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LegalTech in Digital Economy and in Legal Regulation of Individuals Economic Activities

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Abstract

Based on law and doctrine, the article examines the categories of 'digital economy', 'LegalTech' and 'individuals' economic activities' in their interaction. It stresses that those categories represent Russia's priority lines of development and can be fully digitalised. Legal science reflects diverse interpretations of LegalTech. There is a widespread understanding is that LegalTech is a narrow toolkit for lawyers. The author argues for an expansive interpretation of LegalTech as a comprehensive phenomenon intended for a wide range of economic agents, and shows LegalTech to be both an element of the digital economy and a digitalised means for legal regulation of individuals' economic activities. Trends and risks in the implementation and use of LegalTech tools are identified. In the aspect of legal regulation, the functional characteristics of LegalTech are formulated on the basis of an instrumental legal approach.

Keywords

LegalTech, digital economy, artificial intelligence, Big Data, smart contract, legal regulation of individuals' economic activity, legal literacy, registration and reporting automation, control over economic agents' activities.

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Introduction

Digital economy, LegalTech, and the development and transformation of individuals' various economic activities are separate but interconnected phenomena that are all novel, experimental and multi-faceted. The link between them is digitalisation based on artificial intelligence and Big Data.

The relevance of studying the above categories is confirmed by the Programme of Fundamental Research in Russia for the Long Term (2021 to 2030)[1]. The priority lines of economic research relate to the 'development of civil society and self-organisation of citizens and aim to accelerate the innovation processes.' In turn, cited as the priority lines of legal studies are 'transformation of the law paradigm amid a digital economy, robotics development, and creation of a comfortable legal environment for Russia's global technological leadership; and continued development of entrepreneurial law.' The above shows that any area of life is subject to legal regulation, which also takes on a digitalised form. The economy and law are inter-related and can be digitalised in their entirety. So Leg

alTech (law/legal technology), while being a manifestation of digital law, also acts as both an element of the digital economy and a means for legal regulation of economic activities, including economic activities of individuals.

1. Digital Economy: Concept and Elements

In general terms, economy is the society's business activities in the system of the production, distribution and consumption[2] of tangible and intangible goods and resources. Owing to the processes of globalisation, digitalisation trends have been penetrating economy. As a result, we may now observe a new phenomenon of 'Digital Economy.'

[1] Executive order of the Government of the Russian Federation No. 3684-p 'On approving the Programme of Fundamental Research in the Russian Federation for the Long Term (2021 to 2030)' dated 31 December 2020 // SPS Consultant Plus.

[2] Available at: URL: https://ru.wikipedia.org/wiki/ (accessed: 23.05. 2022)

The legal concept of 'digital economy' is reflected in the Strategy for the Development of Information Society in the Russian Federation for the Years 2017–2030.[3] According to the Strategy, 'digital economy means economic activities for which the key factor is data in digital form processed in large volumes, which helps considerably raise the efficiency of various forms of production, processes, and equipment, and of storage, sales, and delivery of goods and services, as compared to conventional economic operations.'

The Strategy defines the digital economy ecosystem as a partnership of entities that supports interaction among technological platforms, applied Internet services, and information systems of government authorities, legal entities and individuals. On the basis of the concepts cited, we find it possible to identify elements of digital economy that include not only digital technology products as its objects and economic agents as its subjects, but also digital means for legal regulation of economic relationships.

The lines of Digital Economy development include numerous national programmes and strategies. E.g., the 2016 RF Strategy of Scientific and Technological Development[4] names, among its goals and outcomes, 'improvement of our people's living standards based on advanced research and technological renovation of the traditional sectors of our economy.'

Digital economy hinges on digital transformation, the principal trend and challenge in the development of our socio-economic and legal processes. That is why the digital transformation of the Russian economy was supported by the adoption of planning documents: the *Information Society* State Programme,[5] and the Strategy for the Development of Information Society in the Russian Federation for the Years 2017–2030.[6] The said programmes' priority objectives include digital transformation, creation of decent working conditions, and conditions for successful business. These

[3] Decree of the President of the Russian Federation No. 203 'On the Strategy for the Development of Information Society in the Russian Federation for the Years 2017–2030' dated 09 May 2017 // SPS Consultant Plus.

[4] Decree of the President of the Russian Federation No. 642 'On the Strategy of Scientific and Technological Development of the Russian Federation' dated 01 December 2016 (as amended on 15 March 2021) // SPS Consultant Plus.

[5] Resolution of the Government of the Russian Federation No. 313 'On the Approval of the *Information Society* State Programme of the Russian Federation' dated 15 April 2014 (as amended on 24 November 2021) // SPS Consultant Plus.

[6] Decree of the President of the Russian Federation No. 203 'On the Strategy for the Development of Information Society in the Russian Federation for the Years 2017–2030' dated 09 May 2017 // SPS Consultant Plus.

steps are expected to bring the key industries and social sphere to 'digital maturity.'

To follow up on the above legislation, the Russian President passed his Decree No. 204 dated 07 May 2018[7] that outlined our national development goals, consisting in breakthrough scientific, technological and socio-economic development. To further the goals set by the President in that Decree, the National Programme entitled 'RF Digital Economy'[8] was adopted in 2019, also as part of the *Digital Society* Programme. That strategic act is intended to form a new regulatory environment for the relations among individuals, businesses and the state arising from the development of digital economy.

The above legal acts and regulations, to name just a few, show that the state attaches crucial importance to digital transformation of the economy. Digital transformation encompasses all spheres of life: financial technology, standardisation, civil commerce, judicial proceedings, the notarial system, etc. The ongoing digitalisation processes have been driven by globalisation. Hence the special attention given to digital economy in the doctrine as well.

Researchers note that digital economy is a topical issue for discussion in modern science — but add that, 'despite the decisions taken by the state to develop digitalisation and to intensify activities,.. no clear-cut concept of law development with digital economy in place has been developed so far. The main problem is to figure out the path of further development of law.' [Abrosimova Ye.A., Andreyev V.K. et al., 2019]. Law seems to be lagging behind digitalisation. As remarked by S.I. Nosov, 'the impact of the development of digital technology on the legal system, like the modalities and directions of the transformation of law... remains mostly unexplored by legal science' [Nosov S.I., 2019].

As noted by Z.M. Kazachkova, 'formation and development of digital economy' is 'central to digital transformation' [Kazachkova Z.M. et al., 2021: 130–131]. In the light of the above, it seems especially necessary and relevant to study the digital transformation of the economy and law, as the regulator.

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[7] Decree of the President of the Russian Federation No. 07 May 2018 № 204 (as amended on 21 July 2020) 'On the National Goals and Strategic Objectives of the Development of the Russian Federation for the Period till 2024' // SPS Consultant Plus.

[8] Fact sheet of the National Project *National Programme 'Digital economy of the Russian Federation'* (approved by the Presidium of the Presidential Council for Strategic Development and National Projects', protocol No. 7 of 04 June 2019) // SPS Consultant Plus.

On the other hand, the doctrine fails to offer an unambiguous concept of digital economy. E.g., Yu.A. Tikhomirov and E.V. Talapina term digital economy as 'data economy' [Tikhomirov Yu.A., Talapina E.V., 2020: 22]. V.A. Vaipan formulates a broader concept, describing digital economy as a 'system of economic relations where data in digital form are a key input in all spheres' [Vaipan V.A. et al., 2019: 19]. M.N. Semyakin also supports this opinion [Semyakin M.N., 2020: 100].

On the other hand, some authors are critical of digital economy and its essence. In particular, A.Yu. Bykov notes that 'concepts are being substituted currently. The use of digital technology is called digital economy. That is a misconception. No supercomputer, nor even a quantum computer, is different from a wooden abacus known since the 20th century B.C., if only computing speed is now many orders greater. This has nothing to do with the economy. Only economic science can create digital economy — using economic tools.' [Bykov A.Yu., 2021: 5]. However, it is hard to fully embrace that opinion. If we proceed from the classical understanding of economy as economic activities of agents for the production, exchange and sale of tangible goods, then, in the case of digital economy, all the said processes and objects take on a digitalised format. In this case, a 'supercomputer' will be a tool of digital economy along with traditional inputs such as manual human labour (in its tangible physical sense). That is why digital (electronic) tools and resources are directly relevant to the economy.

In this perspective, it seems true that 'digital economy is a virtual environment that augments our reality.'[9] Indeed, literal interpretation of the term 'digital' (based on information in numerical form; binary information displayed from a computer or terminal[10]), with synonyms such as 'paperless' and 'numerical',[11] seems to perfectly agree with the understanding of something 'digital' as 'virtual.' Consequently, 'digital economy' features a digital (numeric/virtual) form of its elements that is, in turn, manifested in technology.

There is also a view of the levels of digital economy. E.g., V.A. Vaipan identifies three levels in digital economy development 'that closely interact

[9] Digital Economy: How Specialists Understand the Term. Available at: URL: https://ria.ru/20170616/1496663946.html (accessed: 08.09. 2022) (in Russ.)

[10] Dictionaries and Encyclopaedia. Available at: URL: https://dic.academic.ru/dic.nsf/ogegova/264410 (accessed: 08.09. 2022) (in Russ.)

[11] Dictionary of Synonyms. Available at: URL: https://sinonim.org/s/%D1%86%D0%B8%D1%84%D1%80%D0%B (accessed: 08.09. 2022) (in Russ.)

to influence the lives of individuals and society in general: markets and economic sectors; platforms and technologies; and an environment for the development of platforms and technologies, including normative regulation and information security' [Vaipan V.A. et al., 2019]. In other words, digital economy systematically understood consists of elements that include a set of digital technologies.

Given the legislative definition of digital economy and the breadth of doctrinal opinions about this phenomenon, we feel that digital economy is economic activities of agents based on digital (electronic/virtual) methods and instruments (technologies) for the production, exchange, consumption, and sale of tangible and intangible (including digital) objects and resources on the basis of digital data (information) and in digital space (digital electronic platforms and services) using digital means of legal regulation of economic relations. Digital economy is thus a system of components whose key components are digital technologies. These include LegalTech, to be discussed below.

2. LegalTech: Concept, Areas of Application, and Functions. LegalTech as an Element of Digital Economy

Digital technologies are often named after the areas of their application in the economy, e.g. LegalTech (law/legal technology), FinTech (financial technology), GovTech (State governance and municipal administration technology), MedTech (medical technology), FoodTech (food technology), etc., see for example: [Rozhkova M.A., Isayeva O.V. et al., 2021: 13, 202–300].

As noted by Russian researchers, 'digitalisation and new information technology induce changes in the nature of law subjects' activities, alter the scope of their legal relations and expand the horizons of their future activities' [Tikhomirov Yu.A., Kichigin N.V. et al., 2021: 20]. Put differently, law becomes embodied in LegalTech as it 'goes digital.'

In the absence of a legal concept of LegalTech, the phenomenon requires both theoretical and practical examination. The LegalTech portmanteau term should be understood as legal/law-related technology. Some researches draw attention to the co-existence of the terms 'LegalTech' and 'LawTech' [Rozhkova M.A., Isayeva O.V. et al., 2021: 200]). However, we

see no need to look for distinctions between them, for the English words, 'legal' and 'law',[12] relate to the same root concept.

LegalTech is primarily considered a highly specialised professional toolkit for lawyers. This position is widely shared by legal practitioners.[13] As such, LegalTech takes the form of, e.g., electronic jurisprudence selection[14] and contract drafting[15] services, state duty / penalty calculator,[16] 'My Arbitrator' service,[17] and some specialised platforms for lawyers.[18]

Another position is that LegalTech is generally a broad range of technological solutions that serve various actors[19]. We also adhere to an expansive interpretation of LegalTech as a set of digital tools for a broad range of users, including individuals, legal entities and government authorities, exemplified by such electronic resources as *Moy Nalog* ('My Tax')[20] taxpayer registration and tax reporting services, *Moy Biznes* ('My Business')[21] source of information about various legal and taxation regimes of economic activities (e.g. for legal entities, individual entrepreneurs, self-employed

[12] Cambridge Dictionary of the English Language: Meanings and Definitions. Available at: https://dictionary.cambridge.org/ru/ (accessed: 11.05. 2022)

[13] LegalTech Is Dead, Greet Innovation Management! Available at: URL: https://law.hse.ru/news/440214063.html (accessed: 08.09.2022); We, Science People, in LegalTech. Available at: URL: https://platforma-online.ru/media/detail/vadim-polulyakh-my-lyudi-ot-nauki-v-LegalTech/ (accessed: 08.09. 2022) (in Russ.)

[14] A New Tool for the Legal Practitioner: Jurisprudence Selection Service. Available at: URL: https://pravo.ru/edition/view/74817/ (accessed: 29.05.2022); The *Sutyazhnik (*'Litigant'*)* System. Available at: URL: https://garant-vrn.ru/sutyazhnik/ (accessed: 29.05. 2022) (in Russ.)

[15] Seven Useful Services for Working with Contracts. Available at: URL: https://vc.ru/services/249199-sem-poleznyh-servisov-dlya-raboty-s-dogovorami (accessed: 29.05. 2022) (in Russ.)

[16] State Duty Calculator. Available at: URL: https://vsrf.ru/; Penalty Calculator. Available at: URL: https://dogovor-urist.ru/calculator/dogovor_neustoyka/ (accessed: 29.05. 2022) (in Russ.)

[17] My Arbitrator' Service. Available at; URL: https://my.arbitr.ru/#index (accessed: 29.05.2022) (in Russ.)

[18] Specialised Platforms for Lawyers. Available at: URL: https://platforma-online.ru/media/detail/poleznye-programmy-dlya-yuristov-v-rossii/ (accessed: 30.05. 2022) (in Russ.)

[19] What LegalTech Is and How It Is Developing in Russia. Available at: URL: https://trends.rbc.ru/trends/industry/60acbdd69a79475b37ee5e63 (accessed: 08.09.2022) (in Russ.)

[20] My Tax Service. Available at: URL: https://npd.nalog.ru/app/ (accessed: 30.05. 2022) (in Russ.)

[21] My Business Service. Available at: URL: https://xn--90aifddrld7a.xn--p1ai/ (accessed: 30.05.2022) (in Russ.)

and professional workers), counterparty verification services[22], and various courts' websites[23] containing general legal information. So, in practical terms, LegalTech should be understood broadly, as an element of digital economy that serves the interests of a wide range of agents and as a means for legal regulation of economic activities.

As for the degree of research elaboration of the LegalTech category, this should be deemed insufficient. The doctrine lacks a common opinion about LegalTech. The first position is that LegalTech is a specialised legal category of digital tools. Most researchers tend to understand LegalTech in a narrow sense, as a digital technology for professional lawyers. M.A. Rozhkova and O.V. Isayeva define LegalTech as 'services based on information systems, various (B2B) platforms, software, products and tools, specially developed to streamline the processes that constitute professional activities of lawyers' [Rozhkova M.A., Isayeva O.V. et al. 2021: 203]. S.F. Afanasyev holds a similar opinion and describes LegalTech as a burgeoning special area in the technological support of law-related activities [Afanasyev S.F., 2020: 47], as does A.N. Mitin who calls LegalTech 'a new business area that specialises in IT support of professional lawyers' activities' [Mitin A.N., 2019: 82]. In turn, M. Ye. Kosov formulates several meanings of LegalTech: 'legal technology for lawyers' and 'a concept of using technology to address legal issues' [Kosov M. Ye., 2019: 19].

Foreign scholars also believe that LegalTech belongs to the narrow area of the legal profession [Ambrogi R., 2017: 28–31]; [Alcantar K., Gillespie K., 2019: 48–51].

However, we believe that, while examining LegalTech in its narrow meaning, we should bear in mind that legal services and products are used by a wide range of economic agents. Seen from this perspective, LegalTech directly affects the interests of both legal professionals and the agents who depend on the professionals' work.

On the other hand, upon analysing the doctrinal positions and in the light of the practice of LegalTech use in lawyers' highly professional activities, we have identified a number of trends and risks in that area.

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[22] Single State Register of Individual Entrepreneurs. Available at: URL: https://egrul.nalog.ru/; Verification. Available at: URL: https://www.kartoteka.ru/ (accessed: 30.05. 2022) (in Russ.)

[23] See e.g. arbitration courts' website. Available at: URL: https://kad.arbitr.ru/ (accessed: 08.09.2022), and website of the Supreme Court of the Russian Federation. Available at: URL: https://supcourt.ru/ (accessed: 08.09. 2022) (in Russ.)

LegalTech is based on artificial intelligence that has been supplanting people. Researchers fear that LegalTech technology may eventually replace human lawyers [Uvarov A.A., Uvarov A.A., 2020: 10]. Yet, there are other opinions on this matter. E.g., A.N. Mitin is convinced that a lawyer's work cannot be automated completely, so 'creative work of lawyers will be in demand so long as the human civilisation exists' [Mitin A.N., 2019: 85], and we fully agree with him.

In our opinion, the trend towards replacement of the lawyer with a robot does exist, but we must take into account the possibility, conditions of use and availability of digital technology and services to the parties to legal relations. Digital technology, including LegalTech, can only serve as leverage for solving the tasks at hand. Besides, as we see human beings replaced with artificial intelligence, a moral and ethical problem arises: individuals experience psychological stress because they realise they become redundant and the need to re-train for another profession.

Along with the above aspect, there emerges a need for new specialists who can develop and maintain LegalTech digital products. In this connection, we believe the findings in the Report of the NAFI Analytical Centre's study entitled 'Legal Tech 3.0: Legal Tech Market in Russia and Worldwide' to be quite relevant. The Centre notes a growing demand for such specialists as legal architects, legal engineers, digital guides, robot's lawyer, retrainers, etc.[24].

On the other hand, J. McGinnis and R. Pearce show conclusively that artificial intelligence will serve to weaken lawyers' market power. It means that 'lawyers will <…> fail to prevent non-lawyers from using it to deliver legal services.' Artificial intelligence will 'trigger the end of lawyers' monopoly and provide a benefit to society and clients as legal services become more transparent and affordable to consumers and access to justice thereby becomes more widely available.' [McGinnis J., Pearce R., 2019: 1230–1231]. We believe the above to be exemplified by the Skolkovo service, a LegalTech platform designed to alert businessmen to contract provisions that bear signs of various risks.[25]

[24] Legal Tech 3.0: Legal Tech Market in Russia and Worldwide — LegalTech Trends 2020-2030. Available at: URL: https://nafi.ru/projects/predprinimatelstvo/LegalTech-3-0-rynok-LegalTech-v-rossii-i-v-mire/ (accessed: 18.05.2022) (in Russ.)

[25] Skolkovo Resident's Service to Alert Businessmen to Pitfalls in Contracts. Available at: URL: https://www.cnews.ru/news/line/2022-02-01_servis_rezidenta_skolkovo (accessed: 27.05. 2022) (in Russ.)

In general, we are compelled to note that robotisation, as a manifestation of digitalisation, actually underlies LegalTech and poses risks for the transformation of some forms of individuals', including professional lawyers', economic activities.

LegalTech as 'machine-readable law.' There are purely doctrinal interpretations of LegalTech based on the categories of 'information law', 'machine-readable law', and 'digital transformation law.' S.G. Yeremeyev, A.V. Mayorov and Ye.N. Minchenkov regard LegalTech as an area of legal science — 'digital transformation law', as a sub-branch of information law. As the legal concept of LegalTech, the authors cite information law, and mention the link between man and equipment and the legal systems' objective and inevitable response to the technological changes [Yeremeyev S.G., Mayorov A.V., Minchenkov Ye.N., 2019: 11, 13–14, 16]. While we agree with the above statement, we have to note that the development and transformation of the existing institutions certainly requires understanding from the legal science perspective. Scientifically, 'machine-readable law' as a phenomenon based on information in digital form, a manifestation of LegalTech, has undeniable prospects ahead. Moreover, its scientific prospects are conditioned by the ambiguous content of LegalTech as such. All that provides fertile ground for scholarly reflection.

Besides, I.V. Ponkin cites the 'machine-readable law' category as a direction of digital transformation in law, an integral part of digital transformation in public administration, and an element of LegalTech regulatory technology. The author does not explain the LegalTech concept in his study but describes its component parts, including 'machine-readable law' — 'legislation as a code' and 'normative regulation as a code.' He notes that the purpose of that line of transformation is 'so that laws can be read and applied by machines' [Ponkin I.V., 2021: 231–232]. We should agree with the author in that pre-requisites for the development of digital technology in the direction of machine-readable law as part of LegalTech (law technology) do exist. As the same time, we should distinguish 'laws in code', to be read by machines, from laws that require subjective assessment by a professional lawyer. Hence, we can regard 'machine-readable law' as a LegalTech tool.

Moreover, in respect of the prospects, A. Pronin boldly predicts that 'as automation technology is implemented on blockchain platforms, we shall be able to develop smart laws, or self-executing laws (similarly to smart contracts).' As an example of a law transcribed into digital code, the author

cites 'camera-based automatic traffic ticketing systems.' However, we do not regard this example as a 'smart law' in the sense of digital (electronic) legislation. It is most probably an instance of 'smart jurisprudence' — automatic application of a rule of law that implements penalty measures for violations of the existing regulations.

Scholars also point to another fairly efficient application of artificial intelligence in the field of legislation, namely detection of conflicts of law [Pronin A., Vashkevich A. et al., 2017: 25]. We believe that such application of LegalTech seems quite appropriate, for it fully meets the efficiency criteria in digital economy.

Importantly, a Concept of the Development of Machine-Readable Law Technology[26] (hereinafter referred to as 'the Concept') has been developed for machine-readable law technologies, which justifies the relevance of developing machine-readable law because it will be more convenient to use for the State, business community, and individuals. The Concept notes the Russian experience of using machine-readable law in various business projects, in the form of such business projects as 'Robot Lawyer' (Department of Sberbank), 'Digital Lawyer' (MegaFon Company), and the *Normotvorchestvo* (*Rule-making*) platform in support of interaction between participants in the rule-making process under the '*Digital Governance*' federal project of the *Digital Economy* programme. The Concept also outlines its areas of application: standardisation and certification, deals in machine-readable format, control and oversight, reporting, court and administrative proceedings, rule-making, and interaction between state information systems and digital platforms.

The Concept adopted is obviously a LegalTech tool and aims to promote the development of digital economy. However, large-scale use of machine-readable law at the entire Russian State's level is still premature — for a number of objective socio-economic, legal and technological reasons (the ability/inability of various law subjects to use digital products, and citizens' mentality). One of the main legal causes is that law is inherently conservative. This is attributable to 'legal rules' occasional departure from the laws of formal logic.' So 'law will have to be altered first, so that its terms have the same content in all laws. A titanic task!' [Mitin A.N., 2019: 83]. Besides, 'many of

[26] Concept of the Development of Machine-Readable Law Technology. Approved by the Governmental Commission for Digital Development and the Use of Information Technology for Improving Quality of Life and Conditions for Entrepreneurial Activities. Protocol No. 31 dated 15 September 2021 // SPS Consultant Plus.

our laws are not directly prescriptive but require, instead, a subjective review and attention to nuances and merits of the case' (Ponkin I.V., 2021: 235]. The above points to machine-readable law's development potential, on the one hand, and to the difficulties and problems hindering its adoption, on the other. In the context of the prospect of LegalTech development for the automation of rule-making, we see reason in D.S. Gvozdetsky's call for 'planned introduction of digital products' into public rule-making [Gvozdetsky D.S., 2020: 34-35]. We believe that gradual adoption of such technologies in this area should aim to facilitate adaptation for all the participants in rule-making and law application processes. 'Planned' application should ultimately influence the efficiency of the digitalised measures to be taken.

Thus, the use of LegalTech tools intended for professional lawyers clearly helps to optimise routine working processes, organise legal information, and facilitate review of court rulings. On the other hand, positive aspects of LegalTech use are accompanied by difficulties in re-training professional lawyers and by potential risks that lawyers can be supplanted by artificial intelligence.

A second understanding of LegalTech is that it represents digital law tools for a broad range of users. The legal regulation of virtually all the spheres of the economy has now been digitalised. If we review economic activities in industry breakdown, we can see that digital LegalTech tools are now being created in every area and used by service providers (professional lawyers) as well as consumers and public authorities.

E.g., LegalTech in the public administration area is represented by such electronic services as *Moy Nalog* ('My Tax'), that automates the registration of economic agents and their tax reporting, and *Moy Biznes* ('My Business') service that helps agents not only obtain legal information but also benefit from state/municipal support measures.

We also find it quite possible to count the following automated resources among LegalTech services: automatic services for monitoring, recording and documenting traffic offences for subsequent imposition of administrative penalties; 'Electronic Government' for inter-departmental co-operation among public authorities; *Gosuslugi* ('State Services') that helps individuals and legal entities order and receive electronic certificates and various state and municipal services.

Also widely discussed is the prospect of courts adopting LegalTech tools to pass and document their judgements automatically. Current legislation permits using electronic services in court to hold online hearings and to file

lawsuits and letters of claim in digital form with courts and arbitration tribunals. We fully support V.Yu. Abramov's position that 'e-justice is a branch of digital technology used in the system of public justice administration functions...exemplified by such systems as *GAS Pravosudie* ('Justice' State Automated System), *Moy Arbitr* ('My Arbitrator'), and the Bank of Arbitral Awards' [Abramov V.Yu., 2022: 40–41]. The above services are essentially LegalTech tools intended for professional lawyers only. However, they may well be used by any person seeking a judicial remedy — by filing electronic letters of claim, attending online hearings, monitoring the progress of the proceedings, etc. So, the use of LegalTech in this area touches upon the interests of a wide range of agents.

The notarial system has also been digitalised and has consequently adopted LegalTech tools. Electronic notarisation services are now rather widely used, as parties to a deal submit electronic documents to Rosreestr (to have the transfer of title to real estate registered) or to the tax authorities (to report disposal of an interest in authorised capital).

Russian experts also note a 'non-obvious trend' for LegalTech use, triggered by a 'growth in some segments of the shadow market, such as the counterfeit products market, which elicits tools for tracking down counterfeit products at various stages of the supply chain.'[27]

In addition to Nalog.ru (website of the Federal tax service) and the *Moy arbitr* service (websites of arbitration tribunals), numerous services are publicly available for obtaining information in digital format about economic agents that help ascertain an agent's legal status (find information about its incorporation, re-organisation, licenses held, any bankruptcy proceedings or litigation in progress, etc.) We believe that economic agents informed of their prospective counterparties' legal status get assured that the latter are in good standing and act in good faith, and that dealing with them carries no risk of adverse events (e.g., a party aware that its counterparty is facing bankruptcy may refrain from entering into a property disposal contract with it, for a debtor's deals may legally be contested by its creditors).

As regards the regulation of contractual obligations in business, the use of the 'smart contract' legal arrangement is noteworthy. The smart contract, as a product of digitalisation and technology, is of a complicated and ambiguous nature that may be presented as a variety of e-contract, a separate

[27] What LegalTech is and How it is Developing in Russia. Available at: URL: https: // trends.rbc.ru/trends/industry/60acbdd69a79475b37ee5e63 (accessed: 08.05.2022) (in Russ.)

form of deal/contract, and a manner of obligation performance all in one. The smart contract is also described as 'a widespread LegalTech technology… The smart contract falls under the concept of a computer programme by virtue of Article 1225.1 of the Civil Code of the Russian Federation' [Minbaleyev A.V. et al., 2022: 37]. So, the author concludes that the smart contract is a computer programme. A. Vashkevich holds a similar position as he notes that 'smart contracts in private relations' also constitute LegalTech tools. 'Businesses need automated legal relations, to become less dependent on the parties' will… The potential of smart contracts operating in the real economy largely hinges on their link with Internet of Things and with external information systems' [Pronin A., Vashkevich A. et al., 2017: 29]. Given the range of opinions on the smart contract, we tend to regard the smart contract as a general purpose LegalTech tool intended for more efficient discharge of the contractual obligations of economic agents.

As noted above, the elements of digital economy are digital services and platforms. These are widely used in various economic activities, especially by entrepreneurs. 'Digital platforms are increasingly talked about as a marketplace, i.e., a meeting place for two or more natural or legal persons to exchange values in some form or other… The best-known modern platforms have come from the B2C contracts area and from the service sector. This field is both interesting and very complicated as regards its legislative framework. It expands on the domain of 'platform law' that 'is of great social significance and will help raise our State's economic potential considerably…' [Altukhov A.V., Kashkin S.Yu., 2021: 93]. Certainly, any new phenomenon should eventually be reflected in law for the economic relations to stabilise. Any legal uncertainty will reduce the efficiency of the legal regulation of economic relations.

Foreign authors also call for broadened understanding of LegalTech. E.g., in his study, Professor Matthias Schneider (Germany) describes LegalTech as 'digitalised legal services, an opportunity and challenge for the public and private sectors.' The author cites examples of LegalTech used in administrative, procedural, and environmental law [Schneider M., 2020: 297–302]. U.S. studies report about application of digital law technology in the field of real estate, see for example: [Byrne M., 2019]. Positions are expressed in India as well [Shah H., Srivastava A., 2014: 208-230]. All this shows ample use of LegalTech technology.

On the other hand, the use of LegalTech tools, including digital platforms, entails the use, processing and storage of large volumes of user data,

the so called Big Data. While no legal definition of Big Data has been formulated yet, this does not prevent from using the term used in theoretical and practical studies in the meaning of an extensive array of various information. We share the opinion of V.D. Churakov, who states and proves that Big Data 'makes it possible to explain existing phenomena and predict behaviour in the field of law'; this should be distinguished from statistical data. Big Data needs a legal definition [Churakov V.D., 2020: 101–102].

But, however attractive LegalTech tools (law information systems, automatic imposition of fines, information banks, electronic document management, digital platforms, etc.) based on Big Data may be, there are potential risks for subjects of law. E.g., in his study on legal issues in a digital environment, O.A. Stepanov notes that 'growing computerised databases of personal data <…> pose a risk of covert invasion of privacy'. A person's digital profile can accumulate a lot of information about the amount and sources of his/her income, employment, tax revenues, information sources visited ('digital footprint', 'online behaviour'). 'It is expected that not only public authorities but also private sector companies will be able to use the information array.[28] Not only people's financial flows but also their lives become transparent' [Stepanov O.A., 2021: 24, 25].

Indeed, the above-mentioned social relations are fraught with certain risks: data leaks, information attacks, etc. However, digital technology can hardly be stopped from evolving in this direction. We believe that the procedures for using Big Data need more specific regulation and control, so that personal security can be safeguarded.

Yu.S. Kharitonova and V.S. Savina also raise the issue of legal regulation of Big Data and its secure use in the context of the development of artificial intelligence. The researchers stress that the use of Big Data 'generates a whole set of legal and ethical issues, particularly regarding the limits of using personal data' [Kharitonova Yu.S., Savina V.S., 2020: 539]. In the light of the above we believe that, from the digital economy perspective, digital security — particularly that of LegalTech resources — directly affects economic agents' activity in the consumer segment, business environment, and public administration. Digital vulnerability makes the use of digital resources and technology less efficient.

[28] For details see: *Pilot Project on a Citizen's Digital Profile* (an experiment to last till 31 December 2022) — Resolution No. 710 of the Government of the Russian Federation 'On Holding an Experiment to Improve the Quality and Coherence of Data Stored in State Information Resources' dated 03 June 2019 (as amended on 17 August 2021) // SPS Consultant Plus.

Foreign authors also raise this problem. E.g., authors in the U.S. justify the need to observe certain requirements as Big Data is employed to provide legal and other services using LegalTech tools [Davis J., 2016: 1]; and to respect legal ethics in respect of consumers where advertising techniques use large volumes of information [Katsuya Endo S., 2021: 107–157]; a similar position is voiced by a Spanish author [Navarro S.N., 2020].

The above makes it possible to identify the following LegalTech features:

In doctrine and practice, a widespread understanding is that LegalTech is a highly professional set of digital media for legal practitioners. In this vein, the following risky trends have been identified: artificial intelligence has been substituting professional lawyers and some activities have been transforming; the development of 'machine-readable law' necessitates a stock-taking of law's conceptual framework, with due regard to the conservative nature of law and a certain degree of subjectivity in application of law; alternatively, LegalTech is understood as a digital toolkit for a broad range of economic agents. The LegalTech application areas include public administration, justice, notarial system, business and ordinary civil commerce. There is an obvious need to form a 'platform law.' The use of Big Data shows vulnerability of entities.

In general, we are deeply convinced that LegalTech in a broad sense is a part of digital economy that promotes the implementation of our national goals, objectives and development programmes.

3. LegalTech as an Instrument for Regulating Individuals' Economic Activities

Law has a huge potential for adopting digitalisation tools. As shown above, in terms of digitalisation LegalTech is a digital technology toolkit used by a broad range of actors. Proceeding from this understanding, LegalTech should also be regarded as a means of legal regulation of economic agents.

It is generally known that 'legal regulation is normative and institutional influence on social relations that uses a system of legal means in order to arrange, safeguard, and develop them in line with society's needs.' S.S. Alekseyev understood the legal means to include law rules; legal relations; subjective rights and legal duties; and acts of the performance of rights and duties [Alekseyev S.S., 1995: 209–216].

Proceeding from the established understanding of legal regulation of social relations, we should regard LegalTech as one of the digital means in the mechanism of legal regulation compounded by digitalisation. LegalTech is seen as a digitalised form or law rules, legal relations and acts of the performance of rights and duties. These, in turn, exert a legal influence on social relations. Let us examine the impact of LegalTech on individuals' economic activities in more detail.

First of all, we should note that economic activities are a broad concept basically enshrined in the Constitution of the Russian Federation[29]. According to its Article 34, 'everyone shall have the right to a free use of his abilities and property for entrepreneurial and economic activities not prohibited by law.'

'Economic rights are an integral part of the legal status of a citizen as an agent of economic or entrepreneurial activities, and of other economic agents' [Gubin Ye.P., 2021: 4].

In our opinion, economic activities are conducted in such forms as work activities, entrepreneurial activities, professional activities and, lately, self-employment as narrowly defined under the special taxation regime 'Professional Income Tax.'[30]

We should recall that Russia's above-mentioned development programmes and strategies prioritise the creation of favourable conditions for decent work and successful business, including self-employment, and the development of digital transformation. All of that is sure to concern civil commerce, financial technology, and justice.

In the said context, we should stress that 'the economic sphere is essential to society and requires control in various ways. These include a legal regulation mechanism that means forming a high legal consciousness among economic agents, their statuses and interaction regimes, and also using incentives and liability measures' [Tikhomirov Yu.A., Talapina E.V., 2021: 6].

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[29] Constitution of the Russian Federation. Approved at National Vote of 12 December 1993 with amendments approved at National Vote of 01 July 2020). Available at: URL: http://www.pravo.gov.ru (accessed: 04.07. 2020)

[30] Self-employed natural persons are those who are either not registered as individual entrepreneurs or have such status, and receive an aggregate annual income of not more than RUB 2.4 million from certain activities (Federal Law No. 422-FZ "'On Holding an Experiment to Establish a Special Taxation Regime, 'Professional Income Tax'» dated 27 November 2018 // SPS Consultant Plus.

The legal regulation of the activities of economic agents also requires legal mechanisms converted into digital form. So, LegalTech is a part of legal regulation of economic relations in this case.

According to the online edition of *Rossiyskaya Gazeta*, the tax authorities and the public sector's leaders in adopting LegalTech, and 'the State, as well as business, is working to improve its legal services and taking an active part in their automation and digitalisation… The government authorities are taking the lead in the development of legal technology in Russia.'[31]

Certainly, the area of LegalTech application in a digital economy is broad. We believe that, in the context of the legal regulation of individuals' economic activities, it is represented by digital information resources such as the Federal Tax Service website, *Moy Biznes* platform, *Moy Nalog* electronic application, etc.

As regards the theory of the means/methods of legal regulation (influence, permission, obligation, and prohibition) and from the instrumental/legal and functional perspective, we can identify the following special functions of LegalTech:

Firstly, LegalTech influences individuals by providing a large volume of legal information in digital (electronic) form. That manifests itself in the following aspects:

First of all, LegalTech, as an information source, serves to improve people's legal literacy. Here it is preceded by people's general digital literacy (including information, computer, and media literacy) valued as 'an important factor in the achievement of one's life goals and improvement of people's quality of life, which ultimately impacts the digital economy' [Baymuratova L.R., Dolgova O.A. et al., 2018: 5–6]. We believe improvement of people's legal literacy in digital terms helps make their activities more efficient.

LegalTech guides individuals' choice of a legal regime for their economic activities: non-incorporated entrepreneur, professional worker, self-employed (under the *Professional Income Tax* special taxation regime), or an employee. This choice is made as LegalTech provides legal information: a list of regulatory acts that establish the types, forms, areas, and conditions of individuals' economic activities.

[31] FTS, Russia's Leading Public Implementor of LegalTech. Available at: URL: https://rg.ru/2020/10/09/fns-lidiruet-v-gossektore-rf-po-vnedreniiu-LegalTech.html (accessed: 13.04.2022) (in Russ.)

LegalTech serves to encourage the performance of one's constitutional duty to pay taxes on the income received. Regarding this aspect, L.N. Berg rightly notes that 'information moves the world and guides human behaviour. The social variety of information, political and legal, coming from the government, has a special effect on society'. The researcher shows conclusively that legal information has legal influence on actors. 'The significance and role of the legal influence are vividly expressed precisely in the fact that legal information, e.g. contained in the text of a law rule, becomes an efficient force that guides and streamlines human behaviour after it is brought home to the person' [Berg L.N., 2021: 212–213].

The above is more than relevant and applicable to self-employed persons' economical activities in their narrow sense, under the *Professional Income Tax* special taxation regime. The close attention given to this category of persons is attributed to the fact that they belonged to the shadow sector for a long time because they were involved income-generating activities but lacked the status of individual entrepreneurs and did not carry out their constitutional obligation to pay taxes. The taxation conditions are now quite favourable for such persons, as their tax rates are quite beneficial (4% or 6%). This attractive regime is complemented by various incentives, such as a clear and simple registration and tax deduction procedure. This aspect hinges on the following function of LegalTech.

Secondly, LegalTech acts as an instrument of legal regulation of economic activities as it simplifies state registration of economic agents. This is especially relevant for self-employed workers. Simplified registration is a product and a tool of digital transformation of law.

Thirdly, LegalTech acts as an instrument of state control in legal regulation of economic activities. A streamlined and automated mechanism based on artificial intelligence and Big Data helps raise the efficiency of state control. This, in turn, is intended to 'encourage proper behaviour' of taxpayers engaging in economic activities, particularly individuals. According to S.A. Agamagomedova, who studies the axiological aspects of state control, 'control and supervisory' mechanisms are 'potentially capable of stimulating the activities under their control… This refers to the level of individuals' and organisations' interaction with the authorities whereby its outcome motivates the agents to develop their activities and to have a certain attitude to the legally protected values — to ultimately find proper behaviour beneficial and comfortable' [Agamagomedova S.A., 2021: 48]. With respect to its state control aspects, we believe LegalTech to be indis-

pensable and to have a great potential — provided that economic agents' Big Data is safely used.

LegalTech can thus be described as a modern digital instrument for legal regulation of economic activities that works through the relations between agents and state / municipal authorities as regards individuals' legal literacy, registration of their activities, reporting and discharge of their duty to pay taxes, and state control.

The sense and meaning of LegalTech are well explained by its digital functionality: electronic (digital) document management, and an automated mechanism for registering agents and processing reports and applications. These enable LegalTech to improve the provision of state and municipal services, detection of irregularities, and application of control measures.

As regards private and public interests in the legal regulation of economic activities, LegalTech is obviously intended to develop the institutions that serve the interests of all law subjects involved in economic processes. E.g., private interests are met by such LegalTech features as the agents' awareness (legal literacy), mechanisms that motivate the discharge of duties under certain legal regimes of economic activities, saving money and labour, and digital contractual forms of interaction. Public interest is met by such LegalTech functions as automated state registration of economic agents, automated reporting, and transparent control.

Conclusion

Digital economy is economic agents' activities using digital (electronic/virtual) methods and instruments (technologies) for the production, exchange, consumption, and sale of tangible and intangible (including digital) objects and resources on the basis of digital data (information) and in digital space (digital electronic platforms and services) using digital means of legal regulation of economic relations. Digital economy is a system of components that include a set of digital information technologies based on artificial intelligence and Big Data. For legal regulation of digital economy there exist LegalTech tools (law/legal technology).

A stance widely shared by researchers and practitioners is to understand LegalTech as a highly professional set of digital media for legal practitioners. At the same time, we argue for an expansive interpretation of Le-

galTech as a legal toolkit for a broad range of users involved in economic relations.

Our study has identified trends and risks arising from the implementation and use of LegalTech. The trends include the following notable points:

the spread of artificial intelligence favours the replacement of professional lawyers with robots for some routine processes. On the other hand, new IT-based niches appear;

machine-readable law may potentially develop, provided that law's conceptual framework undergoes 'stock-taking' and adaptation;

there is a clear need to create 'platform law' rules for legal regulation of economic activities.

The main risk posed by the use of LegalTech Tools is large-scale use of Big Data, possibly leading to invasions of citizens' privacy and unauthorised data use. So, we conclude that vulnerability in a digital environment discourages the use of LegalTech resources.

Studies of LegalTech resources used in various areas of economic activities, both private and public, suggest that LegalTech is a component of digital economy that serves a broad range of agents involved in economic relations.

LegalTech is a modern digital instrument for legal regulation of economic activities, including activities of individuals, that works through the relations between agents and state/municipal authorities. In this aspect, on the basis of the classical understanding of legal tools in the legal regulation mechanism and using an instrumental legal approach, Legal Tech plays the following roles for economic agents, including:

a resource for raising legal and general awareness;

a guide to legal information that shapes choices of legal regimes for economic activities;

an incentive for the performance of contractual obligations and fiscal obligations and for proper behaviour in general;

a means of public control over economic agents' activities.

Summing up, we have reasons confidently conclude that LegalTech, as a current trend and challenge, demonstrates successful implementation of the state's priority policies, both economic and social. LegalTech acts as a

component of digital economy and a means for legal regulation of individuals' economic activities.

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