



The Russian Information Systems of the Housing and Utilities Sector: Peculiarities of Legal Regulation and Application

Andrey A. Inyushkin^(✉), Elena S. Kryukova, Yury S. Povarov,
Evgenia V. Ruzanova, Valentina D. Ruzanova,
and Nikolay G. Frolovskiy

S.P. Korolev Samara National Research University, Samara, Russia
cl-su@mail.ru

Abstract. The article studies the issues of application of information systems in the housing and utilities sector in the Russian Federation. Topicality of the studied issues is predetermined by the necessity for improving the law for the purpose of overcoming the difficulties that appear in practice due to the Russia's active implementation of state and private information systems in the housing and utilities sector. The purpose of the article is to determine the main directions of improvement of the legal mechanism that determines the forms and means of using the information systems in the housing and utilities sector on the basis of determination and analysis of this mechanism's drawbacks. The main approaches to studying this problem are the dialectic, system, intersectorial, etc., which allows for the complex consideration of the mechanism of the information systems usage in view of the needs of the housing and utilities sector. The results are as follows: the current state of legal regulation in the sphere of the Russian information systems is determined, and the peculiarities of application of the information systems in the housing and utilities sector are determined, in particular, during general meeting of the residents of an apartment block via postal vote; the procedure of using the state and private information systems the housing and utilities sector is studied; the directions for improvement of the law in this sphere are given. The article poses practical value for specialists of various profiles that work in the housing and utilities sector, scholars who conduct analysis of the legal, information, and economic aspects of functioning of the housing and utilities sector, and persons who deal with the legislative activities.

Keywords: Information systems · Data bases · Housing and utilities sector
Intellectual property · Premises' owners voting

1 Introduction

1.1 Establishing a Context

In the recent decades, the information and communication technologies have been developing in Russia, which reflected the legal system of the country as well. Social

transformation in Russia, democratization of public life, and informatization of activities of the public authorities bodies require deep change of the structure and character of the information provision (Khusyaynova 2016). The legislator has been showing peculiar interest in regulation of public relations with the legal and technological methods (Amelin 2016). Article 23 of the Federal Law No. 149-FZ dated July 27, 2006 “On information, information technologies, and protection of information” (hereinafter – the Federal law on information) establishes the definition of the information systems – totality of the information containing in data bases and ensuring its processing with information technologies and technical means. At that information is the data (messages, etc.) regardless of the form of its presentation, and data bases are the objects of intellectual property (Inyushkin 2016). In March 2014, the Federal law dated March 12, 2014 No. 35-FZ introduced a new object of intellectual property – Internet site, which has a legal regime of a complex item. Until this law, the relations in the sphere of information turnover with the help of the information and telecommunication network Internet had been regulated in the form of the legal regime of data bases. In particular, higher judicial bodies treated Internet site as a data base, which led to allied rights of the creator of the data base for the information containing on the Internet (decision of the Court on intellectual rights dated March 7, 2014 No. C01-114/2013 for the case No. A56-58781/2012). Definition of web-site on the Internet is found in Article 2 of the Federal law on information, but it does not contain the interconnection with data bases. At that, all information systems use the Internet – so they are Internet sites. In literature, appearance of an electronic information system is related to connecting the information resources of a certain subject of law to the program product on the basis of a certain data base which is included into a specific personal computer or a system of computers (Bachilo 2009). Diversity of the existing types of information is predetermined by diversity of human activities (Shaikh and Londhe 2016); at that, the law provides the classification of information into state, municipal, and others (Article 13 of the Federal law on information); information system became were widespread in the housing and utilities sector.

1.2 Literature Review

The general problems of the issues of regulating the information systems were reflected in the works of Bachilo (2009); Eremenko (2012); Voynakanis (2013). Interconnection between data bases and the information on the Internet was studied by Manap et al. (2013); Inyushkin (2015, 2016). The issues of protection of information in various information systems were analyzed by Tarasov (2014); Amelin (2016); Shaikh and Londhe (2016). The peculiarities of application of specialized information systems in the housing and utilities sector were studied by Pichugin (2011); Khusyaynova (2016).

1.3 Establishing a Research Gap

The previous studies, information systems were viewed without consideration of the specifics of the sphere of their usage, which did not allow determining the factors influencing the effectiveness of such usage in the housing and utilities sector and determining the ways of overcoming the obstacles for their full implementation.

The research determines a range of contradictory provision of the law regarding the conditions and the order of applying the state and private information systems in the housing and utilities sector and determines the directions of improving the mechanism of functioning of these systems for the purpose of the information provision of realization of housing rights of the citizens.

1.4 Aim of the Study

The purpose of the study is to determine the main directions of improvement of the legal mechanism that determines the forms and methods of using the information systems in the housing and utilities sector on the basis of determining and analysis of this mechanism's drawbacks.

2 Methodological Framework

2.1 Research Methods

General and private methods of cognition were used: dialectic, historical, system, formal and logical, rather-legal, intersectorial, etc. Their complex application allowed determining the peculiarities of functioning of the systems of the housing and utilities sector, the circle of subjects of relations for usage of the corresponding information systems, and the hierarchy of legal norms in this sphere.

2.2 Research Basis

The research basis includes the works of the Russian and foreign scholars who studied various aspects of functioning of information systems, including in the housing and utilities sphere, the law in the sphere of information systems, and practice of its application.

2.3 Research Stages

The problem was studied in two stages:

- 1st stage: selection and analysis of the existing scientific literature on the topic of the research, as well as the law in the sphere of information systems and practice of its application in the housing and utilities sector;
- 2nd stage: formulation of the conclusions received in the course of analysis of the scientific literature, the law, and the practice of its application in the housing and utilities sector, preparation of materials for publication.

3 Results and Discussions

3.1 Legal Regulation in the Sphere of Information in the Housing and Utilities Sector

The state information system of the housing and utilities sector is one of the varieties of state information systems (hereinafter – SIS HUS), which – due to the large number of its users and social significance – is related to those for whom information technologies play one of the most important roles. Information systems allow for participation of the maximum number of citizens in voting for various issues that emerge during management of an apartment block, which means realization of housing rights. The literature notes that SIS HUS is very important during solving the inventory tasks by means of accumulation and systematization of a large massive of information (Pichugin 2011). The Order of the Ministry of Communications of the RF No. 504, and the Order of the Ministry of Construction of the RF No. 934/pr dated December 12, 2014 made www.dom.gosuslugi.ru the official web-site of SIS HUS. Therefore, this address on the Internet is the web-site in which SIS HUS is located (Inyushkin 2015). Practical usage of SIS HUS causes a lot of argues. The problem of usage the information system in the housing and utilities sphere appeared during the general meeting of the owners of an apartment block by voting, which was provided to the citizens by Article 47.1 of the Housing Code of the RF.

3.2 The Procedure of Usage the State Information System of the Housing and Utilities Sector

The key role during usage of the information system belongs to the administrator of the general meeting, who, according to the provisions of the housing law, places the announcement of the general meeting of premises' owners in the apartment block, sends the notification to each owner in the apartment block via the system, accepts the written decisions of the owners in the apartment block on the issues that were voted (in case they have not voted in the electronic form), specifies the data on the voter, and post the electronic form of the owner's decision in the system. At that, voting on the issues of the agenda of the general meeting of premises' owners in the apartment block with the usage of the system is performed in the electronic form. According to the Federal law dated April 6, 2011, No. 63-FZ "Regarding electronic signature", it is possible to use a simple electronic signature for legally significant actions, which can be combined with the certificate of the verification key of the electronic signature and the qualified certificate of the verification key of the electronic signature. Electronic signature is the guarantee for identification of information and its sender (Tarasov 2014). Article 47.1 of the Housing Code of the RF does not envisage the corresponding detalization and does not specify the implementation of this norm regarding the owners' voting. Probably, for the purpose of observing the balance of interests of owners and initiators of the general meeting, it is expedient to use electronic signature with a usual certificate of the verification key. In this situation, the persons participating in voting will be reflected in the system, and falsification of votes and decisions of the meetings is improbable.

3.3 Application of Non-Government Information Systems of the Housing and Utilities Sector, Including Data Bases in the Housing and Utilities Sector

The issue of applying other information systems during a general meeting of owners in the apartment block in the form of postal vote, which is allowed by the legislator with observation of the similar order and terms, is rather complex. Probably, for the purpose of application of Article 47.1 of the Civil Code of the RF after January 1, 2018, it will be necessary to determine the circle of subjects of these relations – similarly to the subjects of relations during usage of SIS HUS. In this case, the list of participants of these relations expands, which allows for their maximum regulation. During usage of other information systems, the Internet will be used in any case – therefore, the mandatory subjects that participate in the relations of postal vote of the owners will also include the owner of the Internet site. He shall determine the order of using the web-site, including the order of posting the information on it. Besides, during the usage of other information systems, new providers of communications will appear who provide the access to the Internet and, from the point of view of the Civil Code of the RF, are information intermediaries. It should be noted that the system treatment of the law allows using the legal regime of data bases with other information systems used in the housing and utilities sector. As is provided in the literature, only the work of actors, performers, conductors, and directors can be deemed the result of intellectual activities in the list of joint rights objects that conform to the requirements of Article 1228 of the CC of the RF on creation of such results with creative work of their authors (Eremenko 2012; Voynikanis 2013). The activities of manufacturers of phonograms, data bases, and information organizers and publishers could be qualified as organizational and technical. Thus, allied right of the manufacturer of data bases conforms to the doctrine “Sweat of the brow”, which was described in the scientific literature on many occasions (Manap et al. 2013). In the conditions of straight “direction” of the analyzed non-government information systems at the housing and utilities sector, application of the civil and legal norms on data bases will be subject to the special norms of the housing law.

4 Conclusions

Legal regulation in the sphere of information systems in the RF is development very quickly. In the conditions of wide implementation of informatization in the housing and utilities sector, we offer to implement the following system legal corrections:

- establish the full list of subjects in relations for usage of information systems in the housing and utilities sector, as it is not possible to determine them due to lack of certainty in the ratio of general and special legal norms on information systems;
- specify the legal regime of data bases that perform the role of other information systems, in particular – distinguish specialized data bases for solving the national tasks.

- in order to avoid falsification of the decisions of general meetings of premises' owners in the apartment block and for the purpose of keeping the balance of the owners and initiators of the general meeting, it is expedient to use the electronic signature with the usual certificate of verification key.

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