electronic government.

Comparative research demonstrates that in some countries the special laws on electronic government are adopted (USA, Italy, Germany, Austria), whilst in other countries the electronic government is being regulated in frames of a broader legislation on the activities of the executive power bodies (France, Sweden, Russia). In Canada the electronic government is regulated by policies and directives issued by the executive power bodies. Some countries have recently adopted laws regulating the digital government (Beliz, Papua New Guinea).

The countries with settled tradition of administrative law (France, Sweden) do not adopt the special laws on electronic government and elaborate the regulation of activities of executive power bodies taking into consideration the issues pertaining to the electronic government.

Russian Federation follows a similar approach, enhancing the legislation to improve efficiency of public service delivery and the realization of right to access the information related to the activities of the executive power bodies in the information sphere.

In paragraph 3.2. “Electronic government in the epoch of digital platforms” the main features of the use of private and public digital platforms by the executive power bodies are analyzed.

The platform approach reinforces the mixture of private law and public law methods in regulating the activities of executive power bodies in the information sphere. The use of private platforms requires some additional rules in legislation concerning the conditions of use of private platforms by the executive power bodies. Thus, the private contract – the terms of use of a digital platform – acquires some public law aspects. The use of public digital platforms held by the executive power authorities, instead, reopens the issue of indemnification for damages caused by the technical mistakes not being the expressly illicit actions of the officials.

In paragraph 3.3. “Legal regime for electronic data exchange” some basic features of organization of the data flow in public sector are analyzed.

The legal form for data exchange between executive power bodies are the agreements on the information sharing (USA, Russia, France). Such agreements are concluded both upon the autonomous decision by an executive power body and upon the legal obligation to sign such an agreement in order to start transferring the data within the unified framework for data exchange.

The simplification of data exchange procedures is achieved via the open data. Openness allows to prevent the case where every executive power body bears some costs to produce the same technology by allowing the share of such technologies inter-agency (USA, Russia).

The data flow development in public sector requires a more flexible approach to regulating the delivery of the data by the executive power bodies to the other participants of information sharing. Russian approach to regulating the access to the data related to the activities of the executive power bodies requires modernization.

More efficient would be providing the executive power bodies with the opportunity to reveal some data on a monetary basis to cover the additional costs for systematization and analysis of the data required. This should not be meant to nourish the monetization of data by executive power bodies with detriment to their publicly valuable activities and duties, but only highlights the importance of private co-financing for some valuable information to be gathered

by the officials. Plus, this would be reasonable to provide the executive power body with the opportunity to limit the use of data with an agreement (e.g., exclusive license). Which seems more advantageous for the information security risks.

In paragraph 3.4. “State electronic identification” the common features of electronic identification as regards the national identification procedures and documents are analyzed. There is a correlation between the national identity documents and the development of electronic identification. Common law countries (UK, USA) are prone to allow several identity documents and demonstrate more liberal approach in this regard. Continental law countries tend to concentrate on one identification document and organize the electronic identification system consequently.

The main features of state electronic identification are outlined. Firstly, identification by the executive power bodies is a legal regime, where the legislator requires the officials to identify or create an identifier for a particular purpose. Secondly, the executive power body is not entitled to create new identifiers on its own will without the express rules or laws requiring it. Finally, identification carried out by the executive power body is multifaceted, including not only the correspondence with the identifier, but also the verification by a third party.

The identification results in creation of digital profile as a set of data related to some person within the information systems held by the executive power body. Considering the current possibilities to use the identifiers as a proof of identity in non-power relations, there appears the right to digital identity – the right to demand the verification of the user’s identity in the information systems held by the third parties with the help of the account of the state information system. The right to digital identity is closely related to the evolving concept of “digital citizenship”, allowing citizens to realize their constitutional rights in digital world.

In **conclusion** there outlined the main findings of the research and the propositions for future research.

Publications reflecting the main results of the research

Reviews and journals recommended by HSE (list D):

1. Silkin V.V. Danilov N.A. Legal regulation of access to information of the Internet user after his death: comparative legal research // *ZHurnal zarubezhnogo zakonodatel'stva i*

sravnitel'nogo pravovedeniya [Journal of Foreign Legislation and Comparative Law]. 2021. Vol. 17. № 1. P. 86–101;

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