

Navigation Activities in the Russian Federation: Civil and Legal Aspects

Abuzyarova Naira Abdulkadyrovna¹, Lubyagina Dina Vladimirovna²

¹GLONASS / GNSS-Forum Association, Moscow, Russia

²Civil Law, Moscow State Law University Named After O. E. Kutafin (MSLA), Moscow, Russia

Email address:

abuzyar2013@yandex.ru (A. N. Abdulkadyrovna), lubyagina.di@yandex.ru (L. D. Vladimirovna)

To cite this article:

Abuzyarova Naira Abdulkadyrovna, Lubyagina Dina Vladimirovna. Navigation Activities in the Russian Federation: Civil and Legal Aspects. *Research & Development*. Vol. 2, No. 3, 2021, pp. 66-71. doi: 10.11648/j.rd.20210203.15

Received: March 24, 2021; **Accepted:** June 7, 2021; **Published:** September 8, 2021

Abstract: The paper reveals the nature and essence of navigation activity, some of its features and legal legitimacy, the author draws attention to the nature and elements of navigation activity, analyzes its Russian legal contexts, and conducts a comparative analysis of coordinate-time and navigation activities. The paper examines the issues of regulatory and technical regulation of navigation activities, analyzes the legislative basis of the system of technical regulation. The main postulate of the work is the urgent need to determine the effectiveness of navigation activities in accordance with the level of development of society, the need for a purposeful process of improving the level of the regulatory framework of navigation activities, which includes two components - regulatory and technical standards, their essence and content. The paper analyzes the state of navigation activity in Russia. The subject of the study is the analysis of the legislation of the Russian Federation on navigation activities in the period from 1994 to 2021, their goals, objectives and objective prerequisites. The article analyzes the international legislation in the field of standardization of a number of European countries in relation to navigation activities. The paper provides a retrospective analysis of the development of navigation activity in Russia, reveals the nature, essence of navigation activity, its some features and legal legitimacy, the author pays attention to the nature and elements of navigation activity, analyzes its Russian legal contexts, conducts a comparative analysis of coordinate-time and navigation activities.

Keywords: Navigation Activity, Coordinate-Time, Navigation Support, Normative-Legal Norm, Normative-Technical Norm, Strategic Planning, Planning, Forecasting

1. Introduction

The article gives a retrospective analysis of the development of navigation activity in Russia, reveals the nature, essence of navigation activity, some of its features and legal legitimacy. The work investigates the issues of regulatory and technical regulation of navigation activities, analyzes the legislative basis of the technical regulation system.

The aim of the work is a theoretical comprehensive research of the Russian legislation on navigation activities in the Russian Federation.

2. Research Methodology

The methodology of this research is based on the techniques and methods of analyzing the system of

navigation activity in Russia. This research used general scientific methods (analysis, synthesis), as well as scientific methods of cognition of social and legal phenomena and processes (formal legal, normative analysis).

3. Discussion

The article "Navigation activity in the Russian Federation" was discussed at the Scientific Council of Glonass, the Scientific and Methodological Council of the Institute of Legislation and Comparative Law under the Government of the Russian Federation.

4. The Result

The article "Navigation activity in the Russian Federation" is recommended for publication by the Scientific and Methodological Council of Glonass.

4.1. The Nature, Concept and Essence of Navigation Activity in the Russian Federation

In recent years, in the legal and technical regulation of navigation activities in Russia, the term "coordinate-time and navigation support" (KTNS) has been actively used as a synonym to denote navigation activities.

For the first time similar term was used in the Federal Space Program of Russia in 1993, approved by the Resolution of the Council of Ministers and the Government of the Russian Federation No. 1282 of 11.12.1993 "About state support and provision of space activities in the Russian Federation». There was not a legal definition of coordinate-time navigation support (KTNS) at the federal level. Earlier, before its use, the term "coordinate-time and navigation support" (KTNS) was sometimes used in separate official documents. In the 1993's Federal Space Program of Russia the term "coordinate-time and navigation support" was also sounded as "coordinate-time support" (KTS), but the navigation component was already envisaged in it. There was no legal definition of navigation activity at the federal level at that time.

At the level of regulatory enactments, the above definition of coordinate-time and navigation support (KTNS) was fixed by GLONASS in 2013 in the State standard as a "Global navigation satellite system. Navigation and information systems. Terms and definitions". It was approved by the Order of Rosstandart and Metrology dated 28.08.2013. No. 588-st. and it was designated as a set of measures to provide consumers with coordinate-time and navigation information.

4.2. The Influence of the Federal Law "On Navigation Activities" on Civil Navigation Relations in Russia

On February 14, 2009, the Federal Law "On Shipping Activity" No. 22-FZ was adopted, in which, in our opinion, KTNS is very thoughtfully referred to navigation activity. In Art. 2 of this law, which claims to be a systematizing normative act on navigation activity, gives a legal concept not of "coordinate-time and navigation support"(KTNS), but a definition of navigation activity, namely: "Navigation activity is an activity related to the determination and use of the coordinate-time parameters of objects".

The Federal Law "On Navigation Activities" is a current federal law with a definition of navigation activities, designed by its status to become a systematizing normative act for the entire system of normative legal acts regulating navigation legal relations, and it is categorically unacceptable to ignore its provisions, especially the definition of navigation activities. Therefore, based on the legal definition of navigation activities at the federal level as activities related to the definition and use of coordinate-time parameters of objects (Article 2 of the Federal Law "On Navigation Activities" No. 22-FZ of February 14, 2009), the term "coordinate – time and navigation support" should be referred to as "navigation activities".

In addition, a number of navigation tasks are solved using the methods of hydrography, oceanology and meteorology,

that is, information that is not spatio-temporal, the subject of regulating navigation activities is much broader than coordinate-time and navigation support.

Back in 2005, in the System project for the development work "Unified system of coordinate-time and navigation support of the Russian Federation" (Code "Metric-2015"), made for the Federal Target Program GLONASS (GLONASS can use its jurisdiction to legislate in this area [15]), the most detailed (but illegal) definition of KTNS was given, namely: Coordinate-time and navigation support (KTNS) - a process that includes a set of operations performed in order to obtain by the consumer all the data it needs about the spatio-temporal states and relationships of objects and processes used or taken into account by it in solving problems or achieving goals defined in space and time.

Note that this law does not receive much attention in the legal literature. Of the available scientific works, in addition to articles, only the Commentary to the Federal Law of February 14, 2009 No. 22-FZ "On Navigation Activity" (itemized), mainly with an indication of the shortcomings of the Federal Law "On Navigation Activities" [1].

In some articles, Russian authors point out a number of shortcomings of the Federal Law "On Navigation Activities" [4, 9-11].

A number of well-known Russian researchers, Currently, the Russian Federation has developed a draft Federal law on amendments and additions to this Federal Law "On Navigation Activities".

Taking into account the fact that the analysis of the Federal Law "On Navigation Activities" No. 22-ФЗ dated February 14, 2009, carried out by the researchers. mostly indicates his flashy and painful flaws [1, 3], I will very schematically consider on this law and the concept of navigational activity given in it.

Speaking about this law, first of all, it should be noted that the hopes of the State Duma Committee, which introduced this law for consideration, did not come true that its adoption would establish the procedure for interaction between the subjects of navigation activity and that this law will create conditions for the use of navigation systems, including GLONASS systems, in the interests of various sectors of the economy and the individual consumer market. It is also impossible to agree with the provision of Art. 1 of the law that it establishes the legal basis for the implementation of navigation activities and is aimed at creating conditions for meeting the needs for navigation aids and services in this area.

In addition, the Federal Law "On Navigation Activity" does not contain a conceptual apparatus that refers to information systems, in addition, the most important topic - GLONASS, as a legal phenomenon, as well as regional navigation and information centers, has dropped out of the field of view of the law.

The law also does not regulate the issues of responsibility, the regulation of the GLONASS system itself, the powers of the authorities for navigation activities. And most

importantly, there are no systematic comprehensive solution to navigation issues and relations closely related to them. Currently, the government solves now separate, individual issues of navigation. Unfortunately, the Federal Law "On Navigation Activities" is not a base in the system of acts on navigation activities. Because in the main law on navigation activities, first of all, the legal basis for the implementation of navigation activities should be established so that in the future, on its basis, it would be possible to create a set of normative acts of different legal force, which objectify the content of the branch of law, its norms, legal institutions "institutions of legislation". The Federal Law "On Navigation Activities", despite its partial amendments, does not fulfill this role.

Character introduced additional provisions in it suggests a need for a fundamental improvement of the Federal Law "On Navigation Activity", form there adequate legal regulation, eliminates legal uncertainty and unnecessary legal restrictions on the implementation of the navigation relationship in the near future. However, unfortunately, the Federal Law "On Navigation Activities" is not a base in the system of acts on navigation activities, since the base of the law on navigation activities must first of all establish the legal basis for the implementation of navigation activities, so that in the future, on its basis, it would be possible to create a set normative acts of different legal force, which objectify the content of the branch of law, its norms, legal institutions "institutions of legislation". The Federal Law "On Navigation Activities", despite its partial amendments, does not fulfill this role.

In addition, the Federal Law "On Navigation Activities" does not contain a conceptual apparatus that refers to information systems, in addition, the most important topic has dropped out of the field of view of the law - the regulation of the role of GLONASS - as a legal phenomenon in the field of navigation activities, the powers of authorities, the activities of regional navigation and information centers and issues of responsibility in this area. And most importantly, the law lacks a systematic and comprehensive solution to navigation issues and relations closely related to them. At present, the state decides by its provisions separate, private issues of navigation activity.

The nature of the additional provisions introduced into it allows us to conclude that it is necessary to radically improve the Federal Law "On Navigation Activities", to form an adequate legal regulation in it, eliminating legal uncertainty and unnecessary legal restrictions in the implementation of navigation relations in the near future.

4.3. Efficiency of Regulation of Navigation Relations

The effectiveness of regulation of navigation relations, which includes two components: legal and technical rules. The effectiveness of regulation of navigation relations in the field of navigation activity largely depends on the quality of its regulatory base, which includes two components: legal and technical.

In Russia, the actual problems of improving the

management of scientific and technical activities, increasing its efficiency, creative activity of scientific and engineering personnel, increasing the responsibility of the subject of scientific and technical activity for its possible negative consequences are studied in the works of V. P. Dubitskaya, V. V. Egorov, I. K. Kornilov, I. A. Mezheva, T. Y. Radchenko, A. F. Sukhovey, L. V. Khoreva, A. A. Shele [14].

Back in 1964, the famous theoretical scientist A. F. Cherdantsev in his work "The concept of technically-legal norms and their role in the formation of social relations" noted that technically-legal norms (as he called normative and technical norms) play, as a rule, in legal regulation an additional role is subordinate to legal norms. There is not and cannot be such a legal relationship that would arise only on the basis of some technically-legal norms. There is no such social relationship that would be regulated only by technically-legal norms [7].

Technical regulations can be given a legal form. Their content is technical rules that establish certain requirements for the behavior of people in relation to technical standards. Accordingly, a technical rule, clothed in a legal form, without losing its technical content (character), acquires qualitative features of a legal norm, becomes a technical norm or a technical act.

All the signs of legal rules are inherent in normative and technical rules: 1) they come from the government; 2) they express the state will; 3) their observance is ensured by the possibility of state coercion; 4) they are objectified in special regulations issued by competent state or public bodies (with the approval of the state).

In this case, it should be noted that each of them operates with its own set of normative legal and normative technical acts or consists of a mixed normative legal and normative technical rules.

In the Russian Federation, the field of legal and technical norms of navigation activity has been significantly expanded. A turning point in the expansion of regulatory acts on navigation in Russia is the Decree of the President of the Russian Federation No. 638 of May 17, 2007 "On the use of GLONASS in the interests of the socio-economic development of Russia", after the adoption of which there was an abrupt increase in the number of adopted regulatory acts on navigation.

In comparison with the previous 15 years and subsequent years, more than 80% of the GLONASS navigation legislation has been adopted - three quarters of the acts of their total. The overwhelming majority of such documents are devoted to satellite navigation activities.

During this period, significant normative material on this topic has been accumulated - in total, more than 600 documents of the federal and international level. Of these, however, it should be noted that more than 140 of them have lost legal force.

A significant part of them are not fully devoted to navigation topics and regulate, along with them, other types of economic activity.

The elements of the system of navigation activity in the

Russian Federation directly or indirectly include:

1. space technologies;
2. satellite navigation on wheeled vehicles;
3. telecommunication technologies;
4. technologies based on the use of the GLONASS satellite navigation system;
5. transport industry;
6. ensuring road safety;
7. aviation;
8. sea transport;
9. separate road systems (such as ERA-GLONASS);
10. geodesy;
11. cartography;
12. remote sensing of the Earth and the reckoning of time.

Legal and technical regulation of these elements of navigation activity is carried out by GLONASS. However, the navigation activity of GLONASS is not identified as an independent element in the classifiers of socio-economic information:

Not as a type of economic activity (see the All-Russian Classifier and International Classifiers of Economic Activities);

Not as a segment of legislation in the form of an industry, sub-industry or institute (see Classifier legal acts, approved. Decree of the President of the Russian Federation of the Russian Federation of March 15, 2000 No. 511);

Not as an area of standardization (see classifiers standards - All-Russian classifier of standards and Interstate classifier of standards).

4.4. Civil Law Analysis of Regulatory and Technical Acts

Accordingly, normative and technical norms are rules of behavior that regulate the necessary and appropriate behavior of people in relation to objects of nature, tools and technical means.

A. Yu. Larin proposed a formula for determining the limits of legal regulation of socio-technical relations, which is the ratio of benefits (social benefits) to the safety of technical activities in society. [12].

The material component of navigation activity includes not only legal regulation, but also complex and high-tech technical systems. The content of the normative technical norms is various technical actions. In most cases, the technical norms of non-own sanctions, for example, have the Federal Law of the Russian Federation "On Technical Regulation" No. 184-FZ of December 27, 2002, the Federal Law of the Russian Federation "On Standardization" No. 162-FZ of June 29, 2015. etc. In doing so, each set of legal and technical regulations should be used.

The legislative basis of the GLONASS technical regulation system is formed by the Federal Laws "On Standardization in the Russian Federation" dated June 29, 2015 No. 162-FZ, and "On Technical Regulation" dated December 27, 2002 No. 184-FZ, which are based on international legal acts on technical regulation with the participation of the Russian Federation.

Federal Law No. 184-FZ of December 27, 2002 "On

Technical Regulation" essentially empowers executive agencies of the Russian Federation at all levels with the authority to establish mandatory technical requirements for certain types of products (vehicles and other means) by approving their list.

Most of the regulatory legal acts of the Russian legislation have not yet been brought into compliance with the Federal Law "On Technical Regulation", including in terms of changing the legal force of documents establishing mandatory safety requirements and the mechanism for assessing compliance with these requirements. Other problems related to the formation of a new system of technical regulation are also identified, the solution of which requires the consolidation of the efforts of legal science with the experience and knowledge of technical specialists in various fields of activity [13].

Technical regulation in the Russian Federation, as well as in foreign countries, is actively developing and improving taking into account new industrial and national standards. Each country has developed a specific regulatory model, which takes into account legislation, measures and methods of state regulation, the level of technical development and an assessment of the effectiveness of the application of norms and standards.

Today, technical regulation in European countries is the most effective model in international cooperation, conscripted to ensure a unified conformity assessment and certification of goods and services in the context of interaction not only in the EU internal market, but also between other countries, including Asian countries and the United States.

Technical regulation is one of the most dynamically developing areas in the legislation of foreign countries. Each of them has its own model of regulation, which reflects the features of the legal system, the organization of public administration, and the level of technical development. The study of this experience is of considerable interest [8].

Despite the absence of special laws on technical regulation in the European Union, the development and adaptation of regulations is based on the practice of single member countries and regulations. For example, Poland, Austria and Belgium apply standardization laws; in Italy and Great Britain - the work of the national organization for standardization is enshrined at the legislative level; in Germany and France there are memorandums on certain types of products and services.

At present, the block of normative technical acts in Russia is quite large and goes far beyond the framework of the Federal Law "On Technical Regulation in the Russian Federation" and the Federal Law "On Standardization in the Russian Federation". Normative technical regulation of navigation relations, as practice shows, is a priority direction in the regulation of navigation relations. The overwhelming majority of them are standards. The latter are mainly devoted to GLONASS and also in the field of vehicles. The block of types of normative technical acts is large enough and goes far beyond the laws on technical

regulation and standardization [6].

In the regulation of navigation relations, normative and technical regulation, as practice shows, is a priority. The array of types of normative and technical acts is quite large and goes far beyond the scope of the Federal Law of the Russian Federation "On Technical Regulation" No. 184-FZ of December 27, 2002. and the Federal Law of the Russian Federation "On Standardization" No. 162-FZ dated June 29, 2015. At the same time, it should be taken into account that each of them operates with its own set of normative-legal and normative-technical acts or consists of mixed normative-legal and normative - technical norms.

GLONASS has adopted over 300 normative and technical acts. Of these, about 10% have lost their legal force. The overwhelming majority of them are standards. The latter are mainly devoted to the GLONASS topic and mostly operate in the field of motor transport.

In the normative system, a situation is very common when a normative legal act contains both legal and technical norms, such "hybridity" does not contradict the principles of lawmaking, since, according to the canons of lawmaking, the interweaving of technical and legal norms turns their combination into a single and indivisible whole - into a legal act, whose task is the legal regulation of technical means.

For example, satellite navigation is carried out primarily in the form of a set of technical and legal means, as a result of which it is the subject of not only normative technical regulation, but also legal regulation, and it is not always possible to draw a clear line between them later.

The regulatory system that regulates navigation activity can be viewed as something holistic, in which the normative technical rules and the normative legal rules are the same.

4.5. Strategic Civil Law Forecasting, Planning and Programming of Navigation Activities in Russia

Recently, strategic planning documents (SPD) are increasingly common among the legal and technical regulations on navigation activities. This term began to be used in Russia relatively recently with the adoption of the Federal Law of June 28, 2014 No. 172-FZ "On Strategic Planning in the Russian Federation", which replaced the Federal Law of July 20, 1995 No. 115-FZ "On State Forecasting and Programs socio-economic development of the Russian Federation ", although certain types of such documents (strategies, government programs, etc.) existed before the entry into force of this law and are still in force.

Article 3 of the Federal Law "On Strategic Planning" provides a legal definition of strategic planning. Strategic planning is the activity of participants in strategic planning in goal setting, forecasting, planning and programming.

In order not to wander in the chaos of a muddy stream of random laws in modern conditions, lawmaking should be purposeful, therefore, in strategic planning for navigation activities, the task is to increase the number of systemic regulatory legal acts that are clearly linked to each other by a single strategic plan, since without an agreed legislative plan it is impossible to obey the objective requirements of the

issuance of normative legal acts (hereinafter - NLA) in a certain logical sequence, since there must be an internal connection between them and they should be developed on the basis of an analysis of the current Federal Law of 14.02.2009 No. 22-FZ "On navigation activities" with an assessment of its regulatory impact on the existing navigation relations, taking into account the reflection in them of the urgent economic, social and political needs of society and the state.

Legislative technology includes a legislative strategy consisting of principles, long-term plans and forecasts. Strategic planning and forecasting play an essential role in legislative strategy and technology in general.

Strategic planning of navigation activities as a legal category is a separate activity related to the streamlining of the development of normative legal and normative technical acts by determining their subject matter, deadlines and persons responsible for the implementation of the planned.

Strategic planning of navigation activities is a legal category that reflects the methodology for the development of normative legal acts, designed for the long term.

The research of the features that characterize the strategic planning of navigational relations as a legal category shows that they are also subdivided into two independent groups and reflect its procedural and methodological components.

Strategic planning of navigation legal relations should proceed in a procedural form that ensures its methodological purpose. It is also carried out on the principles of lawmaking, reflecting its norm-forming and procedural-forming sides.

Forecasting is of great importance for strategic planning in the field of navigation.

The prognostication of the development of legislation is aimed at identifying the existing patterns of this process, establishing emerging trends in their changes in the future, which is the scientific basis for planning lawmaking for the long term [5].

The dual task of forecasting legislation is defined – in the field of lawmaking and in the field of law enforcement [2].

At the present time, in Russia, plans for the publication of normative legal and normative technical acts in the field of navigation activities, designed for the long term, are not drawn up, while strategic planning and forecasting the development of the legislative system is aimed at identifying the existing patterns of this process, establishing emerging trends changes in the future by drawing up current and long-term plans for the publication of legal and technical regulations in the field of navigation.

Currently, in navigation activities there is no clear link between legal prognostication and the main directions of strategic planning. It is no coincidence that the Decree of the President of the Russian Federation of May 12, 2009 N 537 (as amended by the Decree of the President of the Russian Federation of July 1, 2014 N 483) "On the National Security Strategy of the Russian Federation until 2020" draws attention to the "imperfection of legal instruments" in lawmaking.

The main function of the prognostication in normative

legal activity is that all legislation in a broad sense is understood, interpreted and applied in the same way. The terminological work in navigation activity is at a low level, often not meeting international standards in this area. In navigation activity, there is a significant number of terms used in regulatory documents (for example, at present there are more than 1000 terms that are defined in regulatory and technical acts in the field of navigation activity), which researchers estimate as redundant. At the same time, there are no normative definitions of a number of key concepts, and first of all, of navigation itself.

Even Descartes pointed out that if you define the concepts, then half of the problems that have arisen can be eliminated.

It is advisable to define all terms used in the legal and technical documents to plan ahead and anticipate as indicated in paragraph 28, "Clarifications on the adoption of the Rules of preparation of normative legal acts of the federal executive authorities and their state registration" of the order of the Ministry of Justice of the Russian Federation dated 23.04.2020 No. 105.

In accordance with which the inclusion of definitions of concepts is not allowed in a regulatory legal act, unless otherwise provided by the legislation of the Russian Federation.

It is necessary to form a navigation law-making policy in such a way that the development of the legislation of the Russian Federation and its subjects is planned and predicted in advance.

5. Conclusion

In this article, the author analyzes the state and development of the Russian legislation on navigation activities on the basis of strategic planning and forecasting.

The main postulate of the study is to determine the strategy for the development of navigation activities. The paper defines the nature, concept, essence and content of technical standards.

The regulatory framework for navigation activities is defined, which includes two components-regulatory and technical standards and regulations.

The results of the study are recommended for the implementation of legislative and law enforcement work on navigation activities.

References

- [1] Kandaurov D., V., A. V. Schepot'ev Commentary to the Federal Law of February 14, 2009 No. 22-FZ "On Navigation Activities" (itemized). M. Yusticinform "Yusticinform", 2009.
- [2] Kerimov D. A. Methodology of law. The subject, functions, and problems of the philosophy of Law. 6th ed., Moscow, 2011.
- [3] Reitor K. I. Problems of normative regulation in the field of GLONASS // Flight, No. 4, 2019.
- [4] Reiter K. I. The law on navigation activity should be backbone // Bulletin of Glonass. 2019, no. 4 (48); Glonass Bulletin, 2019, No. 5 (49).
- [5] Rumyantsev M. B. Planning and forecasting in the Russian lawmaking activity // Issues of Russian and international law, 2019, No. 9.
- [6] Technical regulation and standardization in the US and EU. <https://www.cpv.ru/modules/publisher/item>.
- [7] Cherdantsev A. F. The concept of technical and legal norms and their role in the formation of social relations // Soviet state and law, 1964, no. 7.
- [8] Lafitsky V. I. Technical regulation in foreign countries // Journal of Russian law, 2006, No.
- [9] A. Flegontov, A. Maslennikov, A. Stepanov. "On the essence of navigation activity" [Text] / Bulletin of GLONASS– - M.– 2016.– № 3 (30) pp. 58-69.
- [10] Reitor K. I., Bolkunov A. I. Problems of regulatory regulation in the field of GLONASS // All-Russian scientific and Technical journal "Flight". Issue No. 3, Moscow: Publishing House of Mechanical Engineering, 2019, pp. 13-31.
- [11] Reitor K. I. Proposals for improving the regulatory framework of navigation activities within the CIS // Navigation news. 2019. No. 4. p. 14-21.
- [12] Larin A. Yu. Legal regulation of socio-technical relations: dis ... cand. jurid. Science: M., 2000. p. 151.
- [13] Molodov V. A. The role of the law "On technical regulation" in the adoption of normative legal acts containing technical norms // Black holes in Russian legislation. 2010. No. 6.
- [14] Shustov A. F. Technical activity as a socio-cultural phenomenon: dis ... doc. jurid. Sciences: Saint Petersburg, 2000.
- [15] Rubanov A. A. International space law and the law of Russia: global navigation.