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The review "Russian Economy. Trends and Outlooks" has been published by the Gaidar Institute since 1991. This is the 42th issue. This publication provides a detailed analysis of main trends in Russian economy, global trends in social and economic development. The paper contains 6 big sections that highlight different aspects of Russia's economic development, which allow to monitor all angles of ongoing events over a prolonged period: global economic and political challenges and national responses, economic growth and economic crisis; the monetary and budget spheres; financial markets and institutions; the real sector; social sphere; institutional changes. The paper employs a huge mass of statistical data that forms the basis of original computation and numerous charts confirming the conclusions.

Reviewers:
Kharlamov A.V., Doctor of sciences (Economics), Professor of the Department of General Economic Theory and History of Economic Thought, Saint Petersburg State University of Economics.
Yakobson L.I., Doctor of sciences (Economics), Professor, Vice-President of the National Research University Higher School of Economics.

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M. Girich, A. Levashenko, A. Valamat-Zade, O. Magomedova

6.6. Trends in regulating online platforms worldwide: international experience[1]

Online platforms play a key role in digital economy. They make a significant contribution to increasing productivity and development of innovations, facilitate the easing of foreign economic activity, create environment for social development by supporting new forms of employment, involving small and medium-sized enterprises (SMEs) in the economy. The OECD member countries, as well as the Organization's partner countries (primarily China), strive to create conditions for the development of online platforms and ensure their competitiveness in global markets. Currently, the EU has adopted the most detailed regulation aimed, on the one hand, at creating conditions for developing digital platforms, and on the other, at protecting local consumers of goods and services provided by global digital platforms against misconduct. In order to improve the tools for protecting

1 This section was written by *Girich M*., Junior Researcher, Club Russia-OECD RANEPA; *Koval A*., Junior Researcher, Club Russia-OECD RANEPA; *Levashenko A*., Senior Researcher, Head of Club Russia-OECD RANEPA; *Valamat-Zade A.*, Research Assistant, VAVT Institute of International Economics and Finance under the Ministry of Economic Development of Russia; *Magomedova O*., Analyst, VAVT Institute of International Economics and Finance under the Ministry of Economic Development of Russia.

Russian users of the services provided by global online platforms, it is advisable to carefully analyze the EU experience in protecting the interests of consumers of digital platforms.

Digital platforms have significantly developed in different sectors in the EU countries. They cover a wide range of activities, i.e. online advertising platforms, marketplaces (e-commerce platforms for trading goods), search engines, social networks, app distribution platforms, sharing platforms (sharing economy platforms), including provision of professional and non-professional services through platforms (for example, taxi services, rental housing, freelance services, etc.). Digital platforms can contribute to developing new markets and digitalizing traditional ones, creating network effects, i.e. situations where various parties of the platform market are interdependent in so far as their decisions affect each other, even indirectly (for example, the number of vendors and goods affects the buyers' selection of the platform, as well as the number of buyers). There are direct network effects, for example, when an increase in the number of content providers makes the platform more valuable to content consumers, or indirect, when the platform provides better conditions for users, thereby making it more attractive to product or service providers and advertisers.

Digital platforms stimulate new forms of business, digitalize traditional businesses. For example, in 2018, every fifth EU enterprise (20%) began making electronic sales, while such sales accounted for 18% of their total annual turnover, whereas in 2009, electronic sales were made by 13% of all enterprises, i.e. growth over this period amounted to 5 p.p.[1]

International trade platforms account for 56% of European cross-border online purchases. Amazon is the most popular international online trade platform in Luxembourg (72%) and Austria (64%), eBay plays a leading role in Cyprus (63%).

Back in 2016, the European Commission set the task to establish uniform rules for regulating platforms in every EU member state. In addition, it was critical to subject digital platforms, including foreign ones, to the existing EU rules in such areas as competition, protection of consumer and personal data, freedom of the single market.

Currently, the European Union plans to establish a Single Digital Market, aiming to contribute to economic growth, job growth, increased competition, investment and innovation growth in the EU in the amount of € 415 bn per year.

It is assumed that data economy will ensure growth of the GDP by 5.4% by 2025, equivalent to € 544 bn.[2] The Digital Single Market is based on 3 *basic principles:*[3]

1) *ensuring consumer and enterprise access to digital goods and services across Europe.* Thus, for instance, measures were taken to eliminate unjustified geo-blocking in cross-border trade in goods and services, preventing purchases on websites located in another EU member state, to strengthen consumer protection in e-commerce, to lower prices for cross-border parcel delivery services aimed at publishing price information, so that consumers could choose the cheapest

1 URL: https://ec.europa.eu/eurostat/statistics-explained/index.php/Digital_economy_and_society_statistics_-_enterprises#Enterprises_engaged_in_e-commerce
2 URL: https://ec.europa.eu/commission/presscorner/detail/en/IP_19_2749
3 URL: https://ec.europa.eu/commission/presscorner/detail/en/IP_19_2749

delivery methods (previously, international parcel delivery in the EU was 3-5 times higher on the average than prices for domestic delivery).

2) *establishing conditions for developing digital networks and innovation services.* This trend is intended for establishing digital skills, standards for using the artificial intelligence, cloud computing and blockchain for developing the 5G communication and Internet of things, cybersecurity, etc.

There are plans to introduce legislative measures in order to manage access and re-use of data, including personal data, to establish the exchange of data between business and government for the public benefit, to allow free reuse of data, and to invest € 2 bn in a European high-performance project to develop data processing infrastructure, data exchange tools, architecture and governance mechanisms for the successful exchange of data and the integration of energy efficient and reliable cloud infrastructures and related services. This area includes issues related to copyright infringement due to digitalization of content;

3) *the economy and society.* This trend is associated with digitalization of skills, as in the near future 90% of workforce will be demanded certain digital skills.[1]

The European Union sets a number of requirements for the operation of global digital platforms (for example, Google, Facebook, Amazon, Netflix, Uber, etc.) in the European market, aimed on the one hand at protecting the interests of European consumers, and on the other, they turn into new barriers to international trade in digital services and goods

Among the key requirements (barriers) in the EU market, the following have to be highlighted: assessment of tax on digital services; regulation of network policy rules for handling personal data of EU residents; the need for online platforms to comply with consumer legislation; the option of applying labor law to individuals providing services or performing work using platforms (gig-workers); supervision of information intermediaries in terms of protection of intellectual property rights.

6.6.1. Taxation of digital services

Today, the income tax paid by the largest digital corporations in the market countries is disproportionately low relative to the profit, equivalent to the extent of their virtual presence in these countries through interaction with users of digital products, collection and analysis of their data.

It is the user data that is the required input for creating value. Instead, global profits end up in low-tax though highly competitive jurisdictions and offshores, locations of key intangible assets of such corporations.[2] In a pandemic, digital giants operate in antiphase to the crisis and receive additional profit from the forced transition of mankind to digital reality, thereby exacerbating the discussion about ways of more equitable taxation of their global profits.[3]

1 URL: https://ec.europa.eu/digital-single-market/en/economy-society

2 Corporate Taxation in the Global Economy. IMF Policy Paper, 2019. URL: https://www.imf.org/en/Publications/Policy-Papers/Issues/2019/03/08/Corporate-Taxation-in-the-Global-Economy-46650

3 *Leigh T.* France to impose digital tax this year regardless of any new international levy // Technology news. 14 May 2020. URL: https://www.reuters.com/article/us-france-digital-tax/france-to-impose-digital-tax-this-year-regardless-of-any-new-international-levy-idUSKBN22Q25B

The EU initiated the revision of the actual corporate taxation rules at the international level, obsolete according to the EU and not reflecting the evolution of digital technologies and solutions that assist digital companies grow much faster than the economy as a whole.[1] Current regulations are no longer in compliance with the context that facilitates online commerce across borders without a physical presence, where businesses rely heavily on intangible assets that are difficult to value, and where user content and data collection have become core activities for creating digital business value. In the EU, about 500 mn users consume digital content of global companies. Back in 2018, the European Commission published a draft Directive related to general tax system on income derived from the provision of certain digital services.

Countries plan to continue working on an agreement defining uniform approaches to taxing digital services by mid-2021.[2] While this agreement has not yet been reached at the OECD level, the EU member states introduce taxes on digital services nationally. From January 1, 2020, Italy applies a digital services tax (DST) of 3%, replacing the "web tax" in force in 2019.[3] DST applies to services such as advertising through a digital interface, provision of a digital multilateral interface allowing users to interact (also to facilitate the direct exchange of goods and services), transfer of data collected from users and created through a digital interface. DST thresholds have been set as follows: total revenues equal to or greater than € 750 mn, however, digital services revenues (originating in Italy) equal or exceed € 5.5 mn. A similar tax on digital services of 3% applies in France.

In Great Britain, DST is applied since April 1, 2020 and suggests a 2% tax from incomes received from digital services provided in this country and emerging due to business digital activity associated with British users.[4] Digital Services Tax applies to social networking services, Internet search engines, online marketplace services. The following thresholds apply: the global revenue from related digital services exceeds £ 500 mn annually and more than £ 25 mn of these annual digital service revenues come from GB users.

According to OECD estimates, the global trade war engineered by unilateral taxes for digital services across the world and inability to reach agreement, can reduce the global GDP by more than 1% per annum.[5]

Russia, as a jurisdiction that often consumes digital services provided by non-resident companies (Google, Facebook, Netflix, etc.), has to participate in agreeing a unified approach to taxation in the digital economy at the OECD platform (an agreement on a unified approach should be reached in mid-2021). It is important for Russia to maintain an integrated approach to taxation in the context of digital economy, so that it is applied to all multinational companies (MNCs) meeting the requirements of the OECD unified approach rather than only to a limited number

1 URL: http://www.oecd.org/tax/international-community-renews-commitment-to-address-tax-challenges-from-digitalisation-of-the-economy.htm
2 Ibid.
3 URL: https://www.gazzettaufficiale.it/eli/gu/2019/12/30/304/so/45/sg/pdf.
4 URL: https://www.legislation.gov.uk/ukpga/2020/14/section/46/enacted
5 URL: http://www.oecd.org/tax/international-community-renews-commitment-to-address-tax-challenges-from-digitalisation-of-the-economy.htm

of companies participating according to the safe harbor principle. Implementing a unified safe harbor approach can create significant challenges to renegotiate regulations and increase uncertainty.

It should be emphasized that taking into account the current OECD proposals (approval of a threshold value for the annual income of MNCs to apply a new tax law in the amount of € 750 mn annually), the new tax rules will apply only to a very limited number of Russian digital companies. If for some reason a consensus is not reached at the OECD platform, Russia may consider the possibility of introducing nationally a tax on digital services based on the EU experience.

6.6.2. Regulating personal data

The European regulation related to protection of personal data ("General Data Protection Regulation", GDPR) is intended to ensure the respect for rights of data subjects in the EU by domestic as well as foreign companies. Processing of the EU residents' personal data by a controller or processor that is not established in the EU (for example, the American social network Facebook) is subject to the GDPR if:

— processing of personal data of data subjects in the EU is related to the offer of goods or services to data subjects in the EU, regardless of whether it is relevant to their payment or not. The use of language or currency commonly used in one or more member states with the possibility to order goods and services in this language is considered as a proof confirming the intention to offer goods or services to data subjects in the EU; making reference to consumers or users staying in the EU;

— processing of personal data of the EU data subjects is related to monitoring of actions or behavior of the data subjects in the EU since their actions are performed in the territory of the European Union. With a view to determine whether data processing activities evidence monitoring of actions of the data subject, it has to be proved whether individuals perform Internet activities, including potential opportunity for their consistent use of personal data processing technology, etc.

It should be emphasized that foreign technological or digital companies have been repeatedly referred to violations of the EU regime of the personal data protection. In January 2019, the Supreme Administrative Court of France found that the French division of Google was responsible for violating the GDPR provisions regarding the consent of personal data subjects and the requirement for transparency of data processing.[1] Google did not comply with the requirements for the consent form: this form should be informative, understandable, expressed in clear and simple language, while the consent form for data processing intended for users creating google accounts included 6 pages in very vague wording. Consequently, users were not properly informed about the purposes of data processing, period of their storage, procedure for data processing, making their consent invalid. The company was fined € 50 mn for these violations.

1 URL: https://www.huntonprivacyblog.com/2020/06/23/french-highest-administrative-court-upholds-50-million-euro-fine-against-google-for-alleged-gdpr-violations/

In June 2020, after years of the Schrems vs Facebook litigation, the EU Court ruled[1] that companies can transfer data from EU to other countries only if they ensure a level of data protection that meets the requirements of the EU law.

In 2013, Max Schrems, privacy activist, initiated the proceedings having contacted the Irish Commissioner for Personal Data Protection with a complaint that Facebook and other social networks cannot transfer his data to the United States, since the US legislation does not guarantee European users of social networks the same security clearance as GDPR, namely, protection from surveillance by US security authorities.

In 2015, the EU Court recognized the inconsistency of the so-called Safe Harbor Agreement between the EC and the USA (Safe Harbor Agreement) with the European data protection mode, where cloud providers could do without building centers for storing and processing personal data of the EU citizens in the EU countries. In 2016, the EU and the US have signed a new agreement on the principles of confidentiality of the EU citizens personal data processed by American companies, the so-called Privacy Shield Framework. According to this agreement, American companies handling data of the European users, should be certified and guarantee data confidentiality and exclude the possibility of their transfer to the US security authorities.[2]

Finally, in July 2020, The EU Court of Justice found that even this agreement does not make a sufficient tool for protecting personal data of the EU citizens, therefore, companies can now transfer data only if they comply to ensuring a level of protection which is equivalent to the European one. This means that foreign companies will have to bear the burden of providing technical guarantees for the safety of data, mechanisms and procedures for exercising the rights of the personal data subjects established by the GDPR, as well as effective means of legal protection.

Thus, the assessment of the protection conformity level takes place not only according to fulfillment of contractual clauses between the exporter and the recipient of data, but also according to the following criteria:

— conformity of the legal system of the data recipient country;
— access of the state services of the recipient country to the transferred data.

Experts note that such an approach to ensuring data protection on the one hand prevents the formal implementation of the clause related to the transfer of data under equal legal conditions, but on the other hand results in the data localization in the EU, thereby meaning that many more users will stay within the European digital market.[3]

Taking into account the EU experience, Russia needs to clearly define the feasibility of the extraterritorial application of the national legislation requirements on personal data towards foreign operators handling data of RF

1 URL: https://www.cnbc.com/2020/07/16/european-court-rules-on-facebook-vs-schrems-case.html
2 URL: https://legalitgroup.com/ru/sootnoshenie-eu-us-privacy-shield-i-gdpr/
3 URL: https://www.thestandard.com.hk/breaking-news/section/6/151087/EU-court-voids-US-data-sharing-pact-on-privacy-issues

people (offering goods and services to Russians, monitoring their actions and behavior) and also provide additional guarantees and rights for data subjects to be observed by both national and foreign operators (the right to data portability, the right to be forgotten, the notification of violation, etc.).

In 2015, the Federal Law of July 21, 2014 No. 242-FZ "On Amendments to Certain Legislative Acts of the Russian Federation in Specifying the Procedure for Processing Personal Data in Information and Telecommunication Networks" came into force in Russia having approved the requirement for localization of personal data of the Russian people. Collecting, updating and changing personal data of Russians should be carried out using databases within the territory of Russia.

Personal data of Russian people initially entered into a database in the Russian territory (primary database), can subsequently be transferred abroad to the so-called secondary databases. The relevant requirements are an encumbrance for data operators, primarily foreign ones, however, they maintain the option for subsequent cross-border data transfer in accordance with the personal data legislation. The requirement to localize data in Russia becomes an obstacle for foreign companies to operate in the country and consequently for the import of services. The OECD countries (both the EU and the USA) do not apply the data localization requirement and regard it as a restriction on international trade of services.

The OECD countries are concerned that existing measures of data localization that are applied in some countries including Russia, have a significant impact on business activity. In particular, such requirements increase costs and limit the benefits of digital commerce.

6.6.3. The need for online platforms to comply with consumer laws

The aggregate value of e-commerce retail revenue in Europe amounted to $ 393.8 bn in 2020.[1] The share of e-commerce users in the EU (i.e. the share of the population that made online purchases) was 53% in 2019.[2] The share of e-commerce sales in the retail sector increased. Thus, from 2014 to 2019, the share of retail e-commerce sales increased in Great Britain from 13.5 to 19.4%, from 10 до 15.9% in Germany, from 4.9 to 10.9% in France[3]. At the same time, the average annual per capita expenditure on e-commerce amounted in 2019 to € 921 in Great Britain, 784 in Germany, 746 in France, 668 in Italy, and 665 in Spain.

The largest number of users in e-commerce in 2020 was in Germany (62.4 mn), Great Britain (57.2 mn) and France (46.2 m), and the smallest was in Poland (24.6 mn).[4] The most popular on-line purchases were associated with clothes and sports goods (65%), vacation vouchers and holidays (54%), housewares (46%), event tickets (41%) and books, magazines and newspapers (33%).[5]

1 URL: https://www.statista.com/topics/3792/e-commerce-in-europe/.
2 URL: https://www.statista.com/topics/3792/e-commerce-in-europe/; https://www.ecommerceeurope.eu/wp-content/uploads/2019/07/European_Ecommerce_report_2019_freeFinal-version.pdf
3 URL: https://www.statista.com/statistics/281241/online-share-of-retail-trade-in-european-countries/
4 URL: https://www.statista.com/topics/3792/e-commerce-in-europe/
5 URL: https://ec.europa.eu/eurostat/statistics-explained/pdfscache/46776.pdf

To protect consumers' rights on online platforms, including foreign ones, the EU has a Regulation on the "Promotion of Fairness and Transparency for Business Users of Online Intermediation Services" (2019).[1] Platforms to be used by vendors for offering goods or services to consumers, regardless of where these transactions are ultimately concluded, can provide online mediation services. The Regulation establishes a number of requirements related to provision of information, as well as a number of obligations for online platforms regarding rules of transparency for using platforms by operating merchandisers. In particular, the following obligations have been established:

— a fair rating of merchandisers of goods and services;
— warning merchandisers about changes in the rules for using platforms;
— creating mode for providing personal data to merchandisers;
— establishing systems for dispute resolution and handling complaints received from merchandisers using platforms.

The Regulation applies to online platforms operating in the EU to protect European merchant companies, in particular SMEs, from unfair actions by both European and foreign platforms.

It is worth noting that many countries are also strengthening NET consumer protection. Among the EU countries, France is pursuing a policy of regulating online trading platforms since 2016 with the adoption of Law No. 2016-1321 for the Digital Republic (Loi pour une République numérique). The law amends the Consumer Code and introduces the concept of an "operator of an online platform" ("opérateur de plateforme en ligne"). The operator is any individual or legal entity professionally involved for a fee or free of charge in providing people with online NET services based on computer algorithms to classify the content, goods or services, or on the use of links to content, goods or services proposed or posted online by third parties (for example, rating systems or collecting feedback on goods or services, or following a link of the marketplace to visit a merchandiser's website), or by bringing together many parties to sell goods, provide services or exchange (association for exchange is a form of C2C trade), or mutual use of content, goods or services.[2] Therewith, a special obligation has been included in the Consumer Code of the most visited platforms with a monthly number of more than 5 mn unique visitors to follow best practices in terms of clarity, transparency and loyalty to online consumers.[3] Now. platforms have the following responsibilities: for example, to publish criteria for classifying the content and offers of goods and services, indicate information on agreements between the platform and the merchandiser when promoting goods or services, etc.

Further EU consumer protection policy aims to remove geo-blocking restrictions, i.e. prohibiting to restrict purchasing goods and services in the territory of individual states. Online stores, including foreign ones, based in the EU are obliged now to inform consumers whether they are buying from a professional

1 URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2019.186.01.0057.01.ENG&toc=OJ:L:2019:186:TOC
2 URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000035720908/
3 URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000035720925/

merchandiser or from an individual (non-professional vendor), so that consumers know about their rights if something goes wrong. Likewise, a 14-days rule was introduced when a consumer pays for a digital service and is entitled to refuse this service within 14 days.

Moreover, the EU applies safety requirements for products sold by online platforms set out in the EU technical and sanitary regulations. According to a study by the European Consumer Protection Organization, out of 250 verified consumer goods purchased on Amazon, AliExpress, eBay, and Wish, 66% were found to be ineligible to EU laws and technical standards.

The following goods were tested: inactive smoke and carbon monoxide detectors; children's clothing with long laces (constituting a suffocation hazard); toys containing chemicals with a hazard level 200 times higher than permissible; power supply that melted during testing.[1] Therefore, the EU operates a Safety Gate system for exchanging information between countries about unsafe goods to be taken into account by foreign electronic trading platforms in order to remove goods that do not meet EU technical requirements, sold to European consumers.

In 2018, a "Product Safety Pledge" between the EU and AliExpress, Amazon and eBay was concluded[2]. Under this Pledge, the platforms have made commitments, whereby consumer non-food products placed online in the EU market must be safe. The Pledge establishes the platforms' obligation to track unsafe goods following the information published within the Safety Gate system. Besides, contact points should be established for the authorities of the EU member states to be used for notifying the platforms about dangerous products.

In order to strengthen consumer protection in Russia, the Ministry of Economic Development together with Rospotrebnadzor and other competent authorities, should develop Guidelines on consumer protection in e-commerce for electronic trading platforms, including foreign ones. A draft of such Guidelines was developed by the Club Russia - OECD RANEPA in 2018 for Rospotrebnadzor (to-date, the Guidelines have not been adopted). The Guidelines should reflect the recommendations of the electronic trading platform on ensuring the identification and verification of merchandisers, providing complete and reliable information about the merchandiser, use of merchandisers ratings, as well as measures to ensure that foreign electronic trading platforms sell goods taking into account Russian requirements for technical regulation and safety of goods.

Thus, in order to ensure a clear and transparent system for rating merchandisers and organize self-regulation in terms of transparency of users' opinions and comments, it is necessary to: 1) disclose information on commercial agreements with merchandisers; 2) calculate and remove falsified reviews from vendors; 3) inform that reviews for the product or the vendor were left by consumers in exchange for promising any incentive or reward; 4) refuse to delete or edit negative reviews due to a contractual relationship with the vendor.

1 URL: https://www.beuc.eu/publications/beuc-x-2020-068_beuc_and_anec_views_for_a_modern_regulatory_framework_on_product_safety.pdf
2 URL: https://ec.europa.eu/info/sites/info/files/voluntary_commitment_document_4signatures3-web.pdf

Among the tasks for developing digital trade in the EAEU is to ensure the safety of goods coming from foreign platforms. The introduction of a domestic ban on foreign Internet platforms to sell goods in the EAEU is being considered if the merchandiser cannot document compliance with the EAEU technical standards. The Ministry of Economic Development has initiated activities to simplify compliance assessment for small companies and self-employed to promote their goods in trade through online platforms. In parallel with measures aimed at simplifying compliance assessment procedures for vendors, the responsibility of online platforms should be defined for providing consumers with inaccurate or incomplete information about the compliance of goods with the requirements of technical regulations or other requirements for technical regulation established by the legislation of the Russian Federation and the EAEU.

6.6.4. Applying labor law to platform gig workers

According to the analysis of the European Commission's Joint Research Center, about 2% of the working-age population in the EU receives their main income through gig platforms (service delivery platforms) and up to 8% of workers(gig workers) use platforms to generate additional income.[1] However, foreign platforms such as Amazon, Deliveroo, Uber, operating in the EU, do not take measures to ensure labor rights and guarantees of gig workers. Gig platforms interact with gig workers without concluding an employment contract, similar to a civil law contract for provision of services. Accordingly, gig workers act as equal parties to civil law contracts with companies, although actually they are under control and do not receive counter labor guarantees, for example, the minimum wage, work schedule, payment of social insurance contributions.

While this position of gig workers is challenged from time to time in many countries only spontaneously (for example, by way of strikes), there is a legal framework being established in the EU providing legal remedies for protection of gig workers.

In the EU, measures are being taken to resolve the issue about the status of outsourcing workers (platform workers). Most often this is the self-employment status.[2] In the EU, both national and regional practice is developing for recognizing an individual as an employee in the absence of an employment contract. It should be noted that the absence of a formal employment contract does not negate the possibility of applying labor standards in regulating the relationship between the platform employee and the real platform or the customer. For example, the EU Directive on health and safety in fixed-term and temporary employment (91/383) may apply as well to temporary workers. This logically follows from considering temporary employment primarily as the establishment of employment relationship (fixed-duration employment relationship), while availability of an employment contract is a special case.

1 URL: https://digitalforeurope.eu/the-gig-economy-a-tax-and-labour-challenge-for-the-eu
2 OECD Employment Outlook 2019: The Future of Work, OECD Publishing. Paris, OECD, 2019. URL: https://doi.org/10.1787/9ee00155-en. P. 55

According to the request of the German Federal Labor Court to issue a preliminary ruling, the European Court should have determined the conditions for employment relationship in the absence of special legislation.[1] The European Court of Justice has determined that Directive 2008/104/EU on temporary work applies to cases when an employee without an employment contract performs tasks for a specific user for a pay, and this activity is the main source of income and is implemented under the guidance and control of the customer. Noteworthy is that the Directive applies to such cases regardless of the national regulation of the status of actual workers having no employment contract. This means that users of platforms in the EU, including foreign ones, are protected by the proper effect of the Directive.

In France, the Court of Cassation determining the status of a self-employed Uber driver, clarified in its decision No. 374[2] the differences between labor and civil contracts for formalizing the relationship between the online platform and employees. The Court has partially satisfied the driver's claims, recognizing him as an employee under the labor laws of France, although Uber insisted on the application of presumption of no employment, referred to individual entrepreneurs and self-employed.

In this case, the Court concluded that this presumption was inapplicable, motivating the decision by the presence of indicators of the driver's subordinate position. First, after signing a contract, the driver was forced to become a "partner" of Uber, which did not indicate the freedom to organize his working activities, search for customers or choose suppliers, since the driver used a system created and fully organized by Uber, where the driver could not independently choose the clientele, freely set prices or conditions for providing transport services, fully regulated by Uber. Second, with regard to freedom of linking and free choice of working hours, it was found that the way of choosing working days and hours may indicate the subordination to the employer, which is relevant to labor relations, because in any case, the driver accepted the terms of business offered by Uber regardless of when he began to cooperate. Third, with regard to tariffs: they are set on a contractual basis using the forecasting algorithms of the Uber platform that dictates a certain route to the driver, i.e. the driver does not have the freedom to choose the route, and if the driver deviates from this route, the tariff can be recalculated at a loss to the driver. Fourth, with regard to conditions for the provision of transport services, the Uber application controls orders, in particular, if the driver is offered trips several times (usually 3 times) and he refuses them, then the application can deactivate the account, which indicates lack of freedom of choice whether the ride fits the driver or not. Thus, the use of self-employed status for Uber employees is fictitious, since the company issued working orders (by offering orders, setting routes and prices), monitored fulfillment of an order (the company could recalculate the tariff when deviating from the route), could apply sanctions.

1 URL: http://curia.europa.eu/juris/liste.jsf?language=en&num=C-216/15
2 URL: https://www.courdecassation.fr/jurisprudence_2/chambre_sociale_576/374_4_44522.html

It was recognized that labor relations based on a subordinate position of the driver and lack of freedom to organize activities, search for customers, choose suppliers, set tariff, have been established. Thus, labor guarantees and rights enshrined in the EU acts can be applied in the EU to employees regardless of the employment contract. Hence, gig workers providing services on the online platforms (including foreign ones) in the EU countries enjoy labor guarantees and can assert their rights based on the European law, regardless of whether an employment contract has been concluded.

The self-employed differ from workers in the traditional sense not only because as a general rule they do not enjoy the rights and guarantees provided for by labor legislation, but also the regime of taxation of their profits is different. In the EU member states, special rules apply to the taxation of self-employed. For example, in Italy, the tax regime for self-employed provides for a flat tax rate of 15% instead of the usual progressive tax rates from 23 to 43%.

For reference: the tax on professional income for self-employed in Russia is 4% from incomes resulted from sale of goods and services to individuals, 6% from incomes received from sale of goods and services to legal entities and individual entrepreneurs (in contrast to personal income tax in the amount of 13% for residents and 30% for non-residents).

Moreover, it should be noted that tax treatment for taxing income from employment and doing business through digital platforms should not theoretically create distortions in favor of digital platforms, otherwise the further spread of such digital practices will erode the foundations of the fiscal system.

Digital platforms can also potentially act as tax agents, and therefore the use of tax incentives aimed at reducing the burden of tax compliance by small businesses is not always justified with regard to digital platforms. In this context, a number of EU countries (for example, Estonia, France)[1] are currently studying ways to improve tax regulation of digital platforms striving to increase their taxing role as participants in economic relations similar to labor relations or entrepreneurial activity, which entails a full range of tax obligations, including VAT, social contributions and personal income tax.

Today, Russia lacks special regulation for online platforms workers, including an obligation for online platforms to apply labor legislation. This creates risks of violation of labor safety, limits rights to have rest, to minimum wage, and results in a lack of social protection for platform workers. Therefore, Russia, in particular the Ministry of Labor, has to develop recommendations "Addressing the extension of certain labor guarantees to online platforms workers", which will provide definitions of the basic concepts of the gig-economy, criteria for labor relations (platform control over the procedure for providing services, logistics support related to services, approving the operating mode, tariffs, clients, etc.), as well as draft recommendations for providing labor guarantees to gig-workers (workplace safety, a minimum wage not lower than the minimum statutory monthly pay, etc.),

1 *Ogembo D., Lehdonvirta V*. Taxing Earnings from the Platform Economy: An EU Digital Single Window for Income Data? // British Tax Review. 16 January 2020. URL: https://ssrn.com/abstract=3576426

recommendations to platforms on taking measures of social support (salary funds, etc.), recommendations on the delineation of responsibility for providing services between the platform and the worker, on arranging online dispute resolution.

Russia, has to develop rules against the "mimicry" of labor relations for self-employment for the purpose of applying the preferential tax treatment (self-employment tax). Restrictions options are as follows: 1) absolute amount of income received, 2) share of income from one source in all incomes, 3) regularity of receiving income through platform. It is also advisable to expand obligations of digital platforms in relation to enterprises and individuals receiving orders through these platforms in proportion to the expanding role of digital platforms in the economy, including introducing the duties of tax agents with regard to digital platforms.

6.6.5. Regulation of information intermediaries regarding the protection of intellectual property rights

The information intermediaries are regulated in the EU by the 2000 EU Electronic Commerce Directive.[1] According to Articles 12-14 of this Directive, the information intermediary is an individual conducting a simple transfer, temporary as well as permanent placement of the material.

The Article 14 stipulates the following conditions for exemption from liability of information intermediaries: 1) the information intermediary did not know about the illegality of the content; 2) the information intermediary promptly deleted the illegal information or interrupted access upon receiving a notification about the illegal content.

European courts apply sanctions when information intermediaries fail taking measures to ensure the protection of intellectual property rights after the intermediary was informed about illegal content. In particular, if the information intermediary receives a notification about illegal content and does not delete the information after receipt, then the copyright holder can sue and then the court will assume the information intermediary's responsibility. In this regard, information intermediaries, including online platforms, post instructions for dealing with complaints of intellectual property violations on websites and take active steps to consider notifications upon their receipt.

However, information intermediaries are not obliged to take any action to identify the infringement of intellectual property rights before receiving a notification. Thus, in accordance with Article 15 of the Directives in the national legislation of the EU member states, it is unacceptable to impose the obligation of providers to monitor posted information in search of facts or circumstances indicating their illegality. In other words, the information intermediary is not obliged to take any action to monitor illegal content before receiving a notification of an infringement of intellectual property rights. However, if the information intermediary has not removed or restricted access to illegal content after receiving a warning, he will be liable.

1 URL: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32000L0031

Thus, the legislation makes it possible for information intermediaries to avoid responsibility for infringement of intellectual property rights if they fulfil a number of conditions.

The litigation Lancôme vs eBay is illustrative[1]. Lancôme, a cosmetics and perfumery manufacturing company, discovered the sale of its counterfeit goods on eBay and filed a lawsuit against it. Hence, the Brussels Commercial Court ruled that eBay is only a platform offering information services on the sale of goods, and being an information intermediary, eBay is not obliged to track information published by its users or actively search for illegal counterfeit information. Consequently, eBay is not liable for counterfeit goods, as they were not aware of them and did not receive any relevant notification.

However, according to the EU Court of Justice, despite banning obligations to monitor the content, the EU member states are entitled to impose requirements on the information intermediary, aimed at preventing a future specific violation. In the case of L'Oréal vs eBay, the court ruled to take future actions "that not only help to stop violations of intellectual property rights, but also prevent further violations".[2] Thus, the EU jurisprudence uses an extensive approach for defining the boundaries of responsibility of information intermediaries.

For example, in the case of LVMH vs eBay, the court ruled that eBay was liable for negligence resulted in infringing the plaintiff's exclusive rights and for failing to take effective action to prevent infringements.[3] In this case, eBay was held accountable, as it was not just a "passive host", but rather an "active broker" playing an important role in commercializing counterfeit products and making a profit from those sales.

Thus, EU legislation allows information intermediaries to avoid liability for infringing rights of intellectual property if they take prompt measures to remove illegal content after receiving a notification. Information intermediaries should not monitor in search for illegal content, however, they need to take measures to prevent future violations, for example, by creating a mechanism for prompt response to notifications.

To develop Russia's legislation, it is recommended to add the provision demonstrating lack of financial benefits as a ground for exemption of an information intermediary from liability to the list of conditions suggesting exemption from liability of an information intermediary (Article 1253.1 of the Civil Code of the Russian Federation). This aspect may reflect presence or absence of the intent of the information intermediary to violate the intellectual property rights of the copyright holder. Furthermore, it is possible to establish a list of required and sufficient measures to protect intellectual property under paragraph 3 of the Article 1253.1 of the Civil Code of the Russian Federation to be accepted by an information intermediary (for example, deleting, blocking, disabling links

1 URL: http://www.unitalen.com/xhtml/report/16124398-1.htm
2 URL: http://recent-ecl.blogspot.com/2011/07/cjeu-case-c-32409-loreal-v-ebay-end-of.html
3 URL: https://www.americanbar.org/groups/intellectual_property_law/publications/landslide/2014-15/may-june/liability-e-commerce-platforms-copyright-trademark-infringement-world-tour/#6

to illegal material, as well implementing preventive measures in case of repeated downloads of the same illegal material).

The following measures have to be established as preventive: the information intermediary must have a special copyright protection policy suggesting deleting the account of users repeatedly downloading illegal content; there should be a dedicated contact person specializing in interaction with copyright holders; assistance in copyright protection.

Such measures will allow the platforms to prevent potential violations of intellectual property rights, and can also be used as a court evidence of taking sufficient measures to prevent violations of intellectual property rights.