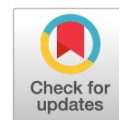


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Research article



# Ordinary Interpretation of Constitutional Norms Regarding the Definition of the Concept of “Digital Ruble”

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## ABSTRACT

**AIM:** To identify the features of a legal structure “ordinary interpretation” by understanding and explaining constitutional norms, considering the increasing penetration of digital thesaurus elements into the lexicon of the country’s population. It also attempts to propose specific organizational and legal mechanisms for the formation of sustainable lawful behavior of subjects of law who do not have sufficient legal competence.

**PROCEDURE AND METHODS:** The study uses general scientific methodology (methods of system analysis, synthesis, dialectical, formal-logical) and special legal research methods (comparative legal, historical-legal, formal legal), questionnaire and interviewing methods, information-analytical, and mathematical.

**RESULTS:** The theoretical, methodological, scientific, and practical aspects of the everyday interpretation of constitutional norms in terms of defining the concept of “digital ruble” are presented. An assessment and forecasts are provided for improving the legal interpretation of constitutional norms in terms of deriving the structure of the right to carry out ordinary interpretation.

**THEORETICAL AND/OR PRACTICAL INNOVATIVENESS:** Legal theory and practice complement new provisions on the essence and features of ordinary interpretation as the constitutional right of every person who is not a lawyer to understand and explain the law. Key positions are put forward for the development of the doctrine of interpretation of legal norms and an in-depth conceptual study of a category of the digital ruble. Proposals are made to improve the legal regulation of ordinary interpretation based on individual understanding of legal norms in terms of legislative regulation of ruble ranges.

**Keywords:** interpretation; types of interpretation; clarification; clarification of constitutional norms; ordinary interpretation; interpretation of the concept of digital ruble; important numbers for interpretation; digital ruble.

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Научная статья

## Обыденное толкование конституционных норм в части определения понятия «цифровой рубль»

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### АННОТАЦИЯ

**Цель.** Выявить особенности такой юридической конструкции, как «обыденное толкование», на примере уяснения и разъяснения конституционных норм с учетом все большего проникновения в лексикон населения страны элементов цифрового тезауруса, а также предложить некоторые организационно-правовые механизмы формирования устойчивого правомерного поведения субъектов права, не обладающих достаточной юридической компетентностью.

**Процедура и методы.** В работе использованы общенаучная методология (методы системного анализа, синтеза, диалектический, формально-логический) и специальные правовые методы исследования (сравнительно-правовой, историко-правовой, формально-юридический), метод анкетирования и интервьюирование, информационно-аналитический и математический.

**Результаты.** Обозначены теоретико-методологические и научно-практические аспекты обыденного толкования конституционных норм в части определения понятия «цифровой рубль». Даны оценка и прогнозы совершенствования правового толкования конституционных норм в части выведения конструкции права на осуществление обыденного толкования.

**Теоретическая и/или практическая значимость.** Правовая теория и практика обогащены новыми знаниями о сущности и особенностях обыденного толкования как конституционного права каждого человека, не являющегося юристом, уяснять и разъяснять право. Выдвинуты ключевые позиции для развития доктрины толкования правовых норм, дальнейшего углубленного концептуального изучения такой правовой категории, как цифровой рубль. Внесены предложения по совершенствованию правового регулирования обыденного толкования на примере понимания индивидами правовых норм в части юридической регламентации цифрового рубля.

**Ключевые слова:** толкование; виды толкования; уяснение; разъяснение конституционных норм; обыденное толкование; толкование понятия «цифровой рубль»; влияние цифры на толкование; цифровой рубль.

### Как цитировать

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## BACKGROUND

The significance of studying how legal rules are interpreted by ordinary people, along with the development of a common legal consciousness society, arises from various factors.

First, there is a need to understand how the majority of the Russian population, lacking a legal education, perceives and interprets legislative innovations related to digital relations, such as the introduction of the digital ruble.

Second, we must consider that the common understanding of the world and the interpretation of the legislative framework empowers people to act within the bounds of the law in their daily lives. This influence extends not only to their actions in the legal domain but also within the realm of the digital space. Furthermore, a seemingly basic yet immensely significant postulate is required for understanding this subject: the success of the activities' endeavors and the level of citizens' trust in the state depends on the state of legal culture, knowledge, understanding of legislation, and its accurate interpretation by each individual.

Third, despite an extensive body of in-depth research on methods and types of interpretation, there is a notable absence of comprehensive studies on the common interpretation of legislative innovations in the realm of digitalization, including the introduction of the digital ruble into civil circulation.

### Degree of scientific development of the subject

The peculiarities of the interpretation of legal norms have been studied over the years by numerous scientific schools and well-known scientists. In particular, certain aspects of the interpretative process were discussed in the works by S.A. Avakyan, N.G. Alexandrov, S.S. Alekseev, V.M. Baranov, Ya.M. Brainin, S.N. Bratus', E.V. Vaskovsky, A.B. Vengerov, N.A. Vlasenko, L.D. Voevodin, N.N. Voplenko, D.A. Gavrilov, G.G. Gadamer, N.A. Gredeskula, I. Gryazin, N.D. Durmanov, Yu.Kh. Kalmykov, J. Carbonnier, V.N. Kartashov, A.P. Korenev, N.M. Korkunov, V.V. Lazarev, K. Larenz, P.I. Lyublinsky, N.M. Minasyan, S.A. Muromtsev, A.V. Naumov, E.A. Pevtsova, A.S. Pigolkin, F. Regelsberger, I. Sabo, A.B. Spasov, N.Ya. Sokolov, Yu.G. Tkachenko, I.E. Farber, T.Ya. Khabrieva, A.F. Cherdantsev, G.F. Shershenevich, A.S. Shlyapochnikov, G.G. Shmeleva, L.S. Yavich and other scientists.

The dissertation research by E.N. Atarshchikova, E.V. Berezovskaya, Yu.Yu. Vashchenko, Yu.A. Gavrilova, V.E. Godik, T.V. Gubaeva, A.G. Manukyan, S.G. Pishina, O.M. Smirnova, N.N. Khabibullina and other authors extensively explore the features of legal interpretation. However, a noticeable gap exists as there is a lack of sufficient work addressing common interpretations in the digital

world. Many scholars assert that this form of interpretation is practiced by a vast majority of the population, especially those lacking legal expertise, given that the number of non-lawyers significantly surpasses that of jurists engaged in professional interpretation.

To illustrate this point, let's consider an example. Article 7 of the Federal Law "On the Federal Budget for 2023 and for the Planning Period of 2024 and 2025"<sup>1</sup> provides data on the number of judges in Russia in 2023. According to the law, there were 25,483 judges of federal courts of general jurisdiction, 4,493 judges of federal arbitration courts, 11 judges of the Constitutional Court of the Russian Federation, and 170 judges of the Supreme Court of the Russian Federation. Contrastingly, according to Rosstat of Russia, the population of the Russian Federation as of January 1, 2023, stood at 146,447,424 people. Therefore, basic calculations reveal that at the federal level, only 30,157 people, equivalent to 0.20% of the total population of Russia, have the right to judicial interpretation. Notably, in practice, this percentage of individuals with rights to judicial interpretation is even lower. This reduction is because the calculation does not account for the actual number of judges, such as the instance where, from September 1 to September 25, 2023, there were not 11 judges in the Constitutional Court of the Russian Federation but only 10 judges.

Simultaneously, many researchers argue that potentially 100% of the population is capable of engaging in ordinary interpretation.

As the world undergoes transformations and new technologies emerge, the populace's worldview evolves, thereby altering their perception of the tangible and virtual realities surrounding them. The omnipresence of Big Data processing, the digital world, and digital reality is no longer a futuristic concept but an integral part of our present, indispensable to contemporary life. In addition, the proliferation of digital technologies and the expansion of payment infrastructure are undeniable trends.

On August 1, 2023, the key provisions of laws that lay the legal foundation for commencing transactions with the digital ruble came into effect. These laws include the Federal Law of July 24, 2023 No. 340-FZ "On Amendments to Certain Legislative Acts of the Russian Federation"<sup>2</sup> and Federal Law of July 24, 2023 No. 339-FZ "On Amendments to Articles 128 and 140 of Part One, Part Two and Articles 1128 and 1174 of Part Three of the Civil Code of the Russian

<sup>1</sup> Federal Law of December 5, 2022 No. 466-FZ "On the Federal Budget for 2023 and for the Planning Period of 2024 and 2025", Rossiyskaya gazeta, December 8 (2022).

<sup>2</sup> Federal Law of July 24, 2023 No. 340-FZ "On Amendments to Certain Legislative Acts of the Russian Federation", Rossiyskaya Gazeta, July 31 (2023).

Federation”<sup>3</sup>. The adoption and evolution of these laws, notably bill No. 270838-8, sparked various discussions, including during the State Duma’s consideration of the bills in their original form.

Numerous legal practitioners raised concerns during discussions. They highlighted the ambiguity surrounding the regulation of accounting procedures for digital rubles, emphasizing that since the accounts for digital rubles are not considered bank accounts and the bill does not define the procedure for their accounting, the regulatory framework remains unclear. Moreover, as Bill No. 270838-8 only stipulated the conclusion of an agreement determining access to digital accounts, questions arose about the basis for opening these accounts, the nature of the civil law agreement, and the specific terms of such agreements between users and the digital ruble platform operator. Furthermore, legal practitioners emphasize the legislative need for clearer definitions of concepts such as “money”, “cash”, “digital money”, “payment instruments”, “digital currency,” and “electronic money” [1].

However, there was a noticeable absence of discussion on legislative provisions regarding the digital ruble by individuals without legal education, as evidenced by data from the portal “regulation.gov.ru”<sup>4</sup> portal.

Notably, the introduction of the digital ruble holds implications for the future of all citizens and individuals in the Russian Federation. The commencement of its widespread circulation is expected to commence in 2025, with a gradual and staged mass adoption of the digital ruble over several years. According to the Bank of Russia, by 2025–2027, all citizens will have the capability to open digital wallets, receive digital rubles, and actively utilize them.

Regarding research in the field of the digital ruble and its practical application, it is essential to note that no comprehensive scientific study has been conducted on this subject. Understanding the digital ruble is still in its early stages, given its recent emergence.

In this context, it is worth mentioning Ph.D. theses that have touched on related subjects, such as F.P. Orlov’s “Prospects for Developing the International Digital Currency Market” (2022), P.A. Prokhorov’s “Statistical Study of the Development of the Digital Economy in the Russian Federation” (2022), M.A. Yakovleva “Development of the system of currency regulation and currency control in

Russia in the digital economy” (2021), and the Ph. D. doctoral thesis of V.V. Pshenichkov, titled “Evolution of forms and types of money from natural exchange to digital transactions” (2023).

From the perspective of common understanding and clarification, addressing the future implementation and use of the digital ruble necessitates explaining its ordinary interpretation and understanding. Notably, what measures the state should take to assist everyone in legally navigating the rules governing the digital ruble. Without such measures, individuals without legal training may struggle to understand digital advancement, potentially resulting in the failure of innovations in this domain.

## MAIN PART

The term “ruble” was first mentioned in Novgorod documents of the 13<sup>th</sup> century, donating the equivalent value of the Novgorod hryvnia — a two-hundred-gram “stick” crafted from silver. Over the subsequent centuries, the ruble evolved into a fully recognized monetary unit.

As time elapsed, the ruble ingrained itself as an integral component of daily life, accompanying individuals through their routine daily activities. The advent of digital relations in the 21<sup>st</sup> century has given rise to a new term — the “digital ruble”. Notably, on August 3, 2023, the Board of Directors of the Bank of Russia established transaction tariffs for dealings involving digital rubles and approved the logo for the national digital currency, the digital ruble. The Bank of Russia developed the Concept of the digital ruble, delineating its key advantages and regulating the stages of project implementation. The digital ruble is set to be issued by the Bank of Russia as the “third form of Russian currency”.

Corresponding changes were made to the federal legislation.

In particular, Article 140 of the Civil Code of the Russian Federation<sup>5</sup> “money (currency)” states the following:

1. The ruble is established as a legal tender, mandated for acceptance at face value throughout the entire Russian Federation.

2. Payments within the borders of the Russian Federation are made by cash and noncash payments, including digital rubles.

Practical experience has revealed changes for individuals unfamiliar with the concept of the digital ruble. For the ordinary person, understanding the various forms of Russian currency, their distinctions, the role of the digital ruble concerning noncash payment, and how it differs from online transactions and cryptocurrency can be complex.

<sup>3</sup> Federal Law of July 24, 2023 No. 339-FZ “On Amendments to Articles 128 and 140 of Part One, Part Two and Articles 1128 and 1174 of Part Three of the Civil Code of the Russian Federation”, Rossiyskaya Gazette, July 31 (2023).

<sup>4</sup> The official website for posting information on the preparation by federal executive authorities of draft regulatory legal acts and the results of their public discussion. URL: <https://regulation.gov.ru/Regulation/Npa/PublicView?npaID=139958#> (access date 09/18/2023).

<sup>5</sup> Civil Code of the Russian Federation (part one) dated November 30, 1994 No. 51-FZ, Rossiyskaya Gazette, December 8 (1994).

These uncertainties commonly lead to misunderstanding among a significant portion of the population.

The common interpretation of the digital ruble has proven even more complex for older people less acquainted with digital formats. Citizens with more proficiency in new digital technologies have tried to understand this structure through independent study of the regulations. The study identified several challenges faced by those attempting to understand and explain the digital ruble at the level of common interpretation. The study showed several aspects.

The Constitution of the Russian Federation<sup>6</sup>, adopted in 1993 with the latest amendments on October 6, 2022, including direct modification to Article 75 in 2020, currently lacks specific provisions addressing the digital ruble. Therefore, from the perspective of ordinary interpretation, there is some ambiguity regarding whether the ruble and the digital ruble are identical concepts, whether they are interconnected as a whole or parts, or if they are completely different phenomena warranting separate legal regulation and enforcement.

The sovereignty of a country depends on the certainty of the main currency of the state (in connection with this, the construction of "currency sovereignty" is also emphasized). As indicated by M.O. Dyakonova, A.A. Efremov, and O.A. Zaytsev and others stated that "legal tender should be considered as the result of the implementation of the monetary (currency) sovereignty of the state and the product of the process of money emission performed by an authorized body on behalf of the state" [2].

Let us try to comprehend how the introduction of the digital ruble in Russia is understood from the viewpoint of common interpretation.

It is worth noting that the term "interpretation" refers to activities involving understanding legal norms (aimed at oneself, for oneself) and clarifying legal norms (that is, activities aimed at communicating with individuals to whom legal norms are explained).

Interpretation is classified in legal theory by type. Unofficial interpretation and clarification are performed by nongovernmental bodies and organizations, various scientific and educational institutions, groups of legal specialists, and individuals. It is expressed in the form of oral or written advice, explanations, and recommendations. Such acts are not binding and do not entail any legal consequences. Consequently, moral strength and influence are based on the professional authority of citizens, institutions, and organizations that explain the content of certain norms or

individual regulatory legal acts. For our research, attention should be paid to the classification of interpretation depending on the legal entities. In this regard, professional interpretation is distinguished. It is made by lawyers with relevant legal competencies. The doctrinal (scientific) interpretation is especially emphasized. It is expressed in comments on current legislation, books, lectures, brochures, and scientific articles prepared by legal experts.

Among the various types of unofficial interpretation, ordinary interpretation is distinguished, performed by citizens in their daily lives, informally, and professional (competent) interpretation, performed by specialists in the field of state and law (judges, lawyers, etc.) in the process of their daily activities.

Experience shows that ordinary interpretation has, from the outset, been deemed less significant for legal life, a misconception. The subjects of ordinary interpretation are ordinary people living in the state, and the condition of legitimacy and public order in the country largely depends on their behavior. Therefore, in the context of the digitalization of public relations, it is essential to address the issues of understanding legal provisions by ordinary people and to explain complex norms, legal phenomena, and processes to them. Such explanatory support will help to improve the legal culture and literacy of the population.

However, a question arises concerning the subject composition of those who can give an ordinary interpretation. Research in the field of legal theory indicates ambiguous opinions on who can bear the right to ordinary interpretation.

Most legal practitioners believe that ordinary interpretation is performed by "nonlawyers", namely ordinary citizens without a legal education, who do not receive a law degree or work in the field of law.

However, there is another position. D.Kh. Khafizov argues that ordinary interpretation can be made by any subject of law, regardless of having a legal education. For example, a lawyer in the field of criminal law can have a rather superficial understanding of certain aspects of civil law and give an ordinary, common interpretation concerning certain norms of the Civil Code of the Russian Federation. In addition, according to several researchers, age is also an important factor influencing the reasonability of asserting that the interpretation, given by even a lawyer, can be ordinary and unprofessional. For example, a practicing lawyer who retired and had not worked in the field of law for a long time read the Decree of the President of the Russian Federation in the newspaper and verbally presented to his neighbor his interpretation of the provisions of such a normative act. In addition, some researchers believe that an important factor in understanding professional and common interpretation can be the state of health, especially the mental health of an individual. For example, diseases such as dementia,

<sup>6</sup> Constitution of the Russian Federation (adopted by popular vote on 12/12/1993 with amendments approved during the all-Russian vote on 07/01/2020). The official text of the Constitution of the Russian Federation, including the reunified constituent entities of the Russian Federation, the Donetsk People's Republic, the Lugansk People's Republic, the Zaporozhye region, and the Kherson region. URL: <http://www.pravo.gov.ru> (access date 10/06/2022).



Alzheimer's disease, schizophrenia, and others can cause the interpretation given by an individual with such disorders to appear ordinary (or otherwise special).

A reasonable question arises that any interpretation of a legal norm given by lawyers is professional and that given by a "non-professional lawyer" is ordinary. How then can we understand the degree of professionalism of a lawyer? Who has the right to question the level of competence of a lawyer when interpreting a legal norm? And what about lawyers who "seem" to be professionals but have a superficial understanding of the laws? In addition to this, probably the main issue arises: if I am a lawyer, then I can no longer perform ordinary interpretation; that is, I automatically lose the right to ordinary interpretation. If this is a right, then from what moment do I acquire it, under what conditions do I "lose" this right, and under what conditions can I "regain" this right (as mentioned above, in the case of, for example, certain diseases)?

### Can there be a "right to exercise ordinary interpretation"?

Therefore, let us assume that we can distinguish such a right as "the right to exercise ordinary interpretation". We will try to confirm or refute this thesis.

Notably, the Constitutional Court of the Russian Federation interprets the Constitution of the Russian Federation at the request of the President of the Russian Federation, the Federation Council, the State Duma, the Government of the Russian Federation, and the legislative authorities of the constituent entities of the Russian Federation (Part 1 of Article 105 of the Federal Constitutional Law "On the Constitutional Court" Russian Federation<sup>7</sup>). Concurrently, according to Article 106 of the Constitution of the Russian Federation, the interpretation of the Constitution by the Constitutional Court of the Russian Federation is official and binding for all representative, executive, and judicial bodies of state power, local governments, enterprises, institutions, organizations, officials, citizens, and their associations. That is, the interpretation given by the Constitutional Court of the Russian Federation is its authority. As indicated in the explanatory dictionary by D.N. Ushakov, "authority is power or right given to someone". According to Lazarev and Karapetina, "authority should be understood as the right and (or) responsibility in a certain field, including decision-making". Therefore, based on logical conclusions, if authority is a right and obligation, we can conclude that the authority of the Constitutional Court to interpret the Constitution of the Russian Federation can be regarded, among other things, as such a right of

the Constitutional Court. Note that in this case, such a right will be constitutionally enshrined.

It is worth assuming that if, in particular, there is a constitutional right to interpret laws that belong to a specific subject by force of law, then there may also be a right to perform unofficial interpretation. Therefore, the question arises whether *any individual has the right to perform an ordinary interpretation of the Constitution of the Russian Federation*.

The answer to this question can be traced to the Constitution of the Russian Federation, as stated in Part 1 of Article 55 of the Constitution: "The enumeration in the Constitution of the Russian Federation of fundamental rights and freedoms should not be interpreted as a denial or derogation of other generally recognized rights and freedoms of a man and citizen". This provision not only guarantees the presence of rights and freedoms not mentioned in the text of the Constitution of the Russian Federation but also enables, based on grammatical interpretation, to conclude that the enshrinement of rights and freedoms in the Constitution of the Russian Federation can be interpreted (considering the features presented in Part 1 Article 55 of the Constitution of the Russian Federation). However, the entities that can perform such interpretations are not named in this article. However, we conclude that the right to ordinary interpretation also originates from Article 29 of the Constitution of the Russian Federation, according to which "everyone is guaranteed freedom of thought and speech" (Part 1); "everyone has the right to seek freely, receive, transmit, produce, and disseminate information in any legal manner" (Part 4).

Therefore, we found that there is a *right to exercise ordinary interpretation that corresponds to the constitutionally guaranteed freedom of thought and speech*.

Thus, we try to figure out who *bears this right and what its limits are*. We believe that it is worth considering two positions: 1) this right belongs to everyone and 2) it belongs to certain persons.

We attempt to analyze each of these theses.

1. If we assume that everyone can perform ordinary interpretation, then this means that any court can perform ordinary interpretation, which cannot be true because, as we have already revealed, the Constitutional Court of the Russian Federation has the authority to perform official interpretation, and if it performs an ordinary interpretation, it will contradict its nature.

2. This means that not everyone can perform ordinary interpretation. Thus, who can perform ordinary interpretation?

From the course of social studies and law, everyone knows examples of such unofficial interpretations, such as the discussion by retired old ladies sitting on a bench of a legislative increase in pensions or the discussion of labor

<sup>7</sup> Federal Constitutional Law of July 21, 1994 No. 1-FKZ "On the Constitutional Court of the Russian Federation", Rossiyskaya Gazette, July 23 (1994).

standards by mechanics at a factory. Undoubtedly, these are examples of ordinary interpretation performed by subjects of law, such as individuals without legal education. However, in terms of the interpretation given by lawyers, *can it be considered ordinary?*

Let us assume that in the law office “Horns, Hooves and Tail” there are two girls, M. and Z., who are legal consultants, discussing Article 2072 of the Criminal Code of the Russian Federation during lunch<sup>8</sup>, which is the topic of a scientific paper by their friend. Moreover, both of these girls specialize in private law and do not even remember the essence of this article of the Criminal Code of the Russian Federation; they express their positions only based on the ideas described by their friends during the meeting. Will the interpretation given by Z and M be professional or common?

To answer the above question, it is necessary to understand the *difference between professional and common interpretations*. Therefore, both of these interpretations are varieties of unofficial interpretations. However, we believe that *the main criterion here is precisely the subject who performs such interpretation; the ordinary interpretation is given by a nonlawyer, the doctrinal interpretation is given by a scientist, and the professional interpretation is given by a lawyer*. We believe that this is the main criterion for distinguishing ordinary interpretation from other types of interpretation.

Thus, according to R.B. Gandaloev [3], a distinctive characteristic of ordinary interpretation is that it is most often performed in everyday life, in an informal setting. In this regard, the situation under consideration about M. and Z. commenting on the article of the Criminal Code of the Russian Federation at lunch should be regarded as the implementation of an ordinary interpretation, since, first, an informal atmosphere is assumed during the lunch break, and second, the girls are not very competent in this norm of the Criminal Code of the Russian Federation.

However, we believe that this is not the case, as neither the situation nor age, state of health, the situation in the country and abroad, and the weather, nothing else except that a person (a lawyer or a non-lawyer) distinguishes common interpretation from a professional.

As noted by G.M. Davidyan [4], if in the Soviet period, the main regulator of lawyers (judges, litigators, prosecutors, investigators, etc.) was ideology, then in the 21<sup>st</sup> century, the adoption of the so-called “Codes of Ethics for Lawyers” (the Code of Professional Ethics for Litigators<sup>9</sup>; and the Code

of Judicial Ethics<sup>10</sup>; the Code of Ethics for Prosecutors of the Russian Federation<sup>11</sup>; the Code of Professional Ethics for Notaries in the Russian Federation<sup>12</sup>) had an important impact on the work of lawyers. These codes of ethics establish the presumption of sufficient knowledge and competence, which are associated with a basic system of knowledge in the field of law. A person who has received a legal education can study the law, compare it with practice, find the necessary related norms, and therefore understand even those legislative provisions that he/she does not use in their professional activities. However, a lawyer must practice legal activities with due care, competence, fidelity, and diligence.

We believe that concerning the specified activities of lawyers, an analogy can be drawn with the provision of first aid to a person in a life-threatening or health-threatening condition. The doctor is obliged to act according to the rules of the Code of Professional Ethics for Doctors of the Russian Federation (“... a doctor of any specialty who finds himself next to a person outside a medical institution, and who is in a life-threatening condition, must provide him/her with possible assistance or be sure that he/she will receive it”), and Article 71 of Federal Law No. 323-FZ “On the Fundamentals of Protecting the Health of Citizens in the Russian Federation”<sup>13</sup> (“... I swear <...> to be always ready to provide medical assistance”). Just as there are certain limitations in legal regulation regarding the relevant medical practice, there are also some debatable aspects regarding the understanding of professional interpretation given by a lawyer. However, we believe that because in the Russian Federation, a lawyer is recognized as a person who has received a secondary vocational or higher legal education, anyone who has the appropriate education can perform professional interpretation.

The concept of “lawyer” unites all people engaged in diverse professional legal activities, namely judges, prosecutors, investigators, litigators, notaries, lawyers in organizations, and lawyers engaged in private practice.

Thus, in our opinion, there is a right to ordinary interpretation. This right follows the provisions of the Constitution of the Russian Federation and originates from the freedom of thought and speech. The limitation of this right is that every person does not have a legal education. This right is absolute and cannot be limited under any circumstances.

<sup>10</sup> Approved by the VIII All-Russian Congress of Judges on December 19, 2012.

<sup>11</sup> Approved by the Order of the Prosecutor General of Russia dated March 17, 2010 No. 114.

<sup>12</sup> Approved by the Ministry of Justice of Russia on August 12, 2019.

<sup>13</sup> Federal Law of November 21, 2011 No. 323-FZ “On the Fundamentals of Protecting the Health of Citizens in the Russian Federation”, Rossiyskaya Gazette, November 23 (2011).

<sup>8</sup> Criminal Code of the Russian Federation dated June 13, 1996, No. 63-FZ, Collection of Legislation of the Russian Federation, June 17, 1996, No. 25, Art. 2954.

<sup>9</sup> Adopted by the First All-Russian Congress of Lawyers on January 31, 2003.

## Ordinary interpretation of the “digital ruble” structure

To identify the peculiarities of the common interpretation of such a concept as “digital ruble”, we review the results of a telephone survey of citizens conducted by the All-Russian Public Opinion Research Center<sup>14</sup>.

According to the survey results, more than half (51%) of the respondents did not understand the intention of the digital ruble and why it was legislated. When choosing options for introducing a digital ruble, 22% of respondents agreed that it was necessary to ensure transparency and security of monetary transactions, while 8% of respondents believed that the digital ruble was introduced to reduce the cost of printing banknotes, develop the Russian economy, and integrate it into the world economy.

Simultaneously, some respondents negatively assessed the introduction of the digital ruble, pointing out that it is deception (3%), control and imposture of the population (2% each), and digital slavery (1%).

It is worth noting that 1,600 Russians over the age of 18 took part in the telephone survey conducted by the All-Russian Public Opinion Research Center<sup>15</sup>.

We believe that such a survey can be classified as a sociological survey, which enables us to determine the opinions of any citizens and identify the level of legal culture of the population.

At the same time, such a survey cannot be considered an example of ordinary interpretation. First, despite assessing the level of education, the All-Russian Public Opinion Research Center did not reveal the specialty received or the direction of training; that is, it surveyed lawyers as well. Second, the survey did not require respondents to provide a detailed answer. Third, the interpretation of the norms as such was not performed, because 30% of respondents had not heard anything about the digital ruble. We can conclude that they did not even assume that there were any mentions of it in the law.

Thus, *we attempted to independently analyze how the “digital ruble” is understood within the framework of common interpretation.*

There were 167 respondents. The sampling was performed considering several factors:

- specialties (professions) and education (medical, pedagogical, artistic, sports, engineering);
- various ages (in particular, 57 people were 18–25 years old; 49 people were 26–45 years old; 40 people were 47–65 years old; 21 people were over 66 years old). 80 women and 87 men participated in the study.

The main criterion for selecting respondents was their lack of legal education and any special knowledge and skills in the field of jurisprudence.

We interviewed the population in four stages.

At *Stage 1*, respondents were asked to take a short test, each question of which was expected to give a one-word answer (Yes/No). We asked the following questions of the respondents (as shown in Table 1).

The study showed that 26% of respondents had heard about the digital ruble.

According to 38% of respondents, the digital ruble is no different from the usual “cash”, banknote ruble, or perhaps, it would be even more accurate to say “coin” ruble (we used the term “coin”, since one ruble is issued in the form of a coin).

It is worth noting that the introduction of coins into monetary circulation served as the creation of a modern system of monetary relations.

The Italian banker of the 16<sup>th</sup> century, G. Scaruffi, the author of works on the theory of money, wrote that “money is a minted piece of metal” [8]. Thus, indeed, various “forms of money” are known in history, including metal coins (now there are also, for example, one ruble, two-, five- and ten-ruble coins in circulation), as well as banknote money. At a certain point, they also began to be called fiat (from the Latin “fiat” as “decree, the instruction”, “so be it”) or fiduciary (from the Latin “fiducia” as “trust”). They are issued by the state, and their value is based on trust in the state [5].

Interestingly, L.L. Arzumanov proposes defining noncash funds through the concept of “information”. Because, in her opinion, they provide information, in particular, about cost [6].

73% of respondents answered that the digital ruble is an independent monetary unit, which contradicts Article 27 of the Federal Law “On the Central Bank of the Russian Federation (Bank of Russia)”<sup>16</sup>, which states that “the official monetary unit (currency) of the Russian Federation is the ruble and establishes a ban on the introduction of other monetary units on the territory of the Russian Federation and the issuance of monetary surrogates”.

More than half of the respondents believe that the digital ruble and cryptocurrency are equivalent concepts, which is justified by the noncash forms of each of these phenomena.

However, as A.V. Turbanov correctly notes the key differences between the digital ruble and cryptocurrency are as follows:

1) it is issued exclusively by the Central Bank of the Russian Federation (Bank of Russia) as a competent body authorized by the state;

2) it is an obligation of the Bank of Russia [2].

<sup>14</sup> Russian Public Opinion Research Center website. URL: <https://www.wciom.ru/analytical-reviews/analiticheskii-obzor/vstrechaem-cifrovoy-rubl> (access date 09/18/2023).

<sup>15</sup> Ibid.

<sup>16</sup> Federal Law of July 10, 2002 No. 86-FZ “On the Central Bank of the Russian Federation (Bank of Russia)”, Rossiyskaya Gazette, July 13 (2002).



**Table 1.** Questions for the questionnaire

Have you ever heard of the digital ruble?	Yes	No
In your opinion, is the digital ruble different from the regular ruble?	Yes	No
Is the digital ruble an independent monetary unit?	Yes	No
In your opinion, is there a digital kopeck (by analogy with the provision of Article 27 of Federal Law No. 86-FZ "On the Central Bank of the Russian Federation (Bank of Russia)" dated July 10, 2002: The official monetary unit (currency) of the Russian Federation is the ruble. One ruble consists of 100 kopecks)?	Yes	No
Is digital ruble different from cryptocurrency?	Yes	No
Do digital ruble transfers differ in any way from transfers via the Prompt Payment System (PPS)?	Yes	No
Can digital rubles held in digital wallets be used as savings by opening a deposit?	Yes	No
Does the introduction of the digital ruble contradict the Constitution of the Russian Federation?	Yes	No

Notably, the first public mention of the use of DigiCash cryptocurrency was dated May 27, 1994<sup>17</sup>.

However, on January 3, 2009, the first Bitcoin block was generated<sup>18</sup>.

M.A. Portnoy, using Bitcoin's example, makes convincing arguments indicating that cryptocurrency is not money by stating that "A sign that Bitcoin is not money is that it has no intrinsic value and is not a liability. This product is neither trade nor credit money. Moreover, "bitching" cannot fully exist without real money. <...> "Bitcoin", he concludes, "is not money, but a kind of token through which payments can be made within a closed system" [7].

According to the Chairman of the Bank of Russia, E.S. Nabiullina, cryptocurrency refers to digital financial assets and is a money surrogate<sup>19</sup>.

## International experience

International experience demonstrates that the legal regulation of cryptocurrency is similar to Russia.

On January 1, 2020, amendments to the legislation<sup>20</sup> were enacted in Germany, aligning with the implementation of the requirements outlined in the 5<sup>th</sup> EU Directive on money laundering control. Notably, in Germany, these changes ushered in a classification of crypto assets as an independent category of "financial instrument", making a significant shift in their legal status. This redefinition was a result of the newly introduced amendments to the German Banking

Act (Kreditwesengesetz, KWG). According to the changes, banks have the right to store bitching and other crypto assets (which is understood as a digital value that is not issued or guaranteed by the Central Bank, does not have the legal status of currency or money, but is a means of payment, transferred, stored, and traded in electronic form)<sup>21</sup>.

In Japan, amendments have been in force to the legislation regulating banking activities since 2017, and to the Payment Services Act, according to which Bitcoin and other cryptocurrencies were recognized as a possible method of payment in the country, although only under goods and services or property sold through electronic sales. In 2019, the Bank of Japan stated that digital information technologies could expand the capabilities of money in the future.

China is an "advanced user of the digital yuan", and many Caribbean countries also use their digital currency [8].

## Poll results

A significant number of respondents believe that digital ruble transfers will be similar to transfers through the Faster Payments System. Concurrently, one can transfer no more than 100 thousand rubles per month for free using the Faster Payment System (FPS). For a larger amount, the commission is 0.5%, but not more than 1.5 thousand rubles. Outside the FPS, commissions are higher. The commission for digital ruble transfer between legal entities will be 15 rubles per transaction. The tariff for receiving payments in digital rubles by legal entities is set at 0.3% of the payment amount, within a maximum cap of 1.5 thousand rubles. The tariff for companies providing housing and utility services is set at 0.2% (but not more than 10 rubles). This approach is significantly lower than the acquisition tariff, which ranges from 1.5% to 3%. Moreover, until January 1, 2025, all transactions with

<sup>17</sup> M.O. Dyakonova, A.A. Efremov, O.A. Zaitsev et al., *Digital Economy: Current Directions of Legal Regulation: Scientific and Practical Guide*, edited by I.I. Kucherov and S.A. Sinitsyn, IZiSP, NORMA, Moscow (2022).

<sup>18</sup> Website "Bitcoin as financial revolution". URL: <https://bitcoin-course.info/istoriya-bitkoina-s-samogo-nachala/> (access date 09/18/2023).

<sup>19</sup> Website "Lenta.Ru". URL: <https://lenta.ru/news/2021/06/15/bitokk/> (access date 09/18/2023).

<sup>20</sup> Website "DigiCash's Ecash to be Issued by Deutsche Bank" URL: <https://chaum.com/ecash/> (access date 09/18/2023).

<sup>21</sup> Website of the German Bundestag. URL: <http://dipbt.bundestag.de/extrakt/ba/WP19/2517/251728.html> (access date 09/18/2023).

digital rubles on the Bank of Russia platform will be performed free of charge.

Thus, approximately 59% of respondents gave an affirmative answer that it would be possible to open a deposit using digital rubles on a digital wallet. However, it is not. Interest will not accrue on funds located in digital wallets (as on deposits). Accordingly, funds will not be protected from inflation. This makes it impossible to use the digital ruble as a store of value.

As shown in our survey, some respondents (39%) even doubted the legality of the introduction of the digital ruble. This can be explained by the fact that the respondents were based on the postulate that, following Article 75 of the Constitution of the Russian Federation, the monetary unit in the Russian Federation is the ruble, and the provisions of this article, according to which money issuance is performed exclusively by the Central Bank of the Russian Federation; the introduction and issue of other money in the Russian Federation is not allowed; and protecting and ensuring the stability of the ruble is the main function of the Central Bank of the Russian Federation, performed by it independently of other government bodies.

Thus, the Constitution of the Russian Federation does not mention the digital ruble. At the same time, the Constitution of the Russian Federation contains basic provisions regarding the legal regulation of the ruble, such as consolidating the introduction of the authority to establish the legal foundations of a single currency market (cl. "g" of Article 71 of the Constitution of the Russian Federation); ensuring a single economic space, free movement of goods, services, and financial resources in this space, and supporting competition and freedom of citizens in economic activity (Article 8 of the Constitution of the Russian Federation).

At *Stage 2 of interviewing*, we asked respondents to tell us independently what they understood by the term "digital ruble," when, in their opinion, it was created, and what features it has.

Respondents noted that the digital ruble is a unique digital code that is stored in an electronic wallet on a special platform of the Bank of Russia.

We then asked for comments on the answers to the test and why these particular answers were chosen.

At *Stage 3*, respondents were given sheets with the following text:

"Federal Law of June 27, 2011 No. 161-FZ "On the National Payment System"<sup>22</sup>. (Article 3: "digital ruble platform is an information system through which, in accordance with the rules of the digital ruble platform, the operator of the digital ruble platform, participants of

the digital ruble platform, and users of the digital ruble platform interact to perform transactions with digital rubles; rules of the digital ruble platform are regulations of the Bank of Russia, establishing the conditions for access to the digital ruble platform and containing other provisions provided for by this Federal Law; user of the digital ruble platform is an individual, legal entity, or individual entrepreneurs with access to the digital ruble platform for the purpose of transactions with digital rubles; a participant in the digital ruble platform is a money transfer operator (except for the Bank of Russia) or a foreign bank providing users of the digital ruble platform with access to the digital ruble platform for the purpose of making operations with digital rubles").

After reading this text, respondents were asked to independently present their interpretation of the provisions of this law (orally).

Interestingly, the majority 84% could not remember the name of the law, 12% noted that the definitions of concepts are being enshrined, 8% of respondents indicated "We are talking about some kind of platform", and a clarifying question about whether this means that digital the ruble will be in electronic format, persons (93%) over the age of 66 indicated that "apparently, not in electronic format if there is some kind of platform, they come/stand up there and pay".

At *Stage 4*, respondents were told that the digital ruble is a type of noncash fund (Article 128 of the Civil Code of the Russian Federation). They can only be used for transfers on a special platform of the Bank of Russia (cl. 4 of Article 861 of the Civil Code of the Russian Federation and articles 82.10 and 82.11 of the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)"<sup>23</sup>).

The rules of the platform are established in the Provision of the Bank of Russia "On the Digital Ruble Platform"<sup>24</sup>. They are posted on its website (Part 1, 4, Article 30.7 of the Law on the National Payment System).

Users of the platform can be individuals, legal entities, or individual entrepreneurs (cl. 40 of Article 3 of the Law on the National Payment System, cl. 2.5 of the Bank of Russia Provision "On the Digital Ruble Platform"). Until December 31, 2024, the community of platform users who have the right to perform transactions with digital rubles, the list of types of transactions, and threshold values of transaction amounts will be determined by the Board of Directors of the Bank of Russia in agreement with Rosfinmonitoring (cl. 4 of Art. 8 of Law No. 340-FZ).

Access to the platform is provided to users identified under cl. 1 of Art. 7 of the Law on Money Laundering Control, and those who received a certificate of an electronic signature

<sup>22</sup> Federal Law of June 27, 2011 No. 161-FZ "On the National Payment System", Rossiyskaya Gazette, June 30 (2011).

<sup>23</sup> Federal Law of July 10, 2002 No. 86-FZ "On the Central Bank of the Russian Federation (Bank of Russia)", Rossiyskaya Gazette, July 13 (2002).

<sup>24</sup> Provision of the Bank of Russia dated August 3, 2023 No. 820-P "On the Digital Ruble Platform", Vestnik Banka Rossii, No. 58, August 16 (2023).

verification key from a certification center. To open an account and perform transactions with digital rubles, individuals and entrepreneurs must be registered in the Unified Identification and Authentication System and receive a key for a simple electronic signature upon personal appearance (cl. 2.5, 2.6 of the Provision of the Bank of Russia "On the Digital Ruble Platform").

## RESEARCH RESULTS

Because of the analysis of the text of the Constitution of the Russian Federation, it was proposed to assert the constitutionality of the right to ordinary interpretation. This right follows Articles 29 and 55 of the Constitution of the Russian Federation and is a type of freedom of thought and speech. The bearer of this right is every person who does

not have a legal education. This right is absolute and cannot be limited under any circumstances.

The results of studying the common interpretation of the digital ruble revealed that many people do not quite correctly understand and interpret the norms that they have read on their own. This proves the need to increase the legal culture of citizens. We believe that it is necessary to pay attention to people from nonjuristic professions. Therefore, it seems appropriate to perform activities both at the federal level and at the level of the constituent entities of the Federation, namely, provide expanded free access to information systems with laws for people of all professions; conduct open lectures in the form of a "digest (review) of adopted laws for the week" on television, broadcast it on the Internet, and invite experts to production facilities to discuss laws that are related to the professional activities of the organization.

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