



## Patterns in the Formation of the Conceptual Apparatus in Regulating the Internet in Russia

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# Patterns in the Formation of the Conceptual Apparatus in Regulating the Internet in Russia

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**Abstract.** This article provides examples describing the gradual destruction of the unified, consistent terminological system of information law. Research has identified causes and patterns, along with related problems, of organizing the conceptual apparatus in the regulation of information law relationships, including the Internet and the institution of identification. A classification and description of the patterns of forming a conceptual apparatus should be important in developing legislation, including the digital economy.

**Keywords:** conceptual apparatus, identification, Internet, digital economy, information technologies, patterns, discrepancies, quantitative analysis, information law relationships, information legislation, law, resolution, ESIA, biometric system, remote identification, action plan, draft law

## 1 Introduction

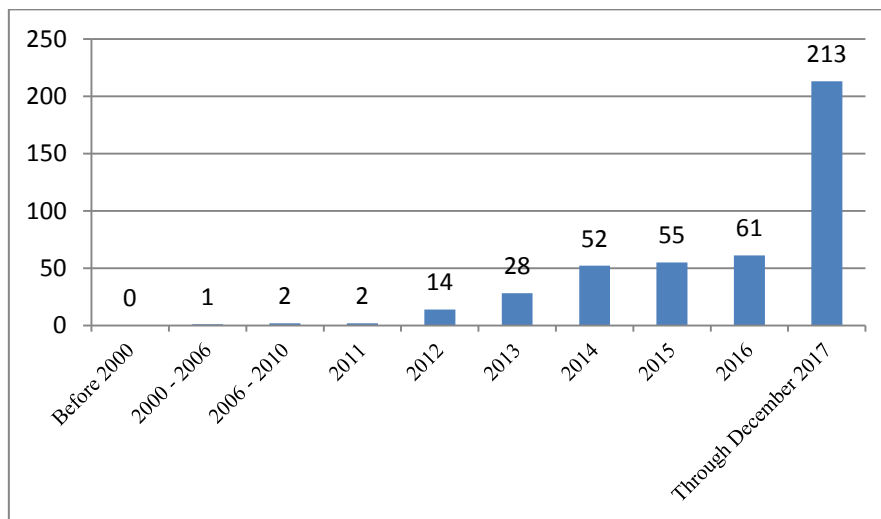
Just as with the legal systems of other countries, Russian law, its division and the content of sectors and institutions, are currently at a crossroads in the “digital world” that is being built: how to develop in conditions of new technology, when “megatrends” (according to K. Schwab[11]) or “end-to-end digital technologies” (in the terms of the Digital Economy of the Russian Federation Program [13:3]) not only dictate the need for new legal norms of regulation, but also require the formation of new institutions. These include interdisciplinary institutions, in which it will be possible to regulate the digital environment of trust and to identify subjects in that environment, artificial intelligence, robotics, big data, the Internet of things, and many other new technologies and phenomena.

In order to assess the realities of the contemporary regulation of new technologies and what challenges and problems law will face in this regard, it seems illustrative to assess the state of development of the apparatus of legal terminology as it relates to the Internet, which is popular in the world, and the important area of the identification of subjects in the information space. The choice of the Internet to assess how legal terminology develops is no accident: of the other types of information law relationships it is precisely this area that is now the most popular for regulation in Russia and globally.

## 2 Destruction of the Unified System of Concepts in Informational Legislation

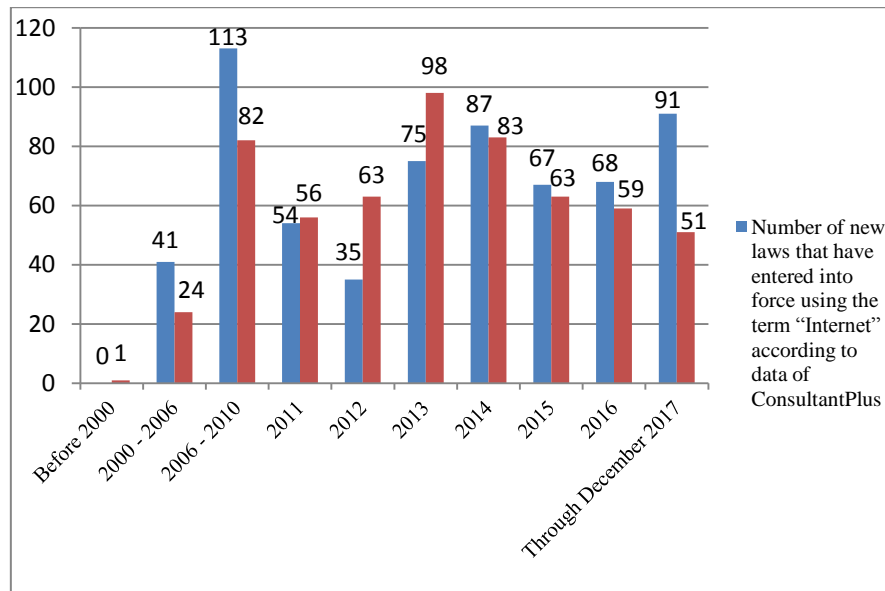
In order to understand the scale of the phenomenon and to assess how often the Internet is directly the subject of regulation in Russia, we can perform a contextual analysis of the mentions of the term “Internet” in contemporary Russian laws<sup>1</sup> (Figure 1, 2).

Figure 1 Quantitative analysis of the frequency with which the term “Internet” is mentioned in the Federal Law “On Information, Information Technologies and on the Protection of Information”



**Fig. 1.** Quantitative analysis of the frequency with which the term “Internet” is mentioned in Russian federal laws

<sup>1</sup> The analysis was performed using the online ConsultantPlus legal database at <http://www.consultant.ru>.



**Fig. 2.** Quantitative analysis of the frequency with which the term “Internet” is mentioned in Russian federal laws

Initially, in 2006, Russia’s main information law “On Information, Information Technologies and on the Protection of Information” (the “Law on Information”) contained 11 definitions related to key concepts of the system of information law relationships. Currently, if we analyze just Article 2 of the Law on Information, we notice that the number of definitions has doubled, and if we consider the definitions in the text of the “special part” of this Law, we see that even more have appeared.

Without considering the growing number of terms as a negative fact, we should focus our attention on the process of the **destruction of the unified system of concepts** in the Law on Information which started in 2012 and has worsened since 2014. This has been happening both in terms of the range of subjects and the definitions of objects.

Initially, when the federal law was developed and adopted, the concept of a “*possessor of information*” (*obladatel’ informatsii*) defined as “*a person who has independently created information or received on the basis of a law or a contract the right to permit or restrict access to information defined according to certain features*” (Article 2 of the law) was taken as the basis for the hierarchy of subjects.

This was preceded by an extensive and complex scientific discussion that resulted in not using the concepts “*owner of information*” (*sobstvennik informatsii*) and “*holder of information*” (*vladelets informatsii*), which had existed in the old 1995 version of the federal law “On Information, Informatization and the Protection of Information.” It seems that what happened in 1995 is a great achievement of the science of information law.

However, the 2012 amendments proposed the term “*owner of a site on the Internet*” (*vladelets saita v seti Internet*), defined as “*a person independently and in its sole discretion determining the procedure for the use of a site on the Internet, including the procedure for placing information on that site*” (Article 2), in which the definition did not mention the possessor (*obladatel*) of information. That definition has not been used at all since 2014.

A similar pattern occurs with regard to objects, and this creates the impression that subject-specific legislation is achieved by making “patches” adding to regulation based on local tasks, but disrupting the logic of the general approaches and methodology of forming the term base. This is when the planned system of the hierarchy of concepts and the structuring of it “from the general to the specific” started to become deformed.

One can conclude when analyzing the existing system of terms that the phenomenon most frequently encountered in the formation of the current conceptual apparatus for the Internet and information technologies (IT) is the incorrect usage of terms that have a meaning set forth in the law, both in information legislation and by other sectors. This incorrect usage causes **definitions to be inconsistent in different fields of law and creates uncertainty in the application of the law** and compels us to engage in interpretation (and the interpretation is often contradictory and inflexible).

For example, a discrepancy in the usage of terminology can often be found in the distribution of computer programs. The reasons for this phenomenon are clear: in the IT field everyday terminology is established and is used in business; it is this terminology that “by inertia” is used as the basis for definitions in legislation that is being developed. However, this is unacceptable.

For example, Article 10.4 of the Law on Information provides the following definition of that term. The owner of a news aggregator is the “*owner [vladelets] of a program for electronic computing machines, the owner of a site and/or page of a site on the Internet which are used to process and disseminate news information on the Internet in the state language of the Russian Federation, the state languages of the republics comprising the Russian Federation or other languages of peoples of the Russian Federation in which advertising may be disseminated to attract the attention of consumers located in the Russian Federation and which is accessed by more than 1 million Internet users during a 24-hour period.*”<sup>2</sup> A similar definition of “*owner of an audiovisual service*” via the term “*owner of a computer program*” is provided in another contemporary amendment (Article 10.5 of the Law on Information).<sup>3</sup>

That said, intellectual property legislation, which has historically contained a definition of a computer program [4], does not use the concept of an “owner of a computer program,” which in practice gives rise to different hypotheses about the basis on which (an exclusive right or a license agreement) the subject should use a computer

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<sup>2</sup> An obvious but discouraging conclusion arises in practice with respect to this definition, namely that foreign services may not be aggregators in the context of Russian law.

<sup>3</sup> Introduced by Federal Law No. 87-FZ “On Amendments to the Federal Law ‘On Information, Information Technologies and on the Protection of Information’ and Certain Legislative Acts of the Russian Federation” dd. May 1, 2017.

program. This, in turn means uncertainty in determining the status of the person and may result in negative situations for a large Internet business.

It is interesting that three articles “lower” in the Law on Information, in Article 12.1 concerning what is referred to as “Russian software” and about the registry of Russian programs and databases<sup>4</sup>, the norms refer to right holders and license agreements, which corresponds to the classic system of intellectual property law terms.

The next pattern is determined by ever more frequently arising situations where, depending on the area of the legal regulatory act, separate and unrelated approaches to forming subject-specific terminology are used in different documents. Terms are given different content for the same phenomenon or action but in different areas. As a result, a “**specialization of concepts**” arises, which entails no single consistent thesaurus of terms for information technologies that are used everywhere in society, business and the activity of the state, i.e., the IT and approaches to using it are the same, but the terms are different.

A classic example causing serious confusion in IT business practice can be found in software development when the conditions for interaction between computer program and database developers and their customers and licensees are formulated and interpreted. The Russian intellectual property legislation that took shape back in the 1990s uses just two concepts when computer program code changes: adaptation and modification<sup>5</sup>. However, in industry practice, in contracts and, most importantly, in other fields of legislation, other terms are also used everywhere<sup>6</sup>, and these terms are related, in particular, to the system of Russian IT sector standards [6]. The standards use the terms “implementation” (*realizatsiya*), “functioning” (*funktsionirovaniye*), “installation” (*installyatsiya*), “support” or “maintenance” (*soprovozhdeniye*) and many others, often without using the terms “modification” and “adaptation.”

This is unacceptable and requires a change of methodological approaches to forming concepts both in the area of software distribution and in the area of IT as a whole.

When analyzing a system of terms and the methodology of forming such system, one cannot avoid the negative practice that has arisen of “**correcting**” the concepts of law with concepts and clarifications made in statutory acts. These clarifications and updates take on the nature of grass-roots lawmaking changing the lawmaker’s will.

The Federal Law on Information considerably expanded the range of subjects in Internet-related legal relationships in 2014. The definition of an “*organizer of information dissemination*” which was provided in Article 10.1 of the Law on Information appeared as part of those initiatives. This is quite broad in the law: “*an organizer of information dissemination on the Internet shall be understood to mean a person en-*

<sup>4</sup> Introduced by Federal Law No. 188-FZ dd. June 29, 2015.

<sup>5</sup> “Processing (modification) of a computer program or database shall be understood to mean any changes thereto, including the translation of such program or such database from one language to another language, other than adaptation, in other words, the making of changes solely for the computer program or database to function on specific technical means of a user or under the control of specific user programs” (Article 1270(2)(9) of the RF Civil Code).

<sup>6</sup> For example, the term “support” or “maintenance” (*soprovozhdeniye*) is found in many documents, from the RF Tax Code to the Fundamental Principles of the Legislation on Notaries Public.

*gaging in activity to ensure the functioning of information systems and/or computer programs which are intended and/or used to receive, transmit, deliver and/or process electronic messages of Internet users.”*

However, when interpreting the norms of statutory acts that have been adopted, it is possible to identify a number of arguments evidencing that an organizer of information dissemination is a person who manages precisely a content service, i.e., a service making it possible for users to exchange messages or publish it for the information of the general public<sup>7</sup>.

According to clause 3 of Article 10.1 of the Law on Information, the organizer of information dissemination shall store information about the facts of receipt, transmission, delivery and/or processing of electronic messages of Internet users, the electronic messages themselves, and information about users who have sent, posted or received those messages, in the Russian Federation for the time period set by the Law on Information. The makeup of the information to be stored by the organizer of information dissemination, the place and the rules for storing it, and the procedure for providing it to the competent state authorities shall be determined by the RF Government’s Resolution No. 759 of July 31, 2014 (the “Rules”).

Item 3 of the Rules states that the organizer of information dissemination stores the information received (transmitted, delivered and/or processed) when ensuring the functioning of an Internet communication service. The Rules define an Internet communication service as an information system and/or a computer program which “*is intended and/or used for the receipt, transmission and/or processing of electronic messages of Internet users for the purposes of a) the exchange of electronic messages among Internet users, including, b) for the transmission of electronic messages to the general public.*”

Therefore, it is possible to suppose that according to the Rules, Internet resources and services falling under the effect of Article 10.1 of the Law on Information must have precisely the function of ensuring communications.

When analyzing the problem of terminology in the Internet and IT field, one must briefly mention another important problem affecting the perception and interpretation of legislation and the stability of the application of the laws.

This is the **general legal drafting quality of the texts of norms**, including their compliance with the rules of logic and the Russian language. This has direct relevance for the correct determination of the scope of rights and obligations of the subjects of legal relationships in the perception of both the subjects themselves and of the supervising state authorities.

The requirements for the localization of personal data are a good example of how ambiguous legal constructs are created in the Internet and in information law relationships as a whole [7].

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<sup>7</sup> In the Russian Law On Information there is no difference between various roles of different types of providers of information society services (as described in the Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market).

This situation came about due to Federal Law No. 242-FZ “On Amendments to Certain Legislative Acts of the Russian Federation with Respect to Clarifying the Procedure for the Processing of Personal Data in Information and Telecommunications Networks” dd. July 21, 2014, which entered into force on September 1, 2015. Article 18(5) of that law, which is probably now known to most of the country’s lawyers (due to the social importance of the norms and the legal drafting that is not yet entirely clear) specifies as follows:

*“When collecting personal data, including by means of the Internet information and telecommunications network, the operator shall ensure the recording, systematization, accumulation, storage, alteration (including updating or changing), and retrieval of personal data of citizens of the Russian Federation using databases located on the territory of the Russian Federation, other than in the cases specified in clauses 2, 3, 4 and 8 of part 1 of Article 6 of this Federal Law.”*

At the same time, such a type of action involving personal data as collection (terminologically equivalent to other types of actions according to the text of Article 3 of that law) became a condition for defining the object of other actions. It turns out that one of the elements (“collection”) of a set (“processing of personal data”) defined a new subset (“processing of personal data when they are collected”) which lawmakers did not initially intend.

This lack of clarity has produced a wave of public discussions, public statements from representatives of government authorities and academia, and many requests to the executive authorities about how the norm will be applied in practice. Business, which uses databases with information about individuals throughout the country and the world, has had to make its own decisions on the important practical issue of whether it is possible and in what conditions (if a cross-border transfer of personal data is permitted) to create and use other (secondary) databases that would use information from the primary databases created in the Russian Federation. Furthermore, it is not clear whether the secondary database should be an exact copy of the primary one or whether it can differ and why.

In view of the above, it should be noted that the concept of personal data itself is also subject to various interpretations and criticisms due to its potentially broad meaning. This, in certain cases, may lack formal certainty perceived as a constitutional principle which enables the consistent application of the law. It might be argued that practice actually requires a narrower interpretation of personal data [2]. The very legal nature of personal data is not clear enough in a context where personal data legislation cannot be unambiguously related to either administrative or civil law, which also is a matter of legal technique. In this sense, interpretations are possible according to which personal data is considered to be a civil law non-material valuable [3]. The problem of classifying informational relationships as public or private directly in fact affects the core principle of legal regulation – either that of “general permission” (what is not expressly prohibited, is permitted) or that of “general restriction” (what is not expressly permitted, is prohibited) [10] – and this problem is quite common for informational legislation in general.

The sequence of examples of the deformation of IT terminology described above can be continued further.



As the last typical example, we can cite the appearance of a new subject in the Law on Information in 2014, the blogger, and its disappearance from the law three years later. Such **“testing” of regulatory ideas** is unacceptable, because any legislative amendments of quality should have a broad horizon of effect. Taking any other approach decreases the level of respect for the law and complicates the application of the law, creating changing rules of the game for society, business and the state.

Despite the widespread use of the Internet in Russia, as well as the use of information and communication technologies in the field of e-commerce and public services, it is impossible to state substantive legislation is currently in place that allows for the clarification of how subjects of relations involved in the distribution or the provision of information on the Internet shall be fully and legally identified.

### **3 Regulation of Identification of Subjects**

There are a number of directions in which Russian law might develop in terms of featuring own its approaches to the identification of subjects.

The first direction is expectedly connected with the long-existing legal institute of personal data, which represents the established control system. It is no coincidence that during an insignificant number of legal precedents on the identification issue, courts very often make a decision about the fact of dissemination of any information by a specific person on the basis of circumstantial information or testimony, because not everyone is registered in mail and Internet services, or in social networks, under their own name and thus not everyone enters their own personal data.

The improvement of the electronic signature legislation that has recently undergone substantial revision<sup>8</sup> should be specified as the second development direction. The electronic signature is similar to personal data in that it plays an identical role of being used to identify a person under certain circumstances.

The next direction of the control development directly relates to the Internet, and is reflected in the content and recent amendments to the Federal Law "On information, information technologies and information protection". The law currently provides the following tools to identify subjects on the Internet: self-identification under Art. 10, voluntary and compulsory registrations of organizers of the information dissemination in registers of prohibited information.

The development of the identification legislation is not limited to the specified directions. The popularity of electronic payments stipulates the development of legislation on the national payment system and the counteraction against money laundering and the financing of terrorism, which already offers solutions for conventional and so-called "simplified" identification in the sphere of financial services.

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<sup>8</sup> Amendments have taken place in connection with the adoption and the entry into force of Federal Law No. 445-FZ "On amendments to the federal law on electronic signature" dd. December 30, 2015, which amended 12 out of 20 articles of the law in question.

The Russian government, understanding the importance of the agenda of subjects identification in the information space<sup>9</sup>, took in 2013 the first systematic steps in the sphere of interaction between the state and the citizens: Federal Law No.112-FZ dd. June 7, 2013 was enacted “On amendments to the Federal Law “On information, information technologies and information protection” and Federal Law “On access to information about activities of state authorities and local government bodies”. It specified the status and laid the foundation for the identification of subjects of information relations in the sphere of state services provision.

At present, the *Unified Identification and Authentication System* (which is referred to both generally and herein using the Russian acronym the “ESIA”) has been established. The ESIA is a federal state information system<sup>10</sup>, the procedure for using which is set by the Government of the Russian Federation, and which provides, in cases specified by the law of the Russian Federation, for authorized access to information contained in information systems (Cl. 19, Art. 2 of the Federal Law “On information, information technologies and information protection”).

Returning to terminology, the definitions of new concepts are not always added to the Law on Information in a timely manner when forming the conceptual apparatus for information law relationships. **This “lagging” of the Law on Information behind other legal regulatory acts** seems methodologically incorrect and may lead to an “erosion” of the term base.

This can be explained visually in the development of terminology of the above-mentioned institution of identifying subjects [9] (Table 1).

**Table 1.** Examples of definitions in the system of the institution of identification

	Document	Norms
1.	Federal Law No. 115 “On Combating Money Laundering and the Financing	“ <i>Identification means all of the measures to establish the infor-</i>

<sup>9</sup> The Russian Federation is not alone in its efforts, and other CIS member states started using its experience (see, for example, the Resolution No. 365 of the Cabinet of Ministers of the Republic of Uzbekistan dd. December 17, 2015 “Measures to establish central databases of individuals and entities and to introduce a Unified Information System for the Identification of “Electronic government” system users”) // <https://www.uzdaily.uz/articles-id-27327.htm>

<sup>10</sup> The upgraded UIAS version was put in operation by Decree No. 179 of the Ministry of Communications and Mass Media of the Russian Federation dd. June 30, 2014. According to the “Plan of Actions (“Road Map”) for the Implementation of the Concept for the Development of Mechanisms for the Provision of State and Municipal Services in Electronic Form”, approved by Decree No. 991-r of the Government of the Russian Federation dd. June 9, 2014. In the last quarter of 2015 they integrated information systems of multifunctional centers, which have been long used in Russia, with the unified identification and authentication system. Previously support was implemented to integrate official websites and portals of federal executive authorities, executive authorities of the constituent entities of the Russian Federation and local government bodies used in the process of the provision of priority services with the unified identification and authentication system.

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| <p>of Terrorism” dd. August 7, 2001 (as amended on December 28, 2016)</p>   | <p><i>mation defined by this Federal Law about clients, their representatives, beneficiaries, and beneficial owners, and to confirm the accuracy of that information using originals of documents and/or duly certified copies” (Article 3)<sup>11</sup></i></p>  |
| <p>2. RF Government Resolution No. 584 “On Use of the ESIA [Unified Identification and Authentication System] Federal State Information System in Infrastructure Supporting the Information and Technology Interaction of Information Systems Used to Provide State and Municipal Services in Electronic Form” dd. July 10, 2013 (as amended on November 14, 2015)</p>      | <p><i>“Identification of information about participants of information interaction, including using qualified certificates of keys for verifying electronic signatures by comparing the identifier of a participant of information interaction or identifier of its information system entered in a common system, with information about that participant or about its information system contained in the corresponding basic information resource”</i></p> |
| <p>3. “Methodological Document. Measures for Protecting Information in State Information Systems” (approved by FSTEC [Federal Service for Technology and Export Control] of Russia on February 11, 2014)</p>  | <p><i>“Identifier: the representation (line of symbols) unambiguously identifying the subject and/or object of access in an information system.<br/>Identification: assigning identifiers (unique names) to subjects of access, objects of access and/or comparing a presented identifier with a list of assigned identifiers” (annex 1)</i></p>  |
| <p>4. FSTEC of Russia Order No. 31 dd. March 14, 2014 “On Approval of the Requirements for Ensuring the Protection of Information in Automated Systems for Managing Industrial and Technological Processes at Critically Important Facilities, Potentially Hazardous Facilities, and also Facilities Presenting a Heightened Danger to Human Life and Health and to the</p> | <p><i>“Measures for the identification and authentication of subjects of access and objects of access must ensure the assignment to subjects and objects of access of a unique feature (identifier), a comparison of the identifier presented by the subject/object of access with a list of assigned identifiers, and also verification</i></p>  |

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<sup>11</sup> The new version of Law No. 470-FZ dd. December 29, 2017, entering into force on June 30, 2018, will say "and/or state and other information systems" after the word "copies."

- Environment” (Registered by the Ministry of Justice of Russia on June 30, 2014 under No. 32919)
5. “Financial services. Information security recommendations. GOST R [Russian State Standard] ISO/TO 13569-2007” (approved by Order No. 514-st of Rostekhnregulirovaniye [the Federal Agency for Technical Regulation and Metrology] dd. December 27, 2017)
6. Order No. 154 of Rosrybolovstva [the Federal Agency for Fisheries] dd. March 6, 2013 (as amended on July 26, 2016) “On Approval of the Rosrybolovstva Information Security Concept”
- that the identifier presented by it belongs to the subject/object of access (confirmation of authenticity)” (item 18.1)*
- “Identification: the process of establishing the unambiguous identity of the object in a single way”*
- “For the purposes of preventing unauthorized persons from working with the Rosrybolovstva IIVS [integrated information system] it is necessary to ensure that the system is able to recognize each lawful user (or limited groups of users). In order to do this, a number of features of each user must be stored in the system (in a protected place) according to which that user can be recognized. Then, when entering the system, and, if necessary, also when performing certain actions in the system, the user shall identify himself, i.e., shall specify the identifier assigned to him in the system. In addition, various types of devices may be used for identification: magnetic cards, key inserts, diskettes, etc.”*

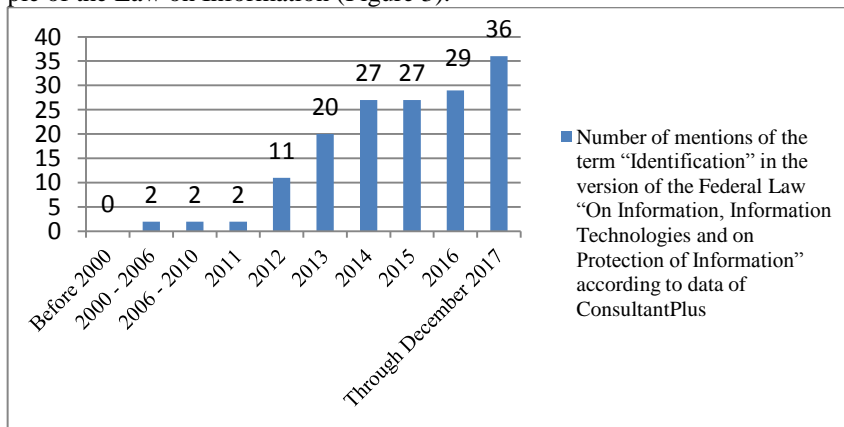
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In addition to the clear erosion of the term “identification”, which is defined differently in different documents, one may conclude from the table here that the Law on Information is no longer the key law for defining the relevant concepts of the institution of identification. This causes considerable risks for the stable application of the laws in today’s conditions.

This is happening at the same time that the threat related to “ensuring human rights in the digital world, including when identifying the subject” was put in first place in the ‘Digital Economy of the Russian Federation’ Program approved in the summer of 2017 [13:12].

In order to correct this emerging negative situation, it is necessary to formulate which are the key features of legal relationships, at this stage of the development of new technologies, in identifying the subjects of information space.

First of all, any legal solutions have a **high technological dependence** on the nature and functioning of information technologies. When the Internet started to develop, there was a dogma of openness, with bets everywhere being placed on open standards and protocols. The question of whether it was necessary to develop regulation of identification, which appeared as a separate set of legal norms only six years ago, had not even been posed [8]. This can be demonstrated visually using the example of the Law on Information (Figure 3).



**Fig. 3. The number of mentions of the term “Identification”.**

The state’s course regarding anonymity and identification in the information field in Russia and globally changed at the start of this decade<sup>12</sup>.

A trend emerged according to which states and society seriously began to think about how mechanisms protecting privacy can be abused, general state control became stronger, legislation began to appear that was introducing a requirement for mandatory identification and, in a number of cases, was prohibiting anonymous interaction<sup>13</sup>.

The second important feature is **the presence of information providers (intermediaries)** that are involved in processes of identification in the information space. In addition to “classic” intermediaries making sure that IT systems function, an entire intermediary business providing identification services has appeared in recent years<sup>14</sup>.

<sup>12</sup> In the EU, the most important act is Regulation (EU) No 910/2014 of the European Parliament and of the Council dd. 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

<sup>13</sup> For example, since January 1, 2018, in the Republic of Kazakhstan, proceeding from Russian examples of regulation, amendments to the Law on Informatization entered into force concerning how the user may publish information only on the basis of an agreement with the use of identification on an "eGovernment" portal or using the user’s mobile communication subscriber number.

<sup>14</sup> The first amendments affected Federal Law No. 115-FZ “On Combating Money Laundering and the Financing of Terrorism” dd. August 7, 2001, when the possibility was added to Article 7 for micro-finance organizations to delegate identification or simplified identification to

The third feature in this area is **the consolidation of the state's role**. For Russia this can be demonstrated on the example of Federal Law No. 482-FZ, which considerably expanded the subject-specific powers of the executive authorities. It also supplemented the Law on Information with a new Article 14.1 “Application of information technologies for the purpose of identifying Russian Federation citizens”<sup>15</sup>.

The amendments implement a new state idea in the area of identification: the creation of a unified biometric system. It is still difficult to assess how the simultaneous existence of two systems (i.e., the Unified System of Identification and Authentication, which appeared five years ago, and the new system) will be effective, because at the time of writing the statutory acts defining the rules of how it functions had not yet been adopted. It is already evident now, though, that a special subject will be created: the operator of the unified biometric system, which, according to clause 17 of the new article, must be appointed by the Russian Government taking into account the requirement that such operator must hold *“an important position in the public communication network on the territories of at least two thirds of the constituent entities of the Russian Federation.”*

The entire newly created system is meant to remotely identify a citizen of the Russian Federation along communication channels without the person being physically present. Of separate interest for future analysis (after the statutory acts appear) is the organizational model that has been laid down for ensuring security as to which devices can or cannot be used for identification when cryptographic devices are present or absent (clauses 19-21 of Article 14-1)<sup>16</sup>.

## 4 Conclusion

The current trends occurring in the regulation of identification have not yet led to the creation of a unified, consistent system of subject-specific norms that define a unified terminology and principles of regulation, and that establish a unified system of methods and types of identification.

One reason for this is that the rate at which new technologies appear, and, in general, the fourth industrial revolution and new realities of the modern information society, are considerably outpacing lawmaking. We can unfortunately assume that the gap between legal concepts and approaches to regulation and the speed at which they appear, on one hand, and the appearance of new types of subjects [1] and objects and needs for regulation of information law relationships, on the other, will worsen.

The situation is aggravated by the low level of legal drafting of the changes occurring, and, if we continue with the existing approaches using the methodology of “pin-

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a lending institution on the basis of a contract; later this affected other legal regulatory acts. For example, the use of an identification contract was introduced into the Law on Information in 2017.

<sup>15</sup> Entered into force on June 30, 2018.

<sup>16</sup> It can be said that these are echoes of the ideas of the European General Data Protection Regulation (Regulation (EU) 2016/679), which entered into force in May 2018 and uses the approach that has been called privacy by design (Article 25 of that document).

pointed amendments” (or “patches”), this could entirely destroy the term base and create a linear system of concepts that are unrelated to one another, and even to the deformation of the institutions of information law, including the currently evolving institution of identification. That being said, the fact that the term base is extremely important is persistently underlined both in course books [5] and in research papers [12].

The need to protect the latter has been echoed in the statement in the Action Plan for “Standards Regulation” that involves developing a draft federal law intended to unify identification requirements, expand opportunities and means of identification<sup>17</sup>. We can only hope that all the accumulated problems in constructing the system of subject-specific legal definitions that now negatively affect information legislation and the application of such system will be taken into account when that draft law is developed.

The best option for Russia may be to revise existing legal definitions and principles and to build a unified hierarchy of terminology - from the general to the particular.

Also, it will be important to eliminate the tradition of definitions of the same objects, items and phenomena in various legal acts, where such “duplication” creates contradictions.

For example, in the previously mentioned sphere of the institution of identification we need only one set of clauses in one law (one option being the Law on Information), which will propose unified regulation for all areas in which identification is needed.

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<sup>17</sup> The action plan was approved by the Governmental Commission on the Use of Information Technologies to Improve Quality of Life and Business Conditions (Minutes No. 2 of December 18, 2017); the development of the draft law was mentioned in it under No. 01.01.001.001.001.

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