European Proceedings of
Social and Behavioural Sciences
EpSBS

www.europeanproceedings.com
e-ISSN: 2357-1330

DOI: 10.15405/epsbs.2021.03.19

FETDE 2020
International Conference on Finance, Entrepreneurship and Technologies in Digital Economy

E-JUSTICE: THE STATE OF IMPLEMENTATION IN RUSSIAN FEDERATION

Tatyana Stanislavovna Korobeinikova (a)*
*Corresponding author

(a) Far-East Institute of Management, Branch of RANEPA, Russia, Khabarovsk, korts@rambler.ru

Abstract

Major judicialre form is being held in Russia. As a result of the reform the existing justice model must be modernized. Efficient functioning of the digital economy suggests the economic dispute resolution during the brief period of time with low expenses and with the opportunity to apply to the court any time from any point of the world. Getting such a result will allow the complete exercising right for juridical access, which nowadays is equal to the doctrine with a right to access to the court and to the right to receive available information about courts activity. Moreover, the main criterion for the effectiveness of e-justice should be the satisfaction of users of this system. The digital transformation of justice in Russia should take into account the achievements and existing problems in the management of e-justice in foreign countries. However, the implementation of information and communication technologies in judicial activity both entails serious advantages and raises a number of problematic issues for scientists and practitioners that require immediate resolution. Reforming the judicial system requires on the one hand the focused development of technological components for the implementation of many interrelated processes and, on the other hand, amendments in the regulatory framework that forms the basis for the functioning of the courts. In the article the author considers the specifics of the Russian e-justice system, analyzes the condition of e-justice abroad, discusses certain problems of implementation of this system in Russia, and suggests solutions.

Keywords: Informatization of justice, electronic justice, principles of the judicial system, the right to judicial protection

https://doi.org/10.15405/epsbs.2021.03.19
Corresponding Author: Tatyana Stanislavovna Korobeinikova
Selection and peer-review under responsibility of the Organizing Committee of the conference
eISSN: 2357-1330

1. Introduction

Electronic justice is one of the modern Russian state digitalization elements and the implementation of its functions by the authorities entrusted to it. The opportunity to talk about e-justice in the Russian Federation appeared in connection with the adoption of a number of legislative acts regulating the use of electronic documents in the activities of arbitration courts. Such mechanisms are aimed at ensuring the accessibility of the judiciary, its openness and transparency for citizens and organizations. Accessibility of justice is achieved through the implementation of electronic justice forms: obtaining information about the activities of the court and about a specific case in electronic form; technical and software litigation; electronic interaction of courts with public authorities.

As the authors correctly remark, e-justice is one of the priorities of the development of the judicial system, which ensures the quality of protection of the rights and legitimate interests of citizens and organizations, the speedy consideration of disputes, a high level of stability in society and helps to increase the effectiveness of the judicial system as a whole (Tokarev et al., 2019).

2. Relevance

The gradual transition to digital technology in the administration of justice has been one of the main areas of judicial reform for more than a year. The most recent global reflection of such tasks was found in the target program “Development of the Russian judicial system for 2013 – 2020”, approved by Russian Federation Government Decree dated December 27, 2012 N. 1406 (Targeted program “Development of the Russian judicial system for 2013 - 2020”…, 2012). One of the indicators of its effectiveness is the number of arbitration courts that implement the possibility of electronic interaction with society through the electronic justice system. The above-mentioned program also provides for the creation of conditions for electronic proceedings, in particular, simplification of the procedures for filing statements of claim, electronic complaints, obtaining copies of documents and getting acquainted with case materials, as well as organizing an incoming scan of all documents submitted to arbitration courts and the formation of electronic cases.

Modern reality dictates to the society, including within the framework of the courts, in which citizens and organizations apply for the protection of their rights and legitimate interests, a high pace of procedural actions, which is poorly combined with the document flow that has become customary for a long time. With an inexorable increase in the number of court cases under consideration, reality requires quick and high-quality decisions from the courts, in connection with which the situation when the deadlines are formally delayed, for example, due to the sending of documents by the postal service, which sometimes takes several weeks, is critical and not meets the interests of modern legal proceedings.

The issues related to e-justice have acquired particular importance at the present time, during the period of spreading of COVID-19.

https://doi.org/10.15405/epsbs.2021.03.19
Corresponding Author: Tatyana Stanislavovna Korobeinikova
Selection and peer-review under responsibility of the Organizing Committee of the conference
eISSN: 2357-1330

3. The content of the concept of “e-justice”

At present, the changes taking place both in the state and in the judicial system have made it necessary to determine the content of “online justice”.

According to the opinion of Anosov (2016) and Nesmeyanova (2019) e-justice represents means and forms of implementation by participants of legal proceedings procedural actions using informational technologies.

Zarubina and Novikova (2017) suppose that e-justice is an electronic form of interaction between courts and participants in a trial, consisting of a trinity of “electronic procedural actions”, “electronic documents” and “electronic support”.

Some authors believe that e-justice may on be discussed just in case of amendments to the procedural legislation making, which allow to execute the procedural actions (for example: claim applications, applications registration, claims revocation, court hearing) in digital format (Anosov, 2016). And while the consideration of the case will be carried out by a person, and not by a machine, the use of the term "e-justice" is very arbitrary (Reshetnyak & Smagina, 2017).

A very restrictive system of e-justice is understood by Ovchinnikov and Antonov (2016) believing that it includes electronic communication, data exchange and access to judicial information.

According to the opinion of Zarubina and Pavlov (2019) e-justice is a possible subject to the creation of an e-court (the court activity will administrate justice remotely from the process participants; no additional written or other evidences will be required to make a decision in electronic form; communication takes place using informational technologies).

According to the recommendations of the European Council Ministers Committee, e-justice is a phenomenon consisting of informative websites of courts, national and international portals, and a system for informing on the status of a court case online, a video conferencing system, as well as methods and standards for electronic information exchange (Recommendations of the Committee of Ministers…, 2009).

The European Council Recommendations on E-Democracy recognizes e-justice as the use of information and communication technologies in the administration of justice by all interested parties in the judiciary in order to improve the efficiency and the quality of public services provided to individuals and legal entities (Recommendations of the Committee of Ministers of the Council…, 2009). At the same time, e-justice includes such components as electronic communication, electronic data exchange and access to judicial information.

In legal science as a rule three components of electronic justice are distinguished: electronic case conducting, filing documents electronically and application to a court and publishing information about court cases including adopted judicial acts via Internet (Romanenkova, 2013). In this regard, the considered matter in the context of legal regulation and application practice in the Russian Federation, as well as in foreign countries, should be considered from the point of view of the availability and effectiveness of one or another element.

It is worth agreeing with the positions of the authors who consider it impossible for electronic justice to be isolated from the processes of informatization (Vasilkova, 2018) and without introducing appropriate

https://doi.org/10.15405/epsbs.2021.03.19
Corresponding Author: Tatyana Stanislavovna Korobeinikova
Selection and peer-review under responsibility of the Organizing Committee of the conference
eISSN: 2357-1330

changes to the procedural legislation that allow performing procedural actions in digital form (Ivanov, 2020).

4. International e-justice practice

To date, the use of information technology in courts has become widespread throughout the world, regardless of what legal systems a particular state belongs to: in the United States, this process was launched back in 1988 and was carried out in stages (for example, an electronic document filing system began to function only since 2001), in Germany - in 2001, in France - in 2000, in Poland - in 2003, in Brazil - in 2007 (Lazarev, 2018).

Having similar elements, in each country the digital possibilities of legal proceedings are different and are at different stages of implementation and functioning.

Since 1997 an electronic system for filing documents with the court has been operating in Singapore, the document flow is fully electronic, and the court in the course of the trial can get the necessary document submitted by the participating persons through the system at any time.

The Australian e-court strategy system includes filing documents with the court electronically; communication and exchange of documents in electronic form between the court and participants in the process, between the parties in the trial; litigation management; electronic data storage; online meetings; informing lawyers and citizens of the activities of the courts; ensuring the availability of judicial acts in civil cases for the general public (Reshetnyak, 2016). In addition, this system includes several interconnected databases; users can freely follow links between documents of various databases, to access relevant documents, for example, a copy of the transcript of a court session (Fosse & Popple, 1998).

In the Great Britain one can file a claim, pay the state fee by Internet (Lebedev & Khabriyeva, 2012). The court recommends that the case parties carry out workflow with the court and each other in electronic form (Lazarev, 2018).

Finland has implemented judicial office automation system Sakari, which includes the full feature set and allows the electronic exchange of data and documents between the courts and prosecutors' offices and is connected to the police system.

The development of e-justice in Germany is significantly affected not only by EU membership, but also by the federal structure and six different types of courts. In Germany a system of automated order production was introduced from October 1, 1982 to May 1, 2007 (Branovitskiy, 2009). Today German e-justice includes among other things maintaining electronic registers by courts, the use of videoconferences, publishing court decisions online, electronic cases and legal transactions (electronic communication with the courts). From January 2026, the courts will keep only electronic files (Lepore et al., 2019).

In all countries of the European Union a great deal of work is being done to modernize the judicial infrastructure, including the implementation of e-justice programs (European judicial systems – the effectiveness and quality of justice, 2018; Jean & Gurbanov, 2015; Jneid et al., 2019; Velicogna, 2017a).

Taking into account the main provisions of e-justice strategies, the following stages of implementation and improvement of the e-justice system in the EU are distinguished: 2008, 2009 – 2013s, 2014 -2018s and 2019 – 2023s (Stetsenko et al., 2019).

https://doi.org/10.15405/epsbs.2021.03.19
Corresponding Author: Tatyana Stanislavovna Korobeinikova
Selection and peer-review under responsibility of the Organizing Committee of the conference
eISSN: 2357-1330

In 2010 the European e-Justice Portal (e-justice.europa.eu) was launched. The portal contains various types of legal and judicial information and among others provides access to European law, the laws of individual countries and court decisions. The functioning of this portal is of particular importance in the context of cross-border litigation of the European Union and follows the concept of open justice (Velicogna et al., 2020).

In 2018, 2019 working and expert groups were created in the EU for resolving issues related to the use of artificial intelligence in important economic and social fields, including the field of e-justice. (Covelo de Abreu, 2019).

Currently, at the EU level, the main investments are aimed at improving the quality of public services in the field of e-justice. The implementation of the "API-for-Justice" project will enable the smart components of the digital e-justice services infrastructure to propose or initiate services based on input from the environment and not on the party (Velicogna, 2017b).

Based on the foregoing, it can be concluded that the actions of States on the digital transformation of the judicial system make it possible not only to develop and implement new tools, but also shift to "smart" technologies. Meanwhile, the further development of e-justice should be based on the concept of approaching citizens, that is a closer and citizen-oriented approach (Cano et al., 2015). User orientation, his satisfaction with the electronic justice system should be the main criterion for evaluating this system (Oktal et al., 2016).

5. The implementation of e-justice in Russia

The following stages of development of e-justice in Russia can be identified.

In the early 2000s, conference calls were used for the first time, it became possible to file documents electronically to the court in the arbitration process, the obligation to post information of the case on the court's website was fixed, and the electronic document can be used as evidence.

In 2015 it became possible to issue executives in electronic form.

In 2016 Federal Law N 220-FZ (On amendments to certain legislative acts of the Russian Federation regarding the use of electronic documents in the activities of the judiciary, 2016) amended the criminal procedure, civil and arbitration codes, as well as the Code of Administrative Procedure of the Russian Federation regarding the use of electronic documents in the activities of the judiciary with the subsequent approval of the relevant procedure for international judges, courts of general jurisdiction, arbitration courts and the Supreme Court of the Russian Federation.

In 2017 the Plenum N 57 of the Supreme Court introduced uniform standards for e-justice for all types of processes, and it became possible to send a notification by e-mail.

Currently information technologies are used when committing such procedural actions as filing documents in court in electronic form; sending judicial notices; preparation and consideration of the case using electronic documents; execution of judicial acts in the form of an electronic document; directions of judicial acts and their copies in electronic form.

There is no unified system of electronic justice in the Russian Federation nowadays that would cover all courts and their procedural actions in the framework of administrative, arbitration, civil and criminal proceedings. At the same time, there are various systems combining the elements of electronic justice:

https://doi.org/10.15405/epsbs.2021.03.19
Corresponding Author: Tatyana Stanislavovna Korobeinikova
Selection and peer-review under responsibility of the Organizing Committee of the conference
eISSN: 2357-1330

"Justice" state automated system of the Russian Federation for courts of general jurisdiction; "File cabinet of arbitration cases" (hereinafter referred to as the File cabinet of arbitration cases) information resource, "My Arbitrator" (hereinafter referred to as "My Arbitrator") system for arbitration courts.

The most widespread and efficient use of information technology is demonstrated today by the arbitration courts of the Russian Federation compared to courts of general jurisdiction. In particular, case files including judicial acts are posted on the Arbitration File Cabinet and the submission of documents by the parties can be done through My arbitrator. This resource and system during its existence and application have managed to demonstrate the merits of the transition of the courts to the use of information technology. The arbitration proceedings that came from the written procedure turned out to be the closest to digital transformation.

The COVID-19 pandemic has become a catalyst for the digitalization of the judicial system. Due to the decisions of the Supreme Court of the Russian Federation, it is possible now to carry out almost all procedural actions via the Internet: to participate in the case remotely, to get acquainted with the audio protocol and the case materials. There is no need in a qualified electronic signature to participate in the hearing, it is enough to log in through "State Services" portal.

Meanwhile, courts, trial participants (persons and legal entities) face various difficulties in implementation of digital technologies which are caused by organizational, regulatory, technological factors.

For example, there is no unified definition of an electronic document in regulatory legal acts (Tarakanov et al., 2019); there is the necessity in verification of authenticity of electronic documents submitted by the plaintiff; in protection of information from unauthorized access; limitation of the use of e-justice by a social group that does not have access to modern means of communication (Popova, 2019); insufficient technical equipment of the Courts (Shishkina, 2018); determination of the admissibility and reliability of digital evidence (Valeeva & Makolkin, 2019), maintaining the stability of the communication channels; preserving the lawyer's confidentiality when communicating with the defendant and others.

6. Practical relevance, suggestions

Partially, indicated problems can be solved by creating a unified information space of the judicial system. So, according to the Concept of the Information Policy of the Judicial System for 2020 – 2030th , approved by the Council of Judges of the Russian Federation on December 5, 2019, cloud storage of information is planned on special servers that is collected and processed by the courts (The concept of information policy of the judicial system for 2020-2030, 2019). Compared with traditional methods of storing information, cloud storage will provide enhanced data security (the ability to have backup copies of databases, the ability to remotely delete data from stolen devices, and inaccessibility to third parties, since data is encrypted when uploaded to the cloud); cut costs. In particular, cloud storage of audio protocols of court hearings will allow to refuse to copy them to electronic media and attach to the case file, as well as provide process participants with the opportunity to familiarize themselves with the audio protocol, regardless of their location.

The right to access the court and the right to obtain accessible information of the courts activities can be realized through multifunctional centers. In particular, multifunctional centers can smooth out the

digital inequality and provide access for those who do not have their own computer or smartphone and will help those who are not a confident user of modern devices.

It is necessary to agree with the authors who speak out about the need for legislative regulation of the procedures for determining the admissibility and reliability of digital evidence and the procedural actions of the court and participants in the process of studying digital evidence. (Valeeva & Makolkin, 2019)

It is required to discuss seriously the offer to use the biometric data to identify participants in a lawsuit.

Despite the fact that during the pandemic the Supreme Court took the opportunity to apply the analogy of law and used the potential of procedural codes to find new forms of interaction between litigants, it is necessary to amend existing legislation and legally consolidate new e-justice tools, including holding court sessions using web conferencing systems.

7. Conclusion

Of course, in the conditions of formation of electronic legal proceedings such an innovation cannot occur abruptly and immediately cover all the courts included in the judicial system of the Russian Federation. The implementation of this approach with the corresponding strict legal regulation seems to be phased and gradual.

It should be borne in mind that e-justice is not equally suitable for all types of legal proceedings, in particular for criminal.

It seems that the new elements and opportunities provided by digital technologies, within the framework of the activities of the Russian courts, provided that the legislation is improved and updated, will improve the efficiency of the judicial system as a whole, will make it more mobile and meet the needs of modern society, and at the same time will reduce the load on the courts apparatus and spending budget funds.

Meanwhile, the persons participating in the process should retain the opportunity to participate in person at the hearing, which will fully ensure the implementation of the principles of directness, transparency and adversarial proceedings.

References

Anosov, A. V. (2016). *Legal information issues of the formation of electronic justice in the Russian Federation:* (dis. cand. legal sciences). Moscow.

Branovitskiy, K. (2009). Possibilities of Use of Informational Technologies in European Writ Proceeding, On Introduction of European writ Proceeding, EU Regulation N 1896/2006 [Vozmozhnosti ispol'zovaniya informatsionnykh tekhnologiy v evropeyskom prikaznom proizvodstve, O vvedenii evropeyskogo prikaznogo proizvodstva, Reglament ES N 1896/2006]. *Arbitrazh and Civil Procedure [Arbitrazhnyy i grazhdanskiy protsess], 10*, 36-39.

Cano, J., Jimenez, C. E., Hernandez, R., & Ros, S. (2015). New tools for e-Justice: legal research available to any citizen. *Second international conference on edemocracy & egovernment (ICEDEG)*, 108-111.

Covelo de Abreu, J. (2019). The role of artificial intelligence in the european e-justice paradigm – suiting effective judicial protection demands. *Conference Paper, Lecture Notes in Computer Science,*

including subseries Lecture Notes in Artificial Intelligence and Lecture Notes in Bioinformatics, 11804 LNAI, 299-308, 19th EPIA Conference on Artificial Intelligence, EPIA 2019, Vila Real, Portugal (3-6 September 2019).

Development of the Russian judicial system for 2013-2020. Targeted program, approved by Decree of the Government of the Russian Federation, 1406. (2012, 27 December). *Assembly of the legislation of the Russian Federation, 40,* 5474.

European judicial systems – the effectiveness and quality of justice. (2018). Report of the European Commission on the Efficiency of Justice. https://rm.coe.int/rapport-avec-couv-18-09-2018-en/16808def9c (accessed: 04.03.2020).

Fosse, T. De La., & Popple, J. (1998). *Escaping the Relational Database Paradigm: Case Management in the High Court of Australia.* Technology for Justice Conference Presentations.

Ivanov, A. (2020). Personal Interview. Retrieved from http://arbitr.ru/press-centr/smi/2313.html

Jean, J.-P., & Gurbanov, R. A. (2015). *European Commission for the Efficiency of Justice. Organization. Activity. Development*. UNITY-DANA.

Jneid, M., Saleh, I., & Fakhoury, R. (2019, 24-25 October). Digital transformation in justice: Discussion of challenges and a conceptual model for e-justice success. *Proceedings of the European Conference on e-Government, ECEG 2019-October, 35-42, 19th European Conference on Digital Government, ECDG 2019,* Nicosia, Northern Cyprus, Cyprus.

Lazarev, S. V. (2018). *Business Management in the Civil Procedure Abroad*. Monograph, M., NORMA, INFRA-M.

Lebedev, V. M., & Khabriyeva, T. Ya. (2012). Justice in the Modern World: a Monograph [Pravosudiye v sovremennom mire: Monografiya]. Moscow. Retrieved from ConsultantPlus, Legal Reference System.

Lepore, L., Pisano, S., Alvino, F., & Paolone, F. (2019). The Dark Side of E-justice Implementation. An Empirical Investigation of the Relation Between Cultural Orientation and Information System Success: Book Chapter. *Lecture Notes in Information Systems and Organisation, 27*, 49-61.

Nesmeyanova, S. E. (2019). Informatization of justice: new opportunities. *Constitutional and municipal law, 12*, 31-35.

Oktal, O., Alpu, O., & Yazici, B. (2016). Measurement of internal user satisfaction and acceptance of the e-justice system in Turkey. *Aslib journal of information management, 68*(6), 716-735. https://doi.org/10.1108/AJIM-04-2016-0048

On amendments to certain legislative acts of the Russian Federation regarding the use of electronic documents in the activities of the judiciary. Federal. Law, adopted by the State. (2016, 23 June). Assembly of the legislation of the Russian Federation, 26 (part 1), 3889.

Ovchinnikov, V. A., & Antonov, Y. V. (2016). E-justice as a project of e-democracy: prospects for implementation in Russia. *State power and local self-government, 5*, 3.

Popova, E. S. (2019, June). Problems and prospects for the development of electronic justice. Actual issues of legal sciences: materials of the V Intern. scientific conf., Krasnodar: Novation, 12-14. https://moluch.ru/conf/law/archive/334/15091 (accessed: 04.03.2020).

Recommendations of the Committee of Ministers of the Council of Europe CM / Rec. (2009).To member states of the Council of Europe on e-democracy, adopted by the Committee of Ministers on 18.02.2009 at the 1049th meeting of deputy ministers. http://dsnmp.ru/rekomendatsii-komiteta-ministrov-sov

Recommendations of the Committee of Ministers of the Council of Europe CM / Rec. (2009).To member states of the Council of Europe on e-democracy. https://www.coe.int/t/dgap/goodgovernance/Activities/Key-exts/Recommendations/Recommendation_CM_Rec2009_1_en_PDF.pdf

Reshetnyak, V. I. (2016). E-Justice in Australian Civil Litigation [Elektronnoye pravosudiye v grazhdanskom protsesse Avstralii. *Russian Juridical Journal [Rossiyskiy yuridicheskiy zhurnal], 3*. Retrieved from ConsultantPlus Legal Reference System.

Reshetnyak, V. I., & Smagina, E. S. (2017). *Information technology in civil proceedings (Russian and foreign experience): a training manual*. Gorodets.

Romanenkova, S. V. (2013). The concept of e-justice, its genesis and implementation in the law enforcement practice of foreign countries. *Arbitration and civil procedure, 4*, 26-31.

Shishkina, A. Yu. (2018). Realities of electronic justice in Moscow. *Young scientist, 45*(231), 199-202. https://moluch.ru/archive/231/53680 (accessed: 04.03.2020).

Stetsenko, S., Pylypenko, S., Zghama, A., Sydorova, E., & Shkliar, S. (2019). E-Justice: European standards and the state of implementation in Ukraine. *Journal of Legal, Ethical and Regulatory Issues, 22*(5), 1-6 (2019, October).

Tarakanov, V. V., Inshakova, A. O., & Dolinskaya, V. V. (2019). Ubiquitous computing and the internet of things: prerequisites for the development of ict. *Studies in Computational Intelligence, 826*, 3-15.

The concept of information policy of the judicial system for 2020-2030, approved by the Council of Judges of the Russian Federation. (2019, 5 December). Retrieved from Consultant Plus, Legal Reference System.

Tokarev, D. A., Usanova, V. A., Kagalnitskova, N., & Sandalova, V. A. (2019). Development of e-justice in Russia: Modernization of legal regulation and deepening of scientific research [Book Chapter]. *Studies in Computational Intelligence, 826*, 215-222.

Valeeva, G. A., & Makolkin, N. N. (2019). Digital evidence in judicial practice evidencia digital en la practica judicial. *Revista genero & direito, 8*(7), 154-161.

Vasilkova, S. V. (2018). *E-justice in the civil process:* (dis. ... cand. legal sciences). SPb.

Velicogna, M. (2017a, 1 January). E-Justice in Europe: From national experiences to EU cross-border service provision: Book Chapter. *International E-Government Development: Policy, Implementation and Best Practice*, 39-72.

Velicogna, M. (2017b, December). In Search of Smartness: The EU e-Justice Challenge. *Book, 4*(4), 28. https://doi.org/10.3390/informatics4040038

Velicogna, M., Steigenga, E., Taal, S., & Schmidt, A. (2020). Connecting EU Jurisdictions: Exploring How to Open Justice Across Member States Through. *ICT, Social science computer review, 38*(3), 274-294. https://doi.org/10.1177/0894439318786949

Zarubina, M. N., & Novikova, M. M. (2017). On the Essence of E-justice in the Russian Federation. *Court administrator, 1*, 9-12.

Zarubina, M. N., & Pavlov, A. A. (2019). About the procedural realities and potential possibilities of using electronic evidence in the civil process. *Bulletin of the civil process, 1*, 205-223.