

УДК 343.98:004

DOI 10.17150/2500-4255.2019.13(1).167-171

БРИКС: КИБЕРПРОСТРАНСТВО — НОВАЯ ПРАВОВАЯ КАТЕГОРИЯ***Ю.В. Трунцевский***Институт законодательства и сравнительного правоведения при Правительстве Российской Федерации,
г. Москва, Российская Федерация***BRICS: CYBERSPACE — A NEW LEGAL CATEGORY****Yuri V. Truncevsky***Institute of Legislation and Comparative Law under the Government of the Russian Federation, Moscow,
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Information technologies are changing the modern world. However, laws sometimes fall behind present-day realities. Cyberspace is becoming a new legal category, which has not yet received the proper international legal framework on a global level. That is why there are no international legal obligations in the field of cybersecurity.

The formation of international legal approaches to ensuring cybersecurity and protecting the cyberspace is an urgent task, especially for legal science. Now the BRICS countries are actively cooperating in the sphere of threats that have emerged with the development of electronic technologies. The significance of the cooperation in this area is emphasized in the Concept of Russia's Participation in the BRICS Association, which directly establishes that one of our main goals is the step-by-step creation of a common information field for the BRICS member states.

The monograph «The BRICS Cyberspace: A Legal Dimension» (2017) introduces the reader to the features of a common information field and contains the legal approaches to its creation. The authors demonstrate the need to develop an international legal concept for the formation of the cyberspace. The study examines cooperation in various areas of legal regulation that affect the creation of a common information space for the BRICS member states and formulates recommendations on priority areas of the appropriate integration trends. Particular attention is paid to the specifics of the regulation of countering threats to international information security and normative programming as a tool for countering cyberterrorism.

The main research base for the authors of the monograph was the modern legislation of the BRICS countries in the field of cybersecurity and the doctrine of informational security of the Russian Federation.

The presentation of the material in the book is done through two different perspectives: the Russian and the Chinese, which are the driving powers of the BRICS. A wide range of issues of legal regulation of the interaction of the BRICS member states in the information sphere is considered. Particularly, in the foreword to the monograph, they unanimously support the idea of securing the concept of informational sovereignty in the international law of the state (Russia), or «cyber sovereignty», as it is defined by the representatives of the People's Republic of China.

The main concept of the research is emphasized by the author — T.Y. Khabrieva, a Professor of the Academy of Sciences, in the introduction which states that for the development of economic and informational cooperation of the BRICS countries, it may initially be necessary to compare national approaches to the legal regulation of information, which will provide an idea of the national concepts of cyberspace and clarify the features for ensuring its security.

Section I — «View from China» contains research by Chinese experts from The Southwest University of Political Science & Law of China, The Law Institute of the University of International Economics and Trade of China, Dispute Resolution of the China International Economic and Commercial Arbitration Commission, The Law School of Chongqing University, Fuzhou University.

* Рец. на кн.: Киберпространство БРИКС: правовое измерение / И.И. Шувалов, Т.Я. Хабриева, Фэн Цзинжу и др. ; отв. ред. Дэн Руйпин, Т.Я. Хабриева ; сост. Жун Фу, Н.М. Бевеликова. — М. : Ин-т законодательства и сравнит. правоведения при Правительстве Рос. Федерации, 2017. — 336 с.

The reader is presented with the analysis of China's experience in equity crowdfunding in the Internet and its control. It's noted, that China has long been the capital of technological start-ups, and now makes a significant contribution to the global crowdfunding industry.

Researchers and representatives of public authorities, as well as all who are interested in the development of IT technologies in the People's Republic of China, will be interested in the section of the book devoted to the study of the complications in the legislative control over finances in the Internet and the approaches to their solution.

The author of this chapter — Yue Shumei — believes that improvement of the legal system of Internet finance is possible with the introduction of legal restrictions on Internet financial companies in the «Corporate Law» and establishing a branch of Internet finance in the civil legal system; the use of the Consumer Rights Protection Law to protect the rights and interests of financial consumers and the use of the method of judicial interpretation by the Supreme People's Court of the existing financial and corporate legislation.

Due to the wide usage and rapid development of the Internet since the 1990s, multiple online mechanisms of conflict resolution were developed. They quickly and effectively use modern communication technologies to successfully resolve conflicts. Online consultations and online mediation, various forms of online dispute resolution (like online arbitration), developed to varying degrees, are drawing attention and active participation of traditional conflict resolution organisations in China and abroad. The authors of this section: Cui Xinmin, Lu Yahan and Hang Min, show successful practice of online conflict resolution — the online arbitrage practice of the China International Economic and Commercial Arbitration Commission, which is the earliest and largest professional commercial arbitration institution established in China, and is also the largest in the world.

The chapter devoted to China's experience in developing a mechanism for self-regulation of the Internet governance industry might be of particular interest to the reader.

Thus, in the future, the Chinese government will ensure an effective participation of industrial associations in Internet administration in order to rationally determine the legal status of an autonomous organization of the industry. The importance of self-discipline of the organisation and the self-awareness of its members is prioritized, as well as

the capability of the members of the organisation to implement the mechanisms of self-discipline which will ultimately become the main objective of the system. Otherwise, self-regulation of trade associations is another form of the external enforcement mechanism that can turn into another type of tyranny with no practical significance.

One of the key issues of the study conducted by the authors is the recognition of network sovereignty regarding of the Law of China «On Security in the Internet». It is noted that the revolution in the field of informational technology is a window to achieving China's two-hundred-year strategic objective. China took a step towards opening up opportunities and solving threat issues. In this critical step, China firmly upholds the traditional concept of sovereignty regarding the formation of modern cyberspace technology. Without the sovereignty of the network within the country, the state is unable to articulate appropriate laws and regulations, and manage network activities. Moreover, it can not effectively control the transboundary flow of network information, develop international network cooperation and participate in the establishment, exchange and dialogue of the international network. On July 1, 2015, the «National Security Law» came into effect, which is the first official confirmation of the legal concept of «national sovereignty of cyberspace». On November 7, 2016, the Law on Network Security was published. This is the second time that the «sovereignty of cyberspace» has been legally confirmed. However, there is more to come. Maintenance and implementation of network sovereignty requires more detailed systems and rules, as well as advanced technological methods to support it. China will continue to keep up with the rapid development of the Internet industry.

Laws and regulations on the protection of network security, network social management, etc. must adhere to «network sovereignty» as a starting point and the end result of the legal basis for the management of cyberspace.

The research of Chinese authors of the book concludes with an analysis of the main principles of cooperation in the sphere of legislative regulation of the Internet space of the BRICS countries. The authors of the chapter — Deng Ruiping, Wang Jiayi — note that the BRICS countries are formed by spontaneous international convergence and face serious problems in cyberspace management. In order to overcome difficulties and seize opportunities, the BRICS countries must work together to create a diverse, democratic and transparent sys-

tem of management and cooperation in the field of cyberspace for the collaborative creation of a peaceful, open and cooperative cyberspace. Since the Internet blurs the boundaries between regions and countries, the BRICS countries need to create an integrated, effective and advanced structure and mechanism for managing the cyberspace. Currently, the main objective of the cooperation between the BRICS countries on legal management in cyberspace should be the establishment of general guidelines or rules in the field of management and the development of systems and mechanisms in relevant fields. In this regard, international treaties and other legal documents should be adopted and should include guidelines for collective action on Internet management among the BRICS countries, as well as, general technical rules for ensuring cyberspace security and control in the field of cyberspace, general rules for feedback, rules for addressing cybercrime, and so on.

Section II of the book includes the so-called «View from Russia», mainly presented by the authors of the Institute of Legislation and Comparative Law under the Government of the Russian Federation. A.Y. Kapustin notes that the Concept of the Russian Federation's participation in the BRICS, approved by the President of the Russian Federation, stipulates that in the sphere of security, Russia will seek to cooperate with the BRICS countries to ensure international informational security, and to use the BRICS potential to promote initiatives in this direction as part of various international forums and organizations, primarily the UN. Russia will contribute to the BRICS cooperation in the field of countering the misuse of information and communication technologies for military, political, terrorist and criminal purposes, as well as for purposes contrary to those of international peace, stability and security.

The authors of the chapter on the legal analysis of the BRICS information space — L.K. Tereschenko, A.V. Kalmykova note that the rapid spread of new informational and telecommunication technologies affects all spheres of social life — from politics, economy, science and culture to state and municipal government. In an attempt to acquire a deeper understanding of the range of informational issues which are the basis for cooperation within the BRICS, the authors examined the institutional opportunities for informational exchange between the BRICS countries. Based on the analysis of the work of the BRICS Working Group of Experts on Security in the Sphere of ICT Application, the authors conclude that this group forms a coordi-

nated policy in the information sphere. The main goal of the interaction of the Russian Federation with the BRICS participating States in the information sphere is the exchange of information on scientific and technical policies and programs, which are the basis of the formation of joint long-term problem-oriented cooperation programs.

The main provisions of the Doctrine of Information Security of the Russian Federation were stated in the next chapter of the monograph. A.A. Fatianov proposes to recognize this Doctrine of 2016 the most important policy document determining the prospects for the legal and organizational development of the information security system in the Russian Federation in order for it to become capable of protecting the state and citizens from current informational threats.

State sovereignty and the provision of informational security in the electronic economy were stated in this chapter by Russian authors — N.G. Doronina, N.G. Semilyutina, who also emphasized the main directions of ensuring information security in the economic sphere. The book contains an interesting analysis of the contents of the legal category of «Electronic Economy», which is not so much the technical and technological update but the change in the behavior of people and processes related to the organization of management of social interactions. ICT in this case serves as a tool or means to solve the tasks. In the book there is also an analysis of the possible legal and institutional models of the system of «electronic governance» (E-Government) which are prospective directions of development of electronic economy. N.G. Doronina, N.G. Semilyutina provided promising directions for the development of the electronic economy: the humanitarian sphere; power engineering; financial marketing and its institutions; —and an infrastructure, which provides economic growth (transport, logistics, e-commerce).

The development of foreign economic cooperation within the BRICS is accompanied by a significant increase in the number of trans-boundary contracts signed and (or) executed by companies and other persons in cyberspace. Meanwhile, the problems of legal regulation and protection of the rights of participants in contractual relations are applicable not only to traditional foreign trade transactions, but also contracts signed and (or) executed in cyberspace in order to create and transfer intellectual and other innovative functions (including the creation of software products), financial and banking transactions, contracts for transboundary transportation by various types of

transport and other contracts, the legal regulation of which regarding the latest technology is not unified enough on an international level. In his chapter M.Y. Savranskiy focused on the problem of aligning the rules on transboundary Internet commerce and Internet payments, especially through the wide usage of mobile devices for electronic transactions. He also elaborated on the legal basis for applying alternative dispute resolution methods, in particular: mediation and international commercial arbitration and their most advanced and cost-effective versions: online mediation and online arbitration.

According to M.Y. Savranskiy, the unified project work carried out regarding the BRICS, can be aimed for:

- creating model national regulations that ensure and protect the rights of participants in transactions closed and (or) executed in cyberspace, including the adaptation of regulations on forms of transactions in national civil laws to the reality of using modern technologies, while securing legal and technical and technological conditions for the application and recognition of the evidentiary value of electronic communications;

- preparation of draft international agreements, including those within the Convention, for the unification of certain rules of informational interactions in the cyberspace of the BRICS countries regarding the recognition of decisions of international arbitration courts, rendered in one or several BRICS countries. The competence of which is based on arbitration agreements signed through the exchange of electronic messages and (or) the dispute resolution procedure including online video meetings, review of evidence through electronic documents and materials.

A separate chapter of the «View from Russia» is devoted to an analysis of the prerequisites for expansion of interaction between the national tax administrations of the BRICS states on the issues of informational security in the tax sphere.

In the next chapter, a comparative legal analysis of the regulation of the crypto currency in international law and national laws of the BRICS countries is conducted. E.L. Sidorenko states that the lack of a unified evaluation of economic advantages and criminological risks of crypto currency leads

lack of regulations of this payment instrument at the national level. The author summarizes the existing positions in the world and foreign practice and identifies four main approaches to the assessment of virtual currency:

- crypto currency as a monetary instrument;
- crypto currency as a universal financial instrument;
- crypto currency as a commodity;
- virtual currency as a monetary surrogate.

E.L. Sidorenko notes that, despite the absence of general statements regarding the crypto currency, the BRICS countries are inclined to the need for their regulation through the development of the digital economy and blockchain-technology. Taking into account Russia's refusal to introduce a ban on the crypto currency, one can say with full confidence that its use is not prohibited in the common BRICS space, although it has fragmentary regulation. However, the general trend of the development of national legislation in defining the concept of the crypto currency, its tax and financial regimes provides reason to believe that permissive regulation in this sphere will only expand.

In addition, the material of the book on the role of the educational systems of the BRICS countries in the formation of a unified cyberspace may be found quite interesting.

E.V. Pulyaeva examines the problems of legal regulation in the field of information protection in the education sector of the BRICS countries, and concludes that the creation of a unified educational cyberspace BRICS requires the organization of: 1) a secure data exchange between participants of educational relations; 2) enforcement of common basic standards of information protection by educational organizations of the BRICS countries when creating their own information educational systems.

All in all the presented book provides readers with multifunctional tools for successful cooperative work in creating the legal framework for the cyberspace of the BRICS states. The study proves that authors with different backgrounds (Russian and Chinese) offer mutual effective and flexible approaches to the development of economic and informational cooperation of the BRICS countries.

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ДЛЯ ЦИТИРОВАНИЯ

Трунцевский Ю.В. БРИКС: киберпространство — новая правовая категория / Ю.В. Трунцевский // Всероссийский криминологический журнал. — 2019. — Т. 13, № 1. — С. 167–171. — DOI: 10.17150/2500-4255.2019.13(1).167-171. — Рец. на кн.: Киберпространство БРИКС: правовое измерение / И.И. Шувалов, Т.Я. Хабриева, Фэн Цзинжу и др. ; отв. ред. Дэн Руйпин, Т.Я. Хабриева ; сост. Жун Фу, Н.М. Бевеликова. — М. : Ин-т законодательства и сравнит. правоведения при Правительстве Рос. Федерации, 2017. — 336 с.

FOR CITATION

Truncevsky Yu.V. BRICS: cyberspace — a new legal category. *Vserossiiskii kriminologicheskii zhurnal = Russian Journal of Criminology*, 2019, vol. 13, no. 1, pp. 167–171. DOI: 10.17150/2500-4255.2019.13(1).167-171.