

ISMGE 2020**II International Scientific and Practical Conference "Individual and Society in the
Modern Geopolitical Environment"****ELEMENTS OF E-JUSTICE IN RUSSIAN CIVIL PROCEDURE:
REALITIES AND TRENDS**

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Abstract

In modern Russia elements of e-judiciary in civil proceedings are quite widely used in the regular court enterprises of general jurisdiction. Practicing of mentioned elements allows citizens to use IT at the stage of proceedings, for example, when imploding, receiving information about the progress of the case, any other proceeding; simplifies the commencement of an action at court and other proceedings. In this research the authors explore the trends in the e-judiciary development in civil actions, their attention is paid to the e-judiciary development in civil actions, to the realities of IT using in Russian regular court. There are some problems with e-judiciary practicing. They include: court administrators take a decision to reject the filing with e-judiciary that is restricted access of citizens to justice, employees' personalism in the court apparatus, which affects the progress of the case, paper duplication of electronic documents submitted to the court, spotty level of courts IT equipping in different Russian regions. The authors found another negative and positive aspects of e-judiciary in civil proceedings in civil proceedings, as well as prospects for the development of electronic proceedings in civil cases before the courts of general jurisdiction.

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1. Introduction

At present, it is an active process of informatization of society and public administration in Russia. Modern information technologies are used quite actively both in the activities of state authorities and in the interaction of citizens with these bodies and expand access to their proceedings (Anisimova et al, 2019). The usage of IT in doing justice is getting very pressing. These activities need to be improved because of problems related to the quality of justice, the duration of the proceedings, the lack of awareness of citizens about the activities of the judicial system, the poor functioning of the courts, the ineffective implementation of judicial acts, etc., especially in the large territory of the country and the instance of the courts. One of the relevant ways to solve these problems is to introduce elements of e-justice into the Russian judicial system. These elements are used to ensure full access of citizens to justice, maximum openness and accessibility of information on the activities of the courts, to simplify the execution of individual proceedings, to create maximum convenience for persons involved in the case, to improve the management of "paper" procedures, to obtain rather significant savings in resources (temporary, financial, human, etc.) spent on the conduct of proceedings.

2. Problem Statement

There are some problems with e-judiciary practicing. They include: court administrators take a decision to reject the filing with e-judiciary that is restricted access of citizens to justice, employees' personalism in the court apparatus, which affects the progress of the case, paper duplication of electronic documents submitted to the court, spotty level of courts IT equipping in different Russian regions. The authors found another negative and positive aspects of e-judiciary in civil proceedings in civil proceedings, as well as prospects for the development of electronic proceedings in civil cases before the courts of general jurisdiction.

3. Research Questions

In this research the authors explore the trends in the e-judiciary development in civil actions, their attention is paid to the e-judiciary development in civil actions, to the realities of IT using in Russian regular court.

4. Purpose of the Study

In connection with the fairly wide application of elements of e-justice in the civil proceedings of modern Russia, the purpose of this study is to study trends in the development of electronic proceedings and problems arising in the use of elements of e-justice.

5. Research Methods

In courts of law at the implementation of civil legal proceedings such elements of e-justice as are used, for example: submission of the statement of claim in court electronically; maintaining protocol of court session electronically; maintaining an electronic archive of lawsuits; the organization of an

electronic document management system in court and communication of court with other public authorities and other organizations, etc. Application of information technologies in the activity of the courts of general jurisdiction at the implementation of civil legal proceedings became common.

6. Findings

Recently, due to the development of information technologies, some elements of e-justice have entered into Russia's legal reality. Since January 2017, the provisions of the Civil Procedure Code of the Russian Federation have begun to provide for the wide use of information technologies in the activities of courts of general jurisdiction in the conduct of civil proceedings. So, there was an opportunity to file a lawsuit the statement of claim, the statement, the complaint, representation and other documents in electronic form. The list of written evidence has been expanded, and it has become possible to provide documents and materials received using the Internet information and telecommunication network, as well as documents signed by an electronic signature in accordance with the procedure established by the legislation of the Russian Federation, or performed in another way that allows authenticating the document. Submission of the claim, application in electronic form can be carried out by filling in the corresponding form posted on the official website of the court on the Internet. On the official websites of the courts, there was a section "Submission of procedural documents in electronic form," which is integrated into the service "Electronic justice" of the Internet portal of the State Automated System (SAS) "Justice". To submit documents to the court it is necessary to be registered on the Internet portal of SAS "Justice". When confirming the personal data of an individual, a user's office is automatically created on the court's website. Access to the specified office is carried out either by means of the enhanced qualified electronic signature of the user or by means of a confirmed account of the individual in the Unified Identification and Authentication System (UIAS). Documents filed with the court through the Internet can be filed both in the form of an electronic document signed by an electronic signature and in the form of a scanned document. The Court was able to draw up court orders in electronic form. The judge must certify the said orders with a reinforced qualified electronic signature. When the court order is executed in the form of an electronic document, a copy of the court order is additionally executed on paper. Citizens who participate in the case but are not present at the court hearing may be sent copies of the court decision at their request or with their consent by posting them on the official website of the court on the Internet in a section to which access is granted to the parties and other participants of the process. Copies of the court decision may be sent to State authorities, other bodies and organizations participating in the case, whose representatives were not present in the court session, by posting them on the official website of the court on the Internet in a restricted mode.

Examples of e-justice in civil legal proceedings include following elements: the organization of a video conferencing with the court; mailing of messages to participants of procedural activity; submission of the statement of claim in court electronically; the direction of the proofs requested by the court and also the documents brought into court by the persons promoting justice implementation (for example, translators, experts, specialists) electronically; maintaining protocol of court session electronically; maintaining an electronic archive of lawsuits; creation and support of the current state of the official

website of judicial authority; the organization of an electronic document management system in court and the communication of court with other public authorities and other organizations.

Since January 2017, citizens of Russia have been able to file claims with the courts of general jurisdiction in electronic form, to file and receive in electronic form other legally significant documents. Already in the first quarter of 2017 43.7 thousand applications in electronic form were submitted, in the second - 56.8 thousand, and in the third quarter - 74.8 thousand applications (Denisov, 2018). At present, the filing of claims in electronic form is quite demanded among the participants of the trial. The number of claims filed electronically in federal courts of general jurisdiction can be found in table 1 (FSBI IAC of the Judicial Department, 2019).

Table 1. Number of electronic claims filed with federal courts of general jurisdiction

Year	Claims in electronic form were received in federal courts of general jurisdiction (through SAS "Justice")
2017	283000
2018	695500
January 2019	21500

According to Lyubimova (2018), the elements of e-justice included in the legal reality allowed to reduce the time to appeal to the court, ensured in good faith conduct of participants of civil proceedings advanced is the closure of evidence; posting information on the progress of the case on the website of the court, made it possible for the participants of the trial at any convenient moment to learn about the date, time and place of the case, the commission of certain procedural actions, etc..

With the active use of elements of e-justice, Sharifullin et al. (2018) draw attention to the greater accessibility and openness of proceedings for citizens and organizations, as well as the possibilities of electronic document circulation, ensuring its convenience and efficiency for judges and court staff, allowing to speed up the execution of proceedings, the security of information bases of courts, saving time and human resources. According to Branovitskii (2018), electronic document circulation will reduce risks of loss of procedural documents.

When submitting documents in the electronic form to the court, they are reviewed by the employee of the court apparatus responsible for receiving documents, who must ensure that the documents received in the information system are available for reading, executed in accordance with the requirements of the current legislation, including the requirements for electronic signature. If the above conditions are met, the user shall be notified to the private office of the receipt by the court of the documents submitted in electronic form, which shall indicate the name of the application received to the court and the attached documents, the date and time of their receipt by the court. If the conditions are not met, the user is notified that the documents cannot be recognized as having been submitted to the court with the indication of the reasons.

Zabelina (2017) indicates the reasons why documents cannot be recognized as having come to court: the appeal to the court is not addressed to this court; an appeal to a court is identical to an earlier appeal; documents are unreadable; a document does not contain all pages; it is not possible to determine whether all pages are available; there is no electronic document in the file; no linked text; the file of the appeal to the court and (or) the files of the documents attached to it are presented in formats not provided

for by the current legislation; recourse to the court and (or) documents attached to it are not presented in separate files; the name of the files does not allow identification of the documents contained therein; the access file and (or) files of the attached documents and (or) data contained therein are not accessible for operation, in particular, protected from copying and (or) printing, contain interactive or multimedia elements, embedded scripts; the electronic signature requirements are not met; the case (proceeding) number specified by the user when submitting documents does not correspond to the case (proceeding) number specified in the appeal to the court; no document confirming the authority of the representative to present documents to the court is attached to the application to the court submitted by the representative; other requirements to electronic documents are violated (Zabelina, 2017). According to Valeev and Nuriev (2019), decisions taken by the authorized employee of the court apparatus on the rejection of applications in electronic form restrict access to justice and negatively affect the realization of the constitutional right to judicial protection.

Dzumatov (2018) indicates that any claim filed electronically may be left without movement if the staff member of the court does not, on his own initiative, print copies of the claim and written evidence in the required quantity to be sent to the participants in the civil proceedings.

In addition, employees of the court apparatus need to carry out electronic registration of applications, transmission, distribution, entry of information, etc., at the same time performing the same actions on paper, which is essentially double work for employees of the court apparatus (Suzdalova et al., 2017). Thus, with the introduction of electronic document circulation of functional duties, the employees of the court apparatus became not less, but more. Electronic document circulation, which was intended to facilitate the work, not only did not facilitate it but also to some extent made it more difficult.

Valeev and Bazilevskikh (2018) note that despite the use of electronic technologies, documents are still being printed and the traditional file of paper documents is still being formed, so it is impossible to talk about the complete informatization of the civil process in Russia.

From the point of view of Borisova and Afanasiev (2019), paper duplication of submitted electronic documents takes place and does not approach e-justice, in fact, this procedure is an accelerated submission of applications in the electronic form to the court via the Internet using the identification of the applicant.

Level of information hardware of vessels of different regions differs, quite often workers of the office of courts are insufficiently prepared, many participants of civil process are quite often not informed on opportunities of use of new information technologies and are limited to phone calls in court or address personally to the office of the court behind obtaining the interesting information.

Stepanov and Pechegin (2018) point to the need to unify the rules for filing claims, complaints and evidence in electronic form with various Russian courts.

For the citizens who do not have the corresponding education submission of documents in electronic form, for example, the proceeding kind indication, address type subpoenas a problem (the claim, the complaint, the statement, the petition, etc.). Socially vulnerable categories of citizens who, due to age, lack of technical capabilities, education, etc. are often unable to make full use of electronic technology in the administration of justice, have fewer opportunities to attract qualified lawyers, so it is more difficult for them to submit documents electronically to the court.

When the participants in civil proceedings apply or at the initiative of the court, their participation in the proceedings is possible through the use of videoconferencing systems. The need to use videoconferencing systems in obtaining explanations from participants in the civil process is due to the vast territory where settlements are usually far apart, as well as the presence of areas with low population density. The use of videoconferencing ensures the openness and accessibility of the court's activities. It should be noted that the system is not currently in place in every court of general jurisdiction. In addition, judges may deny the application for videoconferencing, citing, for example, the lack of technical capacity in the courthouse. The refusal of the courts is caused by the impossibility of holding a trial in a specific room, within working hours, taking into account the territorial distance of participants in the civil process and different time zones, a large number of cases. Another problem with using a video conferencing system may be a poor image and audio quality.

Golubtsov (2019) points out that it is unacceptable to refuse to accept electronic evidence in case of lack of technical equipment of the court for their reproduction in court session.

In the regular court of general jurisdiction when there is audio recordation during the civil proceedings. As Guseva and Solovieva (2015) mark out, records of judicial proceedings in a digital format on audio-and video carriers will allow providing the most informative protocols of court sessions as are fully capable to reflect all events which are taking place in the courtroom, to transfer behavior of participants of legal proceedings to the defining moments of the trial. If it is revealed that owing to technical failures recording with the use of means of an audio recording actually is not carried out, the court announces a break in court session. Participants of the civil process have the right to listen to an audio recording at any time, to submit notes on it and also to receive the copy of an audio recording.

Considering the prospects for further development of electronic proceedings in civil cases before the courts of general jurisdiction, in our opinion, it seems necessary to improve the information and telecommunication infrastructure of the unified information space of the courts of general jurisdiction, as well as to ensure its high level of accessibility, efficiency of interaction with citizens and organizations through the further development of the SAS "Justice"; raising awareness of the potential of information technology in the administration of justice; the establishment of mobile offices for judges via videoconferencing for visiting meetings in geographically remote locations; enhancing the use of mobile devices to access vessel information resources; creation of a service on the websites of ships to pay the state duty through electronic payment systems; cancellation of additional hard copy by the claimant of the claim and its annexes, if they have already been submitted electronically, reduction of hard copy of the documents provided.

By means of SMS messages, the participants of the proceedings may be informed of the place, date and time of the court session or the commission of individual proceedings. Notification by SMS message is carried out with the consent of the participant of the proceedings. SMS notification is a faster and faster way to notify the participants of the court proceedings, compared to a paper notification sent by mail. The use of SMS information of participants in court proceedings reduces the labor costs of employees of court apparatus, in addition, funds are not spent on postal services. SMS notifications are sent to the participants of the proceedings in accordance with the terms of notification of the participants

of the proceedings, with the expectation that the said persons have sufficient time to prepare for the case and to appear in court in a timely manner.

7. Conclusion

Some elements of e-justice entered the legal reality of modern Russia. In courts of law at the implementation of civil legal proceedings such elements of e-justice as are used, for example: submission of the statement of claim in court electronically; maintaining protocol of court session electronically; maintaining an electronic archive of lawsuits; the organization of an electronic document management system in court and the communication of court with other public authorities and other organizations, etc. Application of information technologies in activity of the courts of general jurisdiction at the implementation of civil legal proceedings became common.

The positive aspects of the application of the elements of e-justice in civil proceedings are the possibility for citizens to use information technologies at the stages of the judicial process, for example, when applying to the court, obtaining information on the movement of the case, carrying out individual proceedings; making information on the activities of courts of general jurisdiction more open and accessible to citizens; to facilitate the filing of claims in court, to facilitate the execution of individual proceedings, for example, the filing of complaints, the presentation of evidence in electronic form, the receipt of copies of documents, the introduction of case files; increased openness of the general courts through the use of video and audio monitoring systems for court proceedings.

Negative aspects of the application of elements of e-justice in civil proceedings are the practice of the authorized employee of the court to decide on the rejection of applications in electronic form, which restrict citizens' access to justice; the subjectivity of the employees of the court apparatus in making a decision when printing copies of the statement of claim, attached documents in the necessary quantity for sending to the participants of the civil process, affecting the movement of the case; paper duplication of electronic documents submitted to the court; different levels of information and technical equipment of vessels of different regions, as well as insufficient training of court staff; the problem of informing civil actors about the possibilities of using information technologies during the trial and providing them with advice.

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