

# Innovative Digital Rights in Corporate Relations

Lubov Borisovna Sitdikova, Svetlana Jurieвна Starodumova



**Abstract:** This article aims to consider a promising trend for developing the digital economy, i.e. innovative digital rights in corporate relations. The authors of the article have determined that innovative technologies are being introduced into the economic life of Russia and foreign countries but legal protection issues remain insufficiently settled. Since October 1, 2019, new provisions of the Civil Code of the Russian Federation will have come into force. According to these provisions, digital rights will become a new object of civil rights; citizens and corporate legal entities will receive additional guarantees that will allow them to more actively participate in the development of the future economy. The authors have concluded that the adoption of these innovations will contribute to the improvement of the Russian legislation on digital financial assets. They suggest that transaction methods via electronic and other technical means should be further elaborated. The authors emphasize the fact that the Government of the Russian Federation approved the program "Digital Economy of the Russian Federation" aimed at developing the digital economy. This program dwells on provisions of the Strategy of information society development in Russia for the years 2017-2030.

**Index Terms:** digital code, digital economy, digital money, digital right, object of civil rights, paid services agreement, transaction.

## I. INTRODUCTION

### A. Introduction to the problem

Nowadays the main vector and strategic goal of improving the Russian economy is the transition to the digital economy understood as the introduction of digital technologies into the economy, law, public administration and everyday life. To develop the digital economy, the Government of the Russian Federation approved the program "Digital Economy of the Russian Federation" (Order No. 1632-r of July 28, 2017). This program dwells on provisions of the Strategy of information society development in Russia for the years 2017-2030 (Decree of the President of the Russian Federation N 203 of May 9, 2017).

The main objective of the area concerned with the legal regulation of the digital economy is the formation of a new legal environment that is favorable for the emergence and

development of modern technologies, as well as the implementation of economic activity.

It is believed that the legal regulation of the digital economy started with the introduction of a bill on digital rights into the State Duma of the Russian Federation by the deputies V.V. Volodin and P.V. Krasheninnikov (N 424632-7 "On Introducing Amendments to Parts One and Two and Article 1124 of Part Three of the Civil Code of the Russian Federation" – Digital Rights). This bill studied the understanding of civil rights and obligations, their role and place in relations regulated by civil law.

Although the digital economy seems to be ever-present, its potential has not been revealed yet. The scientific works of Andreev [1], Bernal [2], Vaipan [3], Guzanov [4], Zharova [5], Erl and Puttini [6], Elin [7], Korsik [8], Kuchina [9], Savelev [10], Sitdikova [11], Sitdikova and Starodumova [12], Sitdikova and Sitdikov [13], Starodumova et al. [14] and Shaidullina [15] address only some challenges in the field of digital law.

## II. METHODS

### A. General description

While conducting the study, we were guided by general scientific and private law methods of cognition. The most-used general scientific methods were as follows: analysis and synthesis, generalization and analogy, as well as special methods of cognition (the formal-legal method and the method of legal analysis). Due to the combination of these methods, we managed to comprehensively analyze the phenomenon under study. We determined the legal nature of digital law, analyzed the legal norms governing digital law and justified proposals aimed at the sustainable development of the digital economy (Table I).

### B. Algorithm

We defined the following research algorithm (Fig. 1):

1. Stating the topic;
2. Setting the objective and tasks;
3. Studying scientific discussions on the research topic and the legal framework;
4. Developing a unified approach to the research hypothesis and the methods used, as well as forming a unified view of the anticipated study results;
5. Processing and analyzing the research results;
6. Drawing the study conclusions;
7. Elaborating ideas for improving the existing legislation;
8. Drawing the summary statements and study conclusions;

Revised Manuscript Received on October 30, 2019.

\* Correspondence Author

Lubov Borisovna Sitdikova\*, Russian State Social University, Moscow, Russian Federation, Moscow, Russia.

Svetlana Jurieвна Starodumova, Russian State Social University, Moscow, Russian Federation, Moscow, Russia.

© The Authors. Published by Blue Eyes Intelligence Engineering and Sciences Publication (BEIESP). This is an open access article under the CC BY-NC-ND license (<http://creativecommons.org/licenses/by-nc-nd/4.0/>)

C. Flow chart

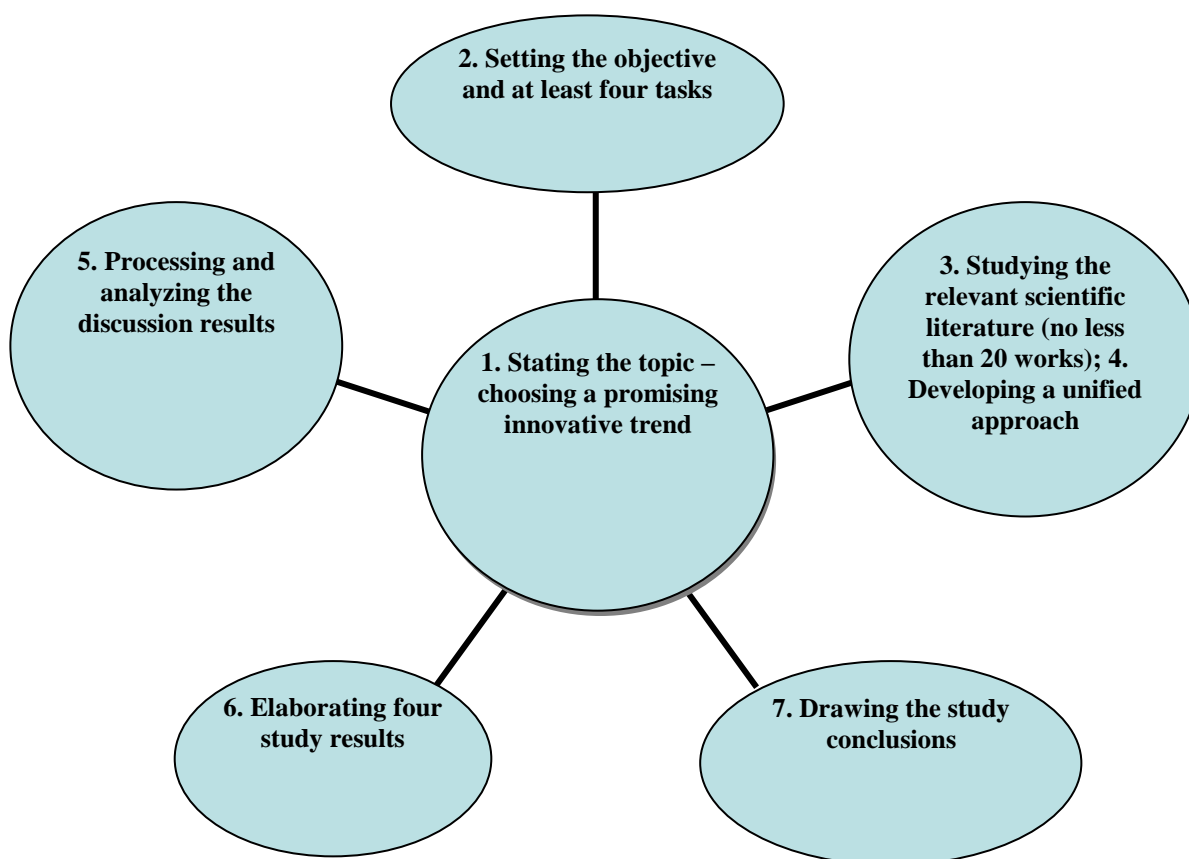


Fig. 1. Research pattern

III. RESULT ANALYSIS

Table I. Research results

Study results		
No.	Study results	Result description
1.	We have revealed that civil rights and civil obligations are the key to disclosing the essence of relations regulated by civil law (not only legal relations but also relations entailing civil law consequences due to actions of citizens and legal entities). Subjective rights and legal obligations are traditionally considered by legal science as elements of legal relations and, more specifically, the content of civil legal relations.	This approach overemphasizes the category of legal relations since there are relations regulated by law that cannot be reduced to civil rights and obligations. Information technologies are included into the formation, certification, implementation, transfer and termination of civil rights and obligations of individuals and corporate legal entities, which indicates the need to, first, analyze the rights and obligations of subjects of civil law rather than their legal relations.
2.	We have established that new provisions of the Civil Code of the Russian Federation introduce such an object of civil rights as information rights.	We believe that these novelties mainly aim to prepare the Civil Code of the Russian Federation for the subsequent adoption of laws on digital financial assets (cryptocurrency and tokens) and crowdfunding (raising money on electronic platforms).
3.	We have proved that digital law certifies the right to all objects of civil rights, except for intangible goods.	As a result, it is understood that digital rights certify one's right to deliverables or services provision, protected intellectual property and equivalent means of individualization.
4.	It is advisable to amend the existing civil law to increase the efficiency of innovative digital relations in Russia.	We propose to consider amendments to Articles 160, 309 and 432 of the Civil Code of the Russian Federation not as "smart contracts" but ways to complete a transaction using electronic and other technical means.

#### IV. DISCUSSION

Nowadays the term "digital rights" is commonly used in the context of the digital society and digital economy. When new provisions of the Civil Code of the Russian Federation come into force on October 1, 2019, digital rights will acquire specific interpretation.

The priority measures for creating digital environment for the digital economy include the development of ideas aimed at the formation of basic legal concepts and institutions that ensure modern digital civil circulation (the definition of electronic transactions and cryptocurrencies, the regulation of their turnover, the enshrinement of information as an object of civil rights in Article 128 of the Civil Code of the Russian Federation (the Civil Code of the Russian Federation (part one) N 51-FZ of November 30, 1994) [3], [16].

The introduction of digital technologies into the existing economic system requires clarifying the concept of subjective civil law and the object of civil rights. Article 128 of the Civil Code of the Russian Federation includes property rights of citizens and legal entities into objects of civil rights but does not correspond to the philosophical understanding of the subject and object [1], [3]. In this regard, we consider it is valid to include digital rights into the objects of civil rights. We should highlight G.A. Guzanov's opinion who claimed that a digital telecommunication signal is an object of civil rights. However, it should not be attributed to other property or intangible objects of civil law that have product-related properties but rather to things whose existence and circulation are realized through the use electronic and other technical devices [4], [17]. In this case, a digital code, or designation, and a set of electronic data should be interpreted as digital rights belonging to a person registered in some decentralized information system. The holders of digital rights can exercise the corresponding civil rights using information technologies and other technical means [1], [6], [18].

According to Article 141.1 of the Civil Code of the Russian Federation, a digital code or designation is recognized by the object of civil rights as a collection of electronic data and other property, as well as a digital right belonging to its holder. This interpretation seems to be valid since the existence of digital code, or designation, and the registration of its owner in a decentralized information system let them participate in civil circulation.

Digital rights certify one's right to all objects of civil rights except for intangible goods, i.e. not only for other property but also deliverables, services provision, protected intellectual property and equivalent means of individualization [1], [11], [13]. This circumstance allows us to state that digital rights as objects of civil rights should correspond to a special object or thing whose existence and circulation are carried out using electronic and other technical devices that should be included into Article 128 of the Civil Code of the Russian Federation.

Digital rights do not specify the actual object to which the owner's will and interest are directed. As a rule, such rights are derivative and secondary since they are considered as a way of transmitting one's will via electronic or other technical means (an addition to paragraph 1 of Article 160 of the Civil

Code of the Russian Federation). This fact explains the position of digital rights among objects of civil rights. A peculiar feature of digital rights is that they do not have a clearly defined holder as they usually belong to a specific individual or legal entity. A set of electronic data (digital code or designation) certifies one's rights to objects of civil rights by performing real-life actions with the help of electronic or other devices. Such devices express one's will to fulfill obligations upon the occurrence of which there is an interest of an individual or legal entity registered in the information system that meets the statutory characteristics of a decentralized information system [1], [2], [4], [13].

Next, we should consider the conclusion and execution of transactions using digital technologies (the so-called "smart contracts"). The provisions supplementing clause 1 and 2 of Article 160, Article 309 and clause 2 of Article 432 of the Civil Code of the Russian Federation govern the conclusion of written contracts with electronic and other technical devices, as well as the automated execution of obligations when specific terms enable contractual performance without fulfilling obligations to express the will of its parties via information technologies. In these cases, the expression of one's will through electronic means transmitting a signal is equated to simple writing, while "smart contracts" are concluded through a number of unilateral transactions. This method of expressing one's will should be attributed to legally significant messages since the other person does not have civil rights and obligations typical of a transaction but rather civil legal consequences from the moment they receive the corresponding message (Article 165.1 of the Civil Code of the Russian Federation). According to some scholars, such amendments are significant but they do not solve the issue of a "smart contract" in the modern sense [1], [8], [15].

A "smart contract" is a contract that exists as a program code implemented on some blockchain platform and ensuring the autonomy and self-fulfillment of contractual terms when the circumstances predetermined therein occur. Fully automated technologies have a great potential for regulating a number of objects on the Internet, distributing copyright objects, structuring financial products based on cryptocurrency rate fluctuations, etc. [1], [10], [19].

Summing up the foregoing, we believe that the proposed additions to Articles 160, 309 and 432 of the Civil Code of the Russian Federation cannot be considered as "smart contracts". They serve as a way to complete a transaction using electronic and other technical means.

We should state that the inclusion of Article 783.1 "Specifics of data provision service agreements" into the Civil Code of the Russian Federation causes some doubts [1], [10]. Clause 2 of Article 779 of the Civil Code of the Russian Federation names a paid agreement on the provision of communication and information services as a type of paid agreements on the provision of communication services.

Article 783 of the Civil Code of the Russian Federation states that paid services agreements are governed by general provisions of labor contracts and consumer work if it does not contradict Articles 779-782 of the Civil Code of the Russian Federation, as well as the scope of the above-mentioned paid services agreement. Since information services differ from any other deliverables, the obligation not to disclose information to third parties should be included either in the Communications Act (the Federal Law No. 126-FZ of July 7, 2003 "On Communications") or the Law on Information, Informational Technologies and the Protection of Information (the Federal Law No. 149-FZ of July 27, 2006 "On Information, Informational Technologies and the Protection of Information"). The reference to paragraph 1 of Article 307 of the Civil Code of the Russian Federation does not give grounds for including such an optional provision into the Civil Code of the Russian Federation since the obligation of a party or parties not to disclose information to third parties exists along with the basic obligation to provide the other party with information services. Due to this obligation, the debtor is obliged to perform a certain action in favor of one party or to refrain from doing a certain action [1], [5], [7], [9], [20].

### V. CONCLUSION

The analysis we have conducted proves that rapidly developing technical progress determines requirements for legal science that cannot fall behind the most important changes taking place in modern society. Amendments to the Civil Code of the Russian Federation are caused by the need to implement the program "Digital Economy of the Russian Federation". However, these amendments should fully comply with the level of introducing digital technologies into the socio-economic life of people.

We should note that the innovations under study will not allow to fully regulate the entire spectrum of developing relations on the Internet but will determine the foundations of legal regulation for forming and developing the digital economy. In addition to the improvement of the digital economy, special attention should be paid to the development of Russian e-commerce.

### ACKNOWLEDGEMENTS

This article was prepared as a part of the internal research entitled "Corporate information security system for entrepreneurs in the digital economy" and carried out with the financial support of the Russian State Social University.

### REFERENCES

1. V.K. Andreev, "O ponyatii tsifrovyykh prav i ikh oborotospobnosti" ["The concept of digital rights and their circulability"]. *Zhurnal predprinimatelskogo i korporativnogo prava*, vol. 2, 2018, pp. 38-41.
2. P. Bernal, "Internet Privacy Rights". Cambridge University Press, 2014.
3. V.A. Vaipan, "Osnovy pravovogo regulirovaniya tsifrovoy ekonomiki" ["Foundations of the legal regulation of the digital economy"]. *Pravo i ekonomika*, vol. 11, 2017, pp. 5-18.
4. K.A. Guzanov, "Pravovoe regulirovanie deyatelnosti po okazaniyu uslugi svyazi" ["The legal regulation of providing communication services"]. Ph. D. Thesis. Moscow, 2018.
5. A.K. Zharova, "Pravo i informatsionnye konflikty v informatsionno-telekommunikatsionnoi sfere" ["Rights and information-related conflicts in the information and telecommunication system"]. Moscow: Yanus-K, 2016.
6. Th. Erl, and R. Puttini, "Cloud Computing: Concepts, Technology & Architecture". Prentice Hall, 2013.
7. V.M. Elin, "'Oblachnye" uslugi i osobennosti ikh pravovogo regulirovaniya v Rossiiskoi Federatsii" ["Cloud services and specifics of their legal regulation in the Russian Federation"]. *Informatsionnoe pravo*, vol. 30, 2017, pp. 28-33.
8. K.A. Korsik, "Tsifrovoye pravo kak novye obekty grazhdanskikh prav i novye pravila o soblyudenii pismennoi formy sdelki" ["Digital rights as new objects of civil rights and new rules on observing the written form of contracts"]. *Notarialnyi vestnik*, vol. 4, 2019, pp. 2-3.
9. Ya.O. Kuchina, "Oblachnye tekhnologii: ponyatie i osnovy pravovogo regulirovaniya" ["Cloud technologies: notion and foundations of legal regulation"]. *Aziatsko-Tikhoookeanskii region: ekonomika, politika, pravo*, vol. 4, 2016, pp. 77-89.
10. A.I. Savelev, "Nekotorye pravovye aspekty ispolzovaniya smart-kontraktov i blokchein-tekhnologii po rossiiskomu pravu" ["Some legal aspect of using smart-contracts and blockchain technologies within the Russian law"]. *Zakon*, vol. 5, 2017, pp. 94-117.
11. L.B. Sitdikova, "Nekotorye voprosy grazhdansko-pravovogo regulirovaniya uslug v sfere oblachnykh vychislenii" ["Some issues of civil regulation of cloud services"]. *Aktualnye problemy grazhdanskogo prava i protsesssa. Materialy vs Rossiiskoi nauchno-prakticheskoi konferentsii*. 2019, pp. 186-191.
12. L.B. Sitdikova, and S.J. Starodumova, "Cloud Technology Services in the Information Security". *International Journal of Innovative Technology and Exploring Engineering*, vol. 8(8), 2019, 3209-3211.
13. R.I. Sitdikova, and R.B. Sitdikov, "Tsifrovoye pravo kak novyi vid imushchestvennykh prav" ["Digital rights as a new type of property rights"]. *Imushchestvennye otnosheniya v Rossiiskoi Federatsii*, vol. 9(204), 2018, pp. 75-80.
14. S.J. Starodumova, M.A. Volkova, A.A. Neznamova, G.N. Kuleshov, and R.R. Lenkovskaya, "The problems of responsibility for violation of legislation regulating the information security on the Internet" ["Los problemas de responsabilidad por violación de legislación que regula la seguridad de información en Internet"]. *Espacios*, vol. 39(45), 2018, pp. 25.
15. V.K. Shaidullina, "Tsifrovoye pravo, kak novoye pravovoye yavlenie" ["Digital rights as new legal phenomena"]. *Problemy ekonomiki i yuridicheskoi praktiki*, vol. 1, 2019, pp. 112-115.
16. A. Kartskhiya, Pravo v usloviyakh tsifrovoy transformatsii" [Rights in the conditions of digital transformation"]. *Intellektualnaya sobstvennost. Avtorskoye pravo i smezhnye prava*. vol. 3, 2019, pp. 23-28.
17. A.F. Saifullina, and A.V. Loshkarev, "Tsifrovaya ekonomika i pravo" ["Digital economy and law"]. *Sovremennyye nauchnyye issledovaniya i razrabotki*, vol. 1(30), 2019, pp. 929-931.
18. G. Hanaoka, K. Ogawa, I. Murota, Go. Ohtake, K. Majima, K. Oyamada, S. Gohshi, S. Namba, and H. Imai, "Separating encryption and key issuance in digital rights management systems". *Lecture Notes in Computer Science*, vol. 2727, 2003, pp. 365-376.
19. Szabo, N., "Smart contracts". *Essays on Smart Contracts, Commercial Controls and Security*. 1994. Available: <http://www.fon.hum.uva.nl/rob/Courses/InformationInSpeech/CDROM/Literature/LOTwinterschool2006/szabo.best.vwh.net/smart.contract.shtml>
20. A.A. Neznamova, "Usluga kak obekt grazhdanskogo prava. Sbornik: Realizatsiya chastno-pravovykh otnoshenii s uchastiem publichnogo elementa" ["Services as objects of civil rights. The collection of scientific works: the implementation of private legal relations with the public component"]. *Sbornik nauchnykh trudov po itogam provedeniya nauchno-metodicheskogo seminara*, 2017, pp. 54-61.