



CURRENT PROBLEMS OF PUBLIC ADMINISTRATION

АКТУАЛЬНЫЕ ПРОБЛЕМЫ ГОСУДАРСТВЕННОГО УПРАВЛЕНИЯ

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Artificial intelligence in the public administration system of Russia and the European Union: comparative legal analysis. Part I

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Abstract. The study analyzes the features of the use of artificial intelligence in the field of public administration in the Russian Federation and the European Union. At the same time, the focus has shifted to the area of legal regulation of this process. The study presents an analysis of key regulatory legal acts that contain the main provisions for the use of this type of end-to-end digital technologies in the field of public administration. The author emphasizes that the formation of the regulatory framework of Russia and the EU countries began at about the same time and independently of each other. At the same time, the rule-making process in both legal systems has both common features and significant differences. The author offers his own view on the research methods of the indicated problem. The author also highlights the lack of knowledge of the designated topic, both in Russia and abroad, despite the similarity of the challenges that digital transformations bring with them for national security. The study states that there are differences in the field of legal regulation of the use of end-to-end digital technologies, including artificial intelligence, primarily since public authorities interpret them differently. The established rule-making tradition is also considered as an important factor. The author emphasizes the tradition that has taken shape in European countries to give priority attention to the protection of negative freedoms of citizens, which has also left its mark on the specifics of the legislation of the European Union. The study concludes that the Russian approach to rulemaking is characterized by greater attention to the problems of state security. The study suggests considering international experience in the legislative process, despite the divergence in national accents in the emerging global digital law. A special feature of the conducted research is the fact that the study provides a detailed analysis of the provisions of the main documents that regulate the use of artificial intelligence in both legal systems. At the same time, it is noted that in each jurisdiction there is no key law act regulating the use of artificial intelligence in the field of public administration.

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Искусственный интеллект в системе государственного управления России и стран Европейского союза: сравнительно-правовой анализ. Часть I

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Аннотация. Рассмотрены особенности применения искусственного интеллекта (ИИ) в сфере государственного управления в Российской Федерации и Европейском союзе. При этом акцент смещен в область правового регламентирования данного процесса. Представлен аналитический разбор ключевых нормативно-правовых актов, которые содержат основные положения использования рассматриваемого вида сквозных цифровых технологий в сфере публичного администрирования. Отмечено, что формирование нормативно-правовой базы России и стран ЕС началось примерно в одно и то же время и независимо друг от друга. При этом нормотворческий процесс в обеих правовых системах имеет как общие черты, так и существенные различия. Выявлена слабая изученность обозначенной темы как в России, так и за рубежом, несмотря на схожесть тех вызовов, которые несут с собой цифровые трансформации для национальной безопасности. Автором предложен собственный взгляд на методы исследования обозначенной проблемы. В исследовании констатируется, что наличие различий в сфере правового регламентирования применения сквозных цифровых технологий, в т.ч. ИИ, вызвано, прежде всего разницей в трактовании их сущности органами публичной власти, а также сложившимися нормотворческими традициями. Отмечена оформившаяся в странах Европы традиция уделять первостепенное внимание защите негативных свобод граждан, наложившая свой отпечаток на специфику законодательства Европейского союза. Подчеркнуто, что российский подход к нормотворчеству отличается большее внимание к проблемам безопасности государства. Предложено учитывать мировой опыт в законотворческом процессе, несмотря на расхождение в национальных акцентах в формирующемся глобальном цифровом праве. Особенностью проведенного исследования можно обозначить тот факт, что дан подробный анализ положений основных документов, которые регламентируют использование искусственного интеллекта в обеих правовых системах. При этом констатируется отсутствие в каждой юрисдикции ключевого нормативно-правового акта, регулирующего применение искусственного интеллекта в сфере государственного управления.

Ключевые слова: цифровые технологии, законодательство Российской Федерации, законодательство Европейского союза, нормативно-правовой акт, национальная безопасность, права и свободы граждан

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Introduction

Industry 4.0 is developing unevenly all over the world. The so-called Fourth Industrial Revolution is characterized by territorial isolation, despite the fact that digital transformations significantly reduce the importance of administrative barriers. In the modern world, several centers of advanced development in the implementation of digital innovations are being formed, which, in addition to Russia, include the United States, China, Japan, the Republic of Korea, India, the United Kingdom, and, of course, the European Union (EU). At the same time, each of these centers has its own characteristics. For example, American companies are considered to dominate the markets of solutions for the Internet of Things (GE, Intel), its security (Symantec, IBM, Intel), augmented and virtual reality systems (AMD, Google, Microsoft). Japanese companies occupy leading positions in the markets of industrial robots and numerically controlled machines. China is the leader in the number of patents in the field of artificial intelligence [1]. Despite the obvious division of labor between the leading digital powers, competition in the global digital technology market is increasing from year to year. For example, Russian manufacturers of the latest innovative developments, just like their foreign counterparts, are interested in increasing exports of their own products [2]. Moreover, the issue of ensuring national digital security has recently become more relevant. This is due to the fact that in the context of digitalization, administrative barriers face the possibility of losing their significance. Of course, under the current conditions, foreign experience, including modern legal innovations in the EU countries, may be of considerable interest to the Russian academic community.

So, the main reason that prompted us to conduct this research is the understanding that a clear understanding of the features of digital transformations in the EU, including the scope of artificial intelligence in public administration, is extremely necessary for Russian business and the Russian state as a whole.

Artificial intelligence is one of the most important and ambiguously evaluated types of end-to-end digital technologies (DETE). The legal regulation of its application is just beginning to take shape in the legal systems of the most advanced countries in terms of the development of the

IT industry. It should be noted that there is a paradoxical situation in this area. The fact is that there is no clarity in understanding not only artificial intelligence as a legal category, but also digital technology as an object of scientific research. This situation is caused by the fact that digitalization has demonstrated such widespread and rapid spread that human or, in other words, natural intelligence does not have time to give a balanced, scientifically based analysis of the changes taking place. Relatively speaking, we are indeed becoming hostages of our own achievements. Digital technologies, rapidly penetrating, probably, into all spheres of human activity, are forming the very new reality, about which much has already been said in both Russian and foreign scientific literature [3].

Indeed, the understanding of artificial intelligence is ambiguous. Experts often identify it with another type of DETE — the so-called Internet of Things, which is typical, first of all, for our European colleagues, which will be discussed in more detail below. It should be noted that a significant difference between both types of DETE, which is that artificial intelligence implies a certain autonomy of digital technology from human will, which, however, is also questioned. Nevertheless, in the Internet of things, as in a system for transferring digital information from one subject to another, there is a certain program or algorithm of actions provided in advance by a person.

Having touched upon the problem of the conceptual similarity of artificial intelligence and the Internet of Things, as we see it, it is necessary to emphasize another important aspect that concerns all types of DETE. An analysis of the scientific literature demonstrates that the scientific community does not have a clear understanding of the key principle by which all the numerous DETEs are classified into species that have already become generally recognized. For example, the question of what is the fundamental difference between a messenger and a blockchain is clear — the second type of DETE is characterized by the mandatory simultaneous presence of several entities broadcasting information. The conceptual basis of artificial intelligence and the Internet of Things has another main idea — the complete or limited autonomy of the virtual environment from humans. Indeed, in both cases, we observe the very process of broadcasting digital information, which is the very essence of any digital technology. Nevertheless, as it seems to us, some clear and extremely necessary classification system for digital technologies and related terms has not yet been built.

The aim of the study is to provide some clarity in explaining certain terms and concepts that are actively used both in Russia and in the EU in the context of the possibility of regulating their use. We are confident that the formation of a unified categorical framework will only contribute to mutual understanding between scientists around the world, strengthen the spirit of fair competition, and provide a clearer understanding of the principles and methods by which digital security can be more reliably ensured.

Materials and methods

In preparing this work, we used the so-called general theoretical or general scientific research methods, which are used in all fields of scientific knowledge, as well as methods peculiar mainly to the legal sciences. Of the methods of the first group, it is worth highlighting such as abstraction and induction, which largely overlap based on the object of our research. Applying these research methods, we proceeded from the fact that a general idea of the legal regulation of the use of artificial intelligence is provided by separate normative legal acts, which, nevertheless, have their own subject matter of regulation, pursue their own goals, based on the principles inherent in each legal system. Thus, by putting together this, figuratively speaking, mosaic of various legal norms, our goal was to give an overall picture of two competing legal systems (Russian and the EU).

Of the methods of the second group, which are called specifically legal, the comparative legal method deserves special attention, which is understandable. This method allowed us not only to compare two approaches to the issue of regulating the use of artificial intelligence, but also to identify the features of each of them. Moreover, we applied the comparative method to the actualization of a particular issue over time, which made it possible to compare the Russian experience and the experience of our European partners in historical terms. The methodological base used by us can be supplemented by such a method of cognition as the method of state-legal modeling, the practical significance of which has also proved to be quite high. For example, based on the regulatory legal acts adopted today, we have identified not only the strengths but also the weaknesses of the Russian legislative framework in the field of information security, and proposed ways to level them.

Literature review

Over the past decade, Russian researchers have been closely studying the legal nature of artificial intelligence, the possibilities of its full-fledged involvement in the legal field, and the specifics of regulating its use, both in business and at the state level. The problems related to the protection of various types of rights of citizens, legal entities and the state in the virtual space are also being actively investigated. The totality of the conducted and published research can be conditionally divided into three groups — monographic publications; research, the results of which were presented in the format of articles in Russian and foreign peer-reviewed scientific journals; research presented in the form of a dissertation for an academic degree.

In general, based on the fact that the object of this research is a rather narrow and new field located at the junction of jurisprudence, history, theory of international relations and theory of information technology, it was extremely difficult to bring out works on the topic we stated. Nevertheless, the Russian

academic community has published a wide range of works on issues that directly or indirectly overlap with the object of our research. Among the monographic works, it seems necessary to single out the works of A.V. Kulnazarova [4] and I.A. Umnova-Konyukhova [5], distinguished by their extremely interesting conclusions and conclusions. As for the articles in scientific publications, their list is much broader. Among the publications of this kind, we would include the research of Yu.A. Savinov and E.V. Taranovskaya [6], I.V. Ponkin and A.I. Redkina [7], Z.I. Khisamova, I.R. Begishev and R.R. Gayfutdinov [8]. From the dissertation research, we will single out works that are not only of great practical importance, but also served as a worthy source of information for us. Such studies include the work of P.M. Morkhata [9], which was later finalized and republished as a monograph, as well as a more voluminous and informative work by A.A. Kartskhiya [10], which, in addition to artificial intelligence, examines other types of digital technologies in a legal context. In general, based on the results of the analysis of the Russian scientific literature on the problem we have identified, we can conclude that today the problem of using artificial intelligence and its legal regulation in the EU countries is not a priority for a Russian specialist.

Artificial intelligence is also being actively researched abroad. An analysis of the citation rate of foreign literature by Russian experts has shown that it is quite difficult to identify the most popular foreign monographic and periodical studies. Since 1970 the oldest thematic journal “Artificial intelligence journal” is published, which, being an interdisciplinary scientific publication, popularizes modern achievements in the field of digitalization and in terms of its legal regulation. In addition, such North American publications as The Journal of Artificial Intelligence Research and The International Journal of Systems & Cybernetics, the Indian Journal of Artificial Intelligence and Law, the Chinese Artificial Intelligence in Agriculture, etc. have a high citation index. Among the periodicals with a purely legal focus, it is worth highlighting the International Journal of Digital Law, published in Brazil.

Results

Further presentation of the material will be arranged in the following order. First, we will analyze the key, most important provisions of regulatory legal acts adopted in Russia. Next, we will analyze the documents that have been approved in the EU countries. Finally, we will try to compare individual legal norms, as well as key provisions governing the use of artificial intelligence in the two legal systems.

The experience of the Russian Federation

The Russian Federation is considered one of the generally recognized world leaders in the application of digital innovations in public administration. As a result, the Russian experience in the development of the digital technology

sector, including in the field of its legal regulation, is becoming more and more interesting and instructive for specialists in many countries.

A number of researchers believe that the formation of Russian digital law began in the first half of 2019 [11]. However, it should be noted that the first steps in this direction were taken back in July 2017, when the Government of the Russian Federation approved the Federal Program “Digital Economy of the Russian Federation”¹. In section I of this extensive document, artificial intelligence (along with neurotechnologies) is designated as one of the types of end-to-end digital technologies, which, of course, has not escaped the attention of many Russian researchers [7. P. 92].

From the point of view of the authorities of the Russian Federation, “artificial intelligence in Russia is understood as a set of technological solutions that allow simulating human cognitive functions (including self-learning and searching for solutions without a predefined algorithm) and obtaining results comparable to at least the results of human intellectual activity when performing specific tasks”². Note that this definition can be called quite bold and, indeed, advanced. Focusing on the possibility of artificial intelligence to learn itself, as well as to look for solutions without taking into account the program embedded in it, indicates that the Russian legislator is aimed at solving directly those tasks and problems that the very new reality puts forward to us. Approximately the same interpretation of this type of DETE was given in other most significant regulatory legal acts, which will be discussed below.

Among the main legal documents that regulate the use of artificial intelligence in Russia, an important place is occupied by the document published in October 2019. Decree of the President of the Russian Federation “On the development of Artificial Intelligence in the Russian Federation”³, the law, the provisions of which approved the “National Strategy for the development of artificial Intelligence for the period up to 2030” (next is the Strategy). The decree also included instructions from the executive branch of the Russian government to “develop and approve the federal Artificial Intelligence project”.

The Strategy we are considering, in terms of its significance and relevance, certainly goes beyond the accepted other documents in the field of planning and forecasting the development of certain sectors of the economy, which only confirms the great importance of artificial intelligence for the Russian legislator. The document sets out a vision of the prospects for the development of artificial intelligence in our country and in the world as a whole, and many

¹ The program “Digital Economy of the Russian Federation”. URL: <http://static.government.ru/media/files/9gFM4FHj4PsB79I5v7yLVuPgu4bvR7M0.pdf> (accessed: 29.04.2025). (In Russ.).

² Development of artificial intelligence. *The official website of the Ministry of Economic Development of the Russian Federation*. URL: https://www.economy.gov.ru/material/departments/d01/razvitie_iskusstvennogo_intellekta/ (accessed: 29.04.2025). (In Russ.).

³ Decree of the President of the Russian Federation dated 10.10.2019 No. 490 “On the development of artificial intelligence in the Russian Federation”. URL: <http://www.kremlin.ru/acts/bank/44731> (accessed: 29.04.2025) (In Russ.).

of its provisions were later picked up and developed by many Russian scientists and experts.

The strategy is a fairly voluminous document in which key provisions on such issues as the conceptualization of the very concept of artificial intelligence, the development of technologies for the use of artificial intelligence, the definition of the most important areas of use of artificial intelligence and the principles of legal regulation of its application are described in detail. Based on the fact that the purpose of our research is to compare legislation in Russia and the European Union countries in the field of artificial intelligence, we will focus only on those areas that most fully and clearly identify common features or differences in these two legal systems.

So, among the main provisions of the Strategy, the most important, in our opinion, are the following.

- The strategy not only recognizes the general, that is, the cross-cutting nature of artificial intelligence, but also assigns it a central place among all types of artificial intelligence. This provision is argued by the fact that it is the influence of technological solutions developed on the basis of artificial intelligence that will determine in the future “the effectiveness of organizations and human activities, including those related to managerial decision-making”. In addition, the document emphasizes that artificial intelligence has the property of an extremely high level of accessibility, the possibility of its widest application in various spheres of human life and society. It is also stated that artificial intelligence makes it possible to process large amounts of data, which is also important for ensuring economic growth and national security.
- The Strategy recognizes the Russian Federation as one of the key players in the global market for the latest developments in digital technologies, including artificial intelligence. For example, article 13 states that Russia “has significant potential to become one of the international leaders in the development and use of artificial intelligence technologies”. The Strategy emphasizes that this potential is provided by established traditions of training highly qualified specialists, a high level of education in the field of programming and related scientific boards. However, the authors also state the fact that in the modern world there is a situation of increasing competition for access to modern digital innovations, which in the future is fraught with risks of ousting Russia from international digital technology markets. The document says that “according to forecasts of the long-term socio-economic development of the Russian Federation, in the event of insufficient development and use of competitive artificial intelligence technologies, the implementation of priority areas of scientific and technological development of the country will slow down, subsequently leading to its economic and technological lag”.
- For the first time, the Strategy provides an interpretation of many key concepts that are most directly related to the application of artificial intelligence

in practice. For example, thanks to this document, interpretations of such ambiguously evaluated concepts as a data set, data markup, computing system, architecture of a computing system, etc. have been legally fixed. Of course, artificial intelligence and artificial intelligence technologies are central to this list. The latter are considered as “technologies based on the use of artificial intelligence, including computer vision, natural language processing, speech recognition and synthesis, intelligent decision support and other promising methods of artificial intelligence”.

- The Strategy clearly defines the tasks that are currently a priority for the authorities of the Russian Federation. In the context of the object of our research, these tasks include the development and development of software that uses artificial intelligence technologies; increasing the availability and quality of data necessary for the development of artificial intelligence technologies; increasing the availability of hardware necessary to solve problems in the field of artificial intelligence; increasing the level of provision of the Russian artificial intelligence technology market with qualified personnel and the level of public awareness about possible areas of use of this type of artificial intelligence; as well as the creation of a comprehensive system for regulating public relations arising from the development and use of artificial intelligence technologies.
- The Strategy pays great attention to supporting scientific research in the field of artificial intelligence technologies. The document states that “the implementation of continuous state support for fundamental scientific research in the field of artificial intelligence, primarily using existing mechanisms for providing such support, should be aimed at ensuring the leadership of the Russian Federation in the creation and use of promising artificial intelligence methods”. Scientific research, which is expected to find financial support from the Russian authorities, is divided into two types — fundamental and applied. At the same time, it is emphasized that the main goal of fundamental scientific research should be the creation of universal or strong artificial intelligence. The document also reflects the indicators on the basis of which, by 2024, it will be possible to summarize preliminary results on the effectiveness of the Strategy in the field of scientific research support. It should be noted that these indicators include not only general theoretical achievements, such as the citation index of Russian specialists in reputable international publications, but also the number of purely “applied solutions that have already been implemented in the practical sphere”.

It is noteworthy that the Russian legislator does not ignore the regional level. Taking into account the fact that the sphere of regulation of the use of artificial intelligence is a new and strategically important area in rulemaking, the adoption of federal laws regulating the use of digital technologies at the regional level seems to us to be correct and timely. In this context, the adoption in April 2020 was an important step. Federal Law “On Conducting an experiment to Establish special regulation in order to Create the necessary conditions for

the Development and Implementation of artificial intelligence technologies in the Subject of the Russian Federation — the Federal City of Moscow and Amendments to Articles 6 and 10 of the Federal Law “On Personal Data”. The key concept of this document is the concept of an experimental legal regime, the essence of which is to create a platform in Moscow for the introduction of digital innovations for a five-year period until June 30, 2025. From the point of view of the practical significance of this regulatory legal act, experts believe that there are two directions⁴. First, the law provides for the creation of favorable conditions for organizations that will work on the development and creation of technologies using artificial intelligence. Secondly, the document also provides for the provision of the same comfortable conditions for program participants who will implement their own developments directly in the production of goods and services. Legal entities and individual entrepreneurs registered in Moscow can participate in the experiment, provided that their activities are related to those areas specified in the Law. In general, this regulatory legal act has a clear focus and purpose — to ensure the most favorable conditions in Moscow for the production of goods and services using the latest digital innovations in the form of artificial intelligence.

In August 2020 The Government of the Russian Federation has approved the “Concept for the Development of Regulation of relations in the field of artificial intelligence and robotics technologies until 2024” (hereinafter referred to as the Concept), developed by the Ministry of Economic Development of the Russian Federation, which “became the first document in the Russian Federation forming the foundations of regulatory regulation of artificial intelligence and robotics technologies”⁵. This document should be considered as a continuation of the Strategy, as described in the first section of the Concept called “General provisions”. It is noteworthy that the same section emphasizes that “primary legal regulation of the use of artificial intelligence and robotics already exists in a number of countries”, and one of the goals is to include Russia among these countries.

The main feature of the Concept is its more pronounced practical orientation. The third chapter of this document, called “Industry directions for improving regulation of the use of artificial intelligence and robotics technologies”, more clearly and specifically defines those areas in which legal regulation is seen as more relevant. Priority areas include public health, public and municipal administration, transport, urban development, the implementation of the Smart City program,

⁴ *Review of the Federal Law on conducting an experiment in Moscow in order to create the necessary conditions for the development and implementation of artificial intelligence technologies. Part 1.* URL: https://zakon.ru/blog/2020/06/10/obzor_federalnogo_zakona_o_provedenii_v_moskve_eksperimenta_v_celyah_sozdaniya_neobhodimyh_uslovij_d (accessed: 29.04.2025). (In Russ.).

⁵ *Robotics and artificial intelligence. The official website of the Ministry of Economic Development of the Russian Federation.* URL: https://www.economy.gov.ru/material/directions/gosudarstvennoe_upravlenie/normativnoe_regulirovanie_cifrovoy_sredy/robototekhnika_i_iskusstvennyy_intellekt/ (accessed: 29.04.2025). (In Russ.).

finance, space activities and industry. As a second feature of the Concept, I think it would be appropriate to emphasize its purely legal orientation, which is implied by the title of the document. The idea of the need to introduce certain areas of artificial intelligence into the legal field runs through the red thread from the first to the final chapter of the Concept. If the Strategy clearly outlined the meanings of the main legal categories, such as artificial intelligence, artificial intelligence technologies, etc., then this document specifies the mechanisms for applying these categories in practice. For example, the developers of the document touched upon the extremely urgent problems of determining legal responsibility and improving the turnover of big data. Perhaps, for the first time, the issue of liability insurance for damage caused either by artificial intelligence, or by its users or owners has been considered. We would like to emphasize that the issue of insurance has not yet been addressed in foreign legislative practice.

In August 2020, in pursuance of the Strategy for the Development of Artificial Intelligence in the Russian Federation for the period up to 2030, approved by Decree of the President of the Russian Federation, the Presidium of the Government Commission on Digital Development, the Use of Information Technologies to Improve the Quality of Life and Business Conditions approved the Federal Artificial Intelligence Project (hereinafter referred to as the Project)⁶.

A distinctive feature of the Project was the concretization of those measures that had previously been outlined in the Strategy. For example, as part of the introduction of artificial intelligence into the education system, the Project provides for the annual holding of the All-Russian school Olympiad, which gives preferences for admission to educational institutions of higher education, and in order to implement the program for the development of domestic healthcare, the organization of the so-called vertically integrated medical system in the fields of oncology, cardiovascular diseases, prevention, obstetrics and gynecology “based on big data, recognition and digitization of medical data”. Some financial indicators are also indicated in the Passport of this document, in particular, the names of a specific task and a source of financing. The document also provided figures for annual financial support for the period up to 2024. We add that the Federal Artificial Intelligence Project for the period 2021–2024 included indicators of results “provided with budget financing in the amount of 24.3 billion rubles and 6.9 billion rubles from extra-budgetary sources”.

Conclusions

So, to date, the Russian legal system has not adopted a single regulatory legal act regulating the use of artificial intelligence. We have considered five key documents that give a general and, as we see it, a complete picture of the formation

⁶ *Passport of the federal Artificial Intelligence project of the national Digital Economy program of the Russian Federation*. URL: <https://sudact.ru/law/pasport-federalnogo-proekta-iskusstvennyi-intellekt-natsionalnoi-programmy/> (accessed: 29.04.2025). (In Russ.).

in the country of the administrative and legal mechanism for regulating those public relations that develop in the field of artificial intelligence, namely:

- The Federal Program “Digital Economy of the Russian Federation”;
- Decree of the President of the Russian Federation “On the development of Artificial Intelligence in the Russian Federation”;
- The National Strategy for the Development of Artificial Intelligence for the period up to 2030, fixed by this Decree;
- The Federal Artificial Intelligence Project;
- “The concept for the development of regulation of relations in the field of artificial intelligence and robotics technologies until 2024”.

In addition, as an indicator that the level of the subjects of the Russian Federation, albeit indirectly, is also included in the legislative process, we analyzed the Federal Law “On conducting an experiment to establish special regulation in order to create the necessary conditions for the development and implementation of artificial intelligence technologies in the subject of the Russian Federation — a city of federal significance Moscow and amendments to Articles 6 and 10 of the Federal Law ‘On Personal Data’”. In the context of the object of our research, of all the documents reviewed, the “Concept for the development of regulation of relations in the field of artificial intelligence and robotics technologies until 2024” occupies a central place among them, since it reflects the main directions in which, as the legislator sees it, further work on the implementation of artificial intelligence and legal regulation of this process should be continued.

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